

## EXECUTIVE SUMMARY OF THE KAZAKHSTAN COUNTRY RISK ASSESSMENT

In the Kazakhstan CRA, each human right from the Universal Declaration of Human Rights is investigated at three levels. First, the rights are investigated for areas of conflict between the prevailing national laws and international human rights law. Second, the prevailing societal practices are analysed to identify human rights violations frequently perpetrated at the societal level. Third, each right is assigned an overall company risk rating based on the violations in formal law and practice, taking into account the proximity to company operations. The results of the CRA produced the categorisation of nine human rights as high-risk areas, eight human rights as medium-risk areas and three human rights as low-risk areas for companies operating in Kazakhstan. The following presents the overall results of the CRA, including a short description of each right. The full CRA offers a detailed, in-depth description of each right and its violations in law and practice.

### COMPANY RISK

The following rights received a red rating in the company risk category in the CRA, which indicates that these human rights constitute high-risk areas for companies operating in Kazakhstan. A short assessment of each right follows below.

- Right to Freedom from Discrimination (art. 2)
- Right to Freedom from Forced Labour and Servitude (art. 4)
- Right to Take Part in Government (art. 21)
- Right to Peaceful Assembly and Freedom of Association (art. 20 and 23)
- Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25)
- Right to an Adequate Standard of Living (art. 22)
- Right to Health (art. 25)
- Right to Adequate Food (art.25)
- Right to Education (art. 26)

*Right to Freedom from Discrimination (art. 2)* constitutes a high-risk human rights area, as Kazakhstan hosts a number of vulnerable groups. Women generally experience discrimination in all spheres of life, including in the labour market. Women are often relegated to low-skilled, monotonous jobs, and make on average less than two-thirds the average wage of men (U.S. Department of State 2006). Ethnic minorities, homosexuals, the disabled, and those with HIV/AIDS are also disadvantaged in employment, compensation, and participation in government. Migrant workers are routinely employed without contracts and forced to work long hours for low pay, often under unsafe conditions. Company proximity to the violations of this right is high due to its close relationship to employment.

*Right to Freedom from Forced Labour and Servitude (art. 4)* is a high-risk human rights area in Kazakhstan. Labour-related human right violations are widespread in Kazakhstan, and companies have a high likelihood of interacting with contractors or suppliers who exploit employees in with regard to working hours or compensation. Migrant workers are at particular risk for these violations. This right is often violated in the form of human trafficking, which has grave implications for child labourers and women, many of whom are exploited in the sex industry. Workers, usually from neighbouring Central Asian countries, are also trafficked for work in agriculture and construction. The Kazakh government is criticised for not effectively regulating this right, and prosecutions for labour violations or trafficking are rare.

*Right to Take Part in Government (art. 21)* is a high-risk area due to Kazakhstan's widespread corruption. Kazakhstan was ranked 122nd out of 146 countries on Transparency International's 2004 Corruption Perception Index. According to the survey, corruption in Kazakhstan is widely acknowledged to be systematic, and occurs throughout government, law enforcement, and business. The company's main risk of non-compliance with this right is if it engages in bribery of government officials or provides 'facilitation payments' to expedite routine government processes.



*Right to Peaceful Assembly and Freedom of Association (art. 20 and 23)* constitutes a high-risk area in Kazakhstan. Political and union gatherings are hindered by provisions in law and practice, and workers have been demoted, fired, or harassed for joining trade unions or speaking out against employers. Employees are often denied access to trade union information or are forced to join company unions that provide little bargaining power and no significant benefits. Company risk in this area mostly deals with workers being barred from criticising their employer, organising into unions, or engaging in collective bargaining.

*Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25)* poses a high company risk. In spite of comprehensive legislation in the area of labour, violations are widespread. In 2003 alone, the Constitutional Council reported 115,234 violations of labour legislation (U.S. Department of State, 2006). Wage delays, overtime work, inadequate work conditions and health and safety standards, as well as discrimination are common problems. Women and minorities are underrepresented in employment, and discrimination throughout all levels of business hierarchy curtails their right to work. Migrant workers constitute a particularly vulnerable group. Due to their often illegal status, they are often found working in substandard and in some cases abusive conditions. Company risk in this area includes numerous dimensions of hiring practices and workplace conditions.

