

Analysis of Policies on Combating Human Trafficking Crimes at The International and National Levels

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Abstract

The research aims to develop evidence-based recommendations for the prevention of human trafficking. Policies for combating such crime, including international, criminological, criminal-legal, penitentiary, criminological, and operative-investigative policies, are analysed. A comprehensive system of scientific and special legal methods, including methods of synthesis and analysis, formal-logical and formal-legal methods, as well as comparative-legal methods, were used to conduct the research. The research results are aimed at improving the effectiveness of measures to combat human trafficking. The experience of the leading countries, such as the USA, Portugal, and Qatar in the context of interaction of law enforcement bodies of different countries in the sphere of combating human trafficking.

Keywords: Transnational Crimes; Law Enforcement; Country Cooperation; Criminal Legislation; Penitentiary Policy.

Introduction

Human trafficking is a serious problem in Kazakhstan, which negatively affects the international image of the country. This problem includes such crimes as child trafficking and the involvement of minors in anti-social activities. Following the Kazakhstan Ministry of Internal Affairs (MIA), there are approximately 100 pre-trial investigations into human trafficking in Kazakhstan each year (2019 – 182, 2020 – 111, 2021 – 103, 6 months of 2022 – 57). In the last four years 131 victims of sexual exploitation, 33 victims of forced labour, and 28 new-borns and young children have suffered (Ministry of Internal Affairs of..., 2022).

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The Kazakhstan Ministry of Internal Affairs is constantly engaged in identifying and combating human trafficking. This includes police raids, hotlines where such crimes can be reported, and citizens' appeals to law enforcement agencies. For prevention purposes, information campaigns are conducted that inform on the problem of human trafficking, legislation, criminal statistics, and existing hotlines that assist victims of trafficking (Aliyeva, 2022). At the same time, as of today, Kazakhstan does not have the necessary legal framework to help combat crimes in this area. These are specific laws and regulations that should contain both specific ways to combat and prevent human trafficking in Kazakhstan and establish the competence of authorized bodies in this area. It should be noted that progress in this direction is already underway. Thus, the Kazakhstan Minister of Internal Affairs, M. Akhmedzhanov, stated that a special law on human trafficking is already being developed and should be adopted as early as April 2023 (Minister of Internal Affairs: For many years, no one has dealt with the problem of human trafficking..., 2022).

Currently, human trafficking is one of the most hidden problems associated with human rights violations. This is due to several factors, such as the low level of awareness level; the cross-border nature of the crimes, which complicates their detection and investigation; difficulties in cooperating with victims, who may fear for their safety and be afraid to report to the law enforcement agencies; insufficiently qualified personnel in law enforcement agencies; the lack of legal awareness among women who marry foreigners as well as the difficulty of proving crimes related to human trafficking, which can lead to the prolonged detentions in specialized centres. In addition, perpetrators use various methods to avoid prosecution, including quickly changing routes or finding the right people when operations are disrupted. All of this makes combating human trafficking extremely difficult and requires a lot of law enforcement effort.

It should be noted that the problem of combating human trafficking has been the research subject of several Kazakhstan and world scientists. As such, O. Prokopenko et al. (2017) focused on the legal and socio-economic aspects of combating human trafficking in Kazakhstan. A.A. Konysbekova (2013) emphasized the importance of international cooperation in combating crimes against human trafficking. A. Bekmagambetov (2018) examines the key problems and possible solutions for an effective fight against the human trafficking. He created a comprehensive policy model that includes several subsystems. J. Askarova (2020) considered international experience in combating human trafficking, where she particularly highlighted problematic aspects of modern slavery and suggested ways of solving this problem. D. Utepov and B. Karimov (2022) analysed the peculiarities of committing human trafficking crimes over the

