



Coalition Internationale pour l'Abolition
de la Maternité de Substitution

International Coalition for the Abolition of Surrogate Motherhood

Coalition Internationale pour l'Abolition de la Maternité de Substitution, CIAMS

Cité Audacieuse, 9 rue de Vaugirard, 75006 Paris

abolition.surrogacy@gmail.com

abolition-ms.org

Written contribution to the Committee on the Rights of the Child

Review of the combined fifth and sixth periodic reports of Kazakhstan (CRC/C/KAZ/5-6)

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With reference to questions 5 (f), 8 (d) and 18 of the list of issues CRC/C/KAZ/Q/5-6, adopted intersessionally on 6 October 2025

Preamble: The Law Closes and the Trade Moves On

Reproductive exploitation and the legal geography of vulnerability. This preamble is common to the three written contributions ICASM places before the Committee at this session, concerning Kazakhstan, Uganda and Tajikistan.

The three written contributions that ICASM places before the Committee at this session, concerning Kazakhstan, Uganda and Tajikistan, are not three country reports, and ICASM asks the Committee to resist reading them as such; they describe a single market observed at three of its addresses, and the fact they establish jointly is not visible from within any one of them, for it consists precisely in the movement between them.

Between December 2022 and July 2026, four jurisdictions in and around Central Asia closed their surrogacy markets to foreign purchasers, and it is worth setting the dates down in sequence, because the sequence is itself the argument.

December 2022

The Russian Federation prohibits foreign nationals and stateless persons from resorting to surrogate motherhood on its territory.

June 2023

The Prime Minister of Georgia announces that surrogacy will be restricted to Georgian citizens from 1 January 2024. No such law is ever enacted. The market remains open to foreign clients.

12 January 2024

Kyrgyzstan opens surrogate motherhood by article 57 of the Law on the protection of citizens' health, No. 14, on a basis which commercial operators market as imposing no condition of medical indication and no condition of marital status.

14 July 2026

Kazakhstan reserves the capacity to commission a surrogate pregnancy to its own married nationals, and excludes unmarried persons from the practice altogether.

25 July 2026

That Law enters into force. Within days, commercial consultancies advising international clients name Armenia, Kyrgyzstan and Georgia as the jurisdictions to which their clients will now be directed.

Read together, these five entries show something more disquieting than a region closing. One State prohibited and meant it. One announced a closure which the industry and its legal advisers succeeded in preventing, so that the door proclaimed shut in June 2023 still stands open in 2026. One opened wide in the same month the announced closure was to have taken effect. And one closed in July 2026, whereupon the trade named, among its three onward destinations, the very State whose closure had been announced and abandoned. A prohibition that is announced and not enacted is not a half measure; it is an advertisement, informing every operator in the region that the political will exists but the legal will does not.

Each of these measures regulates who may be made available, which is to say which women will be made pregnant, in which country, holding which citizenship and within which marriage, and not one of them regulates the demand that made the market in the first place. The purchaser who was turned away from Moscow, and then from Tbilisi, and then from Astana, has at no point been prohibited from anything whatever; he has been given a new destination. His money is intact, his intention is intact, his embryo is frozen and portable across whichever border he chooses next, and the only variables that change at each closure are the nationality of the woman who will live through the pregnancy and the depth of the poverty out of which she will be recruited.

ICASM asks the Committee to draw the conclusion that follows, which is that this practice does not diminish when a State legislates against it but changes address, and that the address it moves to has so far, without a single exception, been a country in which women are poorer than in the country it has just left. The closures are therefore not the retreat of a market but its itinerary; and every one of them has been paid for, in the only currency this trade has ever asked, by women who were consulted about none of it.

