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2020 Trafficking in Persons Report: Kazakhstan

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KAZAKHSTAN: Tier 2 Watch List

The Government of Kazakhstan does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included adopting amendments that increased criminal penalties for traffickers and rescinding the provision that allowed alleged traffickers to pay a settlement to victims to withdraw their criminal cases. The government also developed victim identification guidelines for diplomatic staff, provided victim identification training to some labor inspectors, and took initial steps to improve its annual NGO funding process. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. The government's efforts to identify and protect foreign victims, which were already inadequate compared to the estimated size of the population, decreased. Foreign victims who did not participate in criminal investigations were ineligible for services and had no legal alternatives to removal. Law enforcement continued to make limited efforts to

investigate, prosecute, and convict labor trafficking crimes—the number of trafficking convictions decreased for the fourth consecutive year. NGOs continued to report allegations of police officers' complicity in human trafficking, yet there were few government investigations or prosecutions of police or other officials suspected of complicity. Therefore Kazakhstan remained on Tier 2 Watch List for the second consecutive year.

PRIORITIZED RECOMMENDATIONS:

Significantly increase assistance available to foreign trafficking victims and ensure victim identification and assistance are not contingent on participation in investigation and prosecution efforts. • Vigorously investigate, prosecute, and convict suspected trafficking cases, including allegedly complicit government officials and police officers and labor traffickers. • Amend the trafficking law to align the definition of trafficking with international standards. • Significantly increase efforts to identify trafficking victims—particularly foreign forced labor victims—among vulnerable populations and refer these victims for assistance. • Provide systemic specialized training to all labor inspectors to identify victims of forced labor and report potential trafficking cases to the police. • Increase funding and resources for anti-trafficking police units. • Implement mechanisms to ensure the shelter service provider contract bidding process does not lead to gaps in services available to victims. • Provide legal alternatives to deportation, especially where trafficking victims face hardship, abuse, or re-trafficking in the foreign country. • Provide anti-trafficking training or guidance for peacekeepers to prevent their engagement in or facilitation of trafficking crimes. • Display anti-trafficking awareness materials at border-crossings and checkpoints.

PROSECUTION

The government strengthened anti-trafficking laws but decreased overall anti-trafficking law enforcement efforts. Articles 128, 134, 135, 308, 125(3b), and 126(3b) of the penal code criminalized sex trafficking and labor trafficking. However, inconsistent with the definition of trafficking under international law, the law did not include force, fraud, or coercion as an essential element of the crime, but rather considered them aggravating circumstances. In December 2019, the government amended legislation to increase the punishment for trafficking crimes. The amended law prescribed penalties of four to seven

years' imprisonment for adult trafficking and five to nine years' imprisonment for child trafficking, an increase from three to five years' imprisonment and five to seven years' imprisonment for the respective crimes; the penalties could be increased to up to 18 years' imprisonment under aggravated circumstances. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. For those accused of trafficking, the amendments also rescinded article 68 of the criminal code, which allowed defendants to pursue settlements by paying monetary compensation to the victim in exchange for having the criminal case withdrawn. During the reporting period, the application of article 68 was not available in cases involving sex crimes against minors but remained an option in cases involving other forms of trafficking under article 128, part 1, although article 68 was not applied in any trafficking cases in 2019.