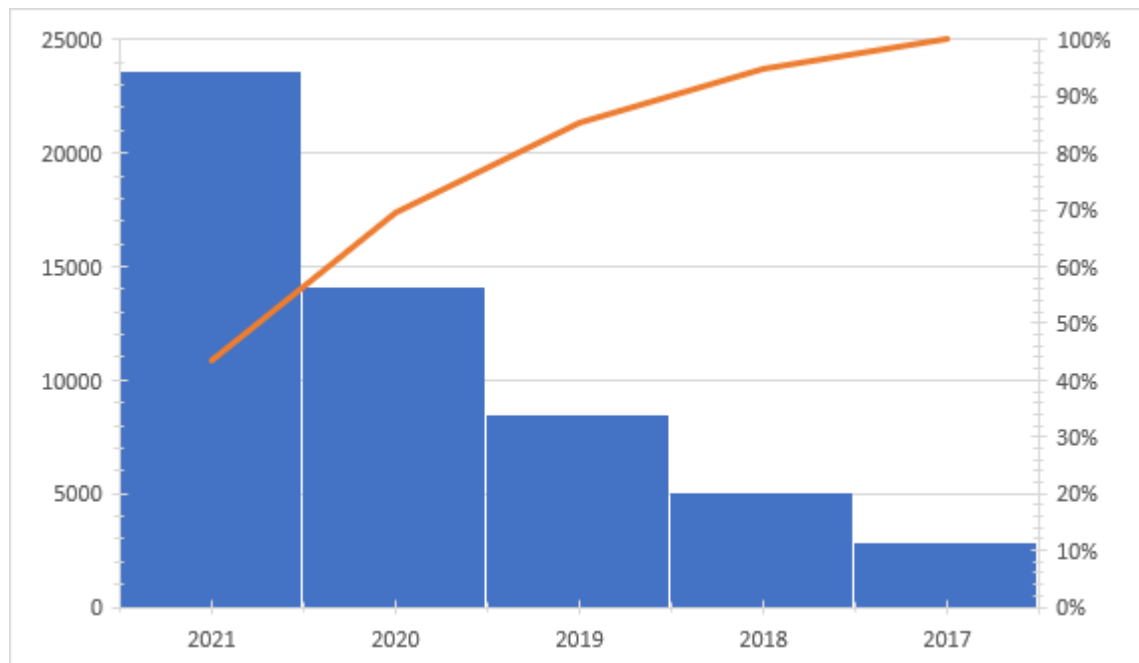
Internet. Following the results of the study, the authors suggest supplementing the criminal legislation of Kazakhstan with the qualifying sign of committing crimes using the Internet. K. Amangeldy et al. (2022) based on actual data, developed recommendations to prevent human trafficking in the Central Asian region. Central Asia countries' ways to combat human trafficking are also investigated in the research. The research authors seek to assess the effectiveness of these measures and to identify possible strengths and weaknesses in the work of state authorities in this area. This will help improve preventive measures against human trafficking in the region and develop more effective strategies.

The research aims to analyse the existing policy of combating crimes in the sphere of human trafficking with the development of specific proposals for improving this policy in the Republic of Kazakhstan.

Materials and Methods

Currently, many factors influence the spread of human trafficking in Kazakhstan. Economic globalization and increased labour mobility are some of the key factors that contribute to the migration of people in search of jobs and a better life. Increased demand for private services in developed countries is also one of the reasons why human trafficking is on the rise. Unemployment among women, especially in developing countries, also contributes to human trafficking. The increase in the number of people living below the poverty line is also one of the reasons why people become victims of trafficking (Analysis of the current state of affairs..., 2010). The data on the dynamics of committed trafficking crimes in Kazakhstan for the period 2017-2021 is also worth noting (Figure 1).

Figure 1. Dynamics of human trafficking crimes committed in Kazakhstan in 2017-2021 following the Group of States against Corruption (GRECO)



Source: GRECO Assessment Report for Kazakhstan, (2022).