*Right to an Adequate Standard of Living (art. 2)* is a high-risk area for company operations in Kazakhstan. Even though Kazakhstan has experienced significant prosperity in recent years, which has positively affected the wage level and living conditions, the minimum wage (around US\$80 per month) is not sufficient to secure a decent standard of living. Migrant workers are seldom covered by minimum wage laws, and are often paid much less than subsistence wages. Additionally, Migrant workers are not eligible for social security, and many workers are either paid informal wages or given cash bonuses, neither of which are taxed into the social security system.

*Right to Health (art. 25)* constitutes a high-risk area in Kazakhstan. Company risk lies mostly in the area of occupational health and safety. In spite of adequate legislation in this area, outdated equipment and techniques, as well as the quasi-legal status of many migrant, seasonal, and informal workers, has ensured that workplaces are unsafe, resulting in a high number of accidents and illnesses each year. Mining, construction and agriculture are the most dangerous industries, and provide almost 55 percent of occupational injuries in Kazakhstan

*Right to Adequate Food (art.25)* is a high-risk area for companies due to its connection with environmental damage. Kazakhstan is in the middle of a process of desertification, and also suffers from high levels of soil, water, and air pollution. The ongoing environmental issues have affected Kazakhs' ability to secure clean, healthy food and water, and Kazakhstan reportedly has the lowest quality drinking water of any Central Asian republic. Company risk in this area consists of pollution of air, soil and water, as well as waste management and food provision.

*Right to Education (art. 26)* is a high-risk area for companies operating in Kazakhstan. Child labour poses a direct threat to Kazakhs' right to education, and child labour in both urban and rural areas is common in Kazakhstan, according to the U.S. Department of State. The number of children involved in drug trafficking, as well as pornography, prostitution, and other forms of sexual exploitation, appears to be on the rise. Many children are exploited for labour with the permission and encouragement of their parents. Risks of non-compliance in this area include employing children without the proper medical checks or during school hours, or employing them under conditions which are unsafe or unlawful.

## COMPANY RISK

The following rights received a yellow rating in the Company Risk category in the Kazakhstan CRA, indicating that these human rights constitute medium-risk areas for companies operating in Kazakhstan. A short description of each right follows below.

- Right to Life, Liberty and Security of Person (art. 3)
- Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11)



- Right to Privacy (art. 12)
- Right to Freedom of Movement (art. 13)
- Right to Family Life (art. 16)
- Right to Own Property (art. 17)
- Right to Freedom of Opinion, Expression, Thought, Conscience, and Religion (art. 18 and 19)
- Right to Adequate Housing (art. 25)

*Right to Life, Liberty and Security of Person (art. 3)* is a medium-risk area in Kazakhstan. Though this right is routinely violated in practice, proximity to company operations is generally low. Companies who use security forces to protect staff or property, however, will have a higher risk of proximity to human rights violations. Kazakh security forces, both state and private, have been implicated in beatings and harassment, as well as arbitrary arrest and detention of dissidents and minorities. Corruption has also been reported in police and security forces.

*Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11)* is a medium-risk human rights area for Kazakhstan. Even though the law contains a number of protective provisions on the right to fair trial, there are a number of gaps, such as lack of judicial independence. Moreover, in practice, the right is violated at almost all levels, including poor access to adequate legal counsel, lack of judicial independence, and judicial corruption. Even though company proximity to these violations is low, the company must remain vigilant for complicity.

*Right to Privacy (art. 12)* is categorised as a medium-risk human rights area in Kazakhstan. The Kazakh government routinely monitors the communications of people and organisations it considers 'politically destabilising', and its policies and practices on the treatment of HIV/AIDS routinely breach patient confidentiality. Company risk in this area mainly consists of the administration of company documents and communications, as well as relations with suppliers and contractors.

