



Global Monitoring

status of action against commercial
sexual exploitation of children

KAZAKHSTAN



2nd EDITION

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GLOSSARY OF TERMS AND ACRONYMS

- **CIS:** Commonwealth of Independent States
- **COE:** Council of Europe
- **The Committee:** The Child Rights Protection Committee of Kazakhstan
- **CRC:** United Nations Convention on the Rights of the Child
- **CSEC:** Commercial sexual exploitation of children; this consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or third person or persons.
- **ECPAT:** End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes
- **GDP:** Gross Domestic Product
- **Grooming:** Preparing a child for sexual abuse or exploitation
- **HIV/AIDS:** Human immunodeficiency virus/Acquired immunodeficiency syndrome
- **ICT:** Information communication technologies
- **ILO:** International Labour Organization
- **ISP:** Internet Service Provider
- **NGO:** Non-governmental organisation
- **NPA:** National Plan of Action
- **NRPT:** National Roundtable on People Trafficking
- **OPSC:** Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- **OSCE:** Organization for Security and Co-operation in Europe
- **Trafficking Protocol:** Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- **UN:** United Nations
- **UNICEF:** United Nations Children's Fund
- **USD:** United States Dollar
- **YFS:** Youth Friendly Services

FOREWORD

At the First World Congress against Commercial Sexual Exploitation of Children (CSEC) held in Stockholm in 1996, governments from around the world first gave recognition that commercial sexual exploitation of children is a global crime of epidemic proportions. The Stockholm Declaration and Agenda for Action - a strategic framework for actions against CSEC - was adopted by the 122 governments participating in the Congress in order to guide a systematic global response against the sexual exploitation of children.

The outcome document of the First World Congress was soon followed by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC). Adopted in 2000 as a legally binding treaty of the United Nations, the Optional Protocol (and other relevant international treaties) reaffirms the urgent need for political will and concrete actions from governments to ensure that children in their countries can live free from all forms of commercial sexual exploitation.

In 2001, high-level delegates from 136 governments, local and international non-governmental organisations and children and young people, convened in Yokohama for the Second World Congress to review the achievements and challenges in combating CSEC as well as to identify new priorities needed to bolster and enhance action. Seven years later, the World Congress III in Rio de Janeiro provided the largest global platform to date for delegates from 137 governments

to renew their state's commitment to protect children from commercial sexual exploitation. The Rio Declaration and Call for Action strongly urges all stakeholders, including the private sector, to continue their due diligence in taking the necessary follow-up actions to eliminate CSEC. The Rio Call for Action emphasises the obligation to uphold the rights of the child as identified in existing international human rights and child rights instruments. It also offers a framework for the accountability of all duty-bearers of children's rights, particularly governments, in the fight against sexual exploitation of children and re-affirms the continuing relevance of the Agenda for Action, first agreed to in Stockholm twelve years earlier.

This report, as part of the Second Edition series of country monitoring reports produced by ECPAT International, provides a comprehensive baseline of information on all manifestations of CSEC in the country and an assessment of achievements and challenges in implementing counteractions (including the participation of children and young people themselves) to eliminate CSEC. The report, which follows the framework of the Stockholm Agenda for Action, serves as an instrument for the sharing of information and experiences among various stakeholders and duty-bearers within the country as well as internationally. It also suggests concrete priority actions urgently needed to proactively advance the national fight against CSEC. Furthermore, this report enables the monitoring of the implementation of international instruments on child rights, related to commercial sexual exploitation that

have been ratified by the concerned state.

The production of this report is achieved through extensive collaboration within the ECPAT global network. ECPAT International would like to thank ECPAT member groups in the countries assessed, local and global experts and other organisations for their invaluable inputs to this report. ECPAT International would also like to

express its profound appreciation of all the hard work of its dedicated team from within the Secretariat and for the generous support of its donors that helped make the finalisation of this report possible. The contributions of all involved have greatly strengthened the monitoring of the Agenda for Action and the heightened collaboration needed to fight the new and evolving complex manifestations of commercial sexual exploitation of children.

METHODOLOGY

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress II of 2001, the Mid-Term Review meetings held between 2004 and 2005 and the World Congress III in 2008. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this 2nd Edition report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Desktop research has shown a continuing lack of information in the areas of Recovery, Rehabilitation and Reintegration. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports thus focus only on those areas of the Agenda for Action where verifiable information can be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; Protection and Child and Youth Participation, and where information on recovery, rehabilitation and reintegration, was available, it has been included under the country overview. These 2nd Edition Reports also reflect a greater focus on integrated and inter-sector collaboration for the realisation of the right of the child to protection from sexual exploitation, including the need nationally for comprehensive child protection systems.

Research of secondary sources, including CRC country and alternative reports, OPSC country and alternative reports, the reports of the Special Rapporteurs, as well as research and field studies of ECPAT, governmental and non-governmental organizations, regional bodies and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and

case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation. They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all the 2nd Edition reports feature updated information in relation to: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see www.ecpat.net for further details); (vi) overview and analysis of country's efforts incorporate participation of children in youth in the development and implementation of efforts to combat CSEC and (vii) priority actions required.

KAZAKHSTAN



INTRODUCTION

Kazakhstan is a presidential republic¹ with a population of approximately 16.5 million.² Kazakhstan is located in Central Asia and has the second largest area among the Commonwealth of Independent States (CIS).³

Owing to its vast natural resources, particularly fossil fuels and minerals, Kazakhstan's economy is larger than those of all other Central Asian states. The population comprises of primarily ethnic Kazakhs and a large percentage of Russians (nearly 24%).⁴

Recent years have seen advances in Kazakhstan's standard of living. Vast economic improvements have resulted in increased spending on social programmes, though the recent global economic crisis has reduced the GDP by almost one third,⁵ stunting further development and potentially increasing the vulnerability of children in the country.⁶ In particular, the GDP share allocated to the social sector, including health and education, has remained relatively low.⁷ Stemming from the transition period in 1991 when Kazakhstan gained independence from the Soviet Union,⁸ persisting socioeconomic challenges have impacted a considerable number of low-income families.⁹ In 2003, Kazakhstanis spent an average of 43.5% of their income on food alone, highlighting the extent of the poor economic situation.¹⁰ The economic environment has nonetheless improved as figures show that only 16% of the population lived in absolute poverty in 2009.¹¹ Children deprived of parental and family

care is a persisting problem.¹² In 2011, it was estimated that there are 36,777 orphaned children in Kazakhstan.¹³ Orphans face a particular barrier to education, as some orphanages and boarding schools merely offer schooling until the 9th year. A lack of education and the absence of a safe learning environment make them more susceptible to CSEC.

Tajik and Uzbek refugee children are also among the most vulnerable groups to CSEC. In addition to a language barrier, refugee children are often denied their right to education as they cannot enrol in a school without registering their residence, which they usually do not have.¹⁴ There have been several reported cases of refugee children being denied enrolment or being suspended from schools for this reason.¹⁵ With the inability to attend school, many refugee children in Kazakhstan are more vulnerable to falling victim to CSEC. The Committee on the Rights of the Child has addressed this issue by recommending that Kazakhstan ensure that compulsory education is free and accessible for all, and undertake targeted programmes for, *inter alia*, refugee children.¹⁶

There is a lack of data on the prevalence of CSEC in Kazakhstan; therefore, it is difficult to determine its true magnitude.¹⁷ This abuse is reportedly also seasonal, increasing in incidence during the warm season when agricultural work begins and street children appear on the streets.¹⁸

In most cases, the street children are children of migrants or illegal workers from Tajikistan, Uzbekistan and Kyrgyzstan.¹⁹

Following the 1996 Stockholm and the 2001 Yokohama Global Forums on CSEC, Kazakhstan reaffirmed its commitments at the 2008 World Congress III against the Sexual Exploitation of Children and Adolescents in Brazil. The World

Congress III renewed global commitment and galvanised international resolve to combat the sexual exploitation of children and adolescents. In total, more than 3000 people took part in the three-day gathering, including representatives from government, the private sector and civil society as well as 300 children and adolescents from around the world.

Prostitution of children

The most common manifestation of the commercial sexual exploitation of children in Kazakhstan is prostitution.²⁰ Child prostitution occurs when underage girls or boys perform sexual acts for monetary, or other compensation. While prostitution in Kazakhstan is not outlawed, the sexual exploitation and seduction of children are prosecuted under domestic criminal law.²¹ There is great disparity in the statistics regarding the number of people involved in the commercial sex industry in Kazakhstan. In 2011 the Ministry of Internal Affairs estimated that there were 4000 people employed in sex services across Kazakhstan.²² Moreover, law enforcement officials in Almaty, the largest city of Kazakhstan, have reported figures of 2000 women being engaged in prostitution within the city. Furthermore, research reveals that underage girls in Central Asia are “traded like commodities, virgins being valued highest”.²³

While much of the data on child victims of prostitution in Kazakhstan is inaccurate and scarce, incidents of child prostitution have been uncovered. In 2003, criminal proceedings were initiated against 149 people for violent sexual acts committed against children under the age of 14.²⁴ Due to the clandestine nature of CSEC, these figures are unlikely to reflect the true nature and scope of this phenomenon; the number of children subjected to CSEC is expected to be much higher. In one reported incident a 31-year-old woman in Aktobe offered a 16-year-old girl for sex to men for 1500 *tenges* (roughly 10 USD) per hour.²⁵ The sexually exploited

child was forced to work from noon until late night for food and clothes. In another case in 2002, a prostitution operation was uncovered where three underage girls were subjected to commercial sexual exploitation after school hours.²⁶ During a raid undertaken by Atyrau Regional Department of Militia in 2009, a 15-year-old girl was arrested in a rented apartment for suspected involvement in prostitution having hidden her true age from the authorities. The girl originated from a small Kazakhstani town and did not attend school.²⁷

In Temirtau city the prosecutor's investigation uncovered evidence of underage orphaned girls involved in prostitution. The young girls had been transported to Astana, the capital city of Kazakhstan, where they were subjected to frequent and systematic violence and forced into sex work.²⁸ In a separate incident in Almaty, an underage girl was sold into sexual slavery at a hotel by her boyfriend for 300,000 *tenge* (circa 2000 USD).²⁹

Despite these few arrests, the relative number of prosecutions of offenders involved in child prostitution remains low. A few underlying reasons deter law enforcements agents from addressing CSEC offences. Corruption, a lack of evidence and the absence of a plaintiff are factors often causing police officers to turn a blind eye to the sexual abuse of children in Kazakhstan.³⁰ A particularly serious concern is the involvement of Kazakhstani law enforcement officials in criminal prostitution rings, as reported by the United States Government.³¹

It is claimed that the production of pornography and involvement of children in the process does not exist in Kazakhstan.³² This claim is attributable to the non-existence of data confirming such activities, and evidence pointing to the production of the child pornographic materials distributed in Kazakhstan taking place elsewhere, such as Russia.³³ Nevertheless, Internet use in Kazakhstan is growing at unprecedented speeds, increasing the risk of producing and disseminating child pornography. 2010 statistics reveal that over one-third of the population are Internet users, and nearly 300,000 Kazakhstanis are Facebook members.³⁴ Moreover, the number of mobile subscribers in Kazakhstan increased by 18.7% in one year from over 14 million users to over 17 million users between 2010 and 2011.³⁵ The Ministry of Communication and Information (MCI), the state body responsible for the development of ICT related policies and programmes, intends to achieve 100% broadband coverage by 2013. The 'National ICT Holding Zerde' was established in 2008 in order to implement state policies in ICT and manage the national ICT infrastructure. Such efforts will result in increased Internet penetration and access to all sections of the society; as a result, precautions and risk assessment in terms of child online protection is recommended and primary education of all stakeholders (caregivers, children themselves) on issues related to sexual exploitation online and related countermeasures should be integrated within such infrastructure development plans.

