1. Discriminatory family code

Kazakhstan introduced a new Law on Marriage and Family in 2011. The statutory minimum age of marriage for women and men is 18; however, in cases of pregnancy or if a child has already been born to the couple, a civil registry office may lower the minimum age for marriage by up to two years, with the consent of the intended spouses and their parents or guardians.

Only marriages contracted in a state registry office are legally recognised in Kazakhstan; religious marriages have no legal validity.

Research on early marriage by the United Nations Population Fund (UNFPA) found that while reliable statistics are not available, unregistered marriages involving girls under the age of 18 seem to be growing in prevalence in some rural areas, and among some ethnic groups (including the majority Kazakhs). In such cases, marriages are usually formalized in a religious ceremony, which means the marriage has no legal recognition and the bride’s rights are poorly protected within it. Child spouses interviewed by the United Nations Population Fund (UNFPA) had often been married against their will, and reported physical and sexual abuse, and labour exploitation.

Parental authority is governed solely by civil law in Kazakhstan, under which women and men have equal rights. Under the Marriage and Family Act, spouses have equal rights within marriage, and women and men share equal decision-making authority over children. Legally, women and men can both be recognised as the head of the household.

In practice, research by UNFPA and by USAID notes that within marriage, women are expected to be subordinate to their husbands, and often to their parents-in-law as well. This includes in regard to decision-making over children.

Equal decision-making authority over children continues following a divorce; if the parents cannot agree (for instance, in regard to where the child will live), decisions are taken by the court, in accordance with the child’s best interests and taking the child’s view into account.

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1 Law on Marriage and Family, 26 December 2011, No518-IV 3PK
2 Law on Marriage and Family, 2011, Article 10
3 CEDAW (2012), p.54
4 Law on Marriage and Family, 2011, Article 2
5 Khairullina, Assiya (2012)
6 CEDAW (2012), p.54-56
7 Law on Marriage and Family of the Republic of Kazakhstan, 2011, Article 30
8 Law on Marriage and Family of the Republic of Kazakhstan, 2011, Article 68
10 Khairullina, Assiya (2012)
11 USAID (2010), p.17-18
Women have equal inheritance rights as wives and as daughters under the Civil Code of Kazakhstan.\textsuperscript{13} Inheritance is governed solely by civil law; customary and religious laws are not recognised as valid sources of law under the Constitution, in regard to inheritance or any other matters.\textsuperscript{14, 15} No further information on how laws on inheritance are implemented in practice was found.

\textit{More}

Women and men have the same rights to initiate divorce.\textsuperscript{16} In cases where the divorced couple have a child, the absent parent is only expected to provide financial support if the couple have a child who is under the age of three, or disabled.\textsuperscript{17}

2. Restricted physical integrity

The Law on Prevention of Domestic Violence was adopted at the end of 2009.\textsuperscript{18} The Law does not specifically criminalise domestic violence; however, it does allow for the use of ‘administrative detention’ (i.e. short-term detention without trial) in the event of violation of a restraining order.\textsuperscript{19} The US Department of State Human Rights report for 2012 notes that cases of domestic violence are also sometimes prosecuted as criminal assault.\textsuperscript{20}

The Law on Prevention of Domestic Violence includes a comprehensive definition of domestic violence that encompasses physical, psychological, sexual, and economic violence.\textsuperscript{21}

Under the Law on Prevention of Domestic Violence and amendments made to the Code on Administrative Procedures, courts can grant restraining orders against perpetrators of between three months and one year. Non-compliance with a restraining order can result in administrative detention and perpetrators can also be placed in emergency administrative detention of up to 48 hours while a court decides whether or not to issue a restraining order.\textsuperscript{22} In cases where domestic violence is prosecuted as criminal assault, the penalties are three months to three years imprisonment, or up to ten years imprisonment in very serious cases.\textsuperscript{23}

