



**Convention on the
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SUMMARY RECORD OF THE 1084th MEETING (Chamber A)

Held at the Palais Wilson, Geneva,
on Wednesday, 11 January 2006, at 10 a.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Kazakhstan under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/OPSA/KAZ/1; CRC/C/OPSA/KAZ/Q/1)

1. At the invitation of the Chairperson, Mr. Abusseitov, Mr. Akhmetov, Ms. Jarbussynova and Mr. Zhagiparov (Kazakhstan) took places at the Committee table.
2. Ms. JARBUSSYNOVA (Kazakhstan), introducing the initial report of Kazakhstan under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSA/KAZ/1), said that the Optional Protocol had been ratified by her Government in 2001. Since, demographically speaking, hers was a young country, with children and young people under the age of 18 making up 33 per cent of its population, one of the Government's main priorities was to further children's interests by improving the economic situation throughout the national territory.
3. As the issue of trafficking in persons, especially in children, was of particular significance on account of Kazakhstan's geographical situation, which meant that it was a country of transit, a solid legal basis had been laid for the implementation of the Optional Protocol. The family and children were protected under the Constitution, and a number of laws which had been passed in order to give effect to such protection contained provisions designed to safeguard children from prostitution and pornography and to prevent their involvement in illegal activities. There were plans to draft a national plan on human rights in order to encourage human rights education in schools and consideration was being given to the setting up of a special ministerial committee on the rights of children. Furthermore, under a two-year youth policy programme, measures would be taken to curb drug-taking and alcoholism among young people.
4. In order to implement articles 1 to 2 and 8 to 10 of the Optional Protocol, the Criminal Code of Kazakhstan had criminalized inter alia the involvement of minors in prostitution, violent acts of a sexual nature, kidnapping, the corruption of minors and the illegal dissemination of pornographic materials or articles. Persons who engaged in the trafficking of minors, the fraudulent recruiting of persons with a view to their sexual exploitation or the organization or running of brothels incurred criminal liability.
5. Having drawn attention to the figures contained in paragraph 13 of the report, she added that, in 2004, only nine people had been found guilty of trafficking in minors, and that no cases had been reported in the first nine months of 2005. Of the 19 cases brought before the courts under article 128 of the Criminal Code between 2002 and 2004, 3 had involved the recruitment of minors for sexual or other exploitation and had resulted in the imposition of prison sentences of three to five years. Under article 121 (violent acts of a sexual nature) of the Criminal Code, 135 people had been tried in 2003, 139 in 2004 and 132 in the first 11 months of 2005. Under article 124 (corruption of minors), 8 convictions had been secured in 2003, 13 in 2004 and 7 in the first nine months of 2005. Under article 131 (involvement of minors in criminal activities), 15 offenders had been sentenced in 2004 and 15 in the first nine months

of 2005. In 2004, 16 persons had been found guilty of involving minors in antisocial acts, while in the first nine months of 2005 there had been 14 convictions. In 2004, 62 people had been tried for failing to fulfil their duties in respect of the upbringing of young persons and there had been 56 similar cases in the first 11 months of 2005. The number of persons convicted of illegally circulating pornographic material or articles had risen from 25 in 2004 to 47 in the first nine months of 2005. In addition, administrative penalties had been imposed on more than 2,000 persons in an effort to reduce the number of offences against minors.

6. The rise in the number of cases concerning violence against minors from 4,400 in 2004 to 5,300 in the first 11 months of 2005 could be attributed to an awareness-raising campaign which had alerted the general public to the issue and had resulted in greater action on the part of law enforcement agencies. In order to supplement legislation on combating trafficking in human beings, laws had been adopted to counter illegal migration, their aim being to halt the spiriting abroad of Kazakh citizens and the entry into Kazakhstan of foreign workers. In addition, since 2003, the illegal removal of persons from Kazakhstan and illegal transit through the country for the purpose of sexual or other exploitation had been regarded as a crime, punishable by a sentence of three to eight years' imprisonment and the confiscation of property.

