



# EXECUTIVE SUMMARY Kazakhstan\*



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## Introduction

Although Kazakhstan has seen an increase in its standard of living in recent years, there remain multiple factors that may contribute to the vulnerability of its children to commercial sexual exploitation. Due to the recent international economic crisis, Kazakhstan's GDP has dropped by almost one third,<sup>1</sup> which has had an effect on the amount of money allocated to the social sector, including health and education.<sup>2</sup> Kazakhstan also faces the ongoing problem of a large number of orphaned children and/or children without parental or family care.<sup>3</sup> Additionally, Tajik and Uzbek refugee children are many times denied access to education due to lack of funds or lack of residence.<sup>4</sup>

There is a lack of data on the prevalence of the commercial sexual exploitation of children (CSEC) in Kazakhstan;<sup>5</sup> however, these previously mentioned factors, taken together, help to create favourable conditions for trafficking and CSEC.

**Child prostitution** is the most common manifestation of CSEC in Kazakhstan.<sup>6</sup> Prostitution is not illegal in Kazakhstan, but sexual exploitation and the seduction of children are prosecutable offences under domestic criminal law.<sup>7</sup> There is little data on child victims of prostitution and while there have been arrests in recent years of offenders involved in child prostitution, prosecutions of these offenders remain low. This is in part due to lack of evidence in some cases, the absence of a plaintiff in other cases, and corruption within law enforcement.<sup>8</sup>

Internet use in Kazakhstan is increasing at

unprecedented speeds, which increases the risk of the production and dissemination of **child pornography**. 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. However, there are very few online resources addressing Internet safety,<sup>9</sup> which could have a negative effect on Kazakhstani children, rendering them more susceptible to online exploitation by sex offenders.

Kazakhstan is a source, transit, and destination country for **children trafficked for sexual purposes**.<sup>10</sup> Kazakhstan has made some efforts to address the issue by providing temporary residence status to foreign victims of trafficking, signing mutual legal assistance treaties with other countries in the area of anti-human trafficking, and allocating money to establish a rehabilitation centre for victims of trafficking.<sup>11</sup> However, there is still much work needed in this area in Kazakhstan, as the victims of sex trafficking are getting younger, some child victims are placed in detention centres, and victims rarely report the crime of sexual trafficking for fear of stigmatisation.<sup>12</sup>

The inflow of foreigners is on the rise in Kazakhstan,<sup>13</sup> making it vital for the government to take action to prevent and protect victims of **child sex tourism**. Kazakhstan has no legislation that addresses child sex tourism, perhaps due to the fact that it appears to be a recent phenomenon in the country; consequently, there is little to no data on the topic.

## National Plan of Action:

In an effort to develop a National Plan of Action for victims of CSEC, Kazakhstan proposed the *Children of Kazakhstan 2006-2011* initiative. However, the Committee on the Rights of the Child rejected it due to its focus solely on protection issues.<sup>14</sup> Kazakhstan did endorse, in collaboration with the United Nations Children's Fund, a *Country Programme Action Plan 2010-2015*, with the aim of improving the quality of life

of vulnerable groups of children, although not specifically addressing CSEC. The government also developed 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.<sup>15</sup> Although the initiative addressed child trafficking, it was considered insufficient in impacting the levels of national and cross-border trafficking.

## Coordination and Cooperation:

Meetings on the prevention of human trafficking and exploitation of children have taken place involving state actors from, *inter alia*, law enforcement, educational institutions, government ministries, local NGOs, social services, and Parliament.<sup>16</sup> An NGO council working in collaboration with the Committee on the Protection of Children in the Ministry of Education and Science addresses abuse against minors, including sexual exploitation and trafficking. In 2006, the National Coordination Council on Child Labour was established and

it provides support to many non-governmental initiatives on CSEC prevention.<sup>17</sup> The government also provides financial support to various NGOs working to combat CSEC, such as the Interagency Commission on Minors.

Kazakhstan has participated in various regional and international conferences addressing CSEC prevention and the strengthening of legislation to protect children.<sup>18</sup> The extent to which this coordination has led to tangible results or partnership projects is unknown.

