

# **The Analysis of Women's Marital Rights in Kazakhstan: Challenges of Gender Equality.**

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In spite of numerous legal agreements, women in Kazakhstan are faced with discrimination and inequality both at work and at home. The following research will focus particularly on the problems such as involuntary marriage of underage girls and denial of husbands of paying alimony when divorced. It can be suggested that women's rights (the dependent variable) have a relationship with the level of country's development, including urbanization, education, female unemployment and mortality rates. It is important to highlight the impact of culture and history of the nature of marriages in Kazakhstan. Negative relationship between the variables could further result in decreasing women's participation in the political and social life of Kazakhstan.

With this paper I would like to analyze the situation of women's rights in the society in the Republic of Kazakhstan and, in particular, to highlight the problems that young women face. According to the experts from the United Nations, gender issues are the third most important global issue after threats to peace and the environment, and a large body of scholarship suggests that these other two issues are actually closely associated with gender as well. By improving the role of women in the society, it is possible to address the issues of equality, non-discrimination and tolerance, which may consequently lead to the development of the state. In spite of numerous agreements and ratification of internationally accepted frameworks, such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Vienna Declaration and Programme of Action of the World Conference on Human Rights (ratified on the 25<sup>th</sup> of June 1993), European Convention on Human Rights (ECHR), women in Kazakhstan are often faced with discrimination and inequality both at work and at home. For the purposes and the scope of this paper, I am going to focus on the marital issues of women. Getting married or divorced poses additional problems for some women because the rule of the law is not guaranteed everywhere in the country. The two issues are going to be analyzed in the details: involuntary marriage of underage girls and denial of husbands of paying alimony when getting divorced.

Kazakhstan is a Central Asian Republic that gained its independence in 1991 after being a part of the Soviet Union for 73 years. It is the ninth largest country in the world, sharing a border with Russia to the north, China to the east and Turkmenistan, Kyrgyzstan and Uzbekistan to the south. Kazakhstan is rich with the natural resources and 85 percent of its exports are oil, base metals and gas. [1] Due to the natural resources for the most part, the annual growth rate of the country's GDP has significantly increased from the period of 2001-2012, fluctuating between -4.5 percent and almost 15 percent with a recent figure of 5.2 percent. The positive, but still not so prominent, trend can be traced regarding the women's contribution to the GDP growth, the figure of which has risen from 35 percent in 2001 to 39.3 percent ten years later. [2]

The government of Kazakhstan has taken certain steps for the past several years to address the issues of gender equality. For example, in 1998 Kazakhstan ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), where a discrimination is defined as "...any distinction, exclusion or restriction made on the basis of

sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." [3]. Moreover, demographic issues are linked with gender problems, because if women are secured, the level of birth rate also can increase, which may lead to overall rise in the population. The "Concept of state demographic policy of the Republic of Kazakhstan" was ratified in 2000, which prioritized demographic problems on the same line with national security issues. It allows addressing the issues of population rise in accordance with the long run political model "Kazakhstan 2050 Strategy: a new political course of a successful country". The country has already seen the positive results of the "Program of demographic development of the Republic of Kazakhstan for the period of 2001 - 2005", with the decline in the sexually transmitted diseases among the young population. [4] Obviously, population of about 16.9 million people on such a vast territory needs increasing. So gender problems are interlinked with demographical goal of a rise in the number of population in Kazakhstan.

Concerning women's role in the political life of the country, the situation has not altered significantly for a ten year period. In 2001 the rate of women employed by the state was 55.2 percent compared to 56.6 percent in 2011. [2]. However, it is worth noting that the state employees include such professions as teachers and doctors, positions of which are historically dominated by women. In order to understand the real impact of women on political life, it is necessary to explore their number in the leading and administrative positions, which is 9.5 percent in 2011. This figure remains stable during past decade, with 9.6 percent of women having leading positions earlier in 2001. The number of women in the Majilis (lower chamber of the Parliament) has experienced a dramatic improvement due to the government's policy of expanding party lists for seats for women. Past elections showed that from 10.4 percent to 17.8 percent of women were elected to be the Majilis deputies. The figure for 2012 appears to be 24.3 percent which is an apparent progress. Despite such positive trend, the situation in the Senate, which is a higher chamber of the Parliament, is not so favorable. Only 4.3 percent of women hold the positions in the Senate, which represent two women – Senators in the last call of January 2012 [5]. Having observed the political engagement of women, several inferences can be drawn. First, the number of women – Senators may be low because of cultural stereotypes that men should work while their wives should take care of the house and children, therefore, not many women can be elected to a high ranking position. Secondly, it might be the case that women themselves choose not to devote their large amount of time to deal with governmental issues, driving by the thought that they should make a choice between career and family with mostly choosing the latter. Working as a Chairwoman in a Senator requires much time contribution and strong emotional self-control, and women sometimes make a decision not to pursue these kinds of positions.