7. In towns, hotlines were available to children and crisis centres for women and children were to be found in 30 regions of the country. In the previous year, 600 children had made use of the shelters provided by such centres. A study had revealed that most of the violence against children took place within families. In fact, children were insufficiently informed about crime and criminal liability. In order to remedy that situation, youth clubs for youngsters between the ages of 6 and 16 had been opened and a booklet entitled "Don't break the law" had been published. The Supreme Court had also rendered a decision on the application by the courts of legislation for the settlement of disputes associated with the upbringing of children, intended to guide the courts in their consideration of such cases.

8. A special interdepartmental commission headed by the Minister of Justice had been established to combat trafficking in human beings and a special unit had been set up in the Ministry of the Interior for the same purpose. Recommendations had been issued on methods for the detection and investigation of crimes linked to trafficking. An international centre had been opened in Karaganda to train specialists in measures against trafficking in people and illegal migration. Furthermore, under a national plan covering the period 2006-2008 a department would be set up to prevent trafficking, international agreements would be entered into with countries of origin, transit and destination of victims of trafficking, and assistance and cooperation would be provided in connection with extradition and combating organized crime. Financial support would also be given to Kazakh citizens who had been taken abroad illegally and a temporary reception centre for the victims of human trafficking would be opened.

9. In 2005, a law had been passed on the ratification of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and a gender equality strategy had been adopted with a view to averting sexual violence. Domestic violence would be criminalized. The strategy likewise proposed the establishment of a national centre to coordinate measures against the illegal export of human beings for the purpose of enslaving them or subjecting them to forced labour. Some changes were planned in the law in

order to offer victims of trafficking better protection. There were also plans to introduce the monitoring of the rights of women and children and to train police officers, the judiciary, doctors and social workers in effective ways of securing the safety of victims of trafficking, including those giving testimony against traffickers. An information campaign would likewise be mounted to warn children and young people about the dangers of trafficking and to inculcate non-violent behaviour in them. It could thus be said that Kazakhstan was doing everything possible to safeguard children from sexual exploitation.

10. In order to give effect to article 3 of the Optional Protocol, her Government was drafting a bill on the ratification of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. Some 300 of the over 5,000 Kazakh children who had been adopted by foreigners in the previous years had been adopted by foreign parents who lived abroad. In 2003, her Government had ratified International Labour Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the three-year programme launched in 2005 to implement that convention focused on the investigation of the sexual exploitation of and trafficking in children. The rehabilitation of minors who had been inveigled into engaging in prostitution and other antisocial activities was also regarded as a priority.

11. In order to implement article 5 of the Optional Protocol, Kazakhstan had concluded agreements on legal assistance in criminal matters with a great many countries. Two such agreements were the Minsk and Kishinev Conventions on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters.

12. As far as the implementation of article 7 of the Optional Protocol was concerned, she drew attention to the fact that the act on the mass media made provision for the suspension or closure of media which published pornographic material. Similarly the use of advertisements to spread pornography was prohibited, as was the broadcasting or demonstration of pornographic films or videos. At the local level, commissions had been established to control the sale of audio-visual or printed material with an erotic content. The Kazakh mass media concentrated on circulating full and objective information about the Government's measures to protect children and to prevent the neglect of children. They also publicized the efforts of the Government, non-governmental organizations (NGOs) and international organizations to stamp out trafficking in children, child prostitution and pornography. Moreover the television and press devoted special programmes and a whole series of articles to children's rights and upbringing.

13. With respect to article 10 of the Optional Protocol, she explained that, in 2005, a programme worth some US\$ 97,000 had been launched to provide financial assistance for Kazakh citizens who had become victims of human trafficking. A variety of assistance measures were planned, ranging from help with the cost of transport back to their home country to the payment of the fees of legal counsel and translators.

14. While there was no panacea for dealing with the questions linked to the fulfilment of international obligations in respect of children's rights, she was sure that the meeting would enable her country to find solutions to the problem of trafficking in children. Kazakhstan's success in improving the situation of its children was underpinned by its fruitful cooperation with international and non-governmental organizations.

15. Ms. LEE Yanghee congratulated the Government on ratifying International Labour Organization Conventions No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and No. 105 concerning the Abolition of Forced Labour and a number of other international conventions guaranteeing the rights of women and children, but regretted that it had not ratified the relevant Council of Europe conventions. The delegation had failed to answer many of the questions in the list of issues. Little statistical data had been provided and no information had been given about budget allocations for the realization of the rights covered by the Optional Protocol. No details had been forthcoming about the compensation awarded to child victims of the worst forms of exploitation.