## Prevention:

There is evidence that awareness raising campaigns regarding CSEC have taken place in Kazakhstan. The Women's Union of Intellectual Work, supported by the National Coordinating Council for the Fight against the Worst Forms of Child Labour, has organised annual national information campaigns which include child sexual exploitation issues. In 2009, the Union of Crisis Centres of Kazakhstan, supported by the Ministry of Culture and Information of Kazakhstan, implemented a project addressing awareness raising campaigns to protect children from pornography and trafficking. Additionally, the National Network of NGOs of the Republic of Kazakhstan carries out awareness raising

campaigns on CSEC prevention on a regular basis.

Various trainings and educational projects have been sponsored in Kazakhstan through ECPAT International and the Crisis Centre "Care" focused on the identification and rehabilitation of child victims of commercial sexual exploitation. These trainings were attended by social workers, NGOs, educators, government representatives, and students. While some schools provide lectures and hold "health days" for young girls, there is no mandatory education on CSEC in Kazakhstan.<sup>19</sup>

In an attempt to reduce the number of vulnerable children to CSEC, the government has undertaken a number of campaigns to prevent homelessness and promote the education of minors from poor families.<sup>20</sup> As a result, the number of homeless and neglected children in Kazakhstan decreased between 2007 and 2011.<sup>21</sup> *The Law on Children's Villages of Family Type and Homes of Youth of the Republic of Kazakhstan* was adopted in 2000 and provides for the rights of children in orphanages, including the right to education and social services.<sup>22</sup>

Studies on CSEC in Kazakhstan are few and far between, suggesting that little research

is done in the country regarding this area of children's rights. UNICEF has conducted a number of studies in Kazakhstan on violence against children and has begun a Multi-Indicator Cluster Survey to determine the status of women and children.<sup>23</sup> In 2004, the Crisis Centre "Care" conducted a study on CSEC in three regions of the country<sup>24</sup> and in 2005, conducted a survey studying the risks posed to child victims of CSEC.

Awareness raising campaigns, training and education, vulnerability reduction, and research on CSEC issues all represent different mechanisms Kazakhstan can implement and improve upon in order to prevent CSEC.

## Protection

Kazakhstan has ratified most of the international treaties regarding child protection, including the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (OPSC)*. It also acceded to the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol)*. However, although Kazakhstan's Constitution states that international conventions prevail over national laws, Kazakhstan's *Law on International Agreements* maintains that international agreements that do not comply with Kazakhstani domestic law are inapplicable to the State.<sup>25</sup> This contradiction appears to hinder Kazakhstan from complying with its obligations under the aforementioned international treaties.

In 2002, the government enacted the *Law on the Rights of the Child in the Republic of Kazakhstan* which, *inter alia*, protects children against sexual abuse, prostitution, pornography, and trafficking.<sup>26</sup> Under Kazakhstan's Penal Code, it is illegal to have sexual activity with a child under 16 years old.<sup>27</sup> Legislation also outlines the obligations of parents and guardians to protect children and provides for broad mandatory reporting in the case of a threat or violation of the rights of a child.<sup>28</sup>

### Prostitution of children

Prostitution is legal in Kazakhstan<sup>29</sup> and while the Criminal Code does prohibit involving minors in prostitution, it does not criminalise offering and providing a child for prostitution. Additionally, procuring a child for prostitution is only criminalised if certain means are used, such as deception. The Criminal Code criminalises the purchase and sale of juveniles for the purpose of their involvement in criminal/anti-social activity, which includes prostitution.<sup>30</sup> This does not apply to acts of offering or advertising the availability of children as sexual partners. The Criminal Code also prohibits the drawing of a person into prostitution using certain means.<sup>31</sup> Although this provision applies to children as well, it is not in line with the OPSC, as the consent of a child to engage in commercial sexual activity and/or the means used to obtain such consent, should be irrelevant. The Criminal Code contains additional provisions regarding sexual crimes that would allow for those individuals who engage in commercial sex with children to be prosecuted; however, these only apply in cases where the child is 16 years old or younger.<sup>32</sup>

## Child pornography/child sexual abuse images

Kazakhstan's Criminal Code establishes general liability for the dissemination of all types of pornography, but makes no reference to child pornography specifically.<sup>33</sup> Under the Code of Administrative Offences, there is liability for the production of articles with erotic content, and for the dissemination, advertisement, and sale of articles with erotic content.<sup>34</sup> None of these provisions criminalise the mere possession of child pornography. The *Law on Mass Media* prohibits the dissemination of all pornographic material by media such as television and radio.<sup>35</sup> In amendments to the Law signed in 2009, all Internet resources are recognised as media outlets and are therefore subject to its provisions.<sup>36</sup>