Moreover, psychological support services to children who might be affected by harmful interactions over the Internet such as through bullying, exposure to inappropriate content or through the production of abusive images during their online interactions should be created as an integrated process with such

ICT innovation and deployment.

The unguided and unmonitored access to online platforms such as social networks, video and photo sharing services both through traditional land line access or mobile phones at home or in public places, can expose a child to the risks of CSEC online. Children can also be vulnerable to the phenomenon of "sexting" whereby they share their own compromised images taken on their mobile phone with their peers and when these images end up in the wrong hands, they can be used to blackmail the child and entrap them in a deeper cycle of abuse and exploitation.

Furthermore, prolonged exposure and interaction in the online medium for children, particularly when they are unaware and not adequately educated on online risks, may create opportunities for online offenders to befriend a vulnerable or risk-taking child and engage in "grooming". "Grooming" is a process by which the offender wins the trust of the child over a period of time and manages to lower the inhibition to convince him/her to act according to the intent of the offender and prepares him/her for sexual abuse or exploitation.³⁶ It is therefore imperative that Kazakhstani legislation have a 'living' disposition, accounting for technological advancements that create new ways of committing CSEC offences. Commendably, Kazakhstani legislation provides administrative and criminal liability for the distribution of media products containing information and materials aimed at promoting cruelty, violence and/or pornography. This provision has indeed been enforced, as in June 3, 2011, the Court of Astana prohibited the distribution of a foreign website promoting child pornography.³⁷

Incidents of child pornography and abuse images surface in Kazakhstan

In 2011, 25 pornographic websites and five websites promoting cruelty and violence were identified by law enforcement and subsequently shut down.³⁸ In another incident, Karaganda police arrested a pedophile for abusing young boys in social networks. In questioning the 30-year-old suspect, he admitted his preference for boys up to 12 years of age. He explained that since the summer of 2010 he had been acquainting himself with children over the Internet with the purpose of abusing them. Where young boys refused intimate sexual contact with the offender, he would coerce them into being subjects of abuse by threatening to hurt their families. The suspected offender had information on the children's addresses, phone numbers of relatives by jacking personal pages on the Internet and studying telephone directories. Unfortunately, the court of law in question did not sanction the arrest of the suspect, calling for his release.

It is encouraging that Microsoft Kazakhstan supported Safer Internet Day for the third time in 2011, providing training for teachers and parents and organising conferences on child Internet safety.³⁹ Despite these efforts, there appears to be a lack of Kazakhstani online resources addressing Internet safety

issues which are specifically developed for their own citizens.⁴⁰ These drawbacks render Kazakhstani children more susceptible to online exploitation by sex offenders and also place them in risky situations where they may face exploitative situations by virtue of sharing sensitive personal information online.

Trafficking in children for sexual purposes

Trafficking in children for sexual purposes encompasses the recruiting, transportation within the country or across borders, purchase and sale, as well as the transfer and accommodation of victims,⁴¹ with sexual motivations. This form of CSEC is often characterised by false promises of a better life, coercion, the abuse of power or of a dominant position and economic dependence.⁴²

Following the collapse of the Soviet Union in the early 1990s, the territorial borders of Kazakhstan opened for migration.⁴³ Kazakhstani citizens were finally granted opportunities to live and work abroad; however, this freedom of movement also gave rise to the international trafficking of women and children for sexual purposes. The growing economy inevitably resulted in income disparities rendering the poor more vulnerable to sexual trafficking in hopes of improving their financial situation. In the immediate aftermath of the breakdown of the Soviet Union, Kazakhstan was an appealing destination to the destitute in neighbouring

countries, increasing the risk of human sex trafficking.⁴⁴

Kazakhstan is classified as a source, transit and destination country for women and children trafficked for sexual purposes.⁴⁵ Kazakhstani children are subjected to sex trafficking in a number of countries, including the United Arab Emirates, Lebanon, Russia, China, Azerbaijan, Greece, Turkey, Israel and South Korea.⁴⁶ While the exact statistics are unknown,⁴⁷ children are also trafficked into Kazakhstan from Uzbekistan, Russia, Kyrgyzstan, Tajikistan, Moldova and the Ukraine.⁴⁸ Due to its geographical location in Central Asia, Kazakhstan serves as a gateway and transit country for children trafficked from Uzbekistan, Tajikistan and Kyrgyzstan to be exploited in Russia, the United Arab Emirates, Turkey and Greece.⁴⁹ With regard to internal trafficking, children from rural Kazakhstan are subject to trafficking for sexual purposes in urban areas of the country.⁵⁰

The International Organization for Migration (IOM) estimates that up to 200 people fall victim to trafficking in Kazakhstan on an annual basis; 76% of these victims are trafficked internally. Findings indicate that there is a trend towards victims of sex trafficking getting younger;⁵¹ girls as young as 13 and 14 years old are being targeted, and incidents involving the trafficking of 11-year-old children for sex have also been uncovered.⁵² Statistics provided by the Ministry of Internal Affairs of Kazakhstan illustrate that 21 cases of trafficking in minors were registered in 2009, while that number dropped to 17 in 2010 and increased again to 21 in 2011.⁵³ The number of child victims of trafficking assisted in shelters is currently 89 children.

While official complicity in trafficking

remains a grave concern and a complicating factor,⁵⁴ the number of successful prosecutions for trafficking is generally on the rise. In the first 11 months of 2009, law enforcement officials registered 20 new cases of trafficking of adults and 16 of minors; a total of 24 of these cases reached the domestic courts.⁵⁵ According to the Kazakhstani Government, during that same year officials solved 271 human trafficking related criminal cases.⁵⁶ Government officials have also started to pay more attention to trafficking for sexual purposes as it has contributed to further issues, such as irregular labour migration and HIV/AIDS prevalence.⁵⁷ Despite these developments, the government's response to child sex trafficking still requires improvement as child victims have reportedly been placed in detention centres.⁵⁸

The U.S. Department of State annually releases a *Trafficking in Persons Report* which categorises countries into different "tiers" based on the extent of government action to combat human trafficking. Countries that have the highest level of compliance with the *Trafficking Victims Protection Act's* minimum standards for the elimination of trafficking are placed in **Tier 1**. Those that have made "significant efforts" to meet the standards are placed in **Tier 2** and countries that are not making significant efforts to combat human trafficking are placed in **Tier 3**.

In the 2012 report, Kazakhstan was placed in **Tier 2**.⁵⁹

Under Kazakhstani law, foreign victims of trafficking are provided with temporary residence status to "ensure their safe repatriation or participation in trafficking prosecutions"⁶⁰; as such, they are not treated as illegal immigrants. Nevertheless, it is interesting to note that the government has not reported how many foreign victims of trafficking received temporary residence permits in 2011.⁶¹ Moreover, where victims faced retribution or hardship in their country of origin, no legal alternatives to their forcible repatriation to these countries was offered.⁶² Some foreign victims of trafficking are also denied access to medical assistance due to a lack of identification documents, health insurance or temporary residence permits.⁶³ It has been reported that victims of sexual trafficking rarely report these crimes to the police for fear of being stigmatised and denounced in societies that are predominantly Muslim.⁶⁴

The government has taken some steps to ameliorate the grave situation of child sexual trafficking. Kazakhstan signed a number of mutual legal assistance treaties with China, Mongolia, Turkey, France and Italy in the area of anti-human trafficking.⁶⁵ In 1993, Kazakhstan acceded to the *Minsk Agreement*, enabling the state to extradite individuals sought for human trafficking.⁶⁶ Moreover, in 2010, the government allocated almost 8 million tenge (over 53,000 USD) to establishing a rehabilitation centre for victims of trafficking in Astana.⁶⁷ Currently, Kazakhstan has four shelters offering rehabilitation for victims of human trafficking. One such shelter is funded under a pilot project of the Ministry of Justice and three are supported by the IOM. Moreover, the 24-hour toll-free hotline 11616 functions as a reporting mechanism for suspected cases of trafficking and exploitation.⁶⁸

Child sex tourism

While tourism is not a significant revenue generating industry in Kazakhstan, the inflow of foreigners is on the rise, with 3.4 million tourists reported to have visited Kazakhstan in 2010 – a growth of over 15% from the previous year.⁶⁹ With an increase in the number of foreign visitors to the country, it is imperative that the Government of Kazakhstan takes affirmative measures to prevent tourism for the purpose of sexual abuse and/or exploitation of children.

Neither Kazakhstan's legislation nor policies explicitly address child sex tourism, while the media, official reports, and studies on child protection and children's rights shy away from any mention of child sex tourism. One reason for this may be that child sex tourism in Kazakhstan is an extremely

recent phenomenon; as such, there is a lack of statistics and reports to shed light on the status of such activities. On the other hand, discrepancies in information, compliance of law enforcement officers and the misidentification of child sex tourism as other manifestations of commercial sexual exploitation of children, may account for the absence of information on this issue.

In light of the growing tourism industry in Kazakhstan, the government ought to carry out research into the prevalence of child sex tourism in the country, and adopt necessary measures to deter offenders from travelling to Kazakhstan to commit sexual abuses against children. To do so, significant gaps in national legislation must be amended (see Protection section).

Other factors contributing to CSEC

Another factor contributing to CSEC in Kazakhstan is the prevalence of early marriage. In 2003, 1210 boys and 851 girls under the age of 18 registered their marriages in Kazakhstan.⁷⁰ However, the real figure of early marriages can be presumed to be even higher, as civil marriage is becoming increasingly common. Moreover, Kazakhstani parents encourage their daughters to be patronised by older men. This is considered a “good match”⁷¹ as it is hoped that the older men can alleviate financial difficulties of a family.

A study conducted by the League of Women's Creativity in 2011 revealed the prevalence of this phenomenon. A survey within the rural population of Almaty and areas of southern Kazakhstan demonstrated that early and

forced marriage is certainly not uncommon. In Kazakhstani Muslim communities early marriage is often encouraged under the interpretation of Sharia law. Female subordination often dominates the attitudes of these communities and young daughters succumb to the pressures of the family who encourage early marriage. Underage victims of forced early marriage have little access to protection and justice leaving them more vulnerable to trafficking for sexual purposes and/or prostitution.

Despite the State's condemnation of forced early marriage, authorities do not interfere in such customs and without criminal penalties on forced marriage, cannot take legal action against early marriage.

NATIONAL PLAN OF ACTION

Kazakhstan has undertaken efforts to develop a National Plan of Action for victims of CSEC. The “Children of Kazakhstan 2006–2011” initiative is one such example. However, the Committee on the Rights of the Child has raised concerns over the programme’s exclusive focus on protection issues, neglecting other essential features of children’s rights. The Committee therefore rejected the “Children of Kazakhstan” initiative as a National Plan of Action and called on Kazakhstan to amend the programme by adopting it as a national comprehensive and cross-cultural framework for the implementation of children’s rights.⁷² Additionally, adequate human and financial resources should have been allocated to the programme. The “Children of Kazakhstan” initiative therefore did not comply with the soft law requirements of the document “A World Fit for Children” adopted at the special session of the General Assembly on children.⁷³

The National Action Plan for the Improvement of Women’s Position in the Republic of Kazakhstan 1999 provided for the development of policy preventing sexual violence, trafficking and pornography in relation to women and girls.⁷⁴ While this was a proactive initiative to highlight and combat CSEC, little information is available regarding the projects, programmes and measures featured in this *National Plan of Action*.

