



Voice of the child

Findings from a survey of children detained in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan



Survey 1: 2014

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Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide.

We promote alternatives to prison which support the rehabilitation of offenders, and promote the right of detainees to fair and humane treatment. We campaign for the prevention of torture and the abolition of the death penalty, and we work to ensure just and appropriate responses to children and women who come into contact with the law.

We currently have programmes in the Middle East and North Africa, Central and Eastern Europe, Central Asia and the South Caucasus, and work with partners in East Africa and South Asia.

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Acronyms and definitions

CPC	Criminal Procedural Code
CRC	UN Convention on the Rights of the Child
GSIN	State Service for the Execution of Punishments (Prison Department)
IVS	Temporary Detention Facility
NCPT	National Center for Prevention of Torture of the Kyrgyz Republic
NPM	National Preventive Mechanism
PRI	Penal Reform International
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 centre, in court rooms, pre-trial and upon conviction. It also includes placement in social care institutions.
Child in conflict with the law	Anyone under the age of 18 who comes into contact with the justice system as a result of being suspected of or charged with committing an offence.

Executive summary

Introduction

This report presents the findings from a survey of 274 children detained in 15 closed institutions across Kazakhstan, Kyrgyzstan and Tajikistan.¹ The objective of the survey was to estimate the prevalence of violence against children in these institutions. The information from this survey will be used to inform priorities for a three year programme on the progressive abolition of violence against children that is currently being implemented by PRI and its local partner organisations.

Data was gathered in all three countries during Spring and Summer 2014 by way of one-to-one interviews with children² using a questionnaire, group interviews with children (particularly in Kazakhstan), interviews with staff and a desk review of relevant literature.³ Efforts were made to interview girls as well as boys, but overall the majority who participated – 86 per cent – were boys.

Conducting research with children in closed institutions can be fraught with ethical considerations particularly concerning privacy, 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.⁴ However, every effort was made by PRI, the

National Center for Human Rights in Kazakhstan and the four organisations conducting the research, to ensure that children were not harmed through their participation. At the same time, the research methods used allowed them to describe their experiences and express their views.

All four 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.⁵ Participation was voluntary, the purpose of the research was clearly explained, information on the questionnaire was recorded anonymously, and efforts have been made to ensure that no child could be identified in this report.

At the end of the questionnaire, children were asked if it was difficult for them to be completely honest about what happens in the institution where they were living – only four per cent of children interviewed in Tajikistan agreed with this but in Kyrgyzstan 36 per cent of children said it was difficult to be honest and in Kazakhstan as many as 39 per cent said this was the case. This indicates that children may have under-reported incidences of physical and psychological violence and the survey findings are only an estimate of the true picture. It is also interesting to note that 21 per cent of staff in Kazakhstan said it was difficult for them to be honest whilst in Kyrgyzstan seven per cent of staff said this was the case and in Tajikistan 14 per cent.

Children and staff who participated in the survey

COUNTRY	Number of children interviewed	Number of boys	Number of girls	Number in state-run residential institutions	Number in closed institutions for children in conflict with the law	Number of staff interviewed
Kazakhstan	155	128	27	43	112	39
Kyrgyzstan	42	33	9	17	25	14
Tajikistan	77	74	3	4	73	7
TOTAL	274	235 (86%)	39 (14%)	64 (23%)	210 (77%)	60

1 This research was coordinated by PRI and the National Center for Human Rights in Kazakhstan (the Ombudsman's Office) and conducted by four local partners: CREDO in Kazakhstan, the Youth Human Rights Group and the National Centre for the Prevention of Torture in Kyrgyzstan, and the Child Rights Centre in Tajikistan.

2 Please see Annex for a description of institutions involved in the Survey.

3 This builds on earlier research examining the prevalence of torture; see for example UNICEF and National Center for Human Rights in Kazakhstan, *Assessment of violence against children in state-run residential institutions in Kazakhstan*, 2011; Commissioner for Human Rights in the Republic of Kazakhstan and UNICEF, *Analysis of legislation and complaints on torture and violence against children in the context of juvenile justice*, Astana, 2013; UNICEF and National Center for Human Rights in Kazakhstan, *Protecting children from torture and cruel treatment in the context of juvenile justice in Kyrgyzstan*, 2012; and UNICEF and others, *Torture and ill-treatment in the context of juvenile justice in Tajikistan: Report on the results of legislation and practice review*, 2012.