The Law on Prevention of Domestic Violence includes references to a comprehensive mechanism to oversee the implementation of the law, laying out the responsibilities of the courts, police, local authorities, healthcare providers, crisis centres, and social care providers.\textsuperscript{24} The Advocates for Human

\begin{itemize}
\item[\textsuperscript{12}] Law on Marriage and Family in the Republic of Kazakhstan, 2011, Article 73
\item[\textsuperscript{13}] Civil Code, Section 6; CEDAW (2012), p.59
\item[\textsuperscript{14}] CEDAW (2012), p.59
\item[\textsuperscript{15}] International Bank for Reconstruction and Development/The World Bank (2011), p.94
\item[\textsuperscript{16}] CEDAW (2012), p.54
\item[\textsuperscript{17}] CEDAW (2012), p.56
\item[\textsuperscript{18}] Law of the Republic of Kazakhstan ‘On Prevention of Domestic Violence’, 2009
\item[\textsuperscript{19}] CEDAW (2012) p.9
\item[\textsuperscript{20}] US Department of State (2013)
\item[\textsuperscript{21}] Law of the Republic of Kazakhstan ‘On Prevention of Domestic Violence’, 2009, Article 4
\item[\textsuperscript{22}] CEDAW (2012), p.9
\item[\textsuperscript{23}] US Department of State (2013)
\item[\textsuperscript{24}] Law of the Republic of Kazakhstan ‘On Prevention of Domestic Violence’, 2009,
\end{itemize}
Rights note that some police officers have received special training to deal with domestic violence cases.\(^{25}\)

It appears that in practice, the law is not effectively implemented. During her visit to Kazakhstan, the Organization for Security and Cooperation in Europe (OSCE) Special Representative on Gender Issues heard from women’s rights activists that few of the crisis centres established under the law actually accept women who have suffered domestic violence.\(^{26}\) In addition, according to the official Convention on the Elimination of all forms of Discrimination against Women (CEDAW) report, in many cases of domestic violence, couples ‘reconcile’ and the complaint is withdrawn,\(^{27}\) indicating that victims of domestic violence may not be receiving the support they need to proceed with prosecution. In particular, very few cases are brought under criminal law, as prosecutors appear to prefer to impose administrative penalties.\(^{28}\)

The official CEDAW report notes that women often seek to conceal the fact that they have experienced domestic violence.\(^{29}\) Research on early marriage by United Nations Population Fund (UNFPA) found that rates of domestic violence within such marriages were very high (with married girls being beaten by parents-in-law as well as by husbands), but that child spouses did not report the abuse because they do not know where to turn to for help.\(^{30}\)

Since the adoption of the Law on Prevention of Domestic Violence in 2009, 26,000 restraining orders have been issued in cases of domestic violence, and 20,000 people have been placed in administrative detention, pending the granting of a restraining order, or following the violation of a restraining order.\(^{31}\)

Research by UNFPA found that when violence is reported to police, police are reluctant to get involved, and perpetrators are rarely punished.\(^{32}\) The US Department of State notes that police will usually only intervene if the abuse is life threatening, and sometimes try and dissuade women from pursuing complaints.\(^{33}\)

**Rape** is a criminal offence in Kazakhstan.\(^{34}\) Criminal investigations can only proceed if the victim registers a complaint; however, once she has done so, that complaint cannot be withdrawn. This is designed to ensure that a woman cannot be intimated into withdrawing the complaint.\(^{35}\)

While the criminal code does not specifically mention marital rape, a Regulatory Decision adopted by the Supreme Court of Kazakhstan in 2007 states that the relationship between the perpetrator and the victim should not play a role in determination of rape or other acts of sexual violence. This thus means that spousal rape can be criminalised.\(^{36}\) There is no clause in the Criminal Code indicating that a

\(^{25}\) Advocates for Human Rights (2010)
\(^{26}\) OSCE (2012), p.2
\(^{27}\) CEDAW (2012), p.9
\(^{28}\) CEDAW (2012), p.9
\(^{29}\) CEDAW (2012), p.9
\(^{30}\) Khairullina, Assiya (2012), p.4
\(^{31}\) CEDAW (2012), p.9
\(^{32}\) Khairullina, Assiya (2012), p.4
\(^{33}\) US Department of State (2013)
\(^{34}\) Criminal Code of the Republic of Kazakhstan, Article 120
\(^{35}\) Advocates for Human Rights (2010)
\(^{36}\) CEDAW (2012), p.26
perpetrator can escape prosecution by marrying the victim. Penalties for rape range between three and fifteen years’ imprisonment, depending on the severity of the attack, the number of perpetrators, and the age of the victim.37

