



Second Voice of the Child Report:

Findings from a Survey of Children detained in Closed Institutions
in Kazakhstan, Kyrgyzstan and Tajikistan in 2015



Voice of the Child Survey 2: 2015. Findings from a survey of children detained in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan

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Acronyms and definitions

CAM	Centre for the Adaptation of Minors (Kazakhstan)
CPC	Criminal Procedure Code
CRC	UN Convention on the Rights of the Child
DIZO	Cell where children are placed as a disciplinary measure (Kyrgyzstan)
GSIN	State Service for Execution of Punishment (Kyrgyzstan)
IVS	Temporary detention facilities
NCPT	National Centre for the Prevention of Torture (Kyrgyzstan)
NPM	National Preventive Mechanism
PRI	Penal Reform International
ROVD	District Department of Internal Affairs (Kyrgyzstan)
RRC	Reception and Referral Centre (Tajikistan)
SIZO	Pre-trial detention centre
UNICEF	United Nations Children’s Fund
YHRG	Youth Human Rights Group
Child	Any person under the age of eighteen in accordance with the CRC (Article 1). It should be noted that there were detainees over the age of 18 in some of the institutions surveyed.
Violence	This is defined in accordance with Article 19 of the CRC as ‘all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse [...]’.
Detention	This is defined in accordance with the UN Rules on the Protection of Juveniles Deprived of their Liberty (the Havana Rules), Rule 11b as: ‘any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority’. This includes detention at a police station, temporary detention facility, in court rooms, in vehicles, pre-trial and upon conviction. It also includes placement in social care institutions such as Special Schools.
Child in conflict	Anyone under the age of 18 who comes into contact with the justice system with the law as a result of being suspected of or charged with committing an offence.
Child in need	A child who (a) has been, is, or is at risk of being abused, neglected, of care and abandoned or exploited; and (b) lacks anyone with parental authority who is protection willing and able to provide protection from abuse, neglect, abandonment or exploitation

Executive summary

Introduction

In 2013, Penal Reform International and its partners¹ began a three year project in Kazakhstan, Kyrgyzstan and Tajikistan to reduce violence against children in closed institutions². A cornerstone of the project is for NGOs and official monitoring bodies such as National Preventative Mechanisms (NPMs) to make annual visits to closed institutions. During these visits a representative sample of children and staff complete a survey in order to gather quantitative data regarding the prevalence of violence and to identify which children are most at risk of violence and the circumstances and context in which it occurs. The survey also seeks to determine what sort of response is given to children if they disclose violence to adults.

During 2014, 274 children and 60 staff in 15 closed institutions participated in the first survey.³ A key finding from this survey was that the risk of violence is highest for children in conflict in the law during the investigative phase when they are in police detention and in temporary detention facilities - just under half of children in conflict with the law said they had been treated cruelly, badly or violently by the police, most often in order to apply pressure on them to confess to an offence. Children placed in state-run residential institutions, such as

Special Schools, said that the main challenge for them was the use of disciplinary measures with a quarter of children saying they had been subject to corporal punishment.

In 2015, 382 children and 163 staff participated in the second survey in 21 closed institutions across Kazakhstan, Kyrgyzstan and Tajikistan, including institutions for:

- children in police and temporary detention facilities under suspicion of committing an offence;
- children awaiting trial for a criminal offence;
- children convicted of a criminal offence;
- children in Special Schools subject to 'educational measures' because of concerns about their behaviour; and
- state-run residential institutions for children in need of care and protection because, for example, of family break-down or homelessness.

This report sets out the findings from this second survey and is also informed by interviews with staff, a review of documentation in the institutions themselves and a desk review of relevant literature.

i. Figure i. Children and staff who participated in the survey in 2015

COUNTRY	Number of children interviewed	Number of boys	Number of girls	Number of staff interviewed
Kazakhstan	241	176	65	109
Kyrgyzstan	50	50	-	26
Tajikistan	91	90	1	28
TOTAL	382	316	66	163

1 The partners are CREDO in Kazakhstan, the Youth Human Rights Group and the National Centre for the Prevention of Torture in Kyrgyzstan and the Ombudsperson in Tajikistan.

2 The term "closed institution" is used throughout this report to refer to all institutions that contain children who are deprived of their liberty including facilities for convicted children, special schools under the responsibility of the Ministry of Education, police cells, temporary isolation and pre-trial detention facilities; and centres for adaptation of minors.

3 For more information about the first survey please see Voice of the child: Findings from a survey of children detained in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan, Penal Reform International (2015) available at: <http://www.penalreform.org/wp-content/uploads/2015/09/voice-of-the-child-english-v4-WEB.pdf>

Key findings from the survey and recommendations

1. Violence against children in police detention and temporary detention facilities must be eliminated as a matter of urgency.

In Kazakhstan, there was a significant fall in the number of children reporting ill-treatment whilst at the police station compared with the first survey and a reluctance to elaborate on the nature of ill-treatment received - 17 per cent of children in conflict with the law said they had been ill-treated in 2015, whilst in 2014, the figure was 55 per cent. The reasons for this reduction are not known. What is clear is that not all children are being offered legal assistance whilst in police detention and many are still being held for longer than the 72 hours allowed for in law. Only two children out of the 17 who reported abuse at the police station said that they had told an adult about this. Over half of the others explained that they did not tell anyone because they did not think anything would happen if they complained. Two out of 17 children who had been ill-treated said they received medical treatment.

In *Kyrgyzstan*, nearly three quarters of the 50 boys who participated in the survey reported that they had experienced violence whilst in police and temporary detention and that this was sometimes extreme violence involving electrocution and suffocation. Frequently this was used by public officials in order to compel the child to confess to an offence and therefore could be said to amount to torture.⁴ Whilst a few allegations were made of mistreatment in pre-trial detention, the abuse was committed primarily during the preliminary investigation when the child was first arrested and detained by operational and investigative units. The following are some of the accounts given by the boys who participated in the survey.

'At the ROVD (District Department of Internal Affairs), they held me for five days without food. Two officers put a plastic bag on my head. They beat me on my body, liver and kidneys with batons and fists.'

'They put a plastic bag on my head, punched me in the groin and beat me.'

'I was arrested on suspicion of rape by four police officers. During the arrest, they neither introduced themselves, nor presented documents

to me. They brought me to the ROVD and beat me with their hands on my head, back and kidneys. They stuck needles under my fingernails. They arrested me at around 8pm and beat me until 3am when I was put in the IVS [Temporary detention facility].'

Only five children out of the 36 who had been abused in police detention told an adult about what had happened to them - two informed the prosecutor, two informed their lawyers and one boy told his father. No action was taken against the perpetrators as a result of these disclosures. The rest of the children did not tell anyone because they feared for the consequences. One boy commented that he had been threatened with worse punishment if he told anyone else. Another said 'it was no use saying anything, they would not have sent on my complaint.' Three quarters of children who had been mistreated were provided with medical care, but several commented that the doctor did not fully examine them physically but instead concentrated on preparing a brief written report.

The law in *Kyrgyzstan* has in place a number of protective measures for children during police and temporary detention but these are not always implemented. According to the survey, only 44 per cent of children were able to contact a parent or guardian to inform them of their arrest and 38 per cent had a parent, relative or other adult(s) present during interview. Only 24 per cent were offered legal assistance whilst in police detention.

In *Tajikistan*, a third of children in conflict with the law said they were treated badly by the police, the vast majority of whom said they received harsh verbal abuse. None of the children who reported abuse notified an adult and for most this was because they did not think they would be believed. None received medical treatment. Eighty per cent of children in police detention were able to contact a parent/ guardian to inform them of their arrest; 61 per cent had a parent, relative or other adult (not police officer) present when interviewed; and 63 per cent were offered legal assistance. According to the Criminal Procedure Code, children may be held in detention for up to 72 hours. A total of 65 per cent were held in police detention for less than 24 hours before being taken to a court or second facility. Eighteen per cent were held for one to two days and one boy said he was held for three to four days.

⁴ Article 1 of the UN Convention against Torture states: '.....'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.' Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465

Recommendations

Implement and strengthen existing protective measures

- Steps must be taken to ensure that already existing legislation is implemented in all three countries requiring the presence of legal assistance and the mandatory presence of a parent, guardian and/or legal representative during the interrogation of a child at a police station.⁵
- In Kazakhstan and Tajikistan, reduce the length of time a child can be detained in police custody before being brought before a judge from 72 hours to 24 hours in line with the recommendations of the UN Committee on the Rights of the Child.⁶
- Provide ongoing training to monitoring bodies such as the NPMs and the ombudspersons to monitor the situation of children in police and temporary detention.

Provide access to safe and confidential complaints mechanisms in police and temporary detention facilities

Impunity for violence in this setting is widespread and must be addressed. A central feature of combating this kind of violence is that children are taken seriously and listened to when they complain of abuse. Children must have safe avenues of confidential complaint open to them at the police station and temporary detention facilities.

Combat impunity through investigation and prosecution

The Ministries of Internal Affairs in all three countries should consider issuing and widely publicising directives stating that they will not tolerate torture and other ill-treatment of children by police and will promptly and thoroughly investigate reports of torture and ill-treatment, and will hold those responsible accountable. The Offices of the Public Prosecutor must investigate allegations of ill-treatment in police detention promptly, thoroughly and independently so that violators are prosecuted to

the fullest extent of the law. Any police officer should be immediately suspended when there is credible evidence showing that he or she ordered, carried out, or acquiesced to, acts of torture or ill-treatment against children.

Ensure children have access to medical examinations

An important aspect of addressing impunity lies in the medical examination and documentation of injuries acquired whilst in detention. Children should be given a medical examination immediately when they arrive at a temporary detention facility and/or when they make a complaint of abuse.⁷ In Kyrgyzstan, there is a national clinical protocol for implementing the Istanbul Protocol and this should be fully implemented.⁸ In all countries, the Istanbul Protocol should be recognised and institutionalised through legislative and administrative actions.

Recruit high calibre police and investigators

Police must be carefully selected and recruited and receive adequate remuneration. Police stations and IVS must have clear child protection policies in place that are known about by all staff with step by step procedures on how allegations and disclosures of violence are to be handled so that they know how to report any concerns, suspicions or disclosures of violence against children to the appropriate authorities. As a longer term goal, measures in all three countries should be developed to give powers to the police to divert children in conflict with the law away from formal criminal justice processes and towards community based dispute resolution mechanisms consistent with international human rights standards and guidelines.

2. Ensure children are held separately from adults whilst in police and temporary detention

In Kazakhstan, 65 per cent of children in conflict with the law who participated in the survey said that they were held alongside adults whilst in police and temporary detention. This was particularly an issue for girls (four out

5 The importance of the right to access to legal counsel was emphasised by the UN Committee on the Rights of the Child in its 2015 Concluding Observations to the state of Kazakhstan: '(e) Ensure the provision of qualified and independent legal aid to children in conflict with the law at an early stage of the procedure and throughout the legal proceedings'. UN Committee on the Rights of the Child: Concluding Observations Kazakhstan, CRC/C/KAZ/CO/4 para 61 (e).

6 The UN Committee on the Rights of the Child included this recommendation in General Comment No. 10: Every child arrested and deprived of his/her liberty should be brought before a competent authority to examine the legality of (the continuation of) this deprivation of liberty within 24 hours. Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10, para 83.

7 Rule 50 of the UN Rules for the Protection of Juveniles deprived of their liberty states: 'Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.' United Nations Rules for the Protection of Juveniles Deprived of Their Liberty: resolution / adopted by the General Assembly., 2 April 1991, A/RES/45/113.

8 UN Office of the High Commissioner for Human Rights, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('Istanbul Protocol'), 2004, HR/P/PT/8/Rev.1.

of the five girls who participated in the survey were held alongside adults).

In Kyrgyzstan, three quarters of children reported that they were placed alongside adults whilst in police detention and temporary detention facilities. This took place both inside a cell and whilst being transported to and from court and facilities. In Tajikistan, 39 per cent of boys in the colony who participated in the survey said they had been held alongside adults whilst in temporary detention facilities.

‘If there are only a few inmates and enough cells we place minors separately. At the moment Cell No. 2 is occupied by a person with active TB who is isolated from the others. Therefore a minor who arrived yesterday from SIZO No. 5 has to sit with adults.’