4 See UNICEF, *Ethical principles, dilemmas and risks in collecting data on violence against children: A review of available literature*, 2012, for a wide ranging review of existing guidelines.

5 All interviewers had to agree to PRI's *Child Protection Policy* and were familiar with PRI's *Guidance Note for Interviewing Children*.

Summary of findings of survey

Treatment of children at the police station

‘I was beaten and forced to clean the toilet in the police station. I did not commit this crime, but was told to take it on myself.’⁶

Boy, aged 14-16 years old

In all three countries, a pattern emerges of children being ill-treated whilst in police detention. In total, 210 children in conflict with the law were interviewed. Thirty-seven per cent of these children said they had felt safe whilst in police detention. Just under half 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. A third of children interviewed experienced harsh verbal abuse from the police, 20 per cent psychological abuse, 17 per cent moderate physical violence and 30 per cent severe physical violence.

Children gave accounts to the interviewers of the abuse they had experienced. These included being beaten to extract confessions, having a plastic bag put on their head, being forced to clean toilets, being made to wear gas masks, being made to stand for long periods of time, sleep deprivation and electrocution. The UN Convention against Torture⁶ defines torture as an act of severe pain or suffering – physical or mental – that is intentionally inflicted by a public official in order to obtain information or confession, as punishment, to intimidate or to coerce. According to this definition it is likely that much of the treatment endured by children as they described it does amount to torture.

Only 15 per cent of those children who said they had been abused by the police received medical treatment for their injuries and only a quarter told an adult – usually their parents – about their ill-treatment. When asked why, they said they didn’t tell anyone because they did not think anything would happen as a result and in fact only eight per cent of children said that action was taken against the person who had hurt them.

There is a greater risk of ill-treatment at the police station when basic safeguards are not in place or are not upheld. The law in Kazakhstan and Tajikistan allows children to be detained by the police for up to 72 hours, whilst in Kyrgyzstan the Criminal Procedural Code (CPC) allows children to be detained for 24 hours.⁷ In Kazakhstan and Tajikistan, this is longer than the 24 hours recommended by the UN Committee on the Rights of the Child,⁸ and neither this safeguard of 72 hours, nor the 24-hour limit set by law in Kyrgyzstan, are always upheld. While the majority of children – 57 per cent – were held in police custody for under 48 hours,

one in ten children were held for between three and four days and 15 per cent for over five days. Only 58 per cent of children said that they were able to contact a parent or guardian on their arrest and only 52 per cent had a parent, guardian or other adult present with them during questioning. Just 46 per cent were offered legal assistance. Just under half of children were detained alongside adults whilst at the police station. Thirty-six per cent of children were also detained with adults in temporary detention facilities.

‘I was electrocuted. One policeman sits down on my knees and puts a plastic bag on my head, hits me hard in the chest, breathing stops. Then again, the baton was beaten on my heels, the feeling that the whole body beaten with batons. Electricity was put under the armpits, yes, awful. Other “oper” [slang word for policemen] came and asked me to write the “visyaki” [slang word for crimes that remain unsolved]. I refused to accept what I am not guilty of, so they beat me. I was beaten on the head with a plastic bottle filled with water, they used needles to prick me under my fingernails.’⁹

Boy, 16-18 years old, in pre-trial detention

Treatment of children in conflict with the law in closed institutions

Just over half of children said that they felt safe in the institutions where they were detained. Seven per cent said they feared other children and 15 per cent said they feared members of staff.