To date, human trafficking is a complex problem, and there is no unified interpretation of this concept among both global and Kazakhstan scholars. Different interpretations of this concept focus on different aspects of the problem of human trafficking but do not address its systemic essence and interconnections. Therefore, human trafficking should be interpreted as any form of exploitation of people with a criminal purpose (Report of the Special Rapporteur on trafficking in persons..., 2022). Human trafficking is seen as a crime problem, and countering it involves the use of criminal penalties, the development and cooperation of police units, information sharing, and other measures. Human trafficking has various subsystems, including criminological, criminal-legal, and criminal-executive. In addition, criminal-procedural, operational-search and criminalistic policies are also important in this area and have ideological, normative and organizational aspects. Several normative documents regulate the rights of human trafficking victims and set the criminal prosecution for traffickers (Beisbekova et al., 2019). The adoption of such documents is one of the most effective measures to combat this crime. They establish international law norms, which have some differences from country to country. In addition, the existence of international normative instruments makes it easier to handle criminal cases of human trafficking in any country (Gusak & Romanova, 2011).

To date, the main international instrument aimed at combating human trafficking is the UN Convention against Transnational Organized Crime, combined with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the Convention. These instruments provide a wide range of international standards and measures to prevent, combat and suppress human trafficking, as well as establish mechanisms to punish offenders. They are fundamental instruments in the global struggle for human rights and freedoms and their protection from exploitation and abuse. Also, to date, there are various forms of international cooperation in combating human trafficking, including cooperation in the framework of legal assistance in criminal cases, the conclusion of cooperation agreements, participation in investigations and inquiries in other states, joint intelligence and investigations, information exchange, participation in international operations and cooperation projects, as well as the conclusion of several conventions, covenants and protocols to regulate this issue.

Kazakhstan has a criminal law that regulates human trafficking. This law includes acts such as buying, selling, recruiting, transporting, transferring, harbouring or receiving a person for exploitation. The use of slave labour is a type of exploitation, and many buyers seek “live goods.” If this chain is followed, responsibility for human trafficking will be differentiated and the perpetrators will be fully and fairly punished. Previously, before 1993, Soviet criminal legislation did not consider liability for human trafficking or kidnapping to be a separate criminal law (Askarova, 2020). Beginning in 1998, with the Criminal Code of the Republic of Kazakhstan (CC), criminal liability was established for recruiting people for exploitation (Criminal Code of the Republic of Kazakhstan No. 62-VII, 2014). In 2006, anti-trafficking legislation was improved, and Article 128 of the Criminal Code was defined as “Trafficking in Persons. Article 133 of the Criminal Code also criminalized trafficking in minors. In 2014, a new Penal Code was adopted where Article 128 of the Criminal Code was renamed “Human Trafficking”. However, human trafficking is a complex phenomenon that is not limited to the actions defined in the law.

To date, in the Republic of Kazakhstan, there is a dialogue platform between the public and civil sectors, which is represented by the Interdepartmental Commission on Combating Trafficking in Persons. Similar commissions operate under the akimats of regions and cities of national importance, according to the official website of the Ministry of Internal Affairs (2022). In January 2020, Kazakhstan tightened its law against human trafficking. This was reflected in changes to Articles 128, 134, 135, 308, 125(3b) and 126(3b) of the Criminal Code, which now criminalize trafficking for sexual and labour exploitation (Aliyeva,

2022; Spytka,). However, it is worth noting that Kazakhstani law does not consider violence, fraud, and coercion as core elements of the crime, but only as additional circumstances. In December 2019, penalties for crimes related to human trafficking were also increased, indicating a serious approach to the problem. Under the new setting of the law, there are now sentences of four to seven years in prison for trafficking adult citizens and five to nine years in prison for trafficking children. In addition, prison terms for relevant crimes have been increased from 3 to 5 years and from 5 to 7 years, and if there are aggravating circumstances, the penalties can even be as long as 18 years.