The contribution on Kazakhstan sets out what the practice looks like where the law provides for it in the fullest detail the region affords, parentage being constituted by notarial contract before conception, the woman who gives birth never appearing at any stage of the registration of that birth, no genetic link with any purchaser being required of anyone, and the Code itself providing that a child refused first by the purchasers and then by the surrogate mother passes into the care of the State, none of which the reform of 14 July 2026 disturbed in the slightest. The contribution on Uganda sets out what it looks like where no law provides for it at all, and offers the Committee twenty years of its own successive concluding observations upon a single State, across which every closure of a route by which children left the country has produced a circumvention more radical than the one before it, until the arrival of an arrangement that engages no child protection procedure whatever, the child being attributed to foreign purchasers before conception and never being, at any moment of its existence, a child that the State is called upon to protect, to place or to account for. The contribution on Tajikistan asks its questions before rather than after: there is no law, there is no data, there are agencies already selling programmes in Dushanbe to purchasers of any nationality, and there is a State that has not yet been asked what it knows.

ICASM asks the Committee, when it comes to adopt its concluding observations upon these three States, to decline to treat the restriction of foreign access as a protective measure deserving commendation, and to treat it instead as a fact requiring the examination of the neighbouring States; and to ask each of the three what it knows of the children born on its territory under these arrangements, since in all three the honest answer is at present nothing at all.

1. The submitting organisation and its position

The International Coalition for the Abolition of Surrogate Motherhood (ICASM) is a feminist abolitionist coalition founded in 2018, bringing together sixty member organisations in twenty countries across four continents. It contributed to report A/80/158 of the Special Rapporteur on violence against women and girls and to the work leading to General Recommendation 41 of the Committee on the Elimination of Discrimination against Women.

ICASM defends the bodily autonomy of women in full, including the right to abortion and access to contraception. Its opposition to surrogate motherhood proceeds from an analysis of reproductive exploitation and not from any natalist, confessional or family protection framework, with which it is incompatible. It does not accept the distinction between commercial and so-called “altruistic” forms, which describes the manner of payment and not the structure of the act. It states finally, and this point governs the reading of everything that follows, that it does not contest the identity of those permitted to commission a child, but the commissioning itself.

2. Purpose of this contribution

On 14 July 2026 the President of the Republic signed Law No. 350-VIII ZRK, published on 15 July 2026 and entering into force ten calendar days after publication. That Law amends the Code on Marriage (Matrimony) and Family and the Code on the Health of the People and the Healthcare System in respect of surrogate motherhood.

The Committee should be aware that every document before it predates that reform. The State party's report, the list of issues of 6 November 2025 and any written replies due on 15 February 2026 all precede it by several months. This contribution seeks to bring that fact to the Committee's attention and to propose a reading of it under articles 3, 7, 8, 20, 21 and 35 of the Convention and articles 2 and 3 of the Optional Protocol on the sale of children.

Kazakhstan has been a party to the Convention since 1994, to the Optional Protocol on the sale of children since 2001, and to the Optional Protocol on a communications procedure since its entry into force in respect of Kazakhstan on 7 May 2024. Article 4 of its Constitution recognises the primacy of ratified treaties over domestic law. The concluding observations of 2015 did not address surrogate motherhood.

3. The contract constitutes parentage and disposes of the child

Chapter 9 of Code No. 518-IV of 26 December 2011 organises surrogate motherhood in articles 54 to 59, and it is necessary to set out its scheme precisely, because what ICASM submits for the Committee's consideration lies in the letter of those provisions themselves and not in their abuse, their circumvention or their excesses.

Article 54 provides that the contract, concluded in writing and subject to mandatory notarial authentication, presupposes in advance the parental rights and obligations of the commissioning spouses over the child who will be born through assisted reproductive techniques, the legislator having chosen at that point the term *zavedomo*, which means at once in advance and knowingly, so that parentage is not transferred after birth by a mechanism that would call for verification, renewed consent or judicial assessment, but constituted before conception itself, by notarial instrument, for the benefit of persons whose legal quality within that instrument is that of payers.

Article 59 draws the consequence without circumlocution, since it recognises the commissioning spouses as the parents of the child and provides that the mother recorded on the medical birth certificate is the commissioning wife who concluded the contract, from which it follows that the woman who was pregnant and gave birth appears at no stage of the registration of that birth, not because she renounced a motherhood that the law had first recognised in her and of which she then divested herself by a verifiable act of will, but because that law has arranged matters so that she never had it.