More recently, the Government of the Republic of Kazakhstan and the United

Nations Children’s Fund endorsed a *Country Programme Action Plan 2010–2015*. The programme aims to assist the Government of Kazakhstan to improve the quality of life of children, particularly vulnerable groups of children. While the mandate does not directly address CSEC prevention, it reduces the vulnerability of children to CSEC related crimes.

Another plan of action undertaken by the Kazakhstani Government was the *Plan of Action to Combat and Prevent Offences Involving Trafficking in Persons for the period 2004–2005*, and its subsequent plans for 2006–2008, 2009–2011 and 2012–2014.⁷⁵ The plans were developed by an inter-agency working group comprised of: the Ministries of Justice, Foreign Affairs, Education and Science, Internal Affairs, Labor and Social Welfare, Culture, Information and Sports; the Procurator General; and the Commission on Women and Family.⁷⁶ These initiatives focused on combating trafficking, including trafficking of children, and while it was welcomed by the Committee on the Rights of the Child,⁷⁷ the plans themselves were considered insufficient in impacting the levels of national and cross-border trafficking.

While efforts have been made to create national plans of action to combat CSEC in Kazakhstan, programmes have either fallen short of the requirements of a national plan of action, or have been insufficient in contributing to the prevention of CSEC.

COORDINATION AND COOPERATION

Coordination and cooperation are crucial for an efficient and effective fight against CSEC. In accordance with the Stockholm Declaration, close interaction and cooperation between government and non-government sectors is necessary to effectively plan, implement and evaluate measures to combat CSEC.

At an international level, effective cooperation is required between countries and international organisations, including regional organisations, to ensure that a concerted and coordinated approach is taken in eliminating CSEC.

Local and national level

There is little evidence of cooperation among local and national stakeholders in combating CSEC at the national level. Meetings on the prevention of trafficking in human beings and domestic violence, particularly the exploitation of children, have taken place, bringing together a variety of state actors.⁷⁸ These include representatives from Kazakhstan's law-enforcement, educational institutions, government ministries, local NGOs such as the Union of Crisis Centres, social services, Parliament, the Office of the Ombudsman, the National Commission on Women and Family-Demographic Policy, as well as the OSCE Centre in Astana. Meetings between these stakeholders include sharing publications on the implementation of the law on domestic violence, and discussing successes and challenges in protecting and promoting children's rights.⁷⁹ Furthermore, an NGO council working in collaboration with the Committee on the Protection of Children in the Ministry of Education and Science addresses the prevention of violence and abuse against minors, including sexual exploitation and trafficking.

Under the Ministry of Labour and Social Protection, the National Coordination Council on Child Labour was established in 2006. The Council is tasked with, *inter alia*, coordinating the work of governmental and other institutions on the eradication of the worst forms of child labour in the country, as well as the dissemination information. While the Board considers a variety of issues pertaining to child labour in general, it provides support to many non-governmental initiatives on CSEC prevention.⁸⁰

The government provides financial support to a number of NGOs combating CSEC. One such NGO is the Interagency Commission on Minors operating under the auspices of the government. It is tasked with coordinating efforts to identify children in need of protection while eliminating the causes of violations of children's rights; this includes the prevention of violence and abuse against children. Despite these efforts, cooperation at local and national levels should nonetheless be enhanced to specifically target the manifestations of CSEC, rather than child abuse in general.

Conferences between various stakeholders have been held at the regional and international levels to, *inter alia*, address CSEC prevention and initiate legislative processes to strengthen existing child protection legal frameworks.⁸¹ Kazakhstani participants in these regional and international efforts to combat CSEC include: members of Parliament, key ministries, the Agency of Statistics of Kazakhstan, the European Union Delegation, the Norwegian Embassy in Kazakhstan, UNICEF, government representatives of various European countries and international experts on children's rights protection. A point of interest in collaborative efforts is discussing how efficient and comprehensive child protection mechanisms may improve care for children who have fallen victim to

violence, exploitation and human trafficking.⁸² Past discussions have included reviewing ways in which institutions can be transformed to introduce new services, referral systems and results-based management to combat child issues, such as CSEC.⁸³ It has also been suggested that domestic legislation should codify the reporting of incidents of violence against children to aid law-enforcement. This would increase the responsibility of state officials to guarantee children's rights, and encourage children's protection at a local level.⁸⁴ While it is clear that regional and international cooperation on preventing CSEC does exist, the extent of coordination between these bodies to achieve tangible results and establish partnership projects is unknown.

PREVENTION

The effective prevention of CSEC requires multi-faceted strategies and policies that simultaneously address the different elements of the problem. These strategies should target both vulnerable children and those who engage in sexual activities with children while also addressing the root causes of CSEC such as poverty and lack of education. Long-term prevention strategies include improving the status of children who are most vulnerable to CSEC by implementing policies to reduce poverty and social inequality and improving access to education, health and social services. Effective short-to-medium-term strategies include awareness-raising campaigns and education and training initiatives for the

general public, vulnerable groups and government officials.

The resources, expertise and influence of the private sector, particularly the tourism and IT industries, should also be engaged in prevention measures, particularly in awareness-raising activities. Furthermore, information, education and outreach programmes should be directed at those engaging in the commercial sexual exploitation of children (e.g. users of children forced into prostitution) to promote changes in social norms and behaviour and reduce the demand for child victims of commercial sexual exploitation.

Awareness-raising

As of 2007, the Women's Union of Intellectual Work, supported by the National Coordinating Council for the Fight against the Worst Forms of Child Labour, has been organising annual national information campaigns on the worst forms of child labour. The initiative covers issues of child exploitation, including sexual exploitation. Moreover, pens and booklets and posters have been distributed throughout Kazakhstan to raise awareness of the hotline number 150. The hotline was established in 2008 by the Union of Crisis Centres of Kazakhstan offering 24-hour support in both Kazakh and Russian to youth victims of violence and sexual exploitation. During the summer of 2012, the Union of Crisis Centres of Kazakhstan, together with the Department on Children's Right Protection, organised meetings with specialists and careers working in children rights where they presented problems of children based on cases received over the hotline. In Astana alone specialists carried out 658 events to inform children and youth about the hotline, reaching out to 6612 children.

In 2009, the Union of Crisis Centres of Kazakhstan implemented the project "Organisation of awareness-raising campaign to protect women and children from sexual abuse, child pornography and trafficking" which was supported by the Ministry of Culture and Information of Kazakhstan.

In the period 2009-2012, the Crisis Centre "Care", supported by ECPAT International, organised a competition among vulnerable children for the best comic books on the issue of commercial sexual exploitation of children. Prior to the competition the ILO/IPEC funded the training of children on CSEC as a form of the worst forms of exploitation of children. Of the 20 participating children, five were cared for in orphanages. As a result of the competition, five works were selected for print in the magazine "Not Children's Stories".⁸⁵

Furthermore, in 2010 and 2011, volunteers of the youth center Youth Power took part in the ECPAT International Body Shop campaign "Stop trafficking of children and young people for sexual exploitation," collecting 14,660 signatures for a petition against the trafficking of children and young people. Other awareness raising initiatives are conducted by members of the National Network of NGOs of the Republic of Kazakhstan, who carry out campaigns on CSEC prevention on a regular basis. Most recently, between 1 November and 19 November 2012, the Committee for the Protection of Children's Rights organised the informational campaign "Childhood without violence". It is thus clear that awareness-raising on the commercial sexual exploitation of children in Kazakhstan does in fact receive some attention.

Training and education

A key prevention tool in the elimination of commercial sexual exploitation of children is the training and education of the public, particularly children. Training and educating children about CSEC offences and protective measures is vital in preventing young girls and

boys from falling victim to sexual predators. ECPAT International has been instrumental in concerting training and education efforts in Kazakhstan. In 2005, ECPAT International, in collaboration with Crisis Centre "Care", organised a two-day training

session in Almaty on the identification and rehabilitation of child victims of commercial sexual exploitation. In 2006, a three-day training session was held on the identification and rehabilitation of CSEC victims. The training was aimed to educate social workers, educators and NGO representatives and was organised by Women's Association Zharia. In October of 2010, ECPAT International hosted a training session of child safety organisations which was attended by government representatives, NGOs, and significantly, youth participants.

In August 2012, the Crisis Centre "Care" initiated the project "Do not risk by themselves" in which 17 students were trained about the risks of commercial sexual exploitation that 14-17-year-old children may face. Aside from this, Kazakhstan has not yet introduced mandatory education on CSEC in the school curriculum. Nevertheless,

some educational establishments hold "moral and sex education" and "health days" for young girls, which provide opportunities for pupils to meet law enforcement officers, representatives of the judiciary, and health care professionals.⁸⁶ In vocational schools and colleges in Aqmola, Almaty, Pavlodar, Qaraghandy and other provinces, lectures are given as part of a teaching programme for girls. These lectures have addressed many topics related to CSEC, including "what is trafficking?" and "work overseas: genuine, or a lure?"⁸⁷ While these positive measures are indeed commendable, they should be institutionalised to provide a comprehensive and systematic education on CSEC in school curricula and in public. For this reason, the Committee on the Rights of the Child recommends that public education on sexual exploitation, prostitution and child abuse be increased for children, their families, communities and the public at large.⁸⁸

Vulnerability reduction

The Law on Children's Villages of Family Type and Homes of Youth of the Republic of Kazakhstan was adopted in 2000 and regulates the establishment, creation and management of orphanages for children and youth. Its provisions delineate the rights of orphaned children living in these state-run institutions, including the right to education, as well as the right to access social services provided to them.⁸⁹

A number of campaigns have been undertaken by the Kazakhstani Government to prevent the homelessness of minors. The "Care" campaign provided 330 million *tenge* (approximately 22,000 USD) of financial assistance to over 134,000 socially vulnerable children.⁹⁰ Similarly, the "Road to School" campaign provided 1.61 billion *tenge* in aid to

252,000 children from poor families.⁹¹ As a result, the number of homeless and neglected children decreased by 1.3 times between 2007 and 2011.⁹² These poverty reduction measures can be expected to reduce the vulnerability and susceptibility of children to CSEC.

The Committee on the Rights of the Child has noted Kazakhstan's efforts to ensure registration of children at birth.⁹³ However, the Committee has recommended that Kazakhstan guarantee internationally recognized birth certificates for refugee children.⁹⁴ The lack of a universal birth registration system for all children in Kazakhstan places unregistered children at greater risk of falling victim to CSEC as their identity and age become difficult to verify.

Research on CSEC

The lack of information regarding studies on CSEC in Kazakhstan suggests that very little research is carried out in this particular area of child issues. Nevertheless, in 2004 Crisis Centre “Care”, together with ECPAT International and other partners, conducted the study “Analysis of Commercial Sexual Exploitation of Children (CSEC) and Institutions Combating CSEC in Kazakhstan” across three regions of the country.⁹⁵ A 2005 survey by Crisis Centre “Care” studied 1,000 children and adolescents, as well as the risks posed to child victims of CSEC.

UNICEF has also conducted a number of studies on the state of children in Kazakhstan.⁹⁶ This includes the 2011 report titled “Violence against children in state-run residential institutions in Kazakhstan,”

which identified the nature and scale of violence against children in the country. The report highlighted the issue of CSEC in Kazakhstani state institutions, which also includes children sexually abusing and raping other children.⁹⁷ The report is expected to propel the development of countrywide alternative care programmes, subsequently reducing the risk of children being subjected to CSEC.⁹⁸

A Multi-Indicator Cluster Survey has also been undertaken by UNICEF to ascertain the status of women and children. The survey is unique in that it uses a number of new indicators, such as domestic violence, to provide a comprehensive overview of the issue.⁹⁹ The survey may therefore be a useful tool for learning about CSEC in the country.