- Member of staff in IVS in Kyrgyzstan.

Recommendations

- The Criminal Executive Code in Kazakhstan should be amended to ensure that children are kept separate from adults in all places of detention including whilst in temporary detention facilities.
- The current Kyrgyz Criminal Executive Code specifies that juvenile suspects may ‘in exceptional cases with the written consent of the prosecutor be contained in the same cells with adults’. In Kyrgyzstan, the Criminal Executive Code is currently being reformed, and the revised version should explicitly require the separation of children and adults at all points of detention.
- In Tajikistan, there is currently a contradiction in the law concerning separation of children from adults whilst in detention. Article 34 of the Law ‘On procedure and conditions of detention for suspects and defendants’ allows children and adults to be held together ‘in exceptional cases’ whilst the Law ‘On protection of rights of the child’ prohibits detaining a child alongside adults. The former should therefore be reformed and clarified and explicitly require the separation of children and adults at all points of detention.

3. Reduce the use of pre-trial detention for children so it is only used as a last resort

Pre-trial detention should only ever be used as a measure of last resort and for the shortest possible period of time. The UN CRC Committee has indicated that the maximum length of proceedings against an accused child should be six months, whether he/she is detained or not.⁹

Data on the length of time spent in pre-trial and/or temporary detention was not gathered in Tajikistan or Kazakhstan since these facilities were not visited as part of the survey process. However, this information was gathered from children in pre-trial detention and temporary detention facilities in Kyrgyzstan and the boys there reported spending lengthy periods of time in pre-trial detention; one boy had been in a SIZO (pre-trial detention) for as long as one year and eight months. The conditions they experience are not acceptable and numerous complaints were made about lack of education and training facilities, poor nutrition and inadequate bedding and sanitation. The NPM report of 2014 cites numerous problems with these facilities including poor sanitation and heating, inadequate access to healthcare and lack of access to complaints mechanisms.¹⁰ Only two children out of 25 who participated in the survey in the pre-trial detention facilities had regular contact with their family. One of them explained he saw his parents just once a month whilst parcels are delivered two or three times a month.

‘In 2014 there were three children in the pre-trial detention centre. The IVS cells have a peculiar smell, no bedding and lack lighting. The shower is out of service and expired medications were found in the medical kit.’

- Comment from member of NCPT, regarding one of the pre-trial detention centres in Kyrgyzstan

‘Food in SIZO is given three times a day - so stinky that it is impossible to eat it. Mattresses in cells are dirty with blood stains and rust. They sometimes beat us but only for swearing or other actions.’

- Extract from an anonymous note given to the monitoring team by a 17-year-old boy in a SIZO in Kyrgyzstan

⁹ The UN Committee on the Rights of the Child included this recommendation in General Comment No. 10: ‘The Committee, conscious of the practice of adjourning court hearings, often more than once, urges the States parties to introduce the legal provisions necessary to ensure that the court/ juvenile judge or other competent body makes a final decision on the charges not later than six months after they have been presented’. Children’s Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10, para 83.

¹⁰ Consolidated report of the National Preventive Mechanism members on the preventive visits carried out in 2014, NPM Coordinating Council, Kyrgyzstan, 2015.

Recommendations

- Conditions in pre-trial detention and temporary facilities in Kyrgyzstan must be improved by the State Service for Execution of Punishment (GSIN) as a priority.
- In all three countries, alternatives to pre-trial detention must be clearly specified in the Criminal Codes to include conditions such as curfews, close supervision or placement with a family and such detention must be reviewed regularly by a court.

4. Eliminate the use of solitary confinement for children completely

The internationally accepted definition of solitary confinement is: ‘confinement of prisoners for 22 hours or more a day without meaningful human contact.’¹¹ It is expressly prohibited for children to be placed in solitary confinement. There were no reports of solitary confinement being used as a disciplinary measure for children in any of the closed institutions where the survey was administered in Kazakhstan or Tajikistan.

In Kyrgyzstan, six boys in the pre-trial detention facilities and ten boys in the boys’ colony stated that they had been placed in solitary confinement. Three members of staff also confirmed in the survey that it was used in pre-trial detention facilities. One very serious consequence for these boys is that placement in solitary confinement reduces the chance of being eligible for early release whilst serving a sentence later on. In the latest draft of the Kyrgyz Executive Criminal Code (the Code is yet to be approved by Parliament) the use of solitary confinement for children is permitted but has been reduced from seven days to 3 days with continued attendance in education.

‘Anyone can be sent to the disciplinary cell, mainly for riot. In DIZO (disciplinary cell) you are locked up alone. I think all the time about what will happen tomorrow and how to protect myself from threats. In the first unit I was in the DIZO twice.’

- Boy aged 17 in boys’ colony, Kyrgyzstan

Recommendations

In Kyrgyzstan and Kazakhstan, it is still possible, even with the revised provision reducing the length of time from seven days to three days, that children could be placed in an isolation cell for up to 22 hours a day. A much stricter prohibition of solitary confinement is therefore required in the Criminal Executive Codes.

Article 144 of the current Tajik Criminal Executive Code (adopted August 2001) stipulates that children serving a sentence in a colony can be placed in ‘disciplinary isolator for a period of up to seven days with release for period of study’. In Tajikistan a Working Group has been set-up to reform the Criminal Code and once this process is complete a working group will be established for reforming the Criminal Executive Code and Criminal Procedure Code. It is vitally important that the revised Codes have a clear prohibition on the use of solitary confinement for children at all stages of detention.

5. Ensure that children can access complaints mechanisms in all closed institutions

In Kazakhstan, just under half of children surveyed said they were aware of complaints mechanisms available to them the proportion was lower for children in state-run residential institutions. In Kyrgyzstan, 46 per cent of children reported that they were aware of complaints mechanisms available to them and in Tajikistan it was 61 per cent. The survey only measured awareness of the complaints mechanism rather than use of them but there are also significant challenges in ensuring children can safely access such mechanisms.

Recommendation

Availability of a confidential and safe complaint mechanism is vitally important in identifying and reducing the risk of violence against children and the following steps must be considered:

- Children should be informed both orally and in writing about the existence of internal and external complaints mechanisms upon arrival at any closed institution.
- In addition to being provided with the written guidelines, the process for making a complaint should be explained clearly to a child, in a language of their understanding.

11 Rule 44, UN Standard Minimum Rules on the Treatment of Prisons (2015 Rev) (‘Nelson Mandela Rules’)

- Copies of complaint guidelines should be available upon request to a child's legal advisor, parent or guardian.
- The mechanisms for complaint must be safe, effective and incorporate an appeal process. There must be access to both internal mechanisms but also complaint mechanisms that are independent of the administration.

Conclusion

The children who participated in the survey disclosed that they had experienced significant levels of violence whilst they were in police detention and temporary detention facilities and this is by far the most risky setting for children in conflict with the law. As well as reporting physical and psychological abuse, mostly at the hands of investigators, children also reported being denied access to lawyers, being held in cells and being transported alongside adult suspects, as well as enduring appalling conditions whilst in the IVS [temporary detention facilities]. They are held for long periods of time in pre-trial detention and the law still allows for them to be placed in solitary confinement even if this is scarcely used in practice. There are a number of contributing factors

to such violence including the fact that abuse frequently goes unreported, remains invisible and perpetrators are not held accountable. Much remains to be done to ensure that the relatively small numbers of children who are processed through the criminal justice systems of Kazakhstan, Kyrgyzstan and Tajikistan are treated fairly, in conformity with international standards and in a way that promotes their well-being.

It is hoped that conducting this survey can act as a deterrent to the ill-treatment of children in closed institutions. Another important aspect of the survey process is to strengthen the capacity of monitoring bodies such as NPMs and Ombudspersons so that they can continue to monitor children's institutions effectively in the future. Above all, the survey aims to help break the silence that currently exists on the issue of violence against children in closed institutions and to give these children a voice and a space in which to share their concerns. As a new period of reform for children in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan begins, it is ever more important to listen to these children's voices as they are an important source of evidence that can help us understand where efforts and change should be focused.

Introduction

In October 2013, Penal Reform International and its partners¹² began a three year project with the overall objective of contributing to a reduction in violence against children in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan¹³. The project concludes in October 2016 and encompasses a broad range of activities including: dialogue and advocacy for legislative and policy change; capacity building and training of staff working in closed institutions; raising social awareness through social media campaigns; and pilot counselling schemes for children who have been subjected to violence whilst in closed institutions.

A cornerstone of the project is for NGOs and official monitoring bodies such as National Preventative Mechanisms (NPMs) to conduct annual visits to closed institutions during which children and staff complete a survey. The purpose of this process is to gather quantitative data regarding the prevalence of violence and to identify which children are most at risk of violence and the circumstances and context in which it occurs. The survey also seeks to determine what sort of response is given to children if they do disclose to adults that they have experienced violence. It should be noted that the survey responses focus on children's exposure to violence and as such they do not provide a complete picture of the care and treatment children receive in these closed institutions a key part of the survey's purpose is to highlight areas that need closer examination by other monitoring bodies and to raise important questions for policy makers and practitioners.

During 2014, 274 children in 15 closed institutions participated in the first survey¹⁴. A key finding was that the risk of violence is highest for children in conflict in the law during the investigative phase when they are in police detention and in temporary detention facilities just under half of children in conflict with the law said they

had been treated cruelly, badly or violently by the police, most often in order to apply pressure on them to confess to an offence. Children placed in state-run residential institutions such as Special Schools said that the main challenge for them was the use of disciplinary measures with a quarter of children saying they had been subject to corporal punishment.

In 2015, 382 children and 163 staff participated in a second survey in 21 closed institutions across Kazakhstan, Kyrgyzstan and Tajikistan including institutions for:

- children in temporary detention facilities under suspicion of committing an offence;
- children awaiting trial for a criminal offence;
- children convicted of a criminal offence;
- children in Special Schools subject to 'educational measures' because of concerns about their behaviour; and
- state-run residential institutions for children in need of care and protection for example as a result of family break-down or homelessness.

This report sets out the findings from this second survey and is also informed by interviews with staff, a review of documentation in the institutions themselves and a desk review of relevant literature. During the two years we have been conducting these surveys, the number of children in closed institutions in these countries has fallen and the future purpose and effectiveness of some of these institutions is in question. As a new period of reform for children in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan begins, it is ever more important to listen to these children's voices as they are an important source of evidence that can help us understand where efforts and change should be focused.

¹² The partners are CREDO and the Ombudsperson in Kazakhstan, the Youth Human Rights Group and the National Centre for the Prevention of Torture in Kyrgyzstan and the Ombudsperson in Tajikistan.

¹³ The term 'closed institution' is used throughout this report to refer to all institutions that contain children who are deprived of their liberty, including facilities for convicted children, special schools under the responsibility of the Ministry of Education, police cells, temporary isolation and pre-trial detention facilities, and centres for adaptation of minors.

¹⁴ For more information about the first survey, please see *Voice of the child: Findings from a survey of children detained in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan*, Penal Reform International, 2015, available at: <http://www.penalreform.org/wp-content/uploads/2015/09/voice-of-the-child-english-v4-WEB.pdf> <accessed 8 February 2016>.

2. Research methodology

2.1 The survey questionnaire

Individual or group interviews were conducted with children and staff using a survey questionnaire. There was scope during the interview for qualitative information to be gathered, in addition to quantitative information, such as more precise descriptions of treatment in the police station and of conditions in detention. The information provided from the survey was triangulated with observations by the partners who conducted the monitoring visits, a review of documentation in the closed institutions, such as registers and a desk review of relevant literature¹⁵. Data from the survey was then entered into a database and analysed to determine trends and patterns in children's experience of violence. Missing data, where participants did not answer a question, were excluded from the analysis. This means that percentages have been calculated from different totals where there are different response rates across questions.