Thirty-six per cent of children in conflict with the law said they had been subject to disciplinary measures whilst deprived of their liberty with the majority of these consisting of a warning or reprimand or verbal apology. Seven per cent (14 children in total) had been subject to physical beatings as punishment, 14 per cent had access to their family restricted, and eight per cent (15 children in total) had experienced solitary confinement. The use of solitary confinement as a disciplinary measure is permitted for up to seven days in all three countries; however Kazakhstan’s new Criminal Executive Code, which came into force in January 2015, now prohibits such practice. The UN Rules Regarding the Protection of Children Deprived of their Liberty (the Havana Rules) are clear that the use of solitary confinement as a disciplinary measure for children amounts to cruel, inhuman and degrading treatment.⁹

Conditions in institutions for children in conflict with the law are poor and children are not always protected from violence inflicted by other children or staff. Eleven

⁶ Article 1(1), UN Convention against Torture.

⁷ Article 393 (3), Criminal Procedure Code of Kyrgyzstan, No.83, dated June 30, 1999

⁸ CRC General Comment No. 10 (2007), *Children’s Rights in Juvenile Justice*, 25 April 2007, CRC/C/GC/10.

⁹ Rule 67, UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), adopted by General Assembly resolution 45/113 of 14 December 1990.

per cent said they had witnessed violence amongst children and 13 per cent that they had been abused by another child. The children also said they had witnessed violence by staff towards children – 20 per cent had witnessed harsh verbal abuse and a fifth staff using physical violence. A quarter of children said they had been abused by staff. Of the 48 children who had been abused by staff, only six said they had told an adult in the institution. The rest said they did not think anything would happen if they did tell someone and only half of children in these institutions were aware of complaints mechanisms available to them. Two members of staff out of 60 who participated said that they had seen staff use violence against children.

Treatment of children in state-run residential institutions

‘Punishing juveniles in a closed institution completely obstructs the needs of adolescents and deforms their personality.’

Member of staff in Special School

In total, 64 children in state-run residential institutions participated in the survey. Seventy per cent said they felt safe whilst 17 per cent were scared of other children and 17 per cent of members of staff. There are challenges around the use of disciplinary measures in these institutions – 69 per cent of children had been subject to such measures and the vast majority involved reprimands and verbal warnings. However, 23 per cent said they had been subject to physical punishment such as beatings.

Over a third had witnessed physical violence amongst children and 37 per cent had been a victim of abuse by another child. Nearly half had witnessed staff using physical violence against children, and 42 per cent said they had been abused by staff – mostly harsh verbal abuse and moderate physical violence. Only ten per cent told an adult in the institution about this abuse.

Sixty staff were interviewed as part of the survey. It is clear that morale is not high amongst them. When asked about the sort of problems they faced in their work, 40 per cent said they had too much work and 36 per cent that they had problems ‘because of children’s personalities’. A third complained of low pay and a quarter of a lack of resources and poor working conditions. It is also clear that there are limited procedures in place to respond to incidences of violence when they do occur. Less than a quarter of members of staff said that they recorded or registered such incidences, only 42 per cent were aware of regulations disciplining staff that use violence against children, and 42 per cent said they had received training on how to identify or respond to violence against children.

Recommendations

This research does not assess the extent to which the authorities in these three countries have implemented international standards on justice for children across the board, nor does it focus in detail on the conditions in closed institutions. Instead the recommendations set out below highlight areas of priority for eliminating violence against children. It is hoped that these recommendations will inform current and future policies and programmes for children in closed institutions during a phase of ongoing reform and improvement.

Eliminate the use of violence against children whilst in police detention as a matter of urgency

- 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 police station.
- In Kazakhstan and Tajikistan, 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. In Kyrgyzstan, ensure compliance with this international standard.
- 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.

Prohibit the use of solitary confinement as a disciplinary measure for children in conflict with the law

- In all countries, specific regulations must be drawn up and implemented concerning the use of disciplinary measures in all closed institutions where children are held. These must be in line with the Havana Rules and in particular must prohibit solitary confinement and restriction or denial of contact with family members as disciplinary measures.¹⁰ These regulations must be known about by children and staff.

¹⁰ UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), adopted by General Assembly resolution 45/113 of 14 December 1990.