16. Paragraph 6 of the State party's report had referred to the inadequacy of mechanisms and procedures for conducting periodic evaluations of the implementation of the Optional Protocol. What steps been taken to improve such mechanisms and procedures? Who was in charge of coordinating the implementation of the Optional Protocol? What was the size of the budget for its implementation?

17. She also enquired about the extent and form of civil society participation in the preparation of the report.

18. She asked whether a comprehensive study on the involvement of children in prostitution had been undertaken. The large number of sex workers, who had the potential to spread HIV/AIDS, was a major cause for concern. She would welcome further information on reports of child sex workers, some as young as 8 years old, in the south of the country. The fact that the incidence of syphilis among teenage girls was twice as high as among boys, attributable to the commercialization of sexual relations, was another reason why a comprehensive approach to dealing with the sexual exploitation of children was necessary.

19. Given that Kazakhstan was reported to be a source, transit and destination country for people trafficked for the purposes of sexual exploitation and forced labour, she wondered whether there was a comprehensive national plan of action to combat trafficking other than the one approved for 2004-2005. She would also welcome further information on internal trafficking.

20. The stigmatization of children who had contracted HIV/AIDS as a consequence of being victims of trafficking and prostitution was a cause for concern, and, as the Criminal Code did not define such victims, she wondered what happened to them. Was there a toll-free national helpline they could call?

21. Ms. AL-THANI said that she also would be interested to hear what was being done to address the stigmatization of children who had contracted HIV/AIDS as a result of prostitution. Given that the number of AIDS orphans was likely to increase significantly, she wondered whether there were specific programmes aimed at them.

22. It was not clear whether awareness-raising efforts had been aimed at children and professionals, such as social workers, lawyers and doctors. She wondered whether the new mandatory subject "Ethics and the psychology of family life", which had been introduced into the school curriculum, dealt with children's rights under the Optional Protocol.

23. She would welcome information on recent efforts to combat Internet child pornography.

24. Mr. KRAPPMANN said that it was regrettable that there was no reliable information on the real extent of the problem of sexual exploitation and trafficking. In its 2003 concluding observations, the Committee had strongly recommended the establishment of a statistical system which would allow the disaggregation of data. Having recalculated the figures contained in paragraph 30 of the country report, which gave some idea of the dimension of the problem, it appeared that approximately 25 per cent of girls aged 15 to 17 earned money for sex acts. According to the same survey, more than 100,000 children, mostly girls, were full- or part-time sex workers. He wondered why no comprehensive, reliable study, sponsored by the Government, had been carried out on the phenomenon. A major shortcoming was that the report contained no analysis of the reasons for such a deplorable situation, which appeared to be tolerated by Kazakh society.

25. He would be interested to learn the purpose of the guidelines on moral and sexual upbringing mentioned in the report, and to whom they were addressed. Was the problem of child prostitution a result of insufficient knowledge or were there other societal causes?

26. Although he welcomed the measures aimed at helping young people use their leisure time productively, he regretted the absence of information on targeted programmes for sexually exploited and trafficked children. As the programmes mentioned in the report were presented in the context of crime prevention, he wondered whether sexually exploited and trafficked children were regarded as victims or offenders. Such children required care, rehabilitation and psychological help, and he would welcome further information on what assistance they actually received.

27. Mr. SIDDIQUI, noting the number of bodies competent to apply the Optional Protocol, wondered whether their functions with regard to the Optional Protocol were specified. Had there been any feedback on the effectiveness of the dissemination efforts made, and had there been any periodic evaluation of the implementation of the Optional Protocol? He wondered whether there was any coordination between the various mechanisms for evaluating implementation.

28. He asked whether local government bodies had the capacity to strictly regulate the sale of pornographic materials, and whether those who violated such regulations had been punished. Given that the Criminal Code made no specific reference to the dissemination of child pornography, he wondered whether the regulations made that distinction. It was not clear from the report whether crime against minors had decreased. He would be interested to learn why the problem of social orphans and child vagrancy was increasing, despite the alleged success of the poverty reduction programme.