2.2 Selecting institutions for the survey

The monitoring organisations in the three countries tried to visit a representative sample of different closed institutions for children in conflict with the law and for children in state-run residential institutions. In Kazakhstan, the survey was conducted in three closed

institutions for children in conflict with the law: the colony for boys, the colony for girls and the Special Boarding School for boys. In total there were 113 children in these institutions on the day of the survey; 103 of these children participated in the survey which is a highly representative sample. It was not possible to also conduct the survey in police and pre-trial detention facilities because of lack of access (although participating children were asked about their treatment during police arrest and pre-trial detention). In addition, 138 children in state-run residential institutions participated in the survey from six Special Schools and one Centre for the Adaptation of Minors (CAMs).

In Tajikistan, it was possible to survey all of the children who were held in closed institutions, apart from those detained in police and pre-trial facilities where obtaining access was too challenging.

In Kyrgyzstan, the survey was only conducted in closed institutions for children in conflict with the law as they are at most significant risk of violence and it was possible to survey 50 out of a total of 74 children held in these institutions.

Figure i. Children and staff who participated in the survey

COUNTRY	Number of children interviewed	Number of boys	Number of girls	Number of staff interviewed
Kazakhstan	241	176	65	109
Kyrgyzstan	50	50	-	26
Tajikistan	91	90	1	28
TOTAL	382	316	66	163

¹⁵ As well as the first report, this report builds on earlier research examining the prevalence of torture conducted by UNICEF and others; see UNICEF and others, Assessment of violence against children in state-run residential institutions in Kazakhstan, 2011; Protecting children from torture and cruel treatment in the context of juvenile justice in Kyrgyzstan, 2012; and Torture and ill-treatment in the context of juvenile justice in Tajikistan: Report on the results of legislation and practice review, 2012.

2.3 Ethical considerations

Conducting research with children in closed institutions can be fraught with ethical considerations concerning maintaining their privacy and upholding confidentiality, obtaining informed consent and ensuring children's ongoing protection. It involves judicious balancing between enabling children to have a voice and to be heard and ensuring that they are safe and protected. There are no internationally agreed ethical guidelines for research on violence against children.¹⁶ However, the UN Committee on the Rights of the Child has produced a General Comment on the right of the child to be heard which gives guidance on how to ensure that children's voices are captured in a meaningful and ethical manner. It emphasises that a child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age.¹⁷

Every effort was made by PRI and the partners conducting the research to ensure that children were not harmed through their participation in the survey. At the same time, the research methods used were designed to allow them to describe their experiences and express their views. All participating organisations have considerable experience of monitoring children in detention and a steadfast commitment to conducting research in line with the principle of the best interests of the child.¹⁸ It was made clear to children that participation in the survey was voluntary, the purpose and uses of the research was clearly explained, information on the questionnaire was recorded anonymously and efforts have been made to ensure that no individual child could be identified from this report.

2.4 Limitations

An important challenge for all adults working with children living in closed institutions – including members of independent monitoring bodies, judges, lawyers, social workers, doctors, psychologists and staff – is to develop the skills and capacity to give children space to allow them to speak openly and honestly about their experiences. There were significant challenges in conducting this second survey because the staff in the closed institutions frequently insisted on being present during interviews - often on the pretext of 'maintaining security'. This resulted in children being unable to speak freely about their experiences on some occasions. Another limitation was that it was not straightforward to compare trends in the prevalence of violence against children from year to year. Although the same questionnaire and methodology was used consistently during the surveys in both 2014 and 2015, they were used in different institutions. Comparisons between years are therefore only made in relation to specific institutions.

¹⁶ For a wide ranging review of existing guidelines, see UNICEF, Ethical principles, dilemmas and risks in collecting data on violence against children: A review of available literature, (2012).

¹⁷ UN Committee on the Rights of the Child, General Comment No 12 (2009): The right of the child to be heard, 20th July 2009, CRC/C/GC/12.

¹⁸ All interviewers had to agree to the provisions of PRI's Child Protection Policy and were familiar with PRI's Guidance Note for Interviewing Children.

3. Findings in Kazakhstan

- **65% of participating children said that they were held alongside adults whilst in police detention. This was particularly an issue for girls (four out of the five girls who participated in the survey were held alongside adults in police detention).**
- **66% were offered legal assistance while in police detention.**
- **31% of boys in the special boarding school had regular contact with their family**
- **In the CAM and Special Schools, 38% of children reported that they were aware of complaints mechanisms available to them, compared to 61% of children in the Special Boarding School and colonies for boys and girls.**

3.1 Introduction

During Spring and Summer 2015, the NGO CREDO, working closely with the ombudsperson, conducted research in ten institutions where children were deprived of their liberty in Kazakhstan. In total 241 children were

interviewed – 128 children living in state-run residential institutions and 103 living in institutions for children in conflict with the law. CREDO also interviewed 109 members of staff from these institutions.

Figure ii. Closed institutions in Kazakhstan where children participated in the second Survey

Closed institution	Responsible Ministry	Function of institution	Number of children on day of survey	Number of children who participated in survey
Colony for girls 155/13	Ministry of Internal Affairs	Girls under 18 who have been convicted of a criminal offence	5 girls	5 girls
Colony for boys 15/6	Ministry of Internal Affairs	Boys under 18 who have been convicted of a criminal offence	88 boys	79 boys
Specialised Boarding School for Children with Deviant Behaviour (East Kazakhstan)	Ministry of Education and Science	Children who have committed offences when under the age of criminal responsibility and/or children who are in need of educational measures because of anti-social behaviour and/or children who have committed minor or administrative offences	20 boys	19 boys

Closed institution	Responsible Ministry	Function of institution	Number of children on day of survey	Number of children who participated in survey
Centre for Adaptation of Minors (Karaganda)	Ministry of Education and Science	Children aged 3-18 years old lacking appropriate parental care	24	16
6 Special Schools: - Actau - Almaty - Kentau - Kzylorda - Serebrjansk - Zhambyl	Ministry of Education and Science	Children who have engaged in anti-social behaviour or who have committed repeated administrative offences	Actau (9) Almaty (14) Kentau (15) Kzylorda (11) Serebrjansk (34) Zhambyl (39)	122 girls and boys

3.2 Background regarding children in conflict with the law

Background

In 2013, 1,006 children were convicted of criminal activity in Kazakhstan and there is an encouraging downward trend both in the conviction of children and in the sentencing of children to colonies and placement in the Special Boarding School.¹⁹ Children in conflict with the law are detained in a variety of different closed institutions in Kazakhstan:

- At the first stage of criminal proceedings, these include police stations, 187 temporary detention facilities for suspects as well as 18 pre-trial detention facilities for the accused. We do not know how many children are held in these facilities at any one time.
- There is a colony for girls which held five girls on the day of the survey and one for boys which held 88 boys on the day of the survey. These colonies are for children aged between 14 and 18 years old who have been convicted of an offence and sentenced to a term of imprisonment.
- There is a Special Boarding School in East Kazakhstan Province for boys who have committed offences and been placed there by the court in order to receive educational measures or because of their behaviour when they are under the age of criminal responsibility. This institution therefore holds boys who are both in conflict with the law and boys in need of care and protection alongside each other but with no distinction in their treatment. There were 20 boys in the Special Boarding School on the day of the survey.

In total 103 children in conflict with the law participated in the survey five girls in the colony for convicted girls, 79 boys in the colony for convicted boys and 19 boys in the Special Boarding School. All of the children who participated had been convicted and none were in pre-trial detention. However, questions were asked about their treatment during police arrest and whilst in temporary isolation and pre-trial detention.

The vast majority of participants were aged between 16 and 18 years old but 11 per cent were over 18 and two boys were aged between 10 and 14 years old²⁰ and were held in the Special Boarding School. This age distribution reflects the fact that the age of criminal responsibility in Kazakhstan is 16 years of age but for certain serious crimes such as murder and rape it is 14 years old. It also reflects the fact that there were detainees in the boys' colony who were over 18 years old. Nearly all 88 per cent were living with their families before their detention and for 95 per cent this was the first time they had been detained. Most children - 56 per cent - had been in the institution for less than a year and a third for between one and two years. Fourteen per cent had been there for more than two years, all of whom were boys in the colony near Almaty.

3.3 Children's experience in the police station and in temporary detention facilities

Contact with parents and access to lawyers

whilst a child is in police custody. According to the survey, 79 per cent of children were able to contact a parent/guardian to inform them of their arrest²¹ and 73

¹⁹ TransMonEE database, 2015, available at: <http://www.transmonee.org/> <accessed 8 February 2016>.

²⁰ According to Article 15 of the Kazakhstan Criminal Code, 21 crimes are classified as serious ranging from terrorism, murder, rape, kidnapping and felony assault to theft and vandalism. In 2010, the Code was amended to allow children under 16 to also be prosecuted for theft, robbery and extortion when aggravating circumstances, such as use of violence, are present.

²¹ The Kazakhstan Criminal Procedure Code (CPC), Art. 491(5) states: 'The parents of a minor or other legal representatives, and in their absence – close relatives, shall be immediately informed of detention, arrest or extension of the period of detention'. Translation taken from Analysis of legislation and complaints on torture and violence against children in the context of juvenile justice, Astana, Kazakhstan, UNICEF and the Office of the Commissioner for Human Rights, 2013.

per cent had a parent, relative or other adult (not police officer) present when interviewed. Sixty-six per cent were offered legal assistance while in police custody.²² Two children were aged between 10 and 14 at the time they participated in the survey. Although under the age of criminal responsibility, they had been taken to the police station where both said that they did not feel safe and one explained that the police had spoken harshly to them.

Length of time in police detention

In Kazakhstan, an individual may be kept in police detention for questioning without a court order for 72 hours, regardless of age.²³ It should be noted that the Constitutional Council of Kazakhstan ruled in March 2012 that the time period begins the moment when someone is apprehended rather than on arrival in a detention facility. After 72 hours, deprivation of liberty must be authorised by a court. A total of 40 per cent of children who took part in the survey were held in police detention for fewer than 24 hours before being taken to a court and 18 per cent were held for 1-2 days. However, 17 per cent were held for 3-4 days and seven per cent for over five days.

Detention alongside adults at the police station

As many as 65 per cent of children who participated in the survey said that they were held alongside adults whilst in police detention or temporary detention facilities.

Prevalence and nature of violence against children in police detention

Seventy-one per cent of children said they felt safe whilst at the police station and 17 per cent said they were treated badly by the police. This is markedly less than the percentages noted in the first survey and the reasons for this change from 2014 to 2015 are not known.²⁴ Amongst those children who said that they had been abused at the police station, 18 per cent said they experienced this once, 65 per cent said they experienced this more than once (18 per cent were not sure). Ten per cent of all children in conflict with the law who participated in the survey said they experienced harsh verbal abuse from the police.²⁵ Nine children in total said that they had experienced severe physical violence. Only two children said that they received medical treatment for their injuries and only two children out of the 17 who

reported abuse said that they had told an adult about this their lawyer and a parent. Over half of the others explained that they did not tell anyone because they did not think anything would happen if they complained.

When asked to elaborate about the nature of the ill-treatment they had received, four out of the 17 children who said they had been treated badly said that they did not wish to speak about it further. The others complained of being beaten on the head, feet and body. One boy said that 'I was not fed for a long time and I was under physical and moral pressure', another that 'I was beaten so I would sign false testimony.' One boy complained that he was 'made to wear a gas mask and was beaten on the kidneys and chest.'

Girls in police detention

Very small numbers of girls are arrested in Kazakhstan. Only five girls participated in the survey which is a very small number but it is still interesting to note that whilst in police detention, all of them were able to contact a parent, all but one had legal assistance and all had an adult present during interview. Four out of the five reported that they had been held alongside adult women in police detention in a cell and/or whilst being transported to and from court and four out of five had been held alongside women whilst in temporary detention facilities. All felt safe whilst in police detention and none reported any violence. Clearly there is a significant issue regarding separation of girls from women at the early stages of their detention and this issue requires further investigation to ensure that separation is maintained.

3.4 Children's experience in the Special Boarding School

Background

On the day of the survey the Special Boarding School held 20 boys although it has capacity for 50. Children may be held here for up to two years and are admitted from across Kazakhstan. The future of these schools has been under review since 2008²⁶ and there are plans in place for this institution to be closed although it is not yet certain when this will happen or where the children currently there will be placed.