Article 55, which enumerates the mandatory content of the contract, requires it to state the identity of the parties, the terms of payment of the surrogate mother's maintenance expenses, the rights, obligations and liabilities of the parties in the event of non-performance, the amount and terms of the compensation payable, and various further clauses among which *force majeure* figures expressly, while the best interests of the child find no place there at all; and no provision of Chapter 9 requires that a genetic link exist between the child and any of the commissioning parties, so that the only thing legally connecting that child to those who obtain the child is the notarial instrument itself.

Article 56 sets out the conditions on which a woman may be admitted to undergo a pregnancy for others, namely an age between twenty and thirty-five, physical, mental and reproductive health attested by a medical organisation, and the fact of having already given birth to a healthy child of her own.

It may be objected that the vocabulary chosen by the Kazakh legislator, which designates the commissioning parties as the customers of a service and describes the remitting of the child, is a drafting infelicity or a terminological survival from which it would be excessive to draw any argument; ICASM submits on the contrary that it is the most exact description of this practice ever set down in a statute, and that the discomfort it produces is owed precisely to its accuracy. Where public discourse on surrogate motherhood elsewhere mobilises the gift, assistance, generosity, sisterhood and the fulfilment of a parental project, Kazakh law states without ornament what is bought, by whom, at what price and under what warranties; and the conditions imposed on the surrogate mother by article 56, a strictly bounded age, health attested by an approved third party and proof of a previous pregnancy carried to term, become intelligible only once it is accepted that these are reliability criteria applied to a supplier, the child she has already borne serving as a certificate of performance. That the interest of the child to be born is absent from the mandatory terms of the contract while *force majeure* is present is not a gap to be filled by some improving amendment, but an admission of the nature of the instrument, for one does not stipulate the best interests of goods, one stipulates the risks bearing upon their delivery.

Article 54 finally governs the event of non-performance, providing that where the commissioning parties refuse the child the right of motherhood remains with the surrogate mother should she so

wish, and that where she in turn refuses, the child is transferred into the care of the State. ICASM invites the Committee to weigh what that provision reveals of the whole arrangement, for it is the only contract in the Kazakh legal order whose non-performance is resolved by the successive reassignment of a person to substitute holders, until the State takes in, as a last resort, that which nobody wanted; the contract makes the child in advance and disposes of the child in advance, which suffices to establish that the child is its object and not its subject, without any need for extensive interpretation since the law says as much itself.

4. The reform of 14 July 2026

The Law makes three amendments to the Family Code. It adds to the definition in article 1 the requirement that the persons concerned be nationals of Kazakhstan. It supplements article 54 with a new paragraph providing that the customers of the surrogate motherhood service may only be citizens of the Republic of Kazakhstan who are in a marriage. It rewrites accordingly the opening words of article 57.

It further amends, and this has been reported nowhere, article 146 of the Health Code. Paragraph 3 of that article recognised the right of unmarried women and men to resort to assisted reproductive techniques on their own informed consent alone. The Law adds to it the words with the exception of surrogate motherhood. Single persons are therefore now excluded.

ICASM notes three points.

First, the reform left untouched every article described in section 3 above. The contractual constitution of parentage, the erasure of the woman who gives birth, the absence of any requirement of a biological link and the abandonment clause all remain as they were.

Second, the reform contains no licensing and no regulation of intermediary agencies, although such a measure had been publicly announced by the Deputy Prime Minister in February 2026 and widely reported. The commercial link in the chain, the one that recruits the women, sets the prices and captures the greater part of the sums paid, remains entirely outside any control after a reform presented as protective.

Third, the financial obligations of commissioning parties often cited in support of the reform, namely payment for the medical examination, for the techniques used and for care until fifty-six days after delivery, seventy in the event of complications, are not new. They have appeared in article 57 since 2011. The Law of July did not create them.

What the reform does, in the end, is to restrict the clientele. Reserving the purchase to married nationals protects neither the woman who is pregnant, nor the child who is born, nor the child already born. It redistributes demand. The experience of India, Thailand and Cambodia establishes that restricting foreign access displaces the market without ending it. In the present case the displacement need not be inferred: surrogacy consultancies addressing an international clientele publicly identified Armenia, Kyrgyzstan and Georgia as the receiving jurisdictions within days of the Kazakh Law taking effect. It is the industry itself that indicates where it is going.