## Trafficking in children for sexual purposes

The law *On Amendments to Criminal Code of the Republic of Kazakhstan* expanded legislation on human trafficking.<sup>37</sup> The law prohibits the recruitment of persons for exploitation in terms of human trafficking, including juveniles.<sup>38</sup> The kidnapping of a juvenile for the purpose of sexual or other exploitation is also a punishable offence.<sup>39</sup> Unfortunately, these provisions require force or deception to constitute human trafficking and do not cover transportation, transfer, harbouring and receipt, which are all part of the UN Trafficking Protocol. Furthermore, there is no legislation covering domestic trafficking within Kazakhstan.

## Child sex tourism

According to 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.<sup>40</sup> Due to the inconsistencies of legal protections offered around the world based on differing ages of consent, the requirement for double criminality may serve as an obstacle to the prosecution of child sex tourists.

## Child protections units

The Child Rights Protection Committee is Kazakhstan's permanent body for children's rights. The Committee works to develop and implement national policy on the protection of children's rights and also considers personal appeals on children's rights issues from the general public.<sup>41</sup> The Committee also has the power to hold individuals and institutions accountable for failing to meet their obligations of protecting children's rights.

## Support services for children

The *Children's Rights Act* states that children who have been subjected to trauma as the result of an offence, violence, or another unlawful act, must receive assistance for the restoration of their health and their social adaptation.<sup>42</sup> The *National Action Plan for the Improvement of Women's Positions* has established 28 crisis centres for women and children who are victims of violence, including commercial sexual exploitation.<sup>43</sup> The support service network Youth Friendly Services (YFS) was established in 2004 by UNICEF and the National Healthy Lifestyle Centre and has received government support as well. YFS provides medical, psychological, social, and legal support to child victims of CSEC.<sup>44</sup>

## Training law enforcement personnel

While law enforcement officials in Kazakhstan have begun to receive training on issues related to human trafficking,<sup>45</sup> there is little evidence to suggest that similar trainings have been conducted on identifying, investigating, and combating CSEC related crimes. This is especially concerning due to the prevalence of corruption and reported incidents of involvement in CSEC by law enforcement personnel.

## Child and Youth Participation:

YFS centres provide the best opportunities for child and youth participation in CSEC prevention in Kazakhstan. The centres provide young people with the chance to participate in advocacy and awareness raising by sharing experiences and educating their peers on CSEC

issues. The Crisis Centre “Care” has established several youth centres which provide counselling and training on child safety and protection. Despite these centres, there is still a significant lack of youth participation in decision-making involving CSEC issues.<sup>46</sup>

## 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, but more attention should 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. There should also be a stronger 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 also important for information,

education, and outreach programmes to be directed at those engaging in CSEC. A public reporting interface, such as an Internet reporting hotline, should be created and promoted to the public and research efforts should be improved to identify the scope, extent, and root causes of CSEC.

### Protection

It is essential that Kazakhstan harmonise its national law with the relevant international legal human rights instruments. Regarding the mandatory reporting legislation, the scope and extent of the necessary measures to be taken should be defined. The Kazakhstani Criminal Code should be reviewed to include the criminalisation of offering, providing, procuring (without the use of certain means), and advertising a child for prostitution, in order to ensure consistency with the OPSC. Kazakhstan should also repeal any provisions that criminalise child victims of prostitution. The Criminal Code should specifically define child pornography, criminalise all acts and conduct relating to it, and ensure that its definition conforms to international standards set out in the OPSC. Kazakhstan's anti-trafficking laws should be amended to criminalise domestic trafficking. The requirement for double criminality should be abolished to ease the prosecution of child sex tourists. It is important that law enforcement officials are provided with training in preventing, identifying, reporting, and detaining CSEC offenders, as well as trainings to educate officials on how to interact with victims of CSEC.

## Recovery and integration

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 victims of CSEC. There should be an increase in efforts to identify and assist foreign child victims of CSEC. The quality and availability of policies and 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 Kazakhstani Government should establish processes and structures to institutionalise meaningful child and youth participation in developing policies and programmes that affect them. A concerted effort should be made to involve children and youth in the prevention and awareness raising of CSEC.

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