The Kazakhstan Government approved the Action Plan for 2021-2023, aimed at preventing and combating crimes related to trafficking in persons. This Plan includes a wide range of organizational and practical measures, as well as preventive measures aimed at combating human trafficking. The Resolution of the Government of the Republic of Kazakhstan of February 24, 2021, No. 94, which approved the Plan, underscores the importance of this topic and the need for urgent and effective measures to combat this serious crime (Decree of the Government of the Republic of Kazakhstan No. 94 “On approval of the Action Plan..., 2021). The Supreme Court of Kazakhstan focused on the need for correct and uniform application of legislation related to combating human trafficking. This includes both national and international legislation ratified by the Republic of Kazakhstan. In its ruling, the Supreme Court stresses the importance of protecting human rights and freedoms in the context of combating human trafficking. Analysis of the investigative practice has shown that the investigation of crimes related to trafficking in persons faces several serious difficulties in the Republic of Kazakhstan (Balgimbekov, Baikenzhina, Karzhasova, Nurpeisova & Seitkhozhin, 2018). Some of these challenges include inadequate legislation, insufficient interagency cooperation at the national and international levels, and insufficient funding for law enforcement in the fight against trafficking. To effectively combat trafficking in persons, it is necessary to consider all of these factors and propose measures to improve them.

Combating human trafficking in Kazakhstan is one of the most important tasks. However, there are several obstacles and problems. For example, many human trafficking victims do not seek assistance from law enforcement agencies, fearing negative consequences for themselves and their loved ones. In addition, the availability and low cost of transporting “live goods” from Central and Eastern Europe to Western European countries have ensured organized crime’s monopoly on this type of criminal activity. Organized criminal groups involved in human trafficking are well organized and have a clear division of roles between the participants, which makes it difficult to uncover the crimes they commit (Vilks &

Bergmanis, 2018). In addition, there is currently no systematic approach to human trafficking solutions, as well as a lack of cooperation between the law enforcement agencies of the origin countries and the law enforcement agencies of the transit and destination countries. The lack of qualified personnel involved in combating the crime of human trafficking is also a serious problem.

There are several problems in Kazakhstan related to combating human trafficking. One of the main problems is that the victims of this crime do not seek help from law enforcement agencies due to their fear of adverse consequences for themselves and their loved ones. This makes the process of uncovering the crimes committed more difficult and complicates the fight against human trafficking. Monopolization of this type of criminal activity by organized crime leads to the fact that crimes are committed by organized criminal groups with a clear division of roles between the participants. This also complicates the process of uncovering the crimes committed. Another important factor is the lack of unified state regulations in Kazakhstan. Each region has its mechanisms of interaction at the regional level, which leads to differences in the quality and functioning of these mechanisms. It is necessary to develop a unified mechanism which would regulate the procedures for counteracting human trafficking, victim identification, assistance and reintegration. It is possible, to begin with, the creation of an interdepartmental working expert group, which will deal with this issue.

Another problem is the insufficient number of qualified officers confronting the crime of human trafficking. This problem can be solved by improving education and training in this area, as well as by raising the status and attractiveness of the law enforcement profession. To combat human trafficking more effectively, qualified specialists from departments responsible for combating economic crime must be involved. Their involvement will allow to identify human trafficking income schemes. In addition, such workers can competently analyse financial flows related to the criminal activities of organizers and members of organized criminal groups. Operatives and investigators must be aware that victim recruitment occurs at different levels and can include deception, physical violence, intimidation, and the use of social media (Yara et al., 2021). The victim's transfer can take place both within a country and between countries, often using fake documents. The victim's transfer can take place through both legal and illegal means, such as through fake marriages or smuggling. Obtaining a victim often involves violence and sometimes murder to eliminate witnesses and potential informants. Finally, exploitation can occur in various forms, including prostitution, forced labour, violence, forced marriage, organ sales. Knowing all the stages of human trafficking and the methods used by criminals at each stage helps

operatives and investigators combat this crime more effectively and protect the rights and freedoms of potential victims (Ludvik, Myslyva & Filyanina, 2017).