The US State Department notes that according to official figures, 1715 cases of rape were reported to police in 2012, out of which 1821 criminal cases were prosecuted. However, police are often reluctant to investigate cases of rape, particular spousal rape.38

**Sexual harassment** is not specifically prohibited under Kazakhstani law.39, 40

During the visit of the OSCE’s Special Representative on Gender Issues to Kazakhstan, NGO representatives and parliamentarians suggested that more education of the public and members of Parliament is needed to better understand the nature, seriousness and frequency of sexual harassment.41

According to the OSCE’s Special Representative on Gender Issues, women’s rights NGOs reported instances of sexual harassment in schools and workplaces, and considered it to be a serious issue.42 A small-scale pilot survey carried out by the Feminist League of Kazakhstan found that of 750 people questioned, 70% had experienced sexual harassment of some form.43

According to Amnesty International, a woman labour activist accused of involvement in the 2011 demonstrations in Zhanaozen in western Kazakhstan reported that she had been sexually assaulted while in custody; she was later sentenced to seven years’ imprisonment for ‘inciting social disorder’.44 In another case, a woman prisoner in a different region of Kazakhstan reported that she had been sexually harassed by prison guards.45

There is no evidence to suggest that **female genital mutilation** is practised in Kazakhstan.

**More**

The practice of ‘bride kidnapping’ (abduction of women for forced marriage) occurs in some regions of Kazakhstan, particularly in the southern part of the country. Some accounts point to an increase in the practice since the fall of the Soviet Union and the social and economic upheaval that followed it. While in some cases the kidnapping is staged, following an agreement made between the couple, in other cases, the woman has not given prior consent, or is kidnapped against her will by a stranger or someone she barely knows, often using force or violence. In most cases, it is very difficult for a woman to resist and / or leave once she has been brought to the ‘groom’s house, as to do so would result in shame and stigma.46 While kidnapping is a criminal offence, prosecutions are very seldom brought in cases of bride

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37 Criminal Code of the Republic of Kazakhstan, Article 120
38 US Department of State (2013)
39 OSCE (2012), p.1
40 Glushkova, Svetlana (2013)
43 Glushkova, Svetlana (2013)
44 Amnesty International (2013), p.145
46 Kennan Institute (n.d.)
According to research by UNFPA, police are usually reluctant to intervene, treating it as a matter to be resolved by the two families concerned.47

Abortion is available on demand in Kazakhstan.48

3. Son bias

The male/female sex ratio for the working population in 2013 is 0.94 while the sex ratio at birth is 0.94.49 There is no evidence to suggest that Kazakhstanis a country of concern in relation to missing women.

More

In 2013, there were 10,761 male children out of school, compared to 1,758 female children. In addition, the ratio of female to male primary school enrolment was 101.5% in 2013.50 Data from 2008-2012 provided by UNICEF also indicates no gender gap in primary and secondary education.51

Based on 2002-2012 data from UNICEF, child labour appears to have affected boys and girls equally.52 Malnutrition data from 2010 indicates that this issue affected boys and girls to a similar extent.53

4. Restricted resources and assets

Women and men have the same right to own and manage land, under Article 101 of the Land Code.54 Access to land is governed solely by civil law, and customary and religious laws have no standing.55

According to the official Convention on the Elimination of all forms of Discrimination against Women CEDAW report, women head 11% of all farms and agricultural processing businesses.56 No quantitative data on women’s land ownership was found.

The shadow report submitted to CEDAW Committee in 2006 notes that overall, women continue to experience discrimination in regard to access to land (especially in rural areas), in part because in order to obtain land for farming, the applicant must be able to prove that she has an agricultural qualification and experience of managing an agricultural business, which few women have.57 In addition, local officials may be reluctant to register land titles to women, even when they qualify impeding women’s access to land.58 59 .