5. With reference to question 5 (f): birth registration, nationality and statelessness

The Committee asks the State party what measures it has taken to end childhood statelessness and to ensure universal birth registration and access to nationality, referring expressly to children born to non-citizen parents.

For more than a decade Kazakhstan received foreign commissioning parties. The Law of 14 July closes their access without settling the position of the children already born of those contracts, or that of the pregnancies in progress on the date of entry into force. No public data establishes the number of children concerned, the nationality of the commissioning parties, the number of pregnancies in progress, or the parentage and nationality regime applicable to those children. The Committee is faced with a cohort whose existence is certain and whose size is unknown. The absence of data is here the first finding to be recorded.

6. With reference to question 8 (d): the sale of children

The Committee asks the State party to investigate cases of the sale of children in connection with intercountry adoption, as it recommended in 2015.

ICASM invites the Committee to extend that thread to the adjacent channel, which has the particularity of being legally organised. Article 2 (a) of the Optional Protocol defines the sale of children as any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration. Articles 54, 55 and 59 of the Family Code describe precisely such a transfer, against payment, predetermined by contract. The Committee's Guidelines on the implementation of the Optional Protocol, CRC/C/OPSC/3, adopt that reading, and the Committee has already considered, in respect of Georgia, that surrogate motherhood which is not properly monitored may lead to the sale of children.

That this is not a theoretical risk has been established by the State party's own authorities. On 20 May 2026 the State broadcaster reported that the prosecutor's office of Astana had supported the prosecution in a case concerning the unlawful transfer of a newborn child: a nineteen year old resident of the capital had transferred her newborn, through intermediaries, to a married couple, for payment, on the basis of a fictitious surrogate motherhood contract concluded in the eighth month of her pregnancy. By a judgment dated 23 May 2025 the defendants, including the mother and the intermediaries, were convicted under article 135 of the Criminal Code, which penalises trafficking in minors, and sentenced to eight years of imprisonment wholly suspended. The child was placed in a specialised institution and the mother was deprived of her parental rights. The woman was nineteen, which is below the minimum age Kazakh law requires of a surrogate mother, and that is precisely why the contract had to be fictitious: where the law supplies a form which attributes a child to paying parties in advance, that form will be borrowed by those whom the law would exclude.

ICASM further invites the Committee to compare the two regimes that Kazakh law applies to the same outcome. Adoption is subject to judicial supervision, to a republican database, to the verification of family ties and to article 135 of the Criminal Code, which penalises the purchase, the sale and any other transaction in respect of a minor. Alongside it, a private notarial contract produces the same transfer, without a judge, without a register, without verification and without any approved intermediary. The State party therefore criminalises transactions in respect of a minor while conferring civil validity upon one of them.

The same contradiction appears in the Health Code, article 146 of which prohibits, in its paragraphs 6 and 7, the use of the human embryo for commercial purposes and the export of gametes and embryos for commercial purposes, while a market resting upon those same materials is authorised on the territory.

7. With reference to question 17 (d): Kazakhstan as a country of origin

Everything set out above describes Kazakhstan as a territory upon which the practice takes place. ICASM asks the Committee to consider the reverse movement, which the State party has never been asked about, and which the evidence now makes it possible to raise: Kazakhstan is also a country from which women depart in order to be made pregnant elsewhere.

Ethnographic research published on 22 May 2026 in the peer-reviewed journal *Mobilities*, conducted through the Centre on Migration, Policy and Society of the University of Oxford and drawing upon fieldwork carried out in Kazakhstan and in Georgia between 2023 and 2024 and upon more than one hundred interviews with surrogate mothers, oocyte providers, medical staff, agents and commissioning parties, establishes the following. International demand in Georgia exceeds the number of women available locally, and clinics have consequently come to rely upon women recruited in Kazakhstan, Uzbekistan, Tajikistan and Kyrgyzstan. Recruitment is conducted through Instagram and TikTok. It is mediated by intermediaries who are agents, clinic coordinators and, in a significant number of cases, women who were themselves surrogate mothers and who have become recruiters of others. The women recruited are accommodated collectively for the duration, under arrangements which the study describes as including surveillance policies that reward the mutual reporting of breaches of the rules, so that each woman is at once the object and the instrument of the monitoring of the others. For most of them the sum at stake represents the largest they could realistically earn in a year, and it is undertaken to repay debts and to secure the future of their children.