In total 19 boys participated in the survey: two were between ten and 14 years old, five were between 14 and 16 years old and 12 aged between 16 and 18 years old.

²² CPC, Art. 537(1) states: 'In the presence of a juvenile suspect or accused person's parents or other legal representatives, their involvement in the case shall be compulsory. In their absence, participation of the tutorship and guardianship authority representative shall be compulsory'.

²³ CPC, Art. 14(2) states: 'Within seventy-two hours of detention, a preventive measure in the form of arrest shall be elected against the suspect in the manner prescribed by this Code, or he/she must be released'.

²⁴ In the 2014 survey, 28 per cent of children in conflict with the law said they felt safe whilst in the police station and 55 per cent said they had been treated cruelly, badly and/or violently by the police.

²⁵ Please note that children were allowed to tick more than one box.

²⁶ In 2008 an action plan was introduced for implementing the decree for 'Approval of the Juvenile Justice System Development in the Republic of Kazakhstan for 2009-2011'. This action plan included consideration of 'the establishment of specialised institutions to hold ... juveniles requiring special education'.

The findings from this second survey were broadly similar to the findings from the survey in 2014. Most boys were living with their families before being placed in the Special Boarding School but five had been living independently, with friends or in a children's home previously. Eight boys had been there for between one and two years and none for longer than this; two boys had been there between one and six months and nine between six months and a year. Three boys said that it was hard for them to be honest about what happened to them in the institution.

Prevalence and nature of violence

Only two boys out of the 19 who participated in the survey said that they didn't feel safe in the Special Boarding School. None were afraid of other children but two said that they were afraid of the staff. One boy said he had been abused by another child by way of harsh verbal abuse. Two out of 12 members of staff who participated in the survey said they had witnessed harsh verbal abuse between children and one had witnessed physical violence. Staff were very unsure if incidents of violence against children were actually recorded – only two said that this happened. Only four said they had received training on how to respond to children who had been victims of violence. Three out of 12 members of staff said it was difficult for them to respond honestly to the survey.

Contact with families

A third of boys had regular contact with their families. The reasons for this are not known but given that boys are placed in this institution from all over Kazakhstan, it is likely that it is very difficult for families to travel long distances to visit boys.

'Our children do not have enough love and affection from the staff. Therefore it is necessary to talk with children more often about their problems.'

- Member of staff in Special Boarding School

Disciplinary measure

The only disciplinary measures permitted in the Special Boarding School for boys are: warning, reprimand, discussion at a general meeting and extraordinary

duties.²⁷ Corporal punishment is expressly forbidden as a disciplinary measure and no staff said that they supported its use. Thirteen boys out of nineteen said they had been subject to disciplinary measures such as warnings, reprimands or being making an oral or written apology.

Complaints mechanisms

Seven out of 19 boys were not aware of any complaints mechanism available to them. Five members of staff from the Special Boarding School (out of 12 who participated in the survey) also said that children did not have access to complaints mechanisms. This is an area that requires further examination.

3.5 Children's experience in the Boys' colony

Background

Kazakhstan's boys' colony is located outside of Almaty city and has a capacity for 150 boys aged 14 to 18 years old who have been convicted of criminal offences. On the day of the survey there were 88 boys in residence of whom 79 participated in the survey. Fourteen per cent of the boys who participated in the survey were aged 14 to 16 years old, 73 per cent 16 to 18 years old and 13 per cent were over 18 years. A third of boys had been there for less than six months, 27 per cent for between six and 12 months, a quarter between one and two years and 18 per cent for over two years.

'I think that children should not be in school like in the prison. We should create such conditions so that they can walk around the school freely.'

- Member of staff, boys' colony

The vast majority had been living with their family before being convicted but eight per cent had been living independently. Only five children had previously been in the institution before. The children attended school and leisure activities and had no major complaints regarding the food or health care. Children were asked what improvements they would like to see happen. Their answers were diverse and focused mainly on conditions

27 Order of the Kazakhstan Minister for Education and Science 'On Approval of the Regulation on Educational Institutions with Special Detention Regime', paragraph 46 states: 'For violation of the regime and rules of conduct with regard to minors, the following sanctions may be applied: 1) warning; 2) oral reprimand or reprimand issued as an order of the director of the educational organization with a special regime of detention before the formation of inmates; 3) discussion at a general meeting of minors, group or class, or the teachers' council of the educational organization with a special regime of detention; and 4) extraordinary duty of cleaning the rooms or grounds of the education organization with a special regime of detention (except for public spaces) in their free time and during non-study time before going to bed (no more than one hour). Application of penalties not covered by these Regulations is prohibited.'

28 TransMonEE database, 2015, available at: <http://www.transmonee.org/> <accessed 8 February 2016>.

29 Order of the Kazakhstan Minister for Education and Science 'On Approval of the Regulation on Educational Institutions with Special Detention Regime', paragraph 46 (see note 27 above).

of detention including access to better sports facilities and excursions outside of the facility.

Prevalence and nature of violence

Ninety per cent said that they felt safe; however, a core of around ten per cent reported having witnessed violence, bullying and harsh verbal abuse amongst children. Just three per cent had witnessed physical violence amongst children and four per cent had been abused by another child in the institution that included moderate physical violence. Only one child said they had witnessed staff using violence against children. Another child said a member of staff had used moderate physical violence against them that resulted in small bruises. They did not tell any other adults because they were afraid of the consequences of doing so. Only 48 per cent of staff said they had received training on how to identify and respond to violence against children; 76 per cent said they struggled with dealing with difficult children and 16 per cent complained of low pay.

The same survey was conducted in 2014 with 92 boys. The most striking difference between the data is a significant fall in the number of children reporting witnessing or experiencing incidents of violence in the colony. The reasons for this reduction are not known. However, the NGO conducting the survey noted that it was difficult to ensure confidentiality whilst speaking with the children due to the presence of staff in the room during interviews. It is possible that children who were victims of violence felt reluctant or unable to speak freely about their treatment due to fear of punishment or retaliation from peers or staff. This highlights the importance of regular monitoring of this institution so that children can speak freely, safely and confidentially to independent monitors who can gain their trust and confidence.

Separation from adults

A third of these boys said they had been held alongside adults whilst in temporary detention. Ten boys over 18 were also detained alongside children under 18 years old in the colony.

Contact with family

All children said that they were allowed monthly visits of around one to two hours. A third said there was a physical barrier in place during visits. Eighty-seven per cent said that they had regular contact with parents or other family members.

'I would like to see my mother more often. I miss her a lot.'

- Boy aged 14-16 years old, boys' colony

Disciplinary measures

Corporal punishment is not permitted as a disciplinary measure. A revised Criminal Executive Code came into force on 1st January 2015 which sets out disciplinary measures that may be used in Article 154. These include: warning, reprimand, strong reprimand and placement in a cell for 'temporary isolation for 72 hours'. A third of boys had been subject to disciplinary measures and these were all reprimands, verbal warnings or apologies none said they had been placed in temporary isolation which is an encouraging development since, in the 2014 survey, five boys in the detention facility had been subject to solitary confinement. One member of staff said they supported the use of corporal punishment.

Complaints mechanisms

Only 62 per cent of boys participating in the survey in the boys' colony were aware of any complaints mechanisms being available to them, although the NGO administering the survey noted that there were mailboxes available for leaving complaints.

3.6 Children's experience in the Girls' colony

The rate of imprisonment for girls in Kazakhstan is very low. Following conviction, girls are held in a small self-contained unit which lies within the perimeter fence of Almaty Prison for Women. At the time of the survey, five girls were held here all of whom participated in the survey. They were aged between 14 and 18 years old and had been there for between one month and two years. All were living with parents beforehand. All felt safe and none of the girls reported being afraid of staff or other girls; no incidents of violence were reported. They were allowed monthly visits and all said that they have regular contact with families. No concerns were raised regarding food, healthcare or access to sanitary products. Two of the girls reported having been given warning or reprimands as a disciplinary measure. Only two out of five were aware of complaints mechanisms available to them and four out of the five girls had been held alongside adults whilst in temporary detention.

3.7 Background for children in state-run residential institutions in Kazakhstan

The number of children without parental care living in state-run residential institutions has significantly decreased in the past few years but in 2012 there were still 9,653 institutionalised children.²⁸ Children who lack family care and are placed in formal care on the basis of a court order may be sent to orphanages (up to three years old), boarding schools for children who have been orphaned or deprived of parental care, boarding schools

30 Figure from the National Statistical Committee of Kyrgyz Republic, available in Russian at: <http://www.stat.kg/ru/statistics/prestupnost/> <accessed 8 February 2016>.

for children with disabilities, foster families, family-type children's villages and Centres for the Adaptation of Minors (CAMs).

There are also eight Special Schools in Kazakhstan: Almaty, Mangistaysk, Zhambyl, Karaganda, Kyzylorda, Pavlodar, East Kazakhstan and North Kazakhstan regions. These are closed institutions for girls and boys aged 11 to 18 years old who have been engaged in anti-social behaviour or who have committed an offence but who are under the age of criminal responsibility. Children are placed in Special Schools by court order and it is the court who determines the length of time they are deprived of their liberty. The Special Schools are closed institutions because children are not permitted to leave them without permission.

One hundred and thirty-eight children in state-run residential institutions participated in the survey 122 in six Special Schools and 16 in a Centre for the Adaptation of Minors for children who lack appropriate family care and protection. The following analysis therefore focuses on these two establishments - CAMs and Special Schools.

3.8 Children's experience in the Centre for the Adaptation of Minors in Karaganda

Background

There are 18 Centres for the Adaptation of Minors in Kazakhstan and they house children from three to 18 years old who are without adequate parental or guardian care. Sometimes children are brought in by the police who find them living on the street and others are placed in the centre by the local Custody and Guardianship Authority because they lack appropriate parental care. Placement for homelessness, neglect or because a child's life or health is at risk may be done by the Guardianship Authority for up to three months but placement for any other reason requires a court order. The CAM offer children psychological support and case management and on discharge children are either reunited with their families or placed in a different institution such as an orphanage. The CAMs have been subject to regular monitoring by the NPM.

The team conducting the survey commented that it was not unusual for children who had spent time in CAMs to 'graduate' to Special Schools. This suggests that CAMs are not succeeding in providing these children with short-term programmes to address family or other problems and that increased efforts are needed to provide support and guidance as well as to prevent children from needing to be supported in CAMs at all.

The survey took place in the CAM in Karaganda which has the capacity for 110 children but on the day of the survey there were only 24 children in residence (17 boys and seven girls). The number of children has reduced

significantly since the survey visit in 2014 when there were 66 children in residence. Of the 24 children in the CAM, six had been brought in by the police because of neglect or homelessness, 14 were there by order of the Karaganda Custody and Guardianship Authority and four were there because they were 'without parental care'.

The age range in the CAM in Karaganda is very broad although the majority are aged between 14 and 16 years old three were under ten years old, five aged between 10 and 14 and 16 between 14 and 16 years old. Having such a wide range of ages could be problematic unless efforts are made to house them separately and to cater for very different social and educational needs. Sixteen children out of the 24 resident completed the survey a quarter of them said it was difficult for them to be completely honest when doing so. One child was under ten years old, six were between 10 and 14 years old, four 14-16 years old and five 16-18 years old. Three were girls and 13 boys.

Prevalence and nature of violence

Six children out of 16 said they did not feel safe in the CAM three were afraid of other children and four were afraid of staff. One child who was under ten years old said they had been abused by another child and had received medical attention for their injuries. There were no allegations of violence by staff.

Contact with family

All save for one child had been living with family before being placed in the CAM and only one child had been placed in the CAM previously. All are allowed weekly visits with their families and seven out of the 16 did have regular contact with their families. Eight children had been there for under a month and eight for between one and six months but none for longer than this, highlighting the fact that CAMs are a temporary place for children to be cared for at moments of crisis in their family life.

Disciplinary measures

The CAM does not have a clear behavioural and discipline policy that is handed to children on admission and behavioural problems are rather dealt with by discussion. However, six of the 16 children who participated in the survey said that they had been subject to disciplinary measures consisting of warning or reprimands, making an apology and removal to another room.

Complaints mechanisms

Only three out of the 16 children who participated were aware of a complaints mechanism being available to them.