Quite often human trafficking victims do not report the crime to law enforcement. One of the main reasons for this is that many victims are former prostitutes and do not consider themselves victims of the crime, but rather see the negative situation in which they find themselves because of their anti-social lifestyle. Also, in some cases, victims do not report the crime because of their emotional attachment to the perpetrator or because of the material rewards for the forced provision of "sex services" (Van Gestel & Verhoeven, 2017). For more effective police work in this area, these factors must be considered and signs of trafficking for sexual and labour exploitation must be established. One of the main challenges in combating human trafficking crimes is the experience and expertise required for law enforcement officers to successfully investigate and solve such cases. Dutch researchers emphasized in their research that the effectiveness of combating human trafficking depends on many factors, including qualified forensic examinations, law enforcement cooperation with local government and the public, and others. In addition, the key to success in combating human trafficking is quality training of law enforcement officers, who must have specific knowledge and skills in detecting and investigating such crimes.

Such measures include legal propaganda among the population, prompt elimination or neutralization of the causes of human trafficking and conditions conducive to it, intensification of the activities of police units to identify traffickers, and involvement of all police forces and the public in the fight against human trafficking. An important area of human trafficking prevention is also the qualitative training of law enforcement officers in the specific features of identifying and investigating this crime. To prevent human trafficking crimes, the main directions of operational and investigative prevention are applied. One of these directions is the use of forces, means and methods in preventive measures, which are carried out by police officers to identify and eliminate the factors contributing to the commission of this crime. The approach is also applied, which is based on the antisocial behaviour of persons concerning whom it can be assumed that crimes related to human trafficking have been committed. To effectively counteract human trafficking, investigative and other measures aimed at preventing and stopping forthcoming crimes are applied. However, in addition to this, it is necessary to conduct legal propaganda among the population, as well as to intensify police activities to identify criminal groups engaged in human trafficking and to eliminate shortcomings in combating this crime.

To effectively combat transnational crime and human trafficking, states must establish joint measures, such as the transfer of competence and joint criminal investigations. In Kazakhstan, there is law enforcement cooperation with other countries to investigate transnational crimes related to human trafficking. This cooperation can take the form of making and executing requests for legal assistance, including interviews, searches, witness interviews, forensic examinations and other procedural actions. In addition, law enforcement agencies can request information about evidence and provide operational assistance such as surveillance, interception and detention. The establishment of joint investigative teams between the States concerned is an important step. These measures may also include criminal prosecution and extradition for prosecution. In this context, various provisions of international law that regulate cooperation between law enforcement agencies in different countries should be prioritized. For example, some states have laws that provide for extraterritorial jurisdiction, allowing law enforcement agencies in different countries to investigate their nationals who have committed human trafficking offences abroad. The laws of the United States, Portugal, Qatar and Sweden prohibit sexual crimes against children and are extraterritorial, allowing law enforcement authorities in these countries to prosecute suspected child sex tourists who are their nationals for crimes committed abroad (Increasing Criminal Accountability and Addressing Challenges..., 2017; Niewiarowska, 2021). Thus, the application of the above methods of international cooperation will ensure effective cooperation between the competent authorities of Kazakhstan and other countries in the fight against transnational crime, including human trafficking.

Since human trafficking tends to be a cross-border crime, it is impossible to solve the problem at the level of one country. Therefore, it is necessary to actively promote the conclusion of interstate agreements on cooperation in combating human trafficking and to establish direct links with the law enforcement agencies of other countries. This will help overcome many of the difficulties associated with investigating human trafficking cases and will also make it possible to prosecute foreign nationals involved in organized criminal groups engaged in this activity. It should be noted that improved information sharing, and professional interaction are key aspects of law enforcement cooperation, especially in those countries that are the most prominent destinations for “live goods” (Andrushko, 2020). The system of special measures to prevent human trafficking is still developing, and there seems to be great potential in this area, which, with the necessary funding and government support, could yield significant results.