ICASM states plainly, because the point governs the use that may be made of this material, that the study in question is an anthropological study of what it calls reproductive labour, that it does not employ the vocabulary of trafficking at any point, and that ICASM relies here upon its factual findings and in no respect upon its analytical framework, from which the coalition dissents.

The Committee has asked the State party, at question 17 (d) of the list of issues, for disaggregated statistical data on children left behind by migrant parents working abroad. ICASM submits that a category of Kazakh children falls squarely within that question and has never been counted there. Article 56 of the Code on Marriage (Matrimony) and Family requires of any woman admitted to undergo a pregnancy for others that she shall already have given birth to a healthy child of her own. It follows, as a matter of the State party's own law rather than of inference, that every Kazakh woman who departs for Tbilisi under such an arrangement is the mother of at least one child, and that this child remains in Kazakhstan for the duration of a pregnancy which his or her mother is undergoing abroad, in collective accommodation, under the surveillance described above, for the benefit of purchasers neither of them will ever meet. These are children left behind by a migrant parent working abroad in the most exact sense of the Committee's own words, and the reason they have never appeared in that column is that the departure is not classified as labour migration by anyone: not by the State party, which does not record it, and not by the industry, which prefers the language of help.

The position of the children born of these arrangements is graver still. Article 143 of the Law of Georgia on Health Care attributes parentage to the commissioning couple, the woman who gives birth having no parental right and appearing nowhere in the registration. A child born on Georgian territory of a Kazakh citizen is therefore registered in the name of foreign nationals, in a State whose law confers no nationality by birth upon him or her, while the State of which the woman who gave birth is a national holds no record whatever of the birth. ICASM observes that article 54 of the Kazakh Code, which provides that a child refused by the commissioning parties and then by the surrogate mother passes into the care of the State, has no application beyond the territory of Kazakhstan: the sole provision of Kazakh law contemplating the child whom nobody claims stops at the border, precisely where the arrangement has been moved.

ICASM further asks the Committee to put to the State party the question of consular protection. The women concerned are citizens of Kazakhstan, present on the territory of a third State, accommodated collectively under a regime of mutual reporting, engaged in a pregnancy at the end of which they will be separated from the child, and in a situation from which withdrawal is by construction difficult. Whether the diplomatic and consular posts of Kazakhstan have any protocol for assisting them, whether they have ever been contacted, and whether any Kazakh citizen has ever been repatriated from such an arrangement are matters within the exclusive knowledge of the State party. They bear directly upon this Committee's mandate, because a woman detained in difficulty abroad is a mother whose children in Kazakhstan are without her, and because the registration of a child born abroad with a consular post is the ordinary route by which such a child acquires a nationality at all.

ICASM does not assert that these facts constitute trafficking in human beings, and it is not in a position to do so. It observes that Kazakhstan is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and that the Committee has itself asked the State party, at question 12 (g), about the alignment of its definition of trafficking with international law and about the identification of victims. Recruitment across a frontier, organised transportation, collective harbouring, a system of incentivised mutual monitoring and an economic determination which the women themselves describe are elements which the State party is bound to assess, whatever conclusion that assessment reaches. What ICASM asks is that it be made, and that its result be stated.

There is finally a symmetry in this which ICASM asks the Committee not to pass over. By the Law of 14 July 2026 the State party has taken care that no foreign national shall obtain a child from a Kazakh woman upon Kazakh territory. It has taken no measure whatever concerning Kazakh women obtained by foreign nationals upon the territory of others. A woman who may no longer be a surrogate mother for a foreign purchaser in Astana may be one for the same purchaser in Tbilisi, through intermediaries who operate on both sides of that frontier, and the reform accordingly protects the territory of the State party rather than its citizens. ICASM submits that a State which legislates upon what enters and remains silent upon what leaves has regulated its own respectability and not the exposure of its women.