3.9 Children's experience in the Special Schools

Background

A striking feature of the Special Schools is that there are many more staff than children: in the Special School in Actau for example there were nine children and 51 staff on the day of the monitoring visit; in the Special School in Almaty there were 14 children and 62 staff; in Kentau there were 15 children and 67 staff; in Kyzyl-Orda, eleven children and 35 staff; in Serebrjansk there were 34 children and 65 staff; and in Zhambyl there were 39 children and 94 staff. These ratios may not prove sustainable in the long-term.

The survey covered 122 children in six Special Schools 65 boys and 57 girls participated. A fifth were aged between ten and 14 years old, 44 per cent between 14 and 16 years old and 34 per cent between 16 and 18 years old. All were living with family members before being placed in the Special School and 23 per cent of children had been placed there on a previous occasion. Ten per cent had been there for under a month, 41 per cent for between one and six months, a third for six to 12 months, 11 per cent for between one and two years, and five per cent for longer than two years. Eight per cent said it was difficult for them to be completely honest in answering the survey. In general there were no major concerns reported about food or healthcare although five members of staff (out of 43 who participated in the survey) commented that food portions were too small. When asked what improvements they would like to make, children suggested more contact with their family and more excursions and trips. One child said *'I would like it if children smiled more'*.

Prevalence and nature of violence

Ninety-two per cent of children said they felt safe in the Special Schools. However, 11 per cent said they were afraid of other children and seven per cent were afraid of staff. Fifteen per cent reported having been abused by another child, mostly involving harsh verbal abuse and moderate physical violence resulting in small bruises, scrapes and cuts. Six per cent had witnessed staff using physical violence and six per cent had witnessed staff using harsh verbal abuse against children. 15 per cent reported they had been abused by staff the majority of these children said this was harsh verbal abuse but two children reported moderate and severe physical violence.

Five per cent of staff said that they had witnessed staff using violence against children. Only half of staff said they had received training on how to identify and respond to violence. Just over half of staff from Special Schools said that they found it challenging working with children's difficult personalities. Nearly a third also complained of low pay.

'We do not have enough psychologists to work with children.'

- Recommendation for improvement from Special School staff member

Contact with family

Seventy per cent of children in these Special Schools said that they have regular contact with their family.

'Allow parents to visit their children more frequently and call them.'

- Suggestion for improvement from child in Special School

Complaints mechanisms

Only 41 per cent of children who participated in the survey said they were aware of complaints mechanisms whilst 74 per cent of staff reported that children had access to complaints mechanisms.

Disciplinary measures

In Kazakhstan's eight Special Schools, the only disciplinary measures permitted are: warning, reprimand, discussion at a general meeting and extraordinary duties.²⁹ Corporal punishment is expressly forbidden as a disciplinary measure and was not supported by any members of staff who participated in the survey. Just under half of children in the Special Schools who participated in the survey were subject to disciplinary measures such as reprimands, warnings or temporary withdrawal of privileges.

'I would like staff to treat children with compassion.'

- Staff member working in Special School

3.10 Recommendations for combating violence in closed institutions in Kazakhstan

Eliminate violence in police and temporary detention facilities

There was a significant fall in the number of children reporting ill-treatment whilst at the police station in this second survey and a reluctance to elaborate on the nature of ill-treatment received. The reasons for this reduction are not known. What is clear is that not all children are being offered legal assistance whilst in police detention and many are still being held for

31 TransMonEE database, 2015, available at: <http://www.transmonee.org/> <accessed 8 February 2016>.

32 As above.

longer than 72 hours. As many as 65 per cent of children who participated in the survey said that they were held alongside adults whilst in police detention. This was particularly an issue for girls (four out of the five who participated in the survey were held alongside adults in police detention). The way in which children are treated when first arrested and detained requires close examination and the following steps should be considered:

- Implement legislation that explicitly requires the separation of children and adults at all points of detention (including during transportation to court/ other facilities).
- Implement legislation requiring the presence of legal assistance and the mandatory presence of a parent, guardian and/or legal representative during the interrogation of a child at a police station.
- Reduce the length of time a child can be detained in police custody from 72 hours to 24 hours in line with the recommendations of the UN Committee on the Rights of the Child.

Ensure that children are separated from adults whilst in police and temporary detention

Sixty-five per cent of children in conflict with the law who participated in the survey said they had been held alongside adults in police or temporary detention facilities. There are significant risks involved in holding children in temporary detention alongside adults, and the Criminal Executive Code should be amended to ensure that children are kept separate from adults in all places of detention including whilst in temporary detention facilities. Furthermore, the treatment of children whilst in temporary detention requires closer investigation and this should be a priority for the NPM and other monitoring bodies such as the Public Monitoring Commissions. Alternatives to holding children in temporary detention should be actively pursued, such as imposing curfews or reporting requirements.

Eliminate the use of solitary confinement for children completely

A revised Criminal Executive Code came into force on 1st January 2015 which sets out in Article 154 the disciplinary measures that may be used in the colonies for girls and boys. These include: warning, reprimand, strong reprimand and placement in a cell for 'temporary isolation for 72 hours'. The wording of this article is unclear. In practice children who are placed in temporary isolation may continue to attend lessons and go to the dining hall so in that sense it is not solitary confinement. However, it is still possible under this provision that children could be placed in an isolation cell for up to 22-24 hours a day and a strict prohibition of solitary confinement is therefore required in the criminal codes.

Ensure that children can access complaints mechanisms

In the CAM and Special Schools only 38 per cent of children reported that they were aware of complaints mechanisms available to them, compared to 61 per cent of children in the Special Boarding School and colonies for boys and girls. In a number of institutions post boxes are available but there are concerns about how confidential these are in practice and they are under-used. These figures are too low given the important role that internal and external complaints mechanisms can play in identifying and reducing the risk of violence against children and the following steps must be considered.

- Children should be informed both orally and in writing about the existence of internal and external complaints mechanisms upon arrival at the police station and/or closed institution.
- In addition to being provided with the written guidelines, the process for making a complaint should be explained clearly to a child, in a language of their understanding.
- Copies of complaint guidelines should be available upon request to a child's legal advisor, parent or guardian.
- The mechanisms for complaint must be safe, effective and incorporate an appeal process. There must be access to both internal mechanisms, but also complaint mechanisms that are independent of the administration.

Reform the Special Schools

A small number of children just over a hundred at the time of the survey are placed in the eight Special Schools because they have complex behavioural problems or because they are considered to be at risk of offending in the future. These children are in need of psychological support and other multi-disciplinary services available to them to address the challenges they face in their lives. However, the Special Schools are expensive to run and lack specialised psychological services. There is a need to review the purpose and effectiveness of these Special Schools and to consider the optimal response for these children that focuses on their individualised prevention and treatment.

Strengthen monitoring bodies

The NPM has the mandate to monitor the boys' and girls' colonies, Special Schools, the Special Boarding School and CAMs. Its mandate should be broadened to include all places where children are deprived of their liberty, including orphanages and foster homes. The requirement that Public Monitoring Commissions should announce their visits to places of detention one day beforehand should be removed from the revised Criminal Executive Code.

4. Findings in Kyrgyzstan

- **72% were treated badly by the police.**
- **44% were able to contact a parent or guardian to inform them of their arrest and 38 per cent had a parent, relative or other adults present during interview.**
- **24% were offered legal assistance whilst in police detention.**
- **74% were held alongside adults whilst in police detention.**
- **46% reported that they were aware of complaints mechanisms available to them.**

4.1 Introduction

In 2014, 201 children in Kyrgyzstan were convicted of criminal activity³⁰ and there is an encouraging downward trend both in the conviction of children and in the sentencing of children to imprisonment.³¹ The vast majority of crimes committed by children are classified as property crimes. In 2013, 167 children were in pre-sentence detention and this figure has also fallen since 2011.³²

When a child is first arrested they are taken for preliminary questioning to a police station (ROVD) and then may be taken to one of 46 temporary detention facilities (IVS). If a court then orders their detention pending trial, they will then be placed in one of five pre-trial detention centres. If they are convicted and sentenced to a term of imprisonment, they will be placed in the boys' colony (No.14, Voznesenovka village) or girls' colony (Women's detention centre No.2, Stepnoye village). There are also two Centres for Crime Prevention amongst Minors which report to the Ministry of Interior where homeless children are sometimes placed. There is a Special Boarding School for boys who are under the age of criminal responsibility or who have repeatedly

committed minor or administrative offences. Children are also detained in a range of state-run residential institutions including boarding schools, a psychiatric hospital and centres of temporary stay for children in difficult life circumstances.

Children in conflict with the law were chosen as a focus for this second survey as the first survey demonstrated that the risk of violence was highest for this group during the first stages of the criminal justice process. During Spring and Summer 2015, the NGO Youth Human Rights Group, working closely with the National Centre for the Prevention of Torture, conducted monitoring visits in 42 closed institutions. Out of these, there were seven institutions where children in conflict with the law were actually deprived of their liberty. In total 50 children were interviewed – 23 boys who were in pre-trial detention centres (SIZOs), two boys in temporary detention facilities (IVS) and 25 boys who had been convicted and sentenced to imprisonment in the boys' colony. The YHRG also interviewed 26 members of staff from these institutions. No girls were interviewed because of the simple fact that there were none held in these institutions.

Figure iii. Closed institutions in Kyrgyzstan where children participated in the second Survey

Closed institution	Responsible Ministry	Function of institution	Number of children on day of survey	Number of children who participated in survey
Colony for boys No. 14	State Service for Execution of Punishment (GSIN)	Boys aged between 14-18 years old who have been convicted of an offence and given a sentence of imprisonment	32 boys	25 boys
Four pre-trial detention centres (SIZOs): - No. 25 (10 boys) - No. 23 (2 boys) - No. 21 (5 boys) - No. 14 (6 boys)	GSIN	Boys 14-18 years old who are accused of an offence and have been given a court detention order	40 boys	23 boys
Two temporary detention facilities (IVS)	Ministry of Internal Affairs	Girls and boys who have been arrested by the police on suspicion of committing a crime but also those who are accused and awaiting trial	2 boys	2 boys

4.2 Background for children in conflict with the law in Kyrgyzstan

The age of criminal responsibility in Kyrgyzstan is 16 years but is reduced to 14 years for a number of offences such as murder, kidnap and theft.³³ Thirty-six per cent of the boys who participated in the survey were between 14 and 16 years old and 64 per cent were between 16 and 18 years old. There were no reports of children under the age of criminal responsibility being held in these closed institutions. Forty per cent of children were living with both parents and 46 per cent with a single parent before their arrest and detention. The other boys came from orphanages or broken homes: one had previously been living in an orphanage, one came from the Special School and before that he was in an orphanage, one had a father in jail, and one had a mother working in Russia. One boy in the colony explained that he had no father and was one of eight children in his family. Three quarters of boys who participated in the survey said that this was the first time they had been in this particular closed institution six boys said they had been once before and five said they had been many times before.

4.3 Children's experience in the police station and temporary detention facilities

Contact with parents and access to lawyers

Under Kyrgyzstan's Criminal Procedural Code (CPC)³⁴, the family or legal representative of a child under arrest should be immediately notified. According to the survey, 44 per cent of children were able to contact a parent or guardian to inform them of their arrest and 38 per cent had a parent, relative or other adults present during interview. Only 24 per cent were offered legal assistance whilst in police detention.

'About my arrest, I went to take out the trash with my four year old nephew. The police arrested me there. I asked to take my nephew home and to let my grandmother know but they did not let me and my nephew was left alone in the street.'

- Boy aged 15 years old in SIZO

³³ See Criminal Code, Article 18(2).

³⁴ See Criminal Procedure Code, Article 393(4).

Length of time in police detention

Under Article 393(3) of the CPC, a detainee must be brought before a judge within 24 hours. Two boys said they were held for 3-4 days but the majority 74 per cent were held for over five days in breach of the CPC and of international standards.³⁵ The monitors reviewed documentation at the police stations and IVS and discovered that the time of arrest recorded was often much later than the time that the boys reported in interview. Furthermore, there wasn't a separate book noting the arrest of children specifically.