PROTECTION

Children’s rights instruments related to CSEC

Comprehensive and effective legislation is essential to protect children from CSEC. Specific laws must be developed, implemented and/or strengthened to combat the various manifestations of CSEC. These laws must be reviewed and updated regularly to incorporate evolving forms of CSEC, such as the solicitation of children online for sexual purposes (“grooming”) or viewing and accessing child pornography online, and changes in the international legal framework. In addition to the enactment of legislation that is compliant with international standards and obligations, national laws must be effectively enforced. Policies and procedures to protect child victims and/or witnesses are

also essential.

There are a number of important international mechanisms for protecting children’s rights related to CSEC, and the Kazakhstani Government has ratified the majority of them. Kazakhstan ratified the *Convention on the Rights of the Child* in 1994 and the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (OPSC) in 2001. It also acceded to the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (UN Trafficking Protocol) in 2008.

However, the Kazakhstani Government has

not yet adequately harmonised its laws with the aforementioned international instruments. In particular, although its Constitution states that international conventions prevail over national laws and are directly

applicable at the national level, Kazakhstan's *Law on International Agreements (2005)* may contradict this.¹⁰⁰ The statute renders international agreements that do not comply with Kazakhstani domestic law inapplicable to

International instruments	
Human Rights bodies and instruments related to Child Rights	Comments
Charter-based bodies	
Working Group on the Universal Periodic Review (UPR)– Human Rights Council	<p>Last review 7th Session (2010) – CSEC conclusions:</p> <ul style="list-style-type: none"> • Continue its cooperation with the UN and other international organisations to strengthen human rights; • Continue work to ensure the further refinement of laws aimed at protecting children's rights in order to step up criminal and administrative responsibilities for crimes and offences committed against children; • Ensure that legislation relating to the Internet and other new ICTs respects international human rights obligations; • Implement various awareness-raising programmes, with a special emphasis on programmes for children; • Introduce further measures aimed at the effective prevention and combating of human trafficking. <p>Next review 20th Session (2014)</p>
Special Rapporteur on the sale of children, child prostitution and child pornography	No visits to date
Special Rapporteur on trafficking in persons, especially women and children	No visits to date

Treaty-based bodies		
Committee on the Rights of the Child	2007 – Conclusions related to CSEC: <ul style="list-style-type: none"> • Formalise precedence of Convention over national law; • Ensure national child protection framework complies with the Convention and provide it with adequate human/financial resources; • Increase awareness-raising campaigns and public education on sexual exploitation of children; • Implement appropriate policies and targeted programs for the recovery and reintegration of child victims of CSEC; in particular, intensify responses to children living on the streets; • Strengthen coordination and data collection; • Improve research efforts to identify the scope, extent and root causes of CSEC. 	
CSEC Children's rights Instruments	Date of ratification	Date of submitted reports
UN Convention on the Rights of the Child – 1989	12 August 1994	31 October 2011
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography – 2000	24 August 1994	21 July 2004
International Instruments		
Optional Protocol to the Convention on the Rights of the Child on a communications procedure	Not signed or ratified	
ILO Convention on the Worst Forms of Child Labour – 1999 (No. 182)	26 February 2003	N/A
UN Convention against Transnational Organized Crime – 2000	31 July 2008	N/A
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children – 2000 (supplementing the UN Convention against Transnational Organized Crime)	31 July 2008 (accession)	N/A
Regional Instruments	Date of ratification	
Council of Europe Convention on Cybercrime - 2001	Not signed or ratified	
Council of Europe Convention on Action against Trafficking in Human Beings – 2005	Not signed or ratified	
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse – 2007	Not signed or ratified	

Children's rights are defined at the constitutional level and reflected in national legislation in Kazakhstan.¹⁰² For instance, Article 24 of the Constitution of Kazakhstan prohibits forced labour.¹⁰³ In 2002, the government enacted the *Law on the Rights of the Child in the Republic of Kazakhstan* which further provides that children should be protected from work that may be hazardous to their health or damage their physical, spiritual or moral development (Article 16).¹⁰⁴ This act guarantees the personal inviolability of children and their specific protection against sexual abuse, prostitution, pornography and trafficking (Article 10, 39, 40 and 42).¹⁰⁵ Thus, despite the *Law on the Rights of the Child's* compliance with OPSC standards, it could be perceived as merely a regulatory act of general nature whose actual implementation depends on a number of other acts, such as the Criminal Code.¹⁰⁶

In observance of the CRC, Kazakhstan's child protection legislation defines a "child" as a person who has not reached the age of majority (18 years).¹⁰⁷ Additionally, Kazakhstani criminal and criminal-procedural legislation use the terms "underage", "juvenile"¹⁰⁸ (both for persons under 18 years of age) and "minor" (under 14).¹⁰⁹ Though the minimum age for consensual sex is not specified in any article of the Criminal Code,¹¹⁰ Article 122 of the Penal Code stipulates that having sexual activity with a child under 16 is an offense punishable by imprisonment up to 5 years.¹¹¹

Kazakhstan's national laws also outline parents' and guardians' obligations to protect children under their care from sexual abuse and exploitation. The Criminal Code criminalises the cruel treatment of a child by persons obligated to raise him/her; this provision applies to parents as well as educators, health care workers or other employees of institutions obligated to supervise children.¹¹² The *Law on Marriage and the Family of Kazakhstan* (1998) defines cruel treatment as including beating; deprivation of food, water, housing; and, particularly, sexual seduction of children, sexual violence against children or their sexual exploitation.¹¹³ The Criminal Code also criminalises the abuse of a guardianship or fiduciary position for corrupt or other depraved purposes to the detriment of a child, imposing up to two years imprisonment for such conduct.¹¹⁴

Kazakhstan's broad mandatory reporting legislation entails that "responsible persons,"¹¹⁵ organisations or other civilians who receive knowledge of a threat to the life or health of a child, of a violation of his rights and legal interests, are obligated to report this to the Body of Guardianship and Trusteeship located in the child's factual location." The Body of Guardianship and Trusteeship is then obliged to take necessary measures to protect the child.¹¹⁶ The scope and extent of said necessary measures, however, is unknown.

PROSTITUTION OF CHILDREN

In the Kazakhstani legal framework on child prostitution, provisions exist to address this issue as well as prostitution in general. However, these provisions are generally very broad and fail to cover all child prostitution related activities. In addition, some legal provisions merely address children below the

age of 16, in essence leaving children aged 16 to 18 years old partly unprotected. Further strengthening of the Kazakhstani legal framework is therefore essential to provide comprehensive protection to all children in Kazakhstan.

Child prostitution as defined by Article 2(b) in the OPSC is the use of a child in sexual activities for remuneration or any other form of consideration. Under Article 3(1)(b), child prostitution covers all acts of offering, obtaining, procuring or providing a child for this purpose.¹¹⁷

In Kazakhstan, prostitution is legal.¹¹⁸ The Criminal Code merely prohibits certain conduct relating to the facilitation of prostitution: maintaining a brothel; pimping; pandering; coercing a person into prostitution; and, involving minors in prostitution, are all outlawed activities. In particular, Article 271 prohibits the organisation or maintenance of prostitution establishments and pandering.¹¹⁹ With regard to child prostitution laws, the Kazakh legal framework is not in line with relevant provisions of the OPSC. Kazakhstan's Criminal Code does not criminalise "offering" and "providing a child for prostitution." Furthermore, "procuring a child for prostitution" is only criminalised if certain means are used (by way of deception (Article 128)). Such gaps highlight inconsistencies within Kazakh laws addressing child prostitution and Article 3(1)(b) of the OPSC.

Articles 131 and 132 criminalise the involvement of a juvenile in criminal and anti-social activity, respectively. Anti-social activity includes the non-medical use of drugs or other narcotic substances, the systematic use of alcohol, prostitution, vagrancy and begging. Article 133 further criminalises the purchase and sale of a juvenile for the purpose of his/her involvement in criminal/anti-social activity.¹²⁰ This broad language would not, however, cover the act of offering or advertising the availability of children as sexual partners (verbally, via newspapers, the Internet, mobile phone or any other form of communication). Moreover, in 2002, the Supreme Court held that a proposal made by an adult to a child with a view to inducing the latter to engage in criminal activities or anti-social acts, without the use of psychological or physical pressure (beatings, threats,

persuasion, bribing, deception, stimulation of the feeling of revenge or envy, promise of financial rewards, etc.¹²¹), would not be punishable under Articles 131 and 132.¹²² The decision, which suggests that children are capable of consenting to prostitution under some circumstances, should be re-examined as it represents a loophole in the legal framework.

Similarly, Article 270 prohibits the drawing of a person into prostitution by way of violence or a threat to apply it, the use of a dependent position, blackmail, destruction or damaging property, or by way of deceit.¹²³ This provision applies to children as well; however, it would ideally provide more comprehensive protection by prohibiting the recruitment of a child for prostitution *regardless* of the methods used. For example, the act of encouraging a child to engage in prostitution is not covered by Article 270. In its 2006 consideration of Kazakhstan's report submitted under the OPSC, the Committee on the Rights of the Child also highlighted the limiting language of the provision as a concern.¹²⁴ Under the OPSC, the consent of a child to engage in commercial sexual activity, or the means used to obtain such consent, should be irrelevant.

Another deficiency of these provisions is that according to the commentary to the Criminal Code, prostitution is defined as the repeated performance of sexual acts in exchange for payment or compensation in kind, with payment and expected performance agreed upon in advance.¹²⁵ The requirement for a "repeated performance" may unfortunately narrow the scope of Kazakhstan's prostitution offences. Pimps and individuals who engage or facilitate in commercial sex with children may not be prosecuted under these provisions until multiple transactions have taken place. Kazakhstan's Criminal Code also contains a sexual servitude offence which has a higher penalty when children are involved. Article 126 punishes the illegal deprivation of an underage person's freedom for the purpose of sexual or other exploitation with 5 to 10 years imprisonment.¹²⁶ Also relevant, although

not specific to children, is Article 123, which prohibits the coercion of a person to engage in sexual activity by way of intimidation, threatening with destruction, damage, withdrawal of property or with the use of material or other dependence of a victim.¹²⁷

Individuals who engage in commercial sex with children may additionally be prosecuted under provisions on sexual crimes, though these only protect children 16 years of age and under. Article 122 of the Criminal Code criminalises sexual intercourse, sodomy, lesbianism or other acts of a sexual nature with a person under 16 years of age (punishable by up to 5 years imprisonment).¹²⁸ Also, Article 124 punishes the commission of depraved or lecherous actions without violence involving a person under 14 years of age with up to 4 years

imprisonment.¹²⁹ Lecherous actions can be physical or psychological, e.g. touching of genitals, conversations on explicitly sexual topics, showing of pornography to children.¹³⁰

It is unclear whether a juvenile could be punished for engaging in anti-social acts such as prostitution. The Criminal Code suggests that adolescents aged 16 years old and older would have to bear responsibility for such acts.¹³¹ It is essential that Kazakhstan repeal any provisions that criminalise child victims of prostitution and enact measures to prevent their stigmatisation. Where children fear being arrested, they are unlikely to reach out for assistance. Furthermore, laws that punish child victims provide exploiters with opportunities to coerce them by using threats of prosecution.