Police investigated 45 trafficking cases in 2019, a decrease compared with 106 in 2018. In addition, police investigated 57 cases of organ removal, which are human trafficking under international law; however, these cases are not included as trafficking efforts due to U.S. law. The government prosecuted 67 human trafficking cases in 2019; it did not report the number of prosecutions in 2018. The government convicted eight sex traffickers, compared with 17 in 2018, 29 in 2017, and 45 in 2016—a decrease for four consecutive years. Of the eight traffickers convicted in 2019, six received prison sentences ranging from five to 10 years' imprisonment, one received a conditional sentence of three years served outside of prison, and one received a partially suspended sentence resulting in 6.8 years' imprisonment. In addition, the government opened 86 investigations of trafficking-related crimes, including pimping and brothel maintenance, compared to 182 in 2018. Many of the trafficking and trafficking-related cases were the result of four multi-day special anti-trafficking police operations called “Stop Trafficking,” in which the police located and closed brothels, arrested pimps, and registered adults in commercial sex. For the second consecutive year, the government did not convict any labor traffickers. NGOs continued to report traffickers bribed low-ranking police officials to avoid these charges and alleged that some police officers facilitated forced labor or sex trafficking crimes. NGOs reported that some criminal cases were closed by police “due to lack of evidence,” despite the testimony of trafficking victims. The government reported the conclusion of a 2018 case of official complicity, convicting a police officer from Kostanay province for abuse of power and the facilitation of brothel operations for coercing two women into commercial sex.

The government continued to train police, prosecutors, and judges in the identification, investigation, and prosecution of trafficking crimes and funded police participation in international anti-trafficking conferences. In 2019, the Judicial Academy trained 67 judges (65 in 2018) on the protection of trafficking victims during the criminal process. The Ministry of Internal Affairs' (MVD) Trafficking in Persons Training Center trained 167 police officers (115 in 2018) on investigative techniques. The Prosecutors General Office trained 44 (93 in 2018) prosecutors on protection and trial of criminal cases related to human trafficking. In all training programs, the government provided the venue and participants' cost while international organizations, NGOs, and international donors covered other costs, including the travel of trainers and provision of training materials. For the first time in recent years, some labor inspectors received specialized training on identifying victims; however, their official duties did not direct them to identify trafficking indicators or refer potential labor trafficking crimes to appropriate law enforcement. During the reporting period, the government jointly investigated 10 cases related to trafficking in cooperation with foreign governments, including Kyrgyzstan, Russia, Uzbekistan, and the United States, and conducted joint anti-trafficking operations with neighboring countries. Despite this broader cooperation, at major migrant crossing points, border officials had minimal law enforcement coordination between neighboring law enforcement counterparts. In 2019, the government extradited five foreign citizens wanted in their home countries for trafficking-related crimes.

PROTECTION

The government maintained protection efforts for Kazakhstani victims, and efforts to identify and assist foreign victims remained negligible. The government identified 40 trafficking victims, a decrease from 83 in 2018. Of those, all but six were exploited in Kazakhstan; 35 were victims of sex trafficking and five were victims of forced labor. All but three of the identified victims were from Kazakhstan; the government identified two victims from Uzbekistan, both in forced begging, and one victim from Russia in forced labor. Four of the Kazakhstani victims were victims of sex trafficking in the Republic of Korea. As in the previous year, the government identified the majority of sex trafficking victims during one of four anti-trafficking special police operations intended to uncover trafficking cases by locating and closing brothels, arresting pimps, and registering women in commercial sex. The small number of forced labor and foreign victims indicated a continued lack of consistent proactive screening efforts by officials during

routine law enforcement engagements throughout the year. In 2019, NGOs reported assisting 76 trafficking victims, compared to 122 in 2018; among these, 21 were Kazakhstani and 55 were foreigners; the majority were men and victims of forced labor. Of the 55 foreign victims, 51 were from Uzbekistan. Law enforcement referred 12 victims to NGOs (19 in 2018), foreign embassies referred three, NGOs referred 23, international organizations referred seven, and 31 victims self-referred (including through hotlines). The government-funded and NGO-operated trafficking hotline received 1,834 phone calls in 2019, the vast majority of which were requests for information, while 12 calls were referred to anti-trafficking police units but did not result in confirmed trafficking cases. Observers continued to note many foreign victims were reluctant to self-identify to the police due to lack of trust, perceived corruption, and fear of punishment or deportation due to their unlawful status, among other reasons. In cases where law enforcement identified foreign victims, victims often refused to cooperate. According to experts, foreign victims frequently reported their exploitation to local police upon return to their home country, where they felt safer.