Let us discuss the role of women in the society as a whole, referring to the legislation of the Republic of Kazakhstan and observing some examples how it can be undermined. Family is regarded as unit of country's development. If the government would like to improve the quality of life of the entire population, it should address and analyze the problems that families experience, making conclusions about the solutions to the certain issues. According to the "Marriage and Family Law" from the 26th of December, 2011, a marriage is legal only if it is

registered at the official Registry Office, meaning that religious or ritual ways of getting married are not accountable and do not act as official processes. This brings us to the core of the problem young women may face in some areas of the country. Some families in rural regions without local administration for marriage registration choose not spend time and effort and go to the nearest Registry Office. They would rather have a ritual after which the couple is regarded as married, but not in official terms. The Deputy of the Majilis, Dariga Nazarbayeva, has addressed this issue on the meeting of the Nur Otan party dedicated to the social needs of the population. She said the following: “The religious ceremonies are quite common now and society does not have one straight attitude towards them. Indeed, it is necessary to raise this point”. [6]

Another historical tradition that continues taking place nowadays is bride kidnapping, the number of cases of which is difficult to determine. It happens because these family-related issues tend to be solved within themselves, not engaging with the police. Nevertheless, according to the NGO “Women’s Creative Initiative League”, established in 1994, 60 percent of the survey respondents (women only) have encountered underage bride kidnapping [7]. What I mean is that this amount of respondents heard about bride kidnapping cases This is an alarming statistic, as in many cases with parents themselves push their daughters to get married as it happened with 19-year old Karakas Turganbekova. The young woman was kidnapped and forced to marry a man she hardly knew. Interestingly, not only did her parents not prevent this situation, but also they supported the actions of the groom. [ibid.] Some families, however, report the forcible abduction of daughters, which can result in the imprisonment from 7 to 12 years in accordance with the Criminal Code of the Republic of Kazakhstan (Article 125 from the 16th of June, 1997) [8]. It can be inferred that the traditional roots of Kazakh society may be more pronounced in particular areas of the country. The example given here concerns the problem of the woman from South region of Kazakhstan. Referring to the Figure 1 “Number of ethnic Kazakhs throughout the regions of Kazakhstan” in the Appendix, it is clearly seen that the largest portion of Kazakhs live in the South region, which is more pronounced with traditional customs.

Another issue that needs to be discussed within the topic of marriage and divorce is the failure to pay alimony to ex-spouses. The rate of divorces is increasing consequently giving a rise in the number of children either with one or no parent, which itself is a very important problem. The balance between men and women in the society is disturbed and, as a result, children may suffer. In this paper the term will refer to the money paid by one spouse to support the living of his or her underage child or children. The Marriage and Family Law (adopted in 1998) indeed gives a fairly detailed description about the procedures of how alimony should be collected and the consequences of disobeying the law. Despite actually having the legislation in place, there are ex-spouses who ignore their duty of giving a financial aid to an underage child or children. The NGOs “Union of Crisis Centers of Kazakhstan”, “Amansauylyk” together with the Public Prosecutor’s Office in Almaty carried out a monthly study from the 1st to the 29th of February, 2012, aimed at the analyzing the ways of protecting the rights of children and calculating the number of those who fail to pay alimony. [9] They have given the statistics that shows that there has been a 25 percent increase in the number of alimony defaulters within a period of one year. The overall amount of indebted money is around 829 000 USD [ibid].