CHILD PORNOGRAPHY

The relevant international standards with regards to child pornography are found in Articles 2(c) and 3(1)(c) of the OPSC. Article 2(c) defines child pornography as any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.¹³²

Kazakhstan's Criminal Code does not make special reference to child pornography. Rather, it establishes general criminal liability for the dissemination of all types of pornography.¹³³ Article 273 of the Criminal Code prohibits the illegal manufacture of pornography for the purposes of distribution or advertisement, or distribution and advertisement of pornographic materials or objects, as well as illegal trade in publications, cinema or video materials, pictures, or other objects of a pornographic character. Such conduct is punishable by up to 2 years imprisonment.¹³⁴ According to Kazakhstan's *Law on Culture (1996)*, "pornography" is defined as obscenity and extreme cynicism in representing things related to sex or sexual relations.¹³⁵ Although

CHILD SEXUAL ABUSE IMAGES

this broad definition covers a wide array of material, it should ideally describe the specific materials and activities depicted that are the objects of criminal consequences.¹³⁶ The vague terms "obscenity" and "cynicism" potentially pose difficulties, as these are left up to the discretion of authorities. Kazakhstan ought to refine its definition of pornography; in particular, when children are involved, the definition should conform to international standards set out in the OPSC.

Article 124 of the Criminal Code criminalising the commission of depraved or lecherous actions without violence involving a person under 14 (see Child prostitution above) is reportedly also used to combat child pornography.¹³⁷ In addition, there is administrative liability under Article 115 of the *Code of Administrative Offences*, which forbids the involvement of minors in the production of articles with erotic content, and in the dissemination, advertisement and sale of articles with erotic content.¹³⁸ As this is an administrative offence, the punishment is a fine and confiscation of said article. The above mentioned provisions do not criminalise

the mere possession of child pornography, including virtual child pornography. Although the OPSC identifies the possession of child pornography-related material as a punishable act only when the material is intended to be distributed,¹³⁹ mere possession fuels demand and victimises the depicted child. In keeping with the Stockholm Agenda for Action, Kazakhstan needs to adopt higher protection standards by criminalising possession, regardless of whether the material is destined for private use or distribution. Moreover, to catch people who access child pornography websites without downloading, Parliament should explicitly provide punishment for those who knowingly obtain access to child pornography through information and communication technology.¹⁴⁰ This is a significant loophole, because with the fast development of ICTs, virtual child pornography has the potential to become increasingly accessible. Article 20 of the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007)* prohibiting knowingly accessing child pornography is an example of good practice standards that should be incorporated into Kazakh legislation.

Kazakhstan's *Law on Mass Media (1999)* prohibits the dissemination of all

pornographic materials by media such as television and radio.¹⁴¹ This act may serve as a vehicle through which ISPs and Internet content hosts are held accountable for child abuse material. According to amendments to the *Law on Mass Media* signed in 2009, all Internet resources are also recognised as media outlets and are subject to the act.¹⁴² "Internet resource" is defined as an "electronic information resource or technology of its conduct and/or use that functions in an open information-communication network, as well as the entity that provides for informational interaction." Operators/owners of Internet resources are required to prohibit their customers/users from disseminating information that violates Kazakhstani law.¹⁴³ Similarly, foreign websites deemed to be in breach of Kazakhstani law may also be blocked.¹⁴⁴ In other words, being subject to mass media regulations, Internet resources, including chat rooms, web forums, online stores, etc., may be held liable for the content of information they distribute.¹⁴⁵ The passing of these amendments has not been without controversy, however. Though the government has claimed that the legislation is aimed at curbing the distribution of child pornography (among other "unsuitable material"), critics have argued that the rules are actually aimed at limiting freedom of speech in the country.

Online solicitation of children ("grooming") for sexual purposes

Many child predators use the anonymity of the Internet as a vehicle for locating and "grooming" children for sexual exploitation. This process often begins with "innocent" chatting or gaming, later escalating to sexually explicit exchanges that could involve potential compromised images of the child and finally, the offender travelling or arranging for the child to travel to a location where the sexual abuse occurs. According to a government report, information literacy among Kazakhstan's general public is growing markedly, with 34% of the population aged 15 and older knowing how to use a computer and 20% using the Internet by 2009.¹⁴⁶ A rise in Internet use by young people inevitably provides increased opportunities for offenders to contact and exploit children online. Kazakhstan has not instituted legislation that specifically combats this phenomenon. In particular, the Committee on the Rights of the Child has called on the country to introduce specific legal provisions to combat the use of the Internet for the dissemination of child pornography or other forms of sexual exploitation (e.g. recruitment for prostitution), which has yet to be done.¹⁴⁷ However, the general and non-exhaustive nature of Article 123 of the Penal Code, which prohibits the coercion of any person to sexual contact by a "form of dependency of the victim", may be relevant to "grooming". The phraseology of the provision could potentially prohibit the coercion of a child to sexual contact

by exploiting the emotional dependency of the child on the offender. It is unclear, however, whether this provision has been used in Kazakhstan to prosecute or successfully convict a perpetrator of “grooming.”

TRAFFICKING IN CHILDREN FOR SEXUAL PURPOSES

Under Article 3(a) of the *UN Trafficking Protocol*, trafficking in persons is defined as the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power, or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹⁴⁸ Under the *Trafficking Protocol*, the definition of trafficking requires the use of coercion or deceit when the victim is an adult; however, this does not apply when the victim is a child under the age of 18 years. As long as the overall objective of the trafficking operation is the exploitation of the child, his/her consent, as well as the means used (coercion, use of force, deception, etc.) are immaterial.¹⁴⁹

In 2003 the President of Kazakhstan signed a law *On Amendments to Criminal Code of the Republic of Kazakhstan*, expanding legislative measures against human trafficking.¹⁵⁰ Most relevant is Article 128 of the Criminal Code, which prohibits the recruitment of persons for exploitation. Specifically, it provides that the recruitment of a juvenile, committed by way of deception, for the purpose of his/her export outside, beyond or through Kazakhstan from one foreign state to another and for his/her sexual or other exploitation is punishable by 3 to 8 years imprisonment.¹⁵¹ Recruiting includes searching, attracting, inviting and hiring people for a specific type of work.¹⁵² Also applicable is Article 125 which punishes

the kidnapping of an underage person for the purpose of sexual or other exploitation with 10 to 15 years imprisonment.¹⁵³

Unfortunately, these provisions are problematic in that they require force or deception to constitute human trafficking and do not cover other actions listed in the *Trafficking Protocol*: transportation, transfer, harbouring and receipt. Article 133 “Trading in Juveniles” could conceivably cover these gaps, but it requires the purchase and sale or other transactions with regard to the juvenile’s export/import, which are not necessarily present in all instances of trafficking. The difficulty of proving that victims were deceived has been a hurdle to prosecuting crimes under Kazakhstan’s trafficking offences.¹⁵⁴ Moreover, Kazakhstan’s anti-trafficking laws ought to be amended to also cover domestic trafficking, that is, the movement of a victim *within* the country’s borders for exploitative purposes.

Supplementing Kazakhstan’s trafficking laws are provisions on illegal migration. For instance, Article 330-2 of the Criminal Code punishes the organisation of illegal migration by way of providing transport vehicles or counterfeit documents, housing or other premises, as well as rendering of other services to citizens, foreigners and stateless persons for illegal entry into, exit from or movement within Kazakhstan with up to 2 years imprisonment.¹⁵⁵ This provision applies to travel agencies supporting illegal migration as well.¹⁵⁶ On the other hand, Article 330 prohibits the deliberate illegal crossing of the Kazakhstani border without proper documents/a proper permit,¹⁵⁷ perhaps subjecting trafficked children to criminal sanctions given that the age of

criminal responsibility is 16 years. The *Law on Tourist Activity in Kazakhstan (2001)* bans travel agencies from illegally exporting and importing labour resources.¹⁵⁸ Parliament is currently considering draft legislation *On Insurance of Civilian and Legal Responsibility of*

the Tourist Operators and Agents, which would require such agencies to adhere to contractual terms negotiated with persons travelling abroad and to provide them return guarantees and social insurance.¹⁵⁹

CHILD SEX TOURISM

Article 4 of the OPSC highlights the importance of establishing jurisdiction over offences committed against children outside one's own country. The OPSC calls State members to take measures "to establish... jurisdiction...when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its own nationals."¹⁶⁰

Under Article 7 of the Criminal Code, Kazakh citizens who commit a crime in another state are subject to criminal liability under Kazakhstani criminal law if the given act is recognised as a crime in that state and if they were not convicted in that state.¹⁶¹ In light of the significant discrepancies in legal protections for children worldwide, most notably around the age of consent, this requirement for double criminality constitutes a significant obstacle to the prosecution of child sex tourists. This feature of Kazakhstani criminal law may also encourage "forum shopping" (choosing particular jurisdictions because the prevailing laws are more lenient or advantageous to a particular claim or defence) among offenders.

Article 26 of the *Law on Tourist Activity in Kazakhstan* also protects tourists in Kazakhstan as well as Kazakh tourists in other countries through measures directed at preventing sexual exploitation or other forms of exploitation.¹⁶²

In Kazakhstan, only physical persons can be held criminally liable. When a legal entity is involved in CSEC crimes, only its employees

who were directly involved can be prosecuted under criminal law. Therefore, if a company facilitated sex tourism crimes, liability could only be considered with respect to the individual employees who participated in the commission of the offence.¹⁶³ The OPSC, on the other hand, specifically calls upon states to establish liability of legal persons, including corporations. Tourism companies are critical resources in fighting child sex tourism. This is because they are responsible for marketing Kazakhstan as a tourist destination. It is therefore imperative that they do not encourage travel to Kazakhstan for child sex tourism purposes and rather use their influence to deter such activities. As such, Kazakhstan should extend liability past individuals to legal persons, acknowledging corporate responsibility of the tourism sector. That legal persons cannot be held liable for OPSC crimes in Kazakhstan was also highlighted as a concern by the CRC in 2006.¹⁶⁴

Extraditions are encouraged by the OPSC, which requires that all the offences under its scope be deemed included in existing treaties.¹⁶⁵ In Kazakhstan, extradition requests for offences under the OPSC can be made only where an extradition treaty exists between Kazakhstan and another country. In particular, Article 8 of the Criminal Code provides that citizens who commit a crime in another state shall only be subject to extradition to that other state if established by international treaties.¹⁶⁶ Bilateral extradition treaties exist between Kazakhstan and the following states: Russia, Belarus, Kyrgyzstan, Tajikistan, Georgia, Armenia, China,

Uzbekistan, Turkey, the UAE, Pakistan, Spain, Mongolia, India and Azerbaijan.¹⁶⁷ Consequently, where no treaty exists, if Kazakh nationals commit CSEC crimes abroad, these offences may go unpunished unless Kazakh officials take steps to prosecute them.