The government received fewer funding applications from NGOs to run trafficking shelters and as a result funded eight NGO-operated shelters. In 2018, more NGOs applied for funding, and 10 were funded. The eight NGO-operated trafficking shelters offered legal, psychological, and medical assistance and were accessible to all Kazakhstani trafficking victims, regardless of gender or age. These services were not conditional upon victims' cooperation with law enforcement; however, in all but one case, restrictive social protection laws prohibited foreign citizens from receiving services at these shelters, and all assistance to foreign victims was contingent upon cooperation with law enforcement. In attempt to improve the social assistance to foreign victims, in a particular case, as a pilot, a local government in the Kyzylorda Region provided an NGO with funding to place foreign victims into a shelter. Victims were required to decide on cooperation at the time of their identification. In 2019, the government allocated at least 77.2 million Kazakhstani tenge (KZT) (\$202,630) to direct victim assistance, including 76.2 million KZT (\$200,000) for shelters and one million KZT (\$2,620) for victim assistance during investigations—this was a decrease of more than 17 percent from 93.4 million KZT (\$245,240) allocated in 2018 due to fewer NGOs seeking government grants to fund shelters. The shelters were staffed in accordance with the 2016 established standards for trafficking victim shelters. Several NGOs reported improvement to the inefficient annual process by which the government reviewed applications for shelter

operation contracts that previously led to the NGOs experiencing severe operational and financial constraints at the end of each funding cycle and delays to the awarding of new contracts. The government solicited feedback from NGOs on systemically improving the funding process to limit service disruptions. As a result, one NGO in Almaty received funding at the beginning of the year, without delay; however, the government had not yet implemented systemic improvements. The government adopted a law on victim compensation in 2017, scheduled to be implemented in 2020. Victims could file a civil suit, but many were unaware of their ability to do so and could not afford attorney fees; no victims pursued a civil suit in 2019. The government provided pro bono attorneys to trafficking victims, although NGOs reported these attorneys were often inexperienced.

NGOs continued to report effective victim referral and police cooperation with regional anti-trafficking units, which were composed of one or two police officers. Law enforcement units mandated to address migration or trafficking issues had a formal system to identify trafficking victims among at-risk persons, such as undocumented migrants or individuals in commercial sex; nonetheless, officials' efforts to identify foreign victims and victims of labor trafficking remained limited. The government encouraged victims—including foreigners—to participate in investigations and prosecutions by providing witness protection during court proceedings, access to pre-trial shelter services, and basic provisions such as food, clothing, and medical and legal assistance. Such assistance ceased for foreign victims if the government did not initiate a criminal case. If a criminal case was not initiated, authorities did not recognize or give protective status to foreign victims. In 2019, the government provided one foreign victims legal protection (compared to one foreign victim in 2018 and two in 2017), including suspension of deportation proceedings and special temporary residency throughout the criminal investigation. NGOs reported foreign victims sometimes experienced problems in accessing local medical care due to a lack of health insurance or residence permits. The government did not offer legal alternatives to foreign victims' removal to countries where they would face retribution or hardship and, according to local law, victims were required to be deported after expiration of their temporary residency rights. NGOs reported a shortage of lawyers authorized to participate in administrative deportation cases. In 2019, there were no reports of authorities punishing victims for crimes committed as a direct result of being subjected to trafficking; however, authorities routinely detained and deported possible foreign victims with no proactive efforts made to

screen for trafficking indicators, offer referral to care providers, or ensure they were not penalized for crimes traffickers compelled them to commit.

In February 2020, the government announced it concluded operation “Zhusan,” which repatriated more than 550 Kazakhstani women and minors from Iraq and Syria, including potential trafficking victims, whose parents or spouses were alleged fighters with ISIS. ISIS was known to use child soldiers and perpetrate other forms of trafficking. The children were generally housed with family members, and the state fully funded and supported their rehabilitation and reintegration.