Detention alongside adults at the police station and temporary detention facilities

The Rules of Internal Regulation of Police Custody Cells provide that: 'minors must be placed in cells with a small capacity, categorised according to their age, physical development, the characteristics of their personality and psychological compatibility'.³⁶ The survey found that 74 per cent of children were placed alongside adults whilst in police detention. This took place inside a police station cell, whilst being transported and in the temporary detention facility.

'In the IVS I was held alongside adults, some of them had been previously convicted.'

- Boy aged 17 in the boys' colony

'If there are only a few inmates and enough cells we place minors separately. At the moment Cell No. 2 is occupied by a person with active TB who is isolated from the others. Therefore a minor who arrived yesterday from SIZO No. 5 has to sit with adults.'

- Member of staff in IVS

Conditions of temporary detention

A member of the National Centre for the Prevention of Torture (NCPT) commented that one of the IVS they visited was the worst they had ever seen: 'the building is cold and wet. Police staff work in such conditions as well.' Another NCPT member commented that '[t]he IVS cells have a peculiar smell, no bedding and lack lighting. The shower is out of service and expired medications were found in the medical kit'. A member of staff working in an IVS remarked that 'there is no shower in the exercise yard but we heat water and wash there. Rooms in the IVS are wet'.³⁷ They also noted that children were granted less than an hour a day to exercise outside.

Prevalence and nature of violence against children in police detention/ temporary detention facilities

Seventy-two per cent of boys who participated in the survey said they were treated badly by the police. They described the nature of the violence they experienced in explicit detail and included accounts of the use of electrocution and suffocation (which will not always leave any signs of physical injury). The boys also described beatings and threats of rape as well as lengthy periods of interrogation extending late into the night.³⁸ Of the 36 boys who said they had been abused, all said they had been beaten and harshly verbally abused; 13 (36 per cent) said they had been suffocated by having plastic bags placed on their head and four said they had been given electric shocks. Full accounts of the boys' experiences in the police detention and in temporary detention facilities are provided below.

'They put a plastic bag on my head. They used electric shocks. In winter, they took us out and poured cold water. They dipped my head into the water. They beat me with batons. They pinned four offences on me which were nothing to do with me.'

'In the investigator's office during and after the first interrogation they punched in the stomach. They frightened me with rape.'

'They put a plastic bag on my head, held a book on my chest and punched on it to leave no traces.'

'They used an electric shocker and beat me like a ball. There were four men.'

'There is no light, no exercise, no water at the IVS. I was beaten every day with a baton on my arms and legs by staff.'

'At the ROVD (District Department of Internal Affairs), they held me for five days without food. Two officers put a plastic bag on my head. They beat me on my body, liver and kidneys with batons and fists.'

'I was arrested on suspicion of rape by four police officers. During the arrest, they neither introduced themselves, nor presented documents to me. They brought me to the ROVD and beat me with their hands on my head, back and kidneys. They stuck needles under my fingernails. They

³⁵ Ten boys did not know the answer or could not remember how long they had been there.

³⁶ Penal Reform International, Analysis of legislation on prevention of violence against children in Central Asia, 2014.

³⁷ Quotations from data gathered during monitoring visits and logged in database.

³⁸ This is contrary to Article 395(1) of the Criminal Procedure Code which provides that '[i]nterrogation of the suspect accused may not last more than two hours without interruption, and not more than four hours a day in total'.

arrested me at around 8pm. and beat me until 3am when I was put in the IVS.'

'I was arrested in the afternoon, at about 2 or 3pm. Once the Head of ROVD had gone, from around 11.30pm to 1am until the morning I was beaten by three officers. They mocked me and beat me with batons. They put a plastic bag and gas mask on my head, beat me everywhere they could hit into I was punched in the head three times. They put the plastic bag on me three times in a row.'

'After the arrest I was taken to Sokuluk ROVD, where I was beaten. Three or four officers took turns, I do not exactly remember how many officers were there. They kicked me, beat me with batons, put a plastic bag on my head a lot of times, I don't remember exactly, I lost consciousness 8-9 times.'

'When I was brought in for questioning for the first time, another officer came into the office and said, 'May we shoot him?'. He pulled out a gun and showed it to me. I was afraid and signed a confession. After that I was taken to another location.'

'At first, there was no torture, and then they threatened me, and put handcuffs on me. When I was at IVS, the staff there got drunk and swore, threatened, insulted me.'

'The investigator intimidated me and shouted at my mother: 'Your son will go to jail if he isn't quiet.' Whilst I was interrogated a psychologist, a lawyer and my mother were present. An IVS

guard mocked my origins (the boy comes from a minority group).'

Response to violence

Three quarters of those who had been mistreated were provided with medical care although several children commented that the doctor did not fully examine them physically but instead wrote a report. Only five children told an adult about what had happened to them two informed the prosecutor, two informed their lawyers, and one boy told his father. No action was taken against the perpetrator as a result of these disclosures. For the rest of the children they did not tell anyone because they feared for the consequences. One boy commented that he had been threatened with worse punishment if he told anyone else. Another said 'it was no use to say anything they would not have sent on my complaint'. The monitors noted that the IVS did not have a complaints book available for detainees.

4.4 Children's experience in pre-trial detention (SIZO)

Length of time in pre-trial detention

Children were asked for their date of arrival in the pre-trial detention centre and the monitoring team then calculated how long they had already spent in detention. This figure does not of course demonstrate how long a child will spend in pre-trial detention in total, but nonetheless it is useful to have first-hand information about the length of time they had been there on the date of the survey process. The longest period of time in pre-trial detention was a boy in SIZO No. 21 who had been there for 616 days (around one year and eight months). Three boys had been detained for over 350 days nearly a year.

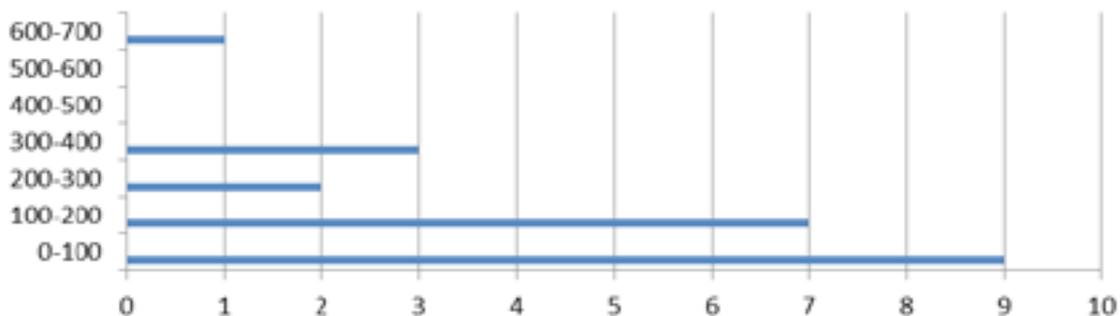


Figure iv. Number of days in pre-trial detention on day of survey .

Contact with family

Only two children out of 25 in the pre-trial detention facilities had regular contact with their family. One of them explained he saw his parents just once a month whilst parcels are delivered two or three times a month.

Conditions of detention

The conditions in the pre-trial detention facilities are very poor. Only three out of 25 children said they had access to education or training; 88 per cent said there was not enough space in the dormitories and only a third said they had enough to eat. Sixty-four per cent said they were provided with medical care when needed and 65 per cent said they had access to clean toilets. After the interviews had finished, a 17-year-old boy handed over an anonymous note to the monitoring team which said:

'food in SIZO is given three times a day - so stinky that it is impossible to eat it. Mattresses in cells are dirty with blood stains and rust. They sometimes beat us but only for swearing or other actions'

When asked what improvements they would like to make to the pre-trial detention facility, the children said the following.

I would improve the quality of the food.

I would have more access to sport.

I would replace the bedding and improve the food.

I would improve the sanitary condition, relationships with the staff.

It is stuffy here, I would set up ventilation and buy sports equipment.

The food smells bad. In the morning they give bread, eggs and butter - we only take this and leave the rest. We usually eat what our relatives bring us from home. A senior official beats us from time to time.

There are smokers and non-smokers together in the room - the ventilation should be set up. The food smells bad so we don't eat it. We only take bread, eggs and butter in the morning.

It would be a good thing if they set up proper ventilation. I would extend the time for exercising and I would ensure meetings with family. I would create opportunities for studying in the SIZO.

Disciplinary measures

Children in pre-trial detention centres are subject to disciplinary measures such as reprimand, deprivation of the right to watch films and placement in a 'disciplinary isolator' for up to seven days but with continued attendance in education classes. Thirty-six per cent of children said they had been subject to disciplinary measures including reprimand, warnings and apologies. Six children out of 23 who participated in the survey in the pre-trial detention facilities said that they had been placed in solitary confinement. Five out of six of these children were in SIZO No.25. One boy said he was placed there because he asked for longer recreation outside.

'If you often go to the medical unit, they start to threaten that they will put you in solitary confinement.'

- Boy aged 16 years old in SIZO

'In SIZO No. 21 we prevented staff from entering our cell. Eight men dragged us by the feet and hands, beating us along the way, and took us to the 'stakanchik'. [According to the monitor's observations a 'stakanchik' is a narrow room with an area of 1x1 m, near DIZO, a disciplinary cell]. There we stood together with cellmates for two to three hours whilst our cell was searched.'

- Boy aged 15 years old in boys' colony

Complaints mechanisms

Forty-four per cent of children in pre-trial detention were aware of complaints mechanisms available to them and 85 per cent of staff said that children had access to complaints mechanisms.

3.5 The boys' colony

Boys aged between 14 and 18 years old are placed here on conviction and on the day of the survey there were 32 inmates, 25 of whom completed the survey a third were aged between 14 and 16 years old and two-thirds 16 to 18 years old. For 80 per cent of them this was the first time they had been there. Most boys had been in the colony for under a year but some for between two and three years. The longest time served on the day of the survey was three years, one month and six days.

Complaints mechanisms

Forty-eight per cent were aware of complaints mechanisms available to them.

Contact with family

Only eight per cent of boys had regular contact with their family. When asked what recommendations they would make to the colony one boy said he would «*help parents to come and see their children. Here parents do*

not come to visit inmates - only two inmates are visited by parents every month'.»

'I have called home twice by phone but you are only allowed 15 minutes to talk.'

- Boy aged 17 in boys' colony

Conditions

Conditions in the boys' colony are much better in general than those in the SIZO and IVS. All of the boys said in the interviews that they were involved in education and training programmes; 80 per cent agreed that they had adequate clothing and food; and 86 per cent said they had access to medical care when needed. Eighty-four per cent said they had access to clean toilets. When asked what improvements they would make the boys said:

We need more calls, more visits, no uniform.

We should be able to grow fresh vegetables in the garden of the colony.

I would repair the cells and toilets as they stink. I would arrange a room for prayer and buy a TV and DVD.

I would buy clothes, bathing items, bedding, mattresses and TV.

Disciplinary measures

Forty-four per cent had been subject to disciplinary measures. Ten children said they had been placed in solitary confinement. They elaborated on this:

'At the boys' colony No. 14, I was put in DIZO for seven days for participation in a riot.'

- Boy aged 15 in boys' colony

'The colony has disciplinary measures such as reprimand and DIZO (disciplinary cell). These measures are given by the director. When you clean the place they say 'well done' and give awards and certificates of appreciation.'

- Boy aged 17 in boys' colony

'Anyone can be sent to the disciplinary cell, mainly for rioting. In DIZO you are locked up alone. I think all the time about what will happen tomorrow and how to protect myself from threats. In the first unit I was in the DIZO twice.'

- Boy aged 17 in boys' colony

'On the first day here we were taken to a dark room and they threatened us that we would be locked here or sent to solitary confinement.'

- Boy aged 16 in boys' colony

'I was punished by being placed in DIZO for six days because of fighting with other guys.'

- Boy aged 16 in boys' colony

'I was put into DIZO for three days because I left my cell at 3am without permission.'

- Boy aged 17 in boys' colony

'We were forced to wear roba (work clothes, which make you feel hot during summer time) during the whole week and we were not allowed to take a shower.'