Discussion

Human trafficking is a global social, economic, and legal problem that exists in many regions of the world. Despite research on combating this problem, a systematic literature review of operational and analytical research is lacking to date. Filling this gap, a comprehensive literature review will be provided that identifies and categorizes the major studies in the field of anti-trafficking and will show the collective impact of this field on today's society. Currently, combating human trafficking is one of the main objectives of law enforcement around the world. The accumulated experience of research presented in monographs and manuals created in recent decades allows to highlight several problems that require a holistic solution. This experience includes the results of a dissertation, grant research from major international organizations and academic institutions, as well as the work of many scientists.

The study of this material allows to develop a holistic and effective strategy for combating human trafficking. An important aspect is a system-targeted approach to summarizing and analysing the information, which allows to highlight key problems and issues that require the close attention of law enforcement and society. The trafficking combat model policy, based on the research and experience listed above, is an important tool in the fight against human trafficking. The studies on this topic are of great value and interest to specialists in the field, as well as to a broad audience interested in protecting human rights and freedoms. Certain problems in the anti-trafficking industry, including human trafficking using information technology and social media, remain unresolved. Most studies focus on child trafficking and do not consider new methods of committing crimes conducted through the Internet. Despite this, there are many studies on new methods of human trafficking that use information and communication technology to commit illegal acts.

Following B. Buhorizoda (2019), recruitment through Internet technology is more socially dangerous, as it is aimed at influencing the psyche of a large range of people and complicates the activities of law enforcement agencies. This requires training of law enforcement officers in methods to counteract Internet criminals and requires additional time and material resources. I. Suvorov (2021) also notes that online resources are widely used at all stages of human trafficking crimes. D. Shmigirilova (2017) believes that the tightening of criminal liability for the recruitment of victims through the media, information and telecommunication networks, including the Internet, is appropriate.

T. Akimzhanov et al. (2014), A. Bekmagambetov (2018) analyses the key problems and suggests ways to solve them in improving the human trafficking fight through a global approach that includes an optimal comprehensive policy

model with various elements (subsystems). D. Utepov and B. Karimov (2022) focus on the peculiarities of the commission of human trafficking crimes via the Internet. They propose to amend the criminal legislation of the Republic of Kazakhstan to include the features of crimes committed through the use of the Internet. K. Amangeldy et al. (2022) developed evidence-based recommendations to prevent human trafficking in the Central Asian region. They also analyse the efforts of state systems in Central Asia to assess their effectiveness in combating human trafficking.

Other studies, such as M. Mattar (2013), analysed the problem of human trafficking from the perspective of transnational responses and have proposed recommendations for including transnational legal measures in comprehensive strategies to combat the problem. However, some studies indicate that the adoption of legislative measures to combat human trafficking does not always lead to effective implementation in Central Asian countries. A. Jobe (2010) and A. Naik (2018) recommend investigating not only the causes but also the factors of human trafficking, as well as the socio-economic factors that contribute to the trafficking of women and the legalization of the sex industry. Thus, combating human trafficking is a multidimensional problem that requires a comprehensive approach and cooperation at the international level.

Following experts, the problem of human trafficking must be addressed through a comprehensive approach. Such an approach will make it possible to effectively combat criminal organizations involved in human trafficking. Numerous studies confirm the criminal law aspects of this crime and show that human trafficking is a crime against the person J. Douglas et al. (2013), V. Mangora (2021), and P.A. Lolo (2016). Several other studies can be called criminological studies (Susanti, Kosandi, Subono & Kartini, 2020). Criminological research also emphasizes the importance of defining the nature of this crime and determining its composition to successfully combat it (Kownacki, 2021). Despite considerable research, there is a lack of research in the context of international legal cooperation between states in the Central Asian regions on preventing and combating human trafficking (Oguz, 2012). The issue of the human rights of trafficked persons should be an essential element in all efforts to prevent and combat the phenomenon. The focus should be on protection and assistance to victims of this crime.