*Right to Freedom of Movement (art. 13)* is rated a medium risk. The status of refugees and migrant workers in Kazakhstan is often ambiguous, with few protections or legal rights. Both internal and external migrants are subject to poor employment and economic conditions, and have a high likelihood of being involved in forced labour.

*Right to Family Life (art. 16)* is a medium-risk area in Kazakhstan. Forced marriages continue to occur, and domestic violence against children and women is widespread. Children's right to family life is violated by the practice of child labour and the growing prevalence of neglect or abandonment by parents. The highly traditional family structure often has the effect of perpetuating a subordinate role for women, and paid maternity leave is rare. Company risk in this area concerns the areas of child labour and maternity benefits.

*Right to Own Property (art. 17)* constitutes a medium-risk area for company operations in Kazakhstan. The protection of personal property is not always respected in Kazakhstan, and trade unions and ethnic minorities have been evicted from their land in the past. This has had implications for women's and religious minorities' rights, as well as issues of government ineffectiveness and corruption. Company risk in this area consists of the provision of land and the securing of government contracts.

*Right to Freedom of Opinion, Expression, Thought, Conscience, and Religion (art. 18 and 19)* is a medium-risk area for companies in Kazakhstan. Violations of freedom of speech and religion are built into Kazakh law, and political and religious dissidents continue to face harassment from government officials. Press freedom is severely restricted in Kazakhstan, with criticism of the president all but unheard of. Human rights defenders and religious minority leaders continue to be harassed and subjected to arbitrary arrest and detention. Company proximity to these violations is not high, but companies must ensure that critics of policies or trade union officials are not harassed, intimidated, or silenced.

*Right to Adequate Housing (art. 25)* is rated a medium-risk human right in Kazakhstan. Company risk in this area deals with the reports of forced relocations and substandard conditions of migrant workers that are still common in a number of



industries. Company proximity to these violations, however, is isolated to instances where operations would push communities out of housing, or where the company take on the responsibility for housing its employees

## COMPANY RISK

The following rights received a green rating in the company risk category in the Kazakhstan CRA, indicating that these human rights constitute low-risk risk areas for companies operating in Kazakhstan. A short description of each right follows below.

- Right to Freedom from Torture, Cruel, Inhuman, or Degrading Treatment or Punishment (art. 5)
- Right to Participate in Cultural Life (art. 26)
- Right to Intellectual Property (art. 26)

*Right to Freedom from Torture, Cruel, Inhuman, or Degrading Treatment or Punishment (art. 5)* is a low-risk human rights area for company operations. Kazakhstan has ratified the relevant international instruments and has passed national legislation protecting the right to freedom from cruel, inhuman, or degrading treatment or punishment. Torture, ill treatment, and abuse of detainees, however, are serious and widespread problems that continue to occur. Kazakhstan has one of the highest per-capita prison population rates in the world. Company proximity to these violations is low, but companies should be aware that violations of this right take place routinely in Kazakhstan.

*Right to Participate in Cultural Life (art. 26)* constitutes a low-risk area in Kazakhstan. The law sufficiently protects the rights of citizens to be involved in their culture and communities, and no major violations of this right have been reported. The conditions of ethnic minorities are generally satisfactory, though ethnic Kazakhs tend to gain preferential treatment in promotion to senior government positions and other economic and political privileges.

*Right to Intellectual Property (art. 26)* is a low-risk human rights area for company operations. Though the law respects intellectual property to a satisfactory degree, the sale of pirated and counterfeit goods is routine and widespread, with some estimates reporting that two-thirds of the CDs and cassettes sold in Kazakhstan are illegitimate (International Intellectual Property Alliance 2006). Companies rarely interact with the black market for pirated material, however, so company risk in this area is low.

*For specific recommendations on how to minimise these risk areas, please refer to the recommendations in the focal areas or in the particular right.*