29. Ms. ORTIZ wondered whether the children of repatriated Kazakhs still encountered difficulties in obtaining documents and acquiring a nationality at birth.

30. She would be interested to hear which institutions dealt with the problem of street children and how they addressed the situation, as that group was particularly vulnerable to trafficking.

31. She wondered whether there had been any improvement in the provision of financial support and other assistance to families with children, particularly the poorest groups of the population.
32. She asked whether the Government had considered ratifying the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and whether there were any impediments to its ratification.
33. Ms. LEE Yanghee, noting that it was embassies which monitored foreign adoptions, wondered why there was not a central authority to deal with the adoption process, and asked how the embassies themselves were monitored.
34. Mr. KOTRANE welcomed the adoption of the plan of action to combat and prevent trafficking in persons for 2004-2005. He wondered whether NGOs had participated in the drafting process or whether it had been drawn up solely by an inter-ministerial commission. What did the plan consist of, and why was it limited to the period 2004-2005? Were there plans to continue work in that area?

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

35. Ms. JARBUSSYNOVA (Kazakhstan) said that numerous ministries were involved in implementing the Optional Protocol, and coordination was carried out by the National Commission for Family and Women's Affairs. There were plans to establish a committee on the rights of the child within the Ministry of Education and Science as soon as the new government had been established; it would gradually assume the role of coordinating activities under the Convention and the Optional Protocol. As to the financing of implementation of the Optional Protocol, no specific figures were currently available, as each ministry involved had its own budget. The delegation would provide the relevant information in writing at a later date.
36. In implementing the Optional Protocol, the Government had collaborated with many of the NGOs active in the field of children's rights, as well as with international organizations such as the United Nations Children's Fund (UNICEF). A major programme for the prevention of trafficking and the rehabilitation of victims of trafficking was currently under way in collaboration with the International Organization for Migration.
37. The Office of the Ombudsman had helped in preparing the country report, and had established a special section on the rights of the child. A report on the Ombudsman's activities to protect the rights of children was due to be published in early 2006. The Office of the Ombudsman and the National Commission for Women's and Family Affairs had jointly organized a series of conferences, training seminars and studies in 2004 and 2005 on the rights of the child, working closely with the mass media network to raise public awareness and disseminate information on the rights of the child in general, and, more specifically, the provisions of the Optional Protocol. A booklet and information sheets for children had also been published.
38. A Kazakh delegation had participated in 2005 in the second World Congress against Commercial Sexual Exploitation of Children, and in collaboration with UNICEF had organized a round table and a press conference.

39. Ms. JARBUSSYNOVA (Kazakhstan) said that an interdepartmental commission to combat trafficking and the illegal removal of persons, in particular children, had been established and worked in cooperation with the Ministry of Justice. A coordinating council and a special working group had also been established to implement the plan of action for combating trafficking for the period 2004-2005. The plan had not been fully implemented, and a further plan had been drafted for 2006-2007. The activities of the interdepartmental commission and the coordinating council had resulted in greater transparency, which had led to an increase in the number of cases of trafficking reported. Close cooperation was required at the international level to combat child pornography on the Internet.

40. A telephone hotline for young people had been established with assistance from NGOs, and financial support from commercial enterprises. A network of crisis centres was being established, providing free assistance to women and children who had been victims of violence. Women and children's shelters had been set up under the network. Particular attention was being paid to the situation of orphans, and rehabilitation centres for orphaned children were being established. Although many orphaned children were still cared for in boarding schools and children's homes, international organizations were helping the Government to increase opportunities for family-based care.

41. Kazakhstan collaborated closely with the Global Fund to Fight AIDS, Tuberculosis and Malaria and the Government had developed a national programme to combat HIV/AIDS and rehabilitate those affected by the disease. Considerable efforts were being made to address the spread of the infection in the urban areas with the largest HIV positive populations. The number of people suffering from HIV/AIDS in Kazakhstan was high in comparison with other Central Asian Republics and efforts were being made to address the issue in an open and transparent manner.