PREVENTION

The government increased prevention efforts. The Interagency Trafficking in Persons Working Group, led by the Ministry of Internal Affairs, convened twice in 2019 to assess the implementation of the 2017-2020 anti-trafficking national action plan and created a special working group to develop an action plan specific to the 2019 Trafficking in Persons Report’s recommendations. The government continued to fund anti-trafficking information and education campaigns targeting potential trafficking victims, including children. The government provided an NGO 1.2 million KZT (\$3,150) to conduct eight seminars for female victims of trafficking on their legal rights. The Ministry of Information and Communication funded radio and television programs, as well as the publication of newspaper articles and web publications, designed to raise public awareness and prevent the crime. However, at border crossings, international observers noted a lack of anti-trafficking awareness materials. The government continued to advertise an NGO-operated anti-trafficking hotline.

In 2019, labor inspectors under the Ministry of Health and Social Protection conducted 6,681 inspections to identify labor violations, which resulted in 2,651 recruiters and employers receiving administrative fines (3,057 in 2018) for violations of foreign labor recruitment rules and employment of undocumented foreign laborers. The government did not report if any inspections led to the opening of criminal cases. The minister of labor and social protection reported the current number of labor inspectors was inadequate to effectively enforce regulations across the country and announced plans to increase the number of inspectors by two and a half times and resume labor inspections. Migrant workers reported using unofficial third party intermediaries to find employment and meet

Kazakhstani migration registration requirements; these intermediaries often circumvented the law and facilitated the trafficking of foreign victims, but, due to their unofficial status, authorities rarely held them accountable. To reduce vulnerabilities for migrant workers, the government opened a migration services center in Almaty, which centralized government processes for official migration, including the ability to obtain identity cards, health insurance, and registration with various government agencies, including in the Ministries of Migration, Labor, and Health. The government also improved online informational resources for migrants. The government did not take any action to reduce the demand for commercial sex acts. In 2019, the government developed victim identification guidelines for its diplomatic personnel, fulfilling a 2019 TIP report recommendation. The government did not report providing anti-trafficking training to its troops prior to their deployment as peacekeepers.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Kazakhstan, and traffickers exploit victims from Kazakhstan abroad. Domestic trafficking remains a consistent problem, as traffickers lure victims from rural areas to larger cities with mala fide offers of employment. Traffickers coerce or force Kazakhstani men and women into labor mostly in Russia, but also in Bahrain, Brazil, the Republic of Korea, Turkey, and the United Arab Emirates. Sex traffickers exploit Kazakhstani women and girls in the Middle East, Europe, East Asia, and the United States. Women and girls from neighboring Central Asian and Eastern European countries, as well as from rural areas in Kazakhstan, are exploited in commercial sex in Kazakhstan. In most cases, traffickers target young girls and women, luring them with promises of employment as waitresses, models, or nannies in large cities. Some children are forced to beg. Adults and children may be coerced into criminal behavior. The relative economic prosperity in the government capital Nur-Sultan (Astana), the financial capital Almaty, and the western oil cities Aktau and Atyrau, attract large numbers of Kazakhstanis from rural villages, some of whom become victims of labor trafficking and sex trafficking. Increasingly, traffickers coerce or force Central Asian citizens, in particular Uzbekistani men and women, to labor in domestic service, construction, bazaars, and agriculture in Kazakhstan. Russia banned re-entry for an estimated one million Uzbek migrants in 2014, many of whom sought temporary work and residence in Kazakhstan where traffickers prey on them. Since 2014, NGOs identified significantly more foreign victims,

likely only a portion of the overall victims in this migrant population. Some traffickers are friends or acquaintances of the victim in Kazakhstan and may use fraud and deceit to lure the victim. Organized crime groups and small trafficking rings with recruiters in Kazakhstan operate in conjunction with brothel operators in Kazakhstan and abroad. NGOs reported increased instances of traffickers using debt-based coercion in the exploitation of migrants. Traffickers capitalize on tough law enforcement policies to coerce migrants to remain in exploitative situations and leverage these policies to threaten victims with punishment and deportation if they notify authorities, fostering distrust in law enforcement.

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