8. With reference to question 18: children deprived of a family environment

The Committee requests disaggregated data on children separated from their families and placed in institutions. ICASM invites the Committee to request that this disaggregation identify children born under surrogate motherhood contracts.

Article 54 expressly provides for the transfer of the child into the care of the State where the commissioning parties and then the surrogate mother each refuse the child. That situation is a legal category, not an accident. It falls directly under articles 20 and 21 of the Convention. No public data indicates how many children have entered it since 2011.

ICASM notes finally that no public information is available concerning the women subjected to oocyte extraction in this context, their recruitment, the sums they receive, the number of stimulation cycles permitted, their medical follow-up, or the existence of any register enabling a child later to trace his or her genetic origins. The right of the child to know his or her origins, which the Committee recalls consistently, cannot be satisfied where nothing is preserved.

9. Suggested questions to the State party

1. How many children were born on the territory of Kazakhstan in performance of surrogate motherhood contracts between 2011 and 2026, disaggregated by year and by the nationality of the commissioning parties?
2. How many surrogate pregnancies were in progress on the date of entry into force of the Law of 14 July 2026, and what regime of parentage, birth registration and nationality applies to the children born or to be born of them?
3. How many children have been transferred into the care of the State under article 54 of the Code on Marriage (Matrimony) and Family since 2011, and what has become of them in the care system?
4. How does the State party reconcile the punishment of transactions in respect of a minor under article 135 of the Criminal Code with the civil validity of contracts organising the transfer of a child against payment?
5. What supervision is exercised over intermediary agencies, over the sums they retain and over the sums actually received by surrogate mothers and by women subjected to oocyte extraction, the Law of 14 July 2026 having introduced no authorisation regime?
6. What measures guarantee that a child born in this context may obtain, at an age of understanding, the information relating to the woman who was pregnant and gave birth to that child and to any person who provided gametes, and for how long is such information preserved?
7. How many citizens of Kazakhstan have travelled abroad since 2022 in order to act as surrogate mothers or to undergo oocyte extraction, to which States, and through which intermediaries established in Kazakhstan?
8. How many children remained in Kazakhstan during such arrangements, and does the State party include this category in the data it provides in answer to question 17 (d) of the list of issues on children left behind by migrant parents working abroad?
9. How many children have been born abroad to citizens of Kazakhstan under surrogacy arrangements, what nationality has been attributed to them, and with which authority are they registered?
10. What protocol exists within the diplomatic and consular posts of Kazakhstan for assisting a citizen who is abroad under such an arrangement, and how many times has it been activated?

11. What assessment has the State party made, under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, of the recruitment of Kazakh women for surrogacy and oocyte extraction abroad, and what was its result?

10. Suggested recommendations

1. That the State party collect, publish and transmit to the Committee disaggregated data on children born in performance of surrogate motherhood contracts, including those born to foreign commissioning parties, and guarantee that none of them remains stateless or without registered parentage.
2. That the State party guarantee the preservation in perpetuity, and the child's access to, the information identifying the woman who was pregnant and gave birth to the child as well as any person who provided gametes.
3. That the State party identify and count, within the data it provides on children left behind by migrant parents working abroad, the children of women who have departed to undergo pregnancies or oocyte extraction in other States, and that it transmit those data to the Committee.
4. That the State party establish a consular protocol for the assistance and, where necessary, the repatriation of its citizens engaged in such arrangements abroad, publish it, and ensure that any child born abroad to one of its citizens under such an arrangement may be registered and may acquire a nationality.
5. That the State party assess the recruitment of its citizens for surrogacy and oocyte extraction abroad against its obligations under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and report the result of that assessment to the Committee.
6. That the State party bring its civil legislation into conformity with article 35 of the Convention and article 2 (a) of the Optional Protocol by ceasing to confer civil validity upon contracts organising the transfer of a child for remuneration or any other consideration, whether the commissioning parties are nationals or foreigners.

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abolition.surrogacy@gmail.com
abolition-ms.org