42. Measures were being taken to prevent and raise public awareness of sexual exploitation of minors, and confidential inquiries were being carried out to investigate cases reported. Measures to prevent and combat sexual exploitation would be increased in cooperation with the interdepartmental commission to combat trafficking. The Ministry of Education would also increase measures to raise awareness among young people of such issues as sexual exploitation. Over the past two years, a pilot project had been carried out in two regions of Kazakhstan to establish a new juvenile justice system. The Supreme Court had recently ruled that the new system should be introduced across the country, which would enable targeted rights protection for minors in criminal justice.

43. The CHAIRPERSON asked whether the interdepartmental commission, the coordinating council and the special working group addressed the issue of trafficking within Kazakhstan, as well as trafficking to other countries. On intercountry adoption, he wished to know whether a central authority would be established for monitoring intercountry adoption, as required by the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. He wondered who had drafted the guidelines on moral and sexual upbringing in Kazakhstan and who used those guidelines. He also wished to know whether the definition of the sale of children in the Criminal Code would be brought into line with that in the Optional Protocol, in order to criminalize the offering of children. Under the Criminal Code, the

involvement of minors in prostitution was punishable by public service. He asked how the word “involvement” was defined, whether it meant that the minors themselves could be subject to punishment, and whether it covered offering, procuring, obtaining and providing children for the purposes of child prostitution, as required by the Optional Protocol. He wondered whether the recruitment of minors for prostitution by offering financial remuneration was included in criminal legislation. He requested clarification of the definition of the term “pornographic materials” used in the Criminal Code, and asked whether the possession of pornographic materials involving children was punishable under Kazakh criminal law.

44. Pursuant to the Criminal Code, a person of Kazakh nationality who had committed a sexual offence against a child outside Kazakhstan could be brought to justice only if the offence was punishable by law in both countries. He asked whether Kazakh jurisdiction would be extended in order to cover acts carried out by Kazakh citizens in a second country, irrespective of that country’s criminal legislation. He requested further information on the conditions for extradition by Kazakhstan, which he understood were also subject to double criminality. He wondered how children who had been victims of sexual exploitation and abuse were protected when standing as witnesses in criminal proceedings, and who would act as a child’s legal representative in the event that one or both of the child’s parents were accused of having committed the offence. Under Kazakh law, minors over the age of 16 were entitled to be accompanied by a teacher or psychologist when participating in legal proceedings, and he wondered whether that provision also applied to minors under the age of 16. On the issue of victim privacy, he wondered what protection was provided for child witnesses in adult criminal cases, and in particular whether they had the opportunity, during public hearings, to give their testimonies in private.

45. Mr. KOTRANE asked whether there had been any cases in which the Optional Protocol or the Convention on the Rights of the Child had been directly invoked before domestic courts.

46. It would be useful to learn what measures would be taken to bring domestic legislation fully into line with articles 2 and 3 of the Optional Protocol, particularly regarding the use of children in forced labour and all offences involving child pornography, as defined in that instrument. The reporting State should clarify whether legal persons had criminal liability.

47. Additional information should be provided on the steps the Government would take to extend the jurisdiction of the State party to cover all the provisions of article 4 of the Optional Protocol.

48. The reporting State should be more specific about measures to increase legal protection of vulnerable children, particularly school dropouts and unaccompanied minors who entered the country illegally.

The meeting was suspended at 12.20 p.m. and resumed at 12.35 p.m.

49. Ms. JARBUSSYNOVA (Kazakhstan) said that article 133 of the Criminal Code included all the acts and activities listed in article 3 of the Optional Protocol. Article 132 of the Criminal Code, when considered in conjunction with article 131, clearly provided for the punishment of persons aged 18 or over who incited or forced a child into prostitution. Under no

circumstances could a child who had been a victim of prostitution be prosecuted. The production, advertising and use of child pornography were all criminal offences under Kazakh law. Local authorities had the power to monitor the production and dissemination of child pornography and to prevent such activities.

50. While intercountry adoption came under the remit of embassies, the Ministry of Education did monitor the adoption of Kazakh children abroad.

51. The Ministry of Labour and Social Welfare, in cooperation with international organizations and other government departments, had launched a project to monitor the exploitation and trafficking of children within Kazakh territory. The Government was particularly concerned about the plight of children who worked in dangerous or harmful conditions.

52. The guidelines on moral and sexual upbringing adopted in 2001 were used by government employees and members of civil society.

The meeting rose at 12.55 p.m.