Kazakhstan has also established mutual legal assistance treaties with a number of states (e.g. Azerbaijan, Kyrgyzstan,

Lithuania, Turkmenistan, China, North Korea, Mongolia, Pakistan, Turkey).¹⁶⁸ In the context of both extradition and mutual legal assistance, the double criminality requirement applies. The Committee on the Rights of the Child has expressed concern that the requirement of double criminality, either for extradition or domestic prosecution of crimes allegedly committed abroad, hampers the prosecution of CSEC offences outlined in the OPSC.¹⁶⁹

Child protection units

In response to the Committee on the Rights of the Child's criticism of Kazakhstan's lack of a permanent body for children's rights,¹⁷⁰ the government established the Child Rights Protection Committee ("Committee") in 2006. The Committee's mandate is exclusively limited to children's rights, including the development and implementation of national policy on the protection of children's rights and establishing effective systems to guarantee these rights.¹⁷¹ A unique feature of the Committee is its ability to consider personal appeals on child rights issues from the general public.¹⁷² Furthermore, it will hold accountable individuals and

institutions failing to meet their obligations of protecting children's rights. The Committee is also tasked with coordinating inter-sectoral efforts on children's rights, such as collaboration with the media, NGOs and international organisations, while providing expert assistance to concerned institutions and individuals on issues of child protection. Finally, the Committee was set to play a significant role in contributing to the establishment of a Child Rights Ombudsman system planned for 2006-2007 to monitor the observance of children's rights on a large scale.¹⁷³

Support services for children

Strategies for the recovery and reintegration of victims of CSEC should contain immediate and long-term policies. Immediate support services can include medical and psychological care, provision of adequate shelter and legal assistance; whereas long-term assistance could include reintegration into school, return to the family or community when possible, and sound plans for social and economic rehabilitation and reintegration. In relation to child victims who have been trafficked into Kazakhstan from other countries, it is also important to have in place specific support mechanisms for children without Kazakh identity.

In accordance with Article 36 of the *Children's Rights Act*, children who have been subjected to physical or emotional trauma as the result of an offence, violence or another unlawful act, must receive the necessary assistance for the restoration of their health and their social adaptation.¹⁷⁴ By virtue of the *National Action Plan for the Improvement of Women's Position*, 28 crisis centres have been established for women and children that fall victim to violence, including commercial sexual exploitation.¹⁷⁵ The Zabota Crisis Centre in Almaty is responsible for replicating and rolling out good practice initiatives observed in centres across Kazakhstan.

In 2004, UNICEF and the National Healthy Lifestyle Centre established a support service network called Youth Friendly Services (YFS). The purpose of the network is to provide medical, psychological, social and legal support to child and adolescent victims of CSEC.¹⁷⁶ A unique feature of the YFS is its provision of art-therapy and training courses for children, which are adapted to each individual child, based on their age and circumstances, and are provided free-of-charge.

In recent years, YFS Centres have been able to provide expert consultations for children and adolescents on a variety of issues, including: the prevention of substance abuse, stress and depression; sexual health and the prevention of sexually transmitted infections and HIV/AIDS; nutrition; mental health; violence and abuse; and, legal counselling.¹⁷⁷ The scope of services provided at YFS Centres caters not only to victims of CSEC, but all children and adolescents, as many of the services focus on informative and preventative strategies.

The YFS initiative has received governmental support and currently 28 centres, seven of which have shelters, operate in the cities of Astana, Almaty, Taldykorgan, Karaganda, Taraz, Ust-Kamenogorsk, Semey, Shymkent and Uralsk.¹⁷⁸ The presence of YFS Centres in Kazakhstan's largest urban settlements optimises the availability of support services for children. However, its actual impact on victims of CSEC, including non-Kazakh nationals, is yet to be determined.

“Rodnik”, a rescue and rehabilitation centre for women, men and children, runs a shelter for victims of trafficking in Almaty. The refuge has been operational for six years; however, it rarely assists victims under the age of 18.¹⁷⁹ This suggests that support services for child victims of sexual trafficking may not be readily and easily available. The emotional trauma and fear a child victim suffers is likely to reduce their level of trust for third-party support services. Rehabilitative centres should therefore implement new, innovative ways to reach child victims of sexual trafficking.

Training law enforcement personnel

In order to effectively enforce the laws and policy preventing and prohibiting CSEC, it is essential that Kazakhstan have a well-trained body of law enforcement personnel. Law enforcement personnel in Kazakhstan have reportedly endorsed attitudes blaming victims of trafficking for sexual purposes¹⁸⁰ which demonstrates the urgent need for training. While legislation prohibiting and punishing CSEC is vital in the first instance, it is the enforcement of these regulations that begins to create tangible changes in the culture and norms of Kazakhstani society.

There is little evidence to suggest that much has been done to train law enforcement personnel to identify, investigate and combat CSEC related crimes. It has, however, been reported that the government has begun to educate law enforcement officials on issues associated with human trafficking.¹⁸¹ Nevertheless, the extent and scope of the training remains unknown. As such, Kazakhstan accepted a recommendation in the 2010 Universal Periodic Review to “further strengthen law enforcement and the judicial system in the effort to address impunity and prevent trafficking and

domestic violence, as well as the sexual abuse of women and girls.”¹⁸²

Having previously mentioned the prevalence of corruption and reported incidents of law enforcement personnel involved in CSEC, it is imperative that the Government of Kazakhstan adopt a hard-line stance against such behaviour, and take proactive measures to thoroughly train its law enforcement

personnel on the prevention of CSEC crimes. This ought to include introducing professional ethics training to police officers to foster a culture of empathy for, and assistance to, child victims of all manifestations of commercial sexual exploitation. Moreover, the investigation and prosecution of police officers suspected of complicity in trafficking is vital.¹⁸³

CHILD AND YOUTH PARTICIPATION

Active and meaningful child and youth participation in prevention efforts against CSEC through means such as advocacy and education is very limited. The primary initiative involving the participation of children and youth is the Youth Friendly Services (see Support services for children). YFS Centres provide children and adolescents with opportunities to partake in advocacy and awareness-raising by sharing their experiences and educating their peers on various children's issues, including CSEC. Examples of YFS youth participation initiatives include the ECPAT International Body Shop campaign on the prevention of trafficking of children for sexual purposes.

In 2007 the Crisis Centre “Care” established the youth centre “Youth Power” which provides information and psychological counseling care for adolescents and vulnerable young people. The centre organises free of charge entertainment for youth and

children. Youth at the centre are trained to provide training sessions on child safety and protection for remuneration. The youth centre is a safe environment for children to socialise, attend training sessions, and participate in a variety of activities including dancing, table tennis, exercise and computer use. In 2012, Crisis Center “Care” established “Orleu”, a second youth health centre in an area prevalent with families of labour migrants and repatriates. Finally, in 2012, the Crisis Center “Care” received a grant for the project “Do not risk themselves.” Modules have been developed and 17 volunteers have been trained to provide training on CSEC to children in children's homes and boarding schools.

Despite these efforts, there is still a significant lack of youth participation in decision-making involving issues that impact their lives, such as CSEC and HIV/AIDS.¹⁸⁴



PRIORITY ACTIONS REQUIRED

National plan of action

- While efforts have been made to create National Plans of Action to combat CSEC in Kazakhstan, programmes have either fallen short of the requirements of a National Plan of Action, or have been insufficient in contributing to the prevention of CSEC. Thus, it is essential that an effective National Plan of Action be adopted and endorsed to combat CSEC in Kazakhstan.
- The current Plan of Action focuses on trafficking; more attention ought to be given to the other manifestations of CSEC as well.

Coordination and cooperation

- While it is clear that regional and international cooperation on preventing CSEC does exist, the extent of coordination between these bodies to achieve tangible results and establish partnership projects is unknown. Therefore, coordination between stakeholders must be strengthened to successfully prevent and combat CSEC in Kazakhstan and neighbouring countries.
- Involvement of the private sector in coordination and cooperation.

Prevention

- The resources, expertise and influence of the private sector, particularly the tourism and ICT industries, should be engaged in prevention measures, particularly in awareness-raising activities.
- It is important that information, education and outreach programmes are also directed at those engaging in the commercial sexual exploitation of children.
- A public reporting interface, such as an Internet reporting hotline, should be created and promoted to the public, particularly as access to the Internet is increasing. Such mechanisms provide excellent support to law enforcement in dealing with child abuse materials while providing a channel to report online crimes against children and supporting their subsequent assistance and recovery.
- The general unavailability of studies on CSEC in Kazakhstan suggests that very little research is carried out in this particular area of child issues. Research efforts should be improved to identify the scope, extent and root causes of CSEC.

- It is essential that Kazakhstan harmonises its national law with the relevant international legal human rights instruments.
- To eradicate uncertainty in the law and inefficiency in law enforcement, Kazakhstani domestic legislation should explicitly state the minimum age for consensual sex.
- Kazakhstan's legislation entails that "responsible persons" who receive knowledge of a threat to the life or health of a child, or of a violation of his/her rights and legal interests, are obligated to report this to the Body of Guardianship and Trusteeship. This body is then obliged to take necessary measures to protect the child. The scope and extent of said necessary measures should be defined.
- The Kazakhstani Criminal Code should be reviewed to include the criminalisation of offering, providing, procuring (without the use of means such as deceit, force, etc.) and advertising a child for prostitution, in order to ensure full consistency between national laws and the OPSC.
- The definition of prostitution must be revised to eliminate the necessary criterion of "repeated performance" which narrows the scope of Kazakhstan's prostitution offences.
- Articles 124 of the Criminal Code should be revised by raising the age of children protected from depraved or lecherous actions without violence, from 14 years of age.
- The Criminal Code suggests that adolescents 16 years old and older would have to bear responsibility for engaging in anti-social acts such as prostitution. It is essential that Kazakhstan repeal any provisions that criminalise child victims of prostitution and enact measures to prevent their stigmatisation.
- Kazakhstan's Criminal Code should specifically define child pornography and criminalise all acts and conduct relating to child pornography, in line with Articles 2 and 3 of the OPSC.
- Kazakhstan ought to refine its definition of pornography to eliminate any ambiguity in the behaviour and actions that are illegal. In particular, when children are involved, the definition should conform to international standards set out in the OPSC. The legal definition of child pornography should also cover virtual child pornography (cartoons, drawings, anime, video games, etc.) which represent fictional children engaged in sexual activity with adults or other children.
- The provision prohibiting, *inter alia*, the involvement of minors in the production of articles with erotic content (Article 115 of the *Code of Administrative Offences*) should be extended from merely attracting administrative liability to criminal liability as well.
- In keeping with the Stockholm Agenda for Action, Kazakhstan needs to adopt higher protection standards by criminalising the possession of child pornography. Parliament should also explicitly provide punishment for those who knowingly obtain access to child pornography through ICTs.
- It is imperative that Kazakhstan adopts legislation to explicitly prevent and combat the online solicitation of children for sexual purposes ("grooming").

- Articles 128 and 125 prohibiting the recruitment of persons for exploitation and punishing the kidnapping of an underage person for exploitation, respectively, require the criterions of force or deception to be satisfied. In order to facilitate the prosecution of CSEC offenders, these criteria should be abolished. Moreover, the provisions should also criminalise other trafficking-related actions listed in the *Trafficking Protocol*, such as transportation, transfer, harbouring and receipt.
- Kazakhstan's anti-trafficking laws require urgent amendments to criminalise domestic trafficking.
- The criminalisation of all, deliberate illegal crossings of the Kazakhstani border without proper documents and permits should be revised. This is because the provision has the potential to unjustly subject trafficked children, having reached the age of 16 and assuming criminal liability, to criminal sanctions.
- The requirement for double criminality should be urgently abolished to ease the prosecution of child sex tourists.
- In line with the OPSC, Kazakhstan ought to extend criminal liability past individuals to legal persons, acknowledging corporate responsibility of the tourism sector and tourism companies, which are often key facilitators of child sex tourism.
- Extradition requests for offences under the OPSC can only be made where an extradition treaty exists between Kazakhstan and another country. This deficiency in law enforcement and judicial proceedings must be rectified to prevent Kazakh nationals committing CSEC crimes abroad from benefiting from impunity.
- It is important that law enforcement officials in Kazakhstan are provided with comprehensive training in preventing, identifying, reporting and detaining CSEC offenders. The training should also educate officials as to how to interact with child victims of CSEC. These measures are in view of eliminating the factors of corruption, a lack of evidence and the absence of a plaintiff to cause law enforcement officers to turn a blind eye to the sexual abuse of children.
- Law enforcement officers suspected of complicity in the trafficking of children for sexual purposes must be investigated and prosecuted.
- The government should introduce professional ethics training for law enforcement officials in order to foster a culture of empathy for, and assistance to, trafficking victims.