In addition, much of the research in this area has been quantitative in nature. At the same time, it is worth noting that only with the help of a sufficient number of legal research methods, it is possible to qualitatively and in detail understand the problem from the inside, forming a range of effective ways to improve the activities of authorized bodies to combat human trafficking in the Republic of

Kazakhstan. Analysing all the above information, it is necessary to clarify the fact that for Kazakhstan, a significant gap in ensuring the fight against human trafficking is the lack of specialized legislation, as well as the lack of a system of authorized bodies that would effectively implement a system of combating human trafficking. The improvement of all of the gaps will be the basis for an effective system for counteracting trafficking in persons in the Republic of Kazakhstan. Given the development of information technology, human trafficking is acquiring a cross-border form and requires a technical approach to the investigation and prevention of crimes, including digital evidence.

Scientists note that currently there is a lack of studies devoted to the problem of preventing and combating human trafficking in the Republic of Kazakhstan. In this regard, Y. Lysenko (2018) and V. Shcherbatiuk et al. (2024) emphasize that the topic of human trafficking and slavery was widespread in scientific and periodical literature before the revolution, but many of these works were not scientifically substantiated, as no comprehensive analysis of the situation, its causes and scale were conducted, is prioritized. At the same time, this research considers the conclusions and results of earlier studies, which led to the development of legal mechanisms for preventing and combating human trafficking.

To summarize all the above, the international community, including institutions at the local, regional and state levels, is actively working to address the problems of human trafficking and develop a comprehensive and coordinated strategy to combat the problem at the international level. In the coming years, however, international and regional organizations need to strengthen cooperation and information exchange to achieve a more coordinated approach and avoid repetition of work, as well as improve the effectiveness of measures taken at the international level, because the problem of human trafficking continues to spread. It is important to keep the rights of trafficked persons at the centre of the development of measures to prevent and combat the phenomenon and to provide them with dignified protection and assistance.

Conclusions

Currently, Kazakhstan needs a legal and regulatory framework to effectively combat human trafficking that is consistent with international standards. There is also a need for effective migration management mechanisms that will allow to more effectively counteract illegal migration and human trafficking. To combat trafficking more effectively, it would also be important that the authorities of Kazakhstan cooperate more closely with civil society on assisting and supporting trafficking victims, particularly in providing shelters for

them. Cooperation between law enforcement authorities in Kazakhstan and the countries of origin of trafficking victims is also important and should be developed at a higher level. Considering the above, it is possible to conclude that to combat human trafficking in Kazakhstan effectively, the experience of the US, Portugal and Qatar should be used in the context of interaction between law enforcement authorities of different countries in the sphere of counteracting trafficking in persons. For this purpose, relevant methodological recommendations, training and thematic plans and work programs should be developed, as well as the necessary material and technical base should be prepared and empirical material should be summarized. In addition, attention should be paid to introducing new training technologies for specialists working in specific areas so that they can independently model algorithms and procedures of activity, selecting only those measures that guarantee the greatest effect in each specific situation. To effectively combat human trafficking, three main strands must be employed: raising public and women at risk awareness, improving legislation and law enforcement actions, and providing assistance to victims and potential victims.

Increasing the study of the human trafficking requires interconnected efforts to deal with a variety of determinants that are multi-layered and multidimensional in nature. Actively combating trafficking in persons is one of the priority tasks of many states. Kazakhstan has established criminal liability for recruiting people for exploitation, as well as for trafficking in minors. But human trafficking is a complex phenomenon, and its combating requires joint efforts on the part of all participating States. An important step in this direction is the creation of joint investigative teams between the countries concerned. In addition, there is law enforcement cooperation with other countries in investigating transnational crimes, which makes it possible to effectively combat human trafficking and other types of crime. In order to maximize the implementation of existing measures to combat trafficking in persons, it is necessary to establish an effective mechanism of interaction between states, including closer cooperation between law enforcement agencies of CIS member states and within individual regional organizations involved in combating and countering human trafficking.

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