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47 Khairullina, Assiya (2012), p.5
48 United Nations Department of Economic and Social Affairs, Population Division (2013)
49 CIA World Fact Book
50 World Bank Development Indicators Database
51 UNICEF
52 UNICEF
53 World Bank Development Indicators Database
54 CEDAW (2012), p.50
55 CEDAW (2012), p.50
56 CEDAW (2012), p.50
57 Almaty Women’s Informational Center, et al. (2006), p.37
59 CEDAW (2012), p.50
The 2012 official CEDAW report notes that the government runs various training and support programmes for farmers (including business training), and that women and men participate on an equal footing in these schemes.  

Women and men have the same equal rights to own and access property other than land. Unmarried women and men have the same property rights, as do married women and men. Joint communal property is the default property regime, unless an agreement is made between the spouses at the time of marriage. All transactions relating to the sale and management of property require the consent of both spouses. Women’s access to property is governed solely by civil law; religious and customary law have no standing. Women in unregistered marriages have no legally recognised rights to property owned jointly with their spouses. As such, their rights to property are not effectively protected.

Women and men have the same legal right to access credit and bank loans in Kazakhstan. According to financial inclusion data held by the World Bank, 44% of women in Kazakhstan had bank accounts in 2011, as did 40% of men. In the same year, 13% of adults had taken out a loan with a financial institution (defined as a bank, credit union, microfinance institution, or another financial institution such as a cooperative); these data were not disaggregated by gender. According to the Microfinance Information Exchange, women accounted for 72.81% of recipients of micro-credit in Kazakhstan in 2012.

5. Restricted civil liberties

Legally, women and men have the same right to free access to public space and freedom of movement in Kazakhstan. Women can move around within the country, and can leave and re-enter, in the same way as men.

Research by USAID found that in southern Kazakhstan interview respondents reported negative attitudes to women’s employment outside the home, and to women interacting with men from outside their household (e.g., government officials, or colleagues). This would indicate some restrictions on women’s free access to public space. Intolerance and discrimination against members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community in Kazakhstan will also affect some women’s free access to public space.

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60 CEDAW (2012), p.51
61 CEDAW (2012), p.53
63 CEDAW (2012), p.58
64 CEDAW (2012), p.53
65 Almaty Women’s Informational Center, et al. (2006), p.31
66 CEDAW (2012), p.47
67 World Bank (n.d.)
68 Microfinance Information Exchange (2013)
69 CEDAW (2012), p.54
70 USAID (2010), p.17-18
71 Lillis, Joanna (2013)
Legally, women and men have the same rights to choose their place of residence, before and after marriage.\textsuperscript{72} However in practice, in rural areas in particular, women typically move to live with their husband's family after marriage.\textsuperscript{73}

There are no quotas in place to promote women's political participation, either at national or sub-national level.\textsuperscript{74}

\textit{More}

Regarding employment rights, discrimination on the basis of sex is prohibited under the labour code.\textsuperscript{75} The 2009 Law on Equal Rights and Equal Opportunities for Women and Men also protects women against discrimination, but only in public sector employment.\textsuperscript{76}

In Kazakhstan, pregnant women are currently entitled to 126 days' paid maternity leave.\textsuperscript{77} Women receive 100\% of their salary while on maternity leave, and this is financed by the employer.\textsuperscript{78}

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\begin{itemize}
  \item \textsuperscript{72} CEDAW (2012), p.54
  \item \textsuperscript{73} Khairullina, Assiya (2012)
  \item \textsuperscript{74} quotaProject (2013)
  \item \textsuperscript{75} Labour Code of the Republic of Kazakhstan, 2007, Article 7
  \item \textsuperscript{76} OSCE (2012), p.1
  \item \textsuperscript{77} Labour Code of the Republic of Kazakhstan, 2007, Article 193
  \item \textsuperscript{78} Labour Code of the Republic of Kazakhstan, 2007, Articles 159, 192; ILO (2011)
\end{itemize}
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