Recovery and integration

- The presence of YFS Centres in Kazakhstan's largest urban settlements optimises the availability of support services children. However, its actual impact on victims of CSEC, including non-Kazakh nationals, is yet to be determined. An assessment of the impact of YFS Centres should be carried out to identify areas requiring strengthening in order to maximise the support provided to child victims of CSEC.
- There ought to be an increase of efforts to identify foreign child victims of prostitution. This entails ensuring that authorities make efforts to proactively identify victims detained during immigration raids, and refer them to assistance services.
- It should be ensured that foreign child victims of trafficking for sexual purposes receive assistance. As such, the number of victims receiving government-funded assistance should be increased by extending funding to anti-trafficking NGOs and establishing trafficking shelters.
- Foreign child trafficking victims should be promptly provided with their identity documents to facilitate repatriation of those who wish to return to their countries of origin.
- Foreign victims of CSEC should under no circumstances be repatriated to countries where they are at risk of facing persecution or a threat of danger to their lives.
- The quality and availability of policies and targeted programmes for the recovery and reintegration of child victims of CSEC should be enhanced; in particular, responses to children living on the streets should be intensified.

Child and youth participation

- The Kazakhstan Government should establish processes and structures to institutionalise meaningful child and youth participation in developing policies and programmes that affect them.
- Despite the availability of Youth Friendly Services, there is still a significant lack of youth participation in decision-making involving issues that impact their lives, such as CSEC and HIV/AIDS. A concerted effort ought to be made to involve children and youth in the prevention and awareness-raising of CSEC.
- Establish participatory policies and practices in all settings/institutions involving children (schools, health centres, juvenile justice, care homes and shelters, local and national government etc.).

ANNEX

The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*

Note: This is a condensed version. The full Rio Declaration and Call to Action also contains: Preamble; A. Review of progress and outstanding challenges; and B. Declaration.

C. Call for Action

We call on all States, with the support of international organizations and civil society, including NGOs, the private sector, adolescents and young people to establish and implement robust frameworks for the protection of children and adolescents from all forms of sexual exploitation, and we call upon them to:

I - International and Regional Instruments

- (1) Continue working towards ratification of relevant international instruments, including as appropriate the United Nations Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Convention on the Elimination of All Forms of Discrimination against Women.
- (2) Continue working towards ratification of relevant regional instruments, including as appropriate the African Charter on the Rights and Welfare of the Child, the ASEAN Charter,

the Inter-American Conventions on International Traffic in Minors and on the Prevention, Punishment and Eradication of Violence against Women, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Council of Europe Conventions on Action against Trafficking in Human Beings, on Cybercrime and on the Protection of Children against Sexual Exploitation and Sexual Abuse, conventions which can be ratified by States that are non-members of the Council of Europe.

- (3) State Parties should take all necessary measures to implement the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, taking into due accounts the conclusions and the recommendations of the Committee on the Rights of the Child in the context of its review of State Parties' reports. All countries are encouraged to use this as an important reference.

II – Forms of Sexual Exploitation and its New Scenarios

Child pornography/child abuse images

- (4) Criminalize the intentional production, distribution, receipt and possession of child pornography, including virtual

* The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008), full text available at: http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf

images and the sexually exploitative representation of children, as well as the intentional consumption, access and viewing of such materials where there has been no physical contact with a child; legal liability should be extended to entities such as corporations and companies in case the responsibility for or involvement in the production and/or dissemination of materials.

- (5) Undertake specific and targeted actions to prevent and stop child pornography and the use of the Internet and new technologies for the grooming of children into online and off-line abuse and for the production and dissemination of child pornography and other materials. Victim identification, support and care by specialized staff should be made a high priority.
- (6) Conduct educational and awareness-raising campaigns focusing on children, parents, teachers, youth organizations and others working with and for children with a view to improve their understanding of the risks of sexually exploitative use of the Internet, mobile telephones and other new technologies, including information for children on how to protect themselves, how to get help and to report incidences of child pornography and online sexual exploitation.
- (7) Take the necessary legislative measures to require Internet service providers, mobile phone companies, search engines and other relevant actors to report and remove child pornography websites and child sexual abuse images, and develop indicators to monitor results and enhance efforts.
- (8) Call upon Internet service providers, mobile phone companies, Internet cafes and other relevant actors to develop and

implement voluntary Codes of Conduct and other corporate social responsibility mechanisms together with the development of legal tools for enabling the adoption of child protection measures in these businesses.

- (9) Call upon financial institutions to undertake actions to trace and stop the flow of financial transactions undertaken through their services which facilitate access to child pornography.
- (10) Set up a common list of websites, under the auspices of Interpol, containing sexual abuse images, based on uniform standards, whose access will be blocked; the list has to be continuously updated, exchanged on international level, and be used by the provider to perform the access blocking.
- (11) Undertake research and development, in the realm of the private sector, of robust technologies to identify images taken with electronic digital devices and trace and retract them to help identify the perpetrators.
- (12) Promote public/private partnerships to enhance the research and development of robust technologies to investigate and to trace the victims with a view to immediately stop their exploitation and provide them with all the necessary support for full recovery.
- (13) Make technologies easily available, affordable and usable for parents and other caregivers, including to assist with the use of filters to block inappropriate and harmful images of children.

Sexual exploitation of children and adolescents in prostitution

- (14) Address the demand that leads to children being prostituted by making

the purchase of sex or any form of transaction to obtain sexual services from a child a criminal transaction under criminal law, even when the adult is unaware of the child's age.

- (15) Provide specialized and appropriate health care for children who have been exploited in prostitution, and support child centered local models of recovery, social work systems, realistic economic alternatives and cooperation among programmes for holistic response.

Sexual exploitation of children and adolescents in travel and tourism.

- (16) Encourage and support the tourism, travel and hotel sectors in adopting professional Codes of Conduct, for example by joining and implementing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism; encourage the use of businesses that put in place appropriate child protection-focused corporate social responsibility strategies; and/or provide other incentives for those participating.
- (17) Ensure that all stakeholders pay specific attention to unregulated tourism to prevent domestic and international travellers from sexually exploiting children and adolescents.
- (18) Cooperate in the establishment of an international travel notification system, such as the Interpol 'green notice' system, in accordance with applicable law and human rights standards.
- (19) Ensure investigation and, where sufficient evidence exists, that appropriate charges are brought and vigorously pursued against the State's nationals who are reported or alleged to have sexually exploited a child in a foreign country.

- (20) Prohibit the production and dissemination of material advertising the sexual exploitation of children in tourism; and alert travellers to criminal sanctions that will apply in cases of sexual exploitation of children.

- (21) Monitor new and emerging tourist destinations and establish proactive measures to work with private sector partners involved in the development of tourism services on measures to prevent the sexual exploitation of children and adolescents, including the use of socially and environmentally responsible strategies that promote equitable development.

Trafficking and the sexual exploitation of children and adolescents

- (22) Mobilize communities, including children and adolescents with a view to engaging them in dialogue on and a critical review of social norms and practices and economic and social conditions that make children vulnerable to trafficking, and establish procedures that involve them in developing strategies and programmes where they participate, where appropriate, in the planning, implementation and monitoring of such programmes.
- (23) Pilot and adapt or replicate successful models of community-based prevention and rehabilitation and reintegration programmes for child victims of trafficking.
- (24) Establish policies and programmes that address not only cross-border but also internal trafficking of children and that include, among other elements, a standard operating procedure for the safe repatriation and return of children based on the child's view and on a careful assessment of the needs and risks to the child of returning to her/his place of origin to ensure that the best interests of the child are taken into account.

- (25) Continue strengthening cross-border and internal cooperation of law enforcement officials, for example by establishing coordinating units with a mandate to issue clear guidelines for child centered investigation of cases of trafficking of children and for treating trafficked children not as criminals but as victims in need of protection.
- (26) Take legislative and other measures to ensure that a guardian is appointed without delay for every unaccompanied trafficked child, that an effective system of registration and documentation of all trafficked children is established, and that every trafficked child is provided with not only short-term protection but also with the necessary economic and psycho-social support for full and long-lasting recovery and social reintegration (in line with the UNICEF

Guidelines on the Protection of Child Victims of Trafficking and UNHCR Guidelines on Formal Determination of the Best Interests of the Child).

- (27) Undertake and/or support, with the involvement of civil society and children, the regular evaluation of programmes and policies to prevent and stop the trafficking of children and of legislation that may have a conducive impact on trafficking, for example laws on marriage, free education, adoption and migration, birth registration, accordance of citizenship, refugee or other status.

III – Legal Frameworks and Enforcement of the Law

- (28) Define, prohibit and criminalize, in accordance with existing international human rights standards, all acts of sexual exploitation of children and adolescents in their jurisdiction, irrespective of any set age of consent or marriage or cultural practice, even when the adult is unaware of the child's age.

- (29) Establish effective extraterritorial jurisdiction, abolishing the requirement of double criminality for offences of sexual exploitation of children and adolescents, and facilitate mutual legal assistance, in order to achieve effective prosecution of perpetrators and appropriate sanctions. Make all acts of sexual exploitation of children and adolescents an extraditable offence in existing or newly established extradition treaties.
- (30) Designate a lead law enforcement agency, where appropriate to national circumstances, to proactively enforce extraterritorial laws related to sexual exploitation of children and adolescents.
- (31) Ensure that child victims of sexual exploitation are not criminalized or punished for their acts directly related to their exploitation, but are given the status of victim in law and are treated accordingly.
- (32) Establish special gender sensitive units/ children's desks within police forces, involving when appropriate other professionals like health care and social workers and teachers, to address sexual crimes against children, and provide specialized training to judicial and law enforcement personnel.
- (33) Address corruption in law enforcement and the judiciary, as well as other authorities with a duty of care to children, recognizing corruption as a major obstacle to effective law enforcement and protection for children.
- (34) Establish and implement international, regional and national legal mechanisms and programmes for addressing sex offender behaviour and preventing recidivism, including through risk assessment and offender management programmes, the provision of voluntary extended and comprehensive rehabilitation services (in addition to but not in lieu of criminal sanctions

as appropriate), safe reintegration of convicted offenders and the collection and sharing of good practices and establish where appropriate sex offenders registers.

IV – Integrated Cross-Sectoral Policies and National Plans of Action General

- (35) Develop and implement comprehensive National Plans of Action on the sexual exploitation of children and adolescents, or include these in existing relevant planning frameworks, such as National Development Plans and ensure that these Plans are based in a cross-sectoral approach which brings all stakeholders together in a coherent and comprehensive framework for action. These Plans should incorporate gender-sensitive strategies, social protection measures and operational plans, with adequate monitoring and evaluation targeted resources and designated responsible actors, including civil society organizations for implementation of initiatives to prevent and stop the sexual exploitation of children and adolescents and provide support for child victims of sexual exploitation.
- (36) Promote and support multi-sectoral policies and programmes, including community-based programmes, within the framework of a comprehensive national child protection system to address phenomena that contribute to the sexual exploitation of children and adolescents including, for example, discrimination (including on the basis of sex), harmful traditional practices, child marriage and social norms that condone sexual exploitation.
- (37) Promote and fund meaningful child and youth participation at all levels in the design, monitoring and evaluation of policies and programmes, in campaigns and through peer-to-peer youth programmes, aimed at raising

awareness and preventing the sexual exploitation and trafficking of children and adolescents.