- Boy aged 17 in boys' colony

3.6. Conclusions and recommendations

The use of violence against children whilst in police detention and temporary detention facilities must be eliminated as a matter of urgency

Nearly three quarters of the boys who participated in the survey reported experiencing violence, sometimes extreme violence involving electrocution and suffocation, whilst in police and temporary detention. Frequently this was used by public officials in order to compel the child to confess to an offence and therefore could be said to amount to torture.³⁹ Whilst a few allegations were made of mistreatment in pre-trial detention, the torture was committed primarily during the preliminary investigation by operational and investigative units when the child was first arrested. A number of protective measures for children during police and temporary detention are present in the law but are not being implemented. According to the survey, only 44 per cent of children were able to contact a parent or guardian to inform them of their arrest and 38 per cent had a parent, relative or

³⁹ This is contrary to Article 395(1) of the Criminal Procedure Code which provides that '[i]nterrogation of the suspect accused may not last more than two hours without interruption, and not more than four hours a day in total'. Article 1 of the UN Convention against Torture states: '....."torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions'.

other adults present during interview. Only 24 per cent were offered legal assistance whilst in police detention.

It is imperative that protective measures are implemented to prevent the use of violence. It is vital that steps are taken to ensure that already existing legislation is implemented requiring the presence of legal assistance and the mandatory presence of a parent, guardian and/or legal representative during the interrogation of a child at a police station. Another protective measure is for the NCPT to be trained specifically on monitoring children in detention and given sufficient budget for doing so.

Impunity for this violence is widespread and must be addressed. A central feature of combating this kind of violence is that children are taken seriously and listened to when they complain of abuse. Only five children told an adult about what had happened to them two informed the prosecutor, two informed their lawyers and one boy told his father. No action was taken against the perpetrator as a result of these disclosures. For the rest of the children they did not tell anyone because they feared for the consequences. One boy commented that he had been threatened with worse punishment if he told anyone else. Another said 'it was no use saying anything, they would not have sent on my complaint'. Children must have safe avenues of confidential complaint open to them at the police station and temporary detention facilities.

The Ministry of Internal Affairs must issue and widely publicise directives stating that they will not tolerate torture and other ill-treatment of children by police and will promptly and thoroughly investigate reports of torture and ill-treatment, and will hold accountable those responsible. The Office of the Public Prosecutor must investigate allegations of ill-treatment in police detention promptly, thoroughly and independently, so that violators are prosecuted to the fullest extent of the law. Any police officer should be immediately suspended when there is credible evidence showing that he or she ordered, carried out, or acquiesced to, acts of torture or ill-treatment against children.

An important aspect of addressing impunity lies in medical examination and documentation of injuries. Whilst 77 per cent of children who had been mistreated were provided with medical care, several commented that the doctor did not fully examine them physically but instead wrote a brief report. Children should be given a medical examination when they arrive at a temporary detention facility and/or when they make a complaint of abuse. Steps must be taken to ensure that doctors do in practice meet this requirement and it is not a formality; there is a national clinical protocol for implementing the Istanbul Protocol and this should be fully implemented.⁴⁰

Police must be carefully selected and recruited and receive adequate remuneration. Police stations and IVS must have clear child protection policies that are known about by all staff with step-by-step procedures on how allegations and disclosures of violence are to be handled. As a longer term goal, measures should be developed to give powers to the police to divert children in conflict with the law away from formal criminal justice processes and towards community-based dispute resolution mechanisms consistent with international human rights standards and guidelines.

Ensure children are held separately from adults whilst in police and temporary detention

The survey found that three quarters of children in Kyrgyzstan were placed alongside adults whilst in police detention and temporary detention facilities. This took place inside a cell and whilst being transported. In the current Criminal Executive Code, it specifies that juvenile suspects may be 'in exceptional cases with the written consent of the prosecutor contained in the same cells with adults'. Whilst there is clear testimony of ill-treatment from investigators, lack of separation from adult detainees can also put children at risk and could expose them to violence. The Criminal Executive Code is currently being reformed and it should explicitly require the separation of children and adults at all points of detention (including during transportation to court/ other facilities).

Reduce the use of pre-trial detention

Pre-trial detention should only ever be used as a measure of last resort and for the shortest possible period of time. The UN CRC Committee has indicated that the maximum length of proceedings against an accused child should be six months, whether he/she is detained or not. Children in Kyrgyzstan spend lengthy periods of time in pre-trial detention; one boy had been in a SIZO for a year and eight months. The conditions they experience are not acceptable and numerous complaints were made of lack of education and training facilities, poor nutrition and inadequate bedding and sanitation. Only two children out of 25 in the pre-trial detention facilities had regular contact with their family. Conditions in these facilities must be improved by GSIN as a priority and alternatives to pre-trial detention for children must be clearly specified in the revised Criminal Code to include conditions such as curfews, close supervision or placement with a family.

⁴⁰ UN Office of the High Commissioner for Human Rights, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('Istanbul Protocol'), 2004, HR/P/PT/8/Rev.1.

Eliminate solitary confinement for children

According to the survey, six boys in the pre-trial detention facilities and ten boys in the boys' colony had been placed in solitary confinement. Three members of staff also confirmed in the survey that it was used in pre-trial detention facilities. One very serious consequence for these boys is that placement in solitary confinement reduces the chance of being eligible for early release whilst serving a sentence later on. In the latest draft of the Kyrgyz Executive Criminal Code (the Code is yet to be approved by Parliament) the use of solitary confinement for children has been reduced from seven days to 72 hours again with continued attendance in education. The internationally accepted definition of solitary confinement is: 'confinement of prisoners for 22 hours or more a day without meaningful human contact'.⁴¹ It is expressly prohibited for children to be placed in solitary confinement. It is still possible under this revised provision that children could be placed in an isolation cell for up to 22 hours a day and a much stricter prohibition of solitary confinement is therefore required in the revised Criminal Executive Code.

Ensure that children can access complaints mechanisms

Across all the institutions, 46 per cent of children reported that they were aware of complaints mechanisms available to them. Availability of a confidential and safe complaint mechanism is vitally important in identifying and reducing the risk of violence against children and the following steps must be considered.

- Children should be informed both orally and in writing about the existence of internal and external complaints mechanisms upon arrival at the police station and/or closed institution.
- In addition to being provided with the written guidelines, the process for making a complaint should be explained clearly to a child, in a language of their understanding.
- Copies of complaint guidelines should be available upon request to a child's legal advisor, parent or guardian.
- The mechanisms for complaint must be safe, effective and incorporate an appeal process. There must be access to both internal mechanisms but also complaint mechanisms that are independent of the administration.

⁴¹ Rule 44, UN Standard Minimum Rules on the Treatment of Prisons (2015 Rev) ('Mandela Rules')

⁴² TransMonEE database, 2015, available at: <http://www.transmonee.org/> <accessed 8 February 2016>.

5. Findings in Tajikistan

- **43% said they felt safe whilst at the police station. A third said they were treated badly by the police.**
- **39% of boys in the boys colony had been held alongside adults whilst in temporary detention facilities.**
- **61% were aware of complaints mechanisms.**

5.1 Introduction

Closed and semi-closed institutions for children in Tajikistan include:

- police stations and six pre-trial detention centres;
- two Reception and Referral Centres run by police in Dushanbe and Hodjent;
- Special School;
- Special Vocational School;
- Colony for boys; and
- Women's prison where girls also held.

These institutions are run by a patchwork of different ministries including Justice, Education, Internal Affairs and Labour, Migration and Employment. Children in need of care and protection are held alongside children in conflict with the law in the Special School, Special Vocational School and Reception and Referral Centre, particularly when the children in conflict with the law have been found responsible for minor offences or are under the age of criminal responsibility.

In 2013, 525 children were convicted of a criminal offence in Tajikistan and the vast majority were convicted of property crimes.⁴³ The age of criminal responsibility

in Tajikistan is 16 years of age but for certain crimes such as murder, rape and theft it is 14 years old.⁴³ The maximum prison sentence that may be imposed on a convicted child is seven years if he or she is 14 or 15 years of age, and ten years if he or she is 16 or 17 years of age. Probation and educational measures may be imposed on children aged 14-18 years old when they are convicted of offences of minor or medium gravity, and courts must consider imposing a non-custodial sentence, suspended sentence or educational measures before giving a prison sentence.

During September and October 2015, PRI conducted research with 91 children and 28 staff in four out of the five institutions where children are deprived of their liberty in Tajikistan (not including police and pre-trial facilities). There were no girls held in the women's prison at the time of the survey so this facility was not visited. There were 91 children held in these institutions overall and they all participated in the survey. Thirty-three of these children had been convicted of criminal offences and sentenced to a period of time in the boys' colony; 27 had been placed in the Special School and 26 in the Special Vocational School. A further five were in the Reception and Referral Centre.

⁴³ Article 23(2) Criminal Code. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Follow up report: Missions to the Republic of Tajikistan and Tunisia A/HRC/28/68/Add.2 27 February 2015.

v. Closed institutions in Tajikistan where children participated in the second survey

Closed institution	Responsible Ministry	Function of institution	Number of children on day of survey	Number of children who participated in survey
Reception and Referral Centre (Dushanbe) NB the Reception and Referral Centre in Hodjent was also visited but had no children. Four members of staff were interviewed.	Ministry of Internal Affairs	Children between 3 and 18 years old are placed in this Centre when they do not have appropriate family care, for example, when police are unable to locate the child's parents or they have been abandoned or are homeless.	4 boys and 1 girl	4 boys and 1 girl
Special School	Ministry of Education	Children who have committed offences when under the age of criminal responsibility and/or children who are in need of educational measures.	27 boys	27 boys
Special Vocational School	Ministry of Social Affairs and Employment	Boys aged between 14 and 18 who have committed relatively minor crimes or anti-social acts.	26 boys	26 boys
Colony for Boys No.3/12	Ministry of Justice	Boys convicted of serious criminal offences	33 boys	33 boys

5.2. Police station

Contact with parents and access to lawyers

According to the survey, 80 per cent of children in conflict with the law were able to contact a parent/ guardian to inform them of their arrest and 61 per cent had a parent, relative or other adult (not police officer) present when interviewed; 63 per cent were offered legal assistance while in police custody.

Length of time in police detention

According to the Criminal Procedure Code, children may be held in detention for up to 72 hours. A total of 65 per cent were held in police detention for less than 24 hours before being taken to a court or second facility. Eighteen per cent were held for one to two days and one boy said he was held for three to four days.

Detention alongside adults at the police station

Two children who participated in the survey said that they were held alongside adults whilst in police detention. This is a significant fall from the survey findings in 2014 when 65 per cent of children said they were held alongside adults.

Prevalence and nature of violence against children in police detention

Forty-three per cent of children said they felt safe whilst at the police station. A third said they were treated badly by the police, the vast majority of whom said they received harsh verbal abuse. One boy complained of moderate physical violence and another boy of severe physical violence. None of the children who reported abuse notified an adult and for most this was because they did not think they would be believed. The Special

Rapporteur on Torture conducted a follow up report in Tajikistan in 2015 and expressed continued concern about *'reports that juveniles in conflict with the law are mistreated during arrest and in various stages of detention'*.⁴⁴

5.3 The Reception and Referral Centre

The Reception and Referral Centre (RRC) in Dushanbe is a semi-closed institution used for holding children aged 3-18 years old who are without parental care or a primary caregiver. Children in the RRC are placed there when they lack appropriate family care and/or when they have been arrested by the police and are awaiting trial. There is no clear-cut distinction in the treatment of children in conflict with the law and children in need of care and protection in these Centres and children can be detained for up to 30 days without a court order. The Centre can house up to 30 children but on the day of the visit there were only five children there one child was under ten years old and four were between ten and 14 years old. All five children in Dushanbe participated in the survey: four of them had been there for less than one month and one child for under two months. One child had been placed there previously on several occasions. There were 23 members of staff working in the RRC including three teachers, a social welfare officer and a psychologist 11 staff members participated in the survey. It was noted by the monitors that employees' salaries are very low and staff are not highly qualified.

None of the children said they had regular contact with their family which may reflect the fact that they are frequently placed there because of family breakdown. The building dates from 1952 and requires extensive re-building although the children did not raise particular concerns about sanitation or conditions. None of the children had been subject to disciplinary procedures. Only one child out of five said that they were aware of complaints mechanisms available to them such as contacting the prosecutor or ombudsperson, although all of the members of staff were clear that children could make complaints.