Research has revealed why so many spouses do not abide by the law. It may be because of the insufficient financial status or temporal unemployment, but one of the most popular reasons is the ordinary human ignorance towards someone's duties. For example, out of 154 single mothers, whose children were left without alimony, only 8 women were unemployed, moreover, 34 ex-husbands were state-employees and there even were a few high-ranking officials with a fixed income. Another problem that judicial officials may face is unknown place of residence of alimony defaulters. When it is impossible to determine their location, children are left without any kind of financial assistance and this can last for years. It would be wrong to say that the government completely ignores the situation with alimony defaulters, because in this year's address to the nation, Nursultan Nazarbayev's (the President of Kazakhstan) focused on children's problems saying that "The State should support the single mothers and toughen the punishment for nonpayment of alimony" [12]. Regarding the amount of the alimony, the government is the one deciding how much money should go to the support of children of a single parent. The legislation was updated on the 14th of September, 2012, which significantly decreased the amount of payment from 26000 to 4000 tenge per a month [9]. The reason for such a dramatic change was a substitution of the initial amount of income from which the alimony should be calculated. Before the change in the legislation, alimony was calculated basing on the mean income of the region where the defaulter if from. For example, the average monthly income in Kazakhstan, according to the Statistics Agency, January, 2013, was about 100 000 tenge per month, which means the amount of alimony would be 26 000 [10]. However, the members of the Parliament have decided to use the minimal wage as a determinant of the amount of alimony, which is around 18 000 in 2012 [ibid]. As a result, much resentment has appeared among the number of members of the Parliament as well as NGO activists. Marianna Gurina, the head of the "Ulagatty zhanuya" NGO – ("Happy family") – argues that 4000 tenge is not sufficient to support a child and that this policy could lead to the increase in the number of orphans because of the inability of a parent to buy all the necessities with such a low assistance from the other parent [11]. The government has already tackled the problem of paying alimony; however, the results do not seem to be either reasonable or successful.

At the beginning of 2014 the government rewrote the law again and changed it that the determinant income is the average wage as it was before. This way after the amendments of the Marriage and Family Code from the 14<sup>th</sup> of January, 2014, new minimum alimony amount is 27160 tenge. Interestingly in two years the policies have been changed back and forth. At the first sight the amount is even higher than in 2012. However this is not a case at all because of the recent devaluation of tenge by almost 20 percent which is already impacting the prices of products. It has been reported that the inflation in food prices has already reached 20 percent in some regions of the country [17]. It means that the amount of alimony in 2012 compared to the one in 2014 is in fact even higher by 28.5 percent. It does not make much sense how the process of approval took place that lead to a decision that does not satisfy the number of members of the Parliament. The following questions should be asked: Why was such a radical change adopted? How did the process take place? It is known that much money is spent in order to make an amendment into the laws, so another question appears: Can it all happen because of the circulation of money, when individuals push the change of a law back and forth? In any case, the final consequence that is the well-being of children is not fully met, so it can be said that the government has failed to address this issue. Many propositions are

frequently come up with the uncertainty about their implementation. For example, there has been a suggestion to create a state fund for alimony repayment. The head of the NGO “Union of Crisis Centers of Kazakhstan” Zulfiya Baisakova believes that this fund will pay alimony to children in a regular basis, but the defaulters will still have to pay the necessary amount back to the fund. [13] The Minister of Justice of Kazakhstan Berik Imashev has already expressed his support of this idea, adding some more thoughts about how the process of alimony exaction could be improved. [14] He proposes to prevent a defaulter from employment until receiving the full payment of debt as well as making community service compulsory for the defaulters. Yekaterina Nikitinskaya, Vladislav Kosarev, the members of the Majilis as well as Vladimir Bobrov, the member of the Senate, are highly dissatisfied with the changes the previous Parliament has adopted. Nikitinskaya says: “4000 tenge is not enough even to buy diapers for children. Having this law makes them trapped in the cycle of poverty”. [15]. She also tries to explain such a rotation in the policy, saying that the reason of it might be politicians’ desire to create a formal and imaginary improvement in the statistics of alimony defaulters, which is totally unacceptable step in the social policy of the government. It can be concluded that the adopted policies are not successful and despite of the fact that new propositions are taking place in order to improve the situation with alimony defaulters, the results cannot prove to be effective. Those who fail to pay for the wellbeing of their children must understand the responsibility they have and feel the shame and the society’s negative reaction. The public prosecutor in Aktau (city in the West of Kazakhstan) offered to make the names of defaulters public by hanging them on the main square in the city.[16] It was one year ago and there are no actions taking place, which leads to an impression that the government does not fully take the problem as seriously as needed.