- (38) Initiate and support the collection and sharing of reliable information and cross-border cooperation, and contribute to databases on victims and perpetrators, to enhance assistance to children and address the demand for sex with children, in accordance with applicable laws.

Prevention

- (39) Ensure that all children born on their territory are registered immediately and for free after their birth and pay special attention to not yet registered children and children at risk and in marginalized situations.
- (40) Strengthen the role of educational institutions and staff to detect, denounce and help address sexual abuse and exploitation of children in all forms and sources.
- (41) Emphasize prevention of sexual exploitation of children and adolescents, through e.g. awareness raising and educational campaigns, support for parents and eradication of poverty while reinforcing or establishing multi-sectoral referral mechanisms to provide comprehensive support and services to children who have been victimized in sexual exploitation.
- (42) Support children to gain deeper knowledge of their own rights to be free from sexual exploitation, and the options available to help them to address abuse, so that they are empowered, with the partnership of adults, to end sexual exploitation.
- (43) Engage children in meaningful and critical examination of changing contemporary values and norms and their potential to increase vulnerability

to sexual exploitation; and promote education to enhance children's understanding of these issues in relation to sexual exploitation.

- (44) Undertake research on contemporary patterns of socialization of boys and men across different contexts to identify factors that promote and strengthen boys' and men's respect for the rights of girls and women and engage them in action initiatives that inhibit and discourage them from engaging in sexual exploitation of children and adolescents.

Protection of the child

- (45) Increase efforts to address the sexual exploitation of children and adolescents through the development of comprehensive and integrated national child protection systems, including the necessary budget allocations and based on identifications of settings where children are most at risk that aim to protect children from all forms of violence and abuse.
- (46) Establish by 2013 an effective and accessible system for reporting, follow up and support for child victims of suspected or actual incidents of sexual exploitation, for example by instituting mandatory reporting for people in positions of responsibility for the welfare of children.
- (47) Develop or enhance accessibility of existing telephone or web-based help lines, in particular for children in care and justice institutions, to encourage children and require care givers to confidentially report sexual exploitation and seek referral to appropriate services, and ensure that the operators of such reporting mechanisms are adequately trained and supervised.
- (48) Strengthen existing national child protection services or establish new

ones in order to provide all child victims of sexual exploitation, girls and boys, without discrimination, with the necessary economic and psycho-social support for their full physical and psychological recovery and social reintegration, and when appropriate, family reunification and interventions that support and strengthen families to mitigate the risk of further exploitation; such services to be provided by well trained multi-disciplinary teams of professionals.

- (49) Ensure that these services are accessible, appropriately resourced, comprehensive, child- and gender-sensitive, and reach all children without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex (or orientation), and social origin and including children with disabilities, from ethnic minorities, indigenous or Aboriginal children, refugee or asylum-seeking and children in domestic service or living on the streets and children displaced by conflict or emergency situations.
- (50) Develop programs that provide children of sex workers and children living in brothels with support and protection.
- (51) Promote and defend the privacy of the child victims and child perpetrators of sexual exploitation, taking into account relevant national laws and procedures, to protect their identity in investigatory or court proceedings or from disclosure by the media and ensure that these proceedings are child friendly and allow the child to participate in a meaningful way in the process of bringing the perpetrator to justice.
- (52) Ensure that children and adolescents exhibiting acts of sexual violence harmful to others receive appropriate care and attention as a first option through gender-sensitive and child-focused measures and programmes that balance their best interest with

due regard for the safety of others, and ensure compliance with the principle that depriving children of liberty should be pursued only as a measure of last resort, and ensure that those responsible for the care of such children are equipped with relevant and culturally appropriate training and skills.

V – International Cooperation

- (53) Take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts of sexual exploitation of children and adolescents; and for the assistance of child victims in their physical and psychological recovery, social reintegration and, as appropriate, repatriation.
- (54) Establish and/or improve by 2013 concrete mechanisms and/or processes to facilitate coordination at national, regional and international levels for enhanced cooperation among government ministries, funding bodies, UN agencies, NGOs, the private sector, workers' and employers' organizations, the media, children's organizations and other representatives of civil society with a view to enabling and supporting concrete action to prevent and stop the sexual exploitation of children and adolescents.
- (55) Strengthen and improve the effectiveness of existing regional mechanisms for exchange, coordination and monitoring of progress on child protection including against sexual exploitation in order to review progress and strengthen follow-up on the implementation of the recommendations made.
- (56) Provide, when in a position to do so, financial, technical and other assistance through existing multilateral, regional, bilateral and other programmes for addressing the sexual exploitation of children and adolescents; and explore the potential of a fund for child and youth initiatives in this area.
- (57) Develop, where appropriate with the support of UN agencies, NGOs, civil society organizations and the private sector, workers' and employers' organizations, policies and programmes to promote and support corporate social responsibility of enterprises operating inter alia in tourism, travel, transport and financial services, and of communication, media, Internet services, advertising and entertainment sectors; so that child-rights focused policies, standards and codes of conduct are implemented throughout the supply chain and include an independent monitoring mechanism.
- (58) Support and contribute to the Interpol international child abuse images database and nominate a responsible national focal point person or unit to collect and update promptly national data on sexual exploitation of children and adolescents, and systematically share this information with Interpol in order to support cross-border (international) law enforcement action and strengthen its effectiveness, and adopt multilateral agreements especially for police investigation work.
- (59) Undertake national and international coordinated measures to curb and stop the involvement of organized crime

in commercial sexual exploitation of children and bring persons and/or legal entities responsible for this form of organized crime to justice.

VI – Social Responsibility Initiatives

We encourage the private sector, employers' and workers' organizations, to proactively engage in all efforts to prevent and stop the sexual exploitation of children and adolescents, and to use their knowhow, human and financial resources, networks, structures and leveraging power to:

- (60) Integrate child protection, including the prevention of sexual exploitation of children, into new or existing corporate social responsibility policies of enterprises operating inter alia in tourism, travel, transport, agriculture and financial services, and of communication, media, Internet services, advertising and entertainment sectors, and ensure appropriate implementation of such policies and widespread public awareness.
- (61) Incorporate the prevention and protection of children from sexual exploitation in human resources policies, such as Codes of Conduct and other corporate social responsibility mechanisms throughout the supply chain.
- (62) Join efforts with Governments, UN agencies, national and international NGOs, and other stakeholders to prevent the production and dissemination of child pornography, including virtual images and the sexually exploitative representation of children, and stop the use of the Internet and

new technologies for the grooming of children into online and off-line abuse; undertake actions to trace and stop the flow of financial transactions for sexual exploitation of children through the services of financial institutions; support efforts to address the demand for sexual exploitation of children in prostitution and the strengthening of services for children victims and their families, including the establishment of accessible telephone or web-based help lines; and provide support for educational and awareness-raising campaigns targeting children, parents, teachers, youth organizations and others working with and for children, on the risks of sexual exploitation of children, sexually exploitative use of the Internet, mobile phones and other new technologies as well as on protective measures.

VII – Monitoring

- (63) Establish by 2013 independent children's rights institutions such as children's ombudspersons or equivalents or focal points on children's rights in existing human rights institutions or general ombudsperson offices, highlighting the importance for States Parties to the Convention on the Rights of the Child of General Comment No 2 of the Committee on the Rights of the Child; these bodies should play a key role in the independent monitoring of actions taken for the prevention of sexual exploitation of children and adolescents, protection of children from such exploitation and the restoration of the rights of sexually exploited children, in advocating for effective legal frameworks and enforcement and

in ensuring, where necessary, that child victims have effective remedies and redress, including the possibility of filing complaints before these institutions.

We encourage the Committee on the Rights of the Child to:

- (64) Persevere with reviewing progress of States Parties' fulfilment of their obligations to uphold the right of children to protection from sexual exploitation and pay special attention to the recommendations in the Rio Call for Action in its examination of reports under the Convention on the Rights of the Child and its Optional Protocols.
- (65) Adopt as a matter of priority a General Comment on the right of the child to protection from sexual exploitation, trafficking for sexual purposes, and the abduction and sale of children, including detailed guidance to States on the development, implementation and enforcement of national legislation and policies in this regard.
- (66) Continue to work with the Office of the High Commissioner for Human Rights in protecting child rights, and raising awareness of relevant international and regional human rights mechanisms.

We encourage other United Nations human rights treaty bodies, special procedures of the Human Rights Council and special representatives of the United Nations Secretary-General, as well as regional human rights mechanisms, to:

- (67) Pay particular attention to combating the sexual exploitation of children and adolescents, within their respective mandates and during their examination of State Parties' reports, country visits, in their thematic work and/or other activities.

We urge the Human Rights Council to:

- (68) Ensure that the Universal Periodic Review process includes rigorous examination of States' fulfilment of their obligations to children, including preventing and stopping the sexual exploitation of children and adolescents and to respectfully the rights of child victims of such exploitation.

We urge the yet-to-be-appointed Special Representative of the Secretary-General on Violence against Children, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the Special Rapporteur on Trafficking in Persons, especially in Women and Children, together with other appropriate mandate holders and in collaboration with the Committee on the Rights of the Child, to:

- (69) Work together to avoid duplication and to maximise their impact in preventing and stopping the sexual exploitation of children and adolescents and, through their work, map experiences in the area of prevention and response to sexual exploitation of children and assess their effectiveness.

We encourage UN agencies, NGOs and human rights institutions to:

- (70) Support and provide information on the extent of and responses to sexual exploitation of children and adolescents to these bodies.
- (71) Work with the media to enhance their role in education and empowerment, and in protecting children from sexual exploitation, and to mitigate the harmful potential of the media, including

through the sexualization of children in advertising.

We call on international financial institutions such as the World Bank and the International Monetary Fund to:

- (72) Review their current macro-economic and poverty reduction strategies with a view to counteracting any negative social impact on children and their families, including loan conditionality which essentially limits social services and access to rights and minimizing the risk for children to sexual exploitation.

We call on religious communities to:

- (73) Reject, in the light of their consensus about the inherent dignity of every person, including children, all forms of violence against children including sexual exploitation of children and adolescents and establish, in that regard, multi-religious cooperation and partnership with other key stakeholders such as governments, children's organizations, UN agencies, NGOs, media and the private sector using their moral authority, social influence and leadership to guide communities in ending sexual exploitation of children and adolescents.

C. Call for Action

- (1) We commit ourselves to the most effective follow-up to this Call for Action:

- At the national level, inter alia, by biennial public reporting on the measures taken for the implementation of the Rio Declaration and Call for Action and promoting/initiating discussions on the progress made and the remaining challenges to named responsible mechanisms for monitoring implementation while also integrating such requirements into State reporting to the Committee on the Rights of the Child.
- At the international level, by encouraging and supporting coordinated actions by the relevant human rights treaty bodies, special procedures of the Human Rights Council and Special Representatives of the Secretary-General of the United Nations with a view to maintaining awareness of the Rio Declaration and Call for Action and promoting its implementation.

- (2) Encourage the private sector to join the United Nations Global Compact and communicate their implementation progress with regard to addressing the sexual exploitation of children and adolescents and supporting the realization of this platform for coordinated corporate efforts and sharing of best practices.

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