All of the children said they felt safe in the centre although two were afraid of other children. None of them had witnessed any violence between children but one child who was under ten years old said he had been harshly verbally abused by another child on several occasions and this was corroborated by the interviewer who commented that the boy was reluctant to talk since he was so upset about sharing a room with another child who was abusing him. He also reported that he had witnessed staff using physical violence against another child. Two members of staff out of 11 said they had witnessed harsh verbal abuse between the children. One very disturbing finding was that a girl aged between ten and 14 years old had been subject to 'virginity testing' on

arrival at the institution. A staff member confirmed that they did do virginity testing provided the girl in question gave her permission.

5.4 Special School

There is one Special School in Tajikistan which houses boys between the ages of ten and 16 years old who have committed offences when under the age of criminal responsibility and/or children who are in need of educational measures because they are beyond family control. The Special School is under the jurisdiction of the Ministry of Education and located in Dushanbe. The building dates from 1966 and is in need of repair particularly regarding the sanitation. The boys sleep in dormitories with 12 beds. There were 43 staff working there on the day of the survey including teachers and a psychologist salaries are very low. It is visited regularly by representatives from the Ministry of Education as well as by the child rights department of the Ombudsperson.

The Special School has capacity for 80 children and on the day of the visit there were 27 boys in residence all of whom participated in the survey 18 were between ten and 14 years old and nine between 14 and 16 years old. One boy had been in the institution before but for the others it was their first time. Eleven per cent had been there for under a month, 15 per cent between one and six months, seven per cent between six months and a year, 15 per cent between one and two years, and 41 per cent for more than two years.

The children end up in the Special School either because they are picked up by the police living and working on the streets or because they are abandoned by their parents or carers. Fourteen out of the 27 had not had any contact with the police before being brought to the Special School and it is striking how many children in the Special School were in need of care and protection:

'I was sent here by the police from the Reception and Referral Centre. I had been in an orphanage but had run away four times and was caught by the police living on the streets.'

'I was in the Reception and Referral Centre for two months because I had been living on the streets and sniffing glue. Then I was brought to the Special School.'

'I was brought here by my mother not by the police. The Director took me in because he knew my mother.'

'My aunt brought me to the Special School after my mother died - I don't know my father'

⁴⁴ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Follow up report: Missions to the Republic of Tajikistan and Tunisia A/HRC/28/68/Add.2 27 February 2015.

A fifth of children in the Special School said they were afraid of other children and 11 per cent that they were afraid of staff. One child said they had witnessed violence among children and one child said he had received harsh verbal abuse and moderate physical violence from another child. Forty-four per cent maintained regular contact with their families although contact with families can be restricted as a disciplinary measure. Just over half of the children were aware of complaints mechanisms available to them.

5.5 Special Vocational School

The Special Vocational School is the responsibility of the Ministry of Social Affairs and Employment. It is for boys aged between 14 and 18 who have committed relatively minor crimes or anti-social acts. It has capacity for 100 boys and at the time of the survey there were 26 boys in residence all of whom participated in the survey. Sixteen out of the 26 boys were not convicted of any offence and were not brought to the School by the police. One boy said he was placed there because he was constantly late for school; another had been transferred there from the Special School. Forty-two per cent of boys had previously been living with both parents, a fifth with only one parent and a third with other family relatives such as step-parents

Two boys were between ten and 14 years old, 14 boys were between 14 and 16 years old and ten were between 16 and 18 years old. All of them reported that this was the first time they had been placed in the Special Vocational School. A fifth had been there for under one month, a third for between one and six months, eight per cent between six and 12 months, 15 per cent between one and two years, and 12 per cent for more than two years. One boy reported he had been in the Special School for as long as five years. Nearly all children said they felt safe in the Special Vocational School; eight per cent were afraid of other children and 15 per cent of staff. No children said they had witnessed or experienced any violence although a third of staff said they had witnessed violence among children including harsh verbal abuse and bullying. 69 per cent of children had regular contact with their family but only half were aware of complaints mechanisms available to them.

‘I would not let children be sad. I would build a gym for children so they can play football and volleyball.’

- Boy aged 16-18 years in Special Vocational School

5.6 The boys’ colony

The boys’ colony is in Dushanbe and has capacity for 150 children aged between 14 and 18 years old. Boys are placed here when they have been convicted of relatively serious offences in order to serve their sentences. On the day of the survey there were 33 boys in residence all of whom participated in the survey: 15

were between 14 and 16 years old, 15 were between 16 and 18 years old and three were older than 18 (they are permitted to remain in the colony until they are 20 years old). All had been convicted of criminal offences. The boys had previously been living with family members and all said that this was the first time they had been placed in the colony 82 per cent said they were able to maintain regular contact with their families.

Nearly half had been there for between one and six months; a third had been there for between six and 12 months and a fifth for between one and two years. Children sleep in dormitories and none raised any significant concerns regarding sanitation, food, access to health care or bedding. There are 58 members of staff and currently a vacancy for a psychologist generally staff receive very low pay. Six members of staff participated in the survey.

Ninety-four per cent of boys said they felt safe in the boys’ colony: two said they were afraid of other children and two said they were afraid of staff but none said they had witnessed or experienced abuse themselves. Several boys commented that violence took place in police detention but not in the boys’ colony. Thirty-nine per cent of boys in the colony who participated in the survey had been held alongside adults whilst in temporary detention facilities.

Two boys said they had been subject to disciplinary measures including warnings and reprimands but none said that solitary confinement had been used although this is permitted in law. Eighty-eight per cent were aware of complaints mechanisms available to them. When asked about improvements they said they would like more access to vocational training such as learning to bake and to use computers to ensure they could work on release.

5.7 Recommendations

The use of violence against children whilst in police detention must be eliminated as a matter of urgency

The following steps should be considered in order to reduce the risk of violence against children in police detention.

- Implement legislation requiring the presence of legal assistance and the mandatory presence of a parent, guardian and/or legal representative during the interrogation of a child at a police station.
- Reduce the length of time a child can be detained in police custody from 72 hours to 24 hours in line with the recommendations of the Committee on the Rights of the Child.
- Develop in policy and practice measures which would give powers to the police to divert children in conflict with the law away from formal criminal justice processes and towards community-based dispute

resolution mechanisms consistent with international human rights standards and guidelines.

- Tajikistan should ratify the Optional Protocol to the Convention against Torture and establish an effective National Preventative Mechanism.

Prohibit ‘virginity testing’ in all institutions

A credible allegation of ‘virginity testing’ was made to researchers in the course of the survey process in the RRC which suggests that this practice still exists. ‘Virginity testing’ is a traumatic experience for girls that can result in social discrimination and exclusion and is contrary to international human rights law. Criminal and administrative measures should be introduced as a matter of urgency to prohibit such an intrusive procedure.

Ensure separation of children from adults in detention

There is currently a contradiction in the law concerning separation of children from adults whilst in detention. Article 34 of the Law ‘On procedure and conditions of detention for suspects and defendants’ allows children and adults to be held together ‘in exceptional cases’ whilst the Law ‘On protection of rights of the child’ prohibits detaining a child alongside adults. Thirty-nine per cent of boys in the colony who participated in the survey said they had been held alongside adults whilst in temporary detention facilities. The Law ‘On procedure and conditions of detention for suspects and defendants’ should be reformed and clarified and explicitly require the separation of children and adults at all points of detention.

Ensure separation of children in conflict with the law from children in need of care and protection

The Special School and Special Vocational School take convicted children as well as children who have behaved in an anti-social manner. These groups of children are not separated within the institutions and this is contrary to international standards and can result in stigmatisation of children who have not been convicted. Many of these children whether in conflict with the law or not have complex social backgrounds and require intensive and individualised treatment to help them address their behaviour. It is preferable that children receive this treatment in small local units and that deprivation of liberty only happens as a last resort.

Increase children’s knowledge and use of complaints mechanisms

Sixty-one per cent of children said that they were aware of complaints mechanisms available to them and 82 per cent of staff said that children had access to complaints mechanisms. The National Commission on the Rights of the Child in Tajikistan has developed a procedure for using complaints mechanisms in closed institutions but it does not yet have any binding status so is not properly implemented. Efforts must be made to implement this procedure to ensure that:

- children are informed both orally and in writing about the existence of internal and external complaints mechanisms upon arrival at the police station and/or closed institution;
- in addition to being provided with the written guidelines, the process for making a complaint is explained clearly to a child, in a language of their understanding;
- copies of complaint guidelines are available upon request to a child’s legal advisor, parent or guardian;
- the mechanisms for complaint must be safe, effective and incorporate an appeal process. There must be access to both internal mechanisms but also complaint mechanisms that are independent of the administration.

Prohibit the use of solitary confinement

Article 144 of the current Tajik Criminal Executive Code (adopted August 2001) stipulates that children serving a sentence in a colony can be placed in a ‘disciplinary isolator for a period of up to seven days with release for period of study’. No children who participated in the survey stated that they were subject to solitary confinement although it is interesting to note that the Special Rapporteur on torture in 2013 asserted that ‘[a]ccording to credible reports, in the juvenile colony and in the basement of a special school for underage offenders run by the Ministry of Education, children were reportedly kept in disciplinary isolation cells for up to 15 days as a disciplinary measure for breaking the establishment’s rules.’⁴⁵ In Tajikistan, a Working Group has been set up to reform the Criminal Code and once this process is complete a working group will be established for reforming the Criminal Executive Code and Criminal Procedure Code. It is vitally important that the revised Codes have a clear prohibition on the use of solitary confinement for children at all stages of detention.

45 As above, para 73.

6. Conclusion

This second survey revealed significant levels of violence against children whilst they were in police detention and temporary detention facilities and this is by far the most risky setting for children in conflict with the law. As well as reporting physical and psychological abuse, mostly at the hands of investigators, children also reported being denied access to lawyers, being held in cells and being transported alongside adult suspects, as well as enduring appalling conditions whilst in the IVS [temporary detention facilities]. They are held for long periods of time in unacceptable conditions in pre-trial detention facilities and the law in all three countries still allows for them to be placed in solitary confinement even if this is scarcely used in practice.

There are a number of contributing factors to such violence including the fact that abuse frequently goes unreported and remains invisible and perpetrators are not held accountable. Much remains to be done to ensure that the relatively small numbers of children who are processed through the criminal justice systems of Kazakhstan, Kyrgyzstan and Tajikistan are treated fairly, in conformity with international standards and in a way that promotes their well-being. Children in state-run residential institutions reported that they felt safe but there are challenges around building and maintaining contact with their families as well as with providing access to the psychological support they need.

It is hoped that conducting these annual surveys can act as a deterrent to the ill-treatment of children in closed institutions. Another important aspect of the survey process is to strengthen the capacity of monitoring bodies such as NPMs and Ombudspersons so that they can continue to monitor children's institutions effectively in the future. Above all, the survey aims to help break the silence that currently exists on the issue of violence against children in closed institutions and to give these children a voice and a space in which to share their concerns. As a new period of reform for children in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan begins, it is ever more important to listen to these children's voices as they are an important source of evidence that can help us understand where efforts and change should be focused.

About this report

This is the second of a series of three Voice of the Child reports tracking the treatment of children in closed institutions in each of the three countries and aims to highlight priority areas for reform for policy-makers, practitioners and other stakeholders.

It was produced under a three-year project (October 2013–October 2016) funded by the European Commission, which is working towards the progressive abolition of violence against children in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan, and in particular, towards ending the use of solitary confinement for children and ensuring the effective separation of children from adult detainees at all times.

Project activities include supporting the developing of new legislation and national action plans, and corresponding guidelines and regulations for police, prisons and institutions caring for children; training and capacity building for staff; systematic monitoring of institutions where children are held; and piloting counselling schemes for children who have experienced violence whilst in detention or care.

PRI Central Asia is working with several local partners in this project: Credo, Kazakhstan; the Youth Human Rights Group (YHRG) and the National Centre for the Prevention of Torture in Kyrgyzstan; and the Ombudsman's offices in all countries.



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