The paper has argued that there are a number of serious problems that spouses, especially women, face when getting married or divorced. Among them are bride kidnapping and failing to pay or receive alimony. The steps taken by the government of Kazakhstan have been discussed along with the future plans of the policy-makers. It is necessary to highlight the difficulty of data collection for the research, because not much academic studies have been conducted on these topics. Additionally, there is no full access for the public to view the recent changes of the laws, which contradicts with the transparent policy that Kazakhstan is supposed to have. For example, the national law database is open for most of the laws and codes, however, there was an article necessary for the research without an access. In order to get it, the payment should be provided, so it can be regarded as a very serious matter that also should be taken care of. If the society does not know their rights and responsibilities, then how the government should expect them to be law-abiding? Another recommendation that can be made is to have more public opinion polls and surveys, which Nongovernmental Organizations can do. There were a number of surveys that have been used in this paper, but some of them did not provide full information about the dates of the survey, total number of respondents and some other details that might be necessary for the purposes of the research. Finally, the government needs to take very important actions to deal with gender issues. Even though they have been prioritized by the President, not much has been done in reality. Gender equality, increased participation of women in the society, their health, physical and social security should be provided. In order to achieve the goal of increasing the standard of lives of the Kazakhstani population, women need to have care and legislative support.

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Appendix

Figure 1

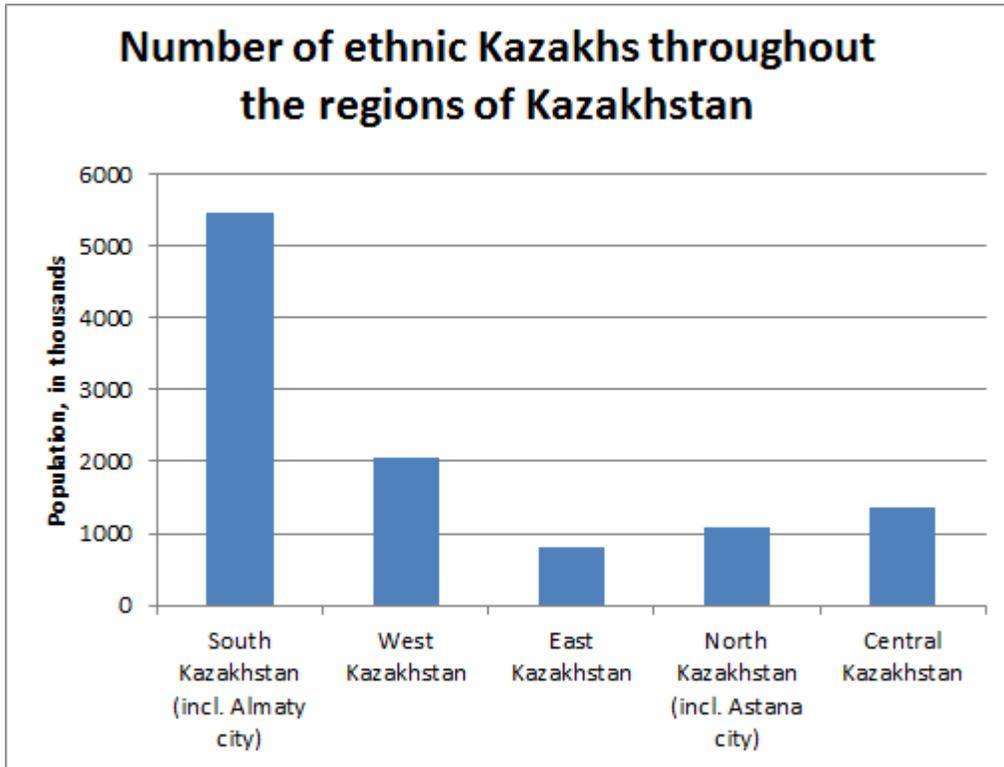


Figure 2

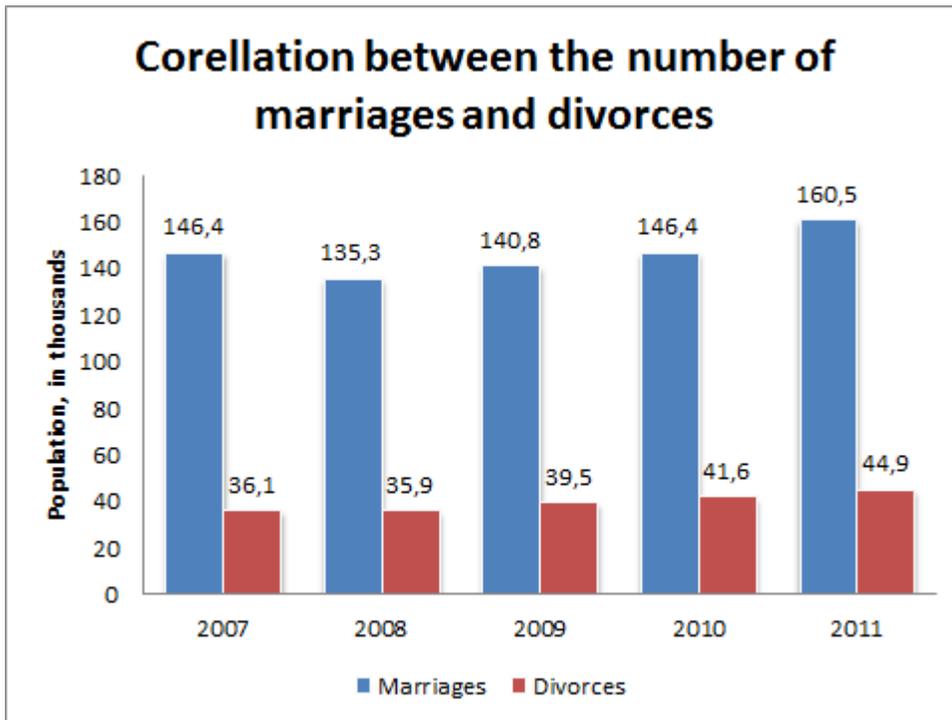
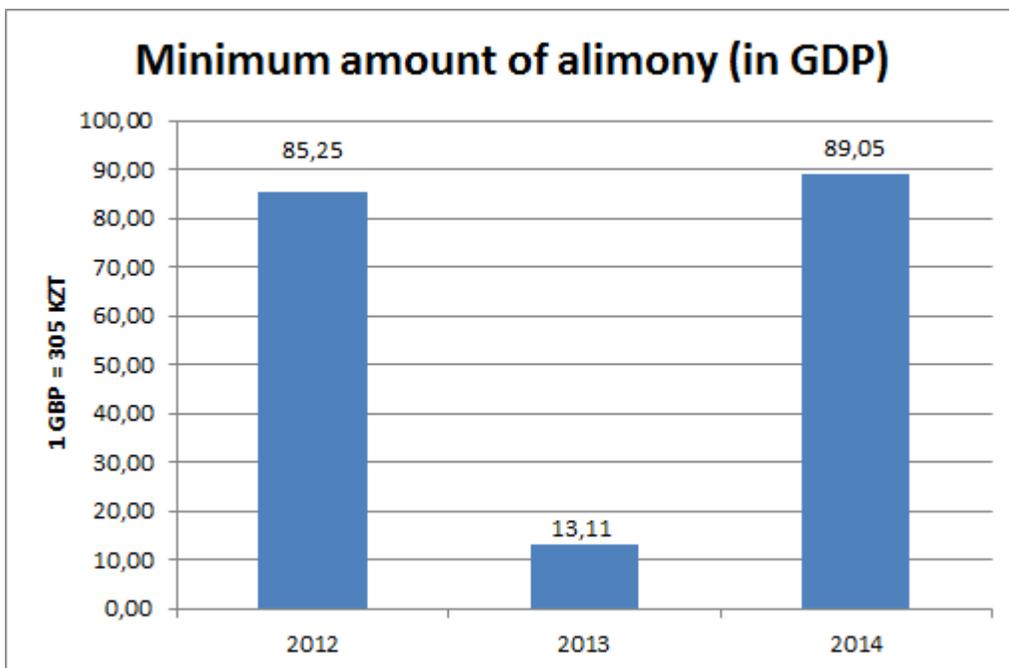


Figure 3



The data is taken from the Agency of Statistics of the Republic of Kazakhstan. // <http://stat.kz/Pages/default.aspx>