Build the capacity of staff working in closed institutions

- Develop a system of selection, recruitment and development of staff to ensure the appointment and retention of competent and well-trained professionals. Adequate remuneration will play an important part in this.
- Staff must be trained in non-violent disciplinary measures and to immediately report any concerns, suspicions or disclosures of violence against children to the appropriate authorities.
- Establish a clear child protection policy in closed institutions that is known about by all staff with step-by-step procedures on how allegations and disclosures of violence are to be handled. In Tajikistan, ensure that the 2008 policy for the protection of children's rights in closed facilities is backed up by legislation.
- In Kazakhstan and Kyrgyzstan, ensure that 'persons acting in an official capacity', which covers staff working in Special Schools who are employed by private organisations, are included in Article 146 of the revised Criminal Code in Kazakhstan and Article 305-1 of the Criminal Code in Kyrgyzstan so that they are not immune from prosecution for acts of torture.

Increase children's knowledge and use of complaints mechanisms in line with international standards¹¹

- 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.

- In all countries, ratify the Third Optional Protocol on a communications procedure, which will allow individual children to submit complaints regarding specific violations of their rights under the Convention on the Rights of the Child and its first two optional protocols, and initiate investigation procedures in cases where violations of the rights of the child are systemic and gross in nature.

Ensure that monitoring bodies investigate the use of violence against children

- All monitoring bodies should have appropriate training on interviewing children about violence. Where possible, medically trained monitors should be on hand to help document allegations.
- Monitoring bodies should be given sufficient human and financial resources and have the mandate to visit children whilst they are held in police stations.
- Allegations of torture or ill-treatment should be transmitted to the authorities responsible for investigation, at all times ensuring that the procedure will not endanger the child concerned and acting at all times in their best interests.
- Monitoring bodies should ensure that written rules regarding the use of disciplinary measures are known about by children and staff alike.
- In Kazakhstan, 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. The mandate of the National Preventative Mechanism (NPM) should be broadened to include all places of deprivation of liberty including orphanages and special boarding schools in line with the Optional Protocol to the Convention against Torture (OPCAT).
- Tajikistan should ratify the Optional Protocol to the Convention against Torture and establish an effective NPM.
- Kyrgyzstan should continuously strengthen the capacity of the NCPT and ensure it has budget allocation for visiting places where children deprived of their liberty/whose liberty is restricted are held.

¹¹ See, for example, Committee on the Rights of the Child, General Comment No. 10: *Children's Rights in Juvenile Justice*, 2007, para 89: 'Every child should have the right to make requests or complaints, without censorship as to the substance, to the central administration, the judicial authority or other proper independent authority, and to be informed of the response without delay; children need to know about and have easy access to these mechanisms.'

1. Introduction

Violence against children who are deprived of their liberty is often invisible in part because it is under-reported and under-researched. Yet the 2006 UN Study on Violence found that children in care and justice institutions may be at higher risk of violence than nearly all other children.¹² The five-year follow-up Study produced in 2011 found that '[t]his situation continues today. Regardless of the type of institution, the type of abuse, the age and sex or health status of the child, NGO and academic research reports indicate extraordinarily high levels of abuse to children living in care and justice institutions'.¹³

The United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated that '[v]iolence in places of detention, including special institutions for children, is manifest in several ways, mainly through physical and sexual violence, as well as through verbal abuse. In addition, children are also subjected to violence as a result of conditions of detention, or as a form of discipline or punishment'.¹⁴ It can be inflicted by peers or staff alike and can take many forms including torture, beatings, isolation, restraints, rape, harassment, harsh verbal abuse, self-harm and humiliation.

States that are parties to the CRC have a clear obligation to take all appropriate legislative, administrative and educational measures to protect children in detention from violence of whatever form.¹⁵ Under Article 40 (1) of the CRC, states are obliged to: 'recognise the right of every child alleged as, accused of, or recognised as

having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society'.¹⁶ In their General Comment on Children's Rights in Juvenile Justice, the CRC Committee asserts that all forms of violence in the treatment of children in conflict with the law must be both prohibited and prevented.¹⁷

Penal Reform International and several local partner organisations¹⁸ are implementing a three-year programme on the progressive abolition of violence against children in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan. This project has a specific focus on reducing instances when children are held in detention alongside adults and in solitary confinement.

A key objective of this programme is to estimate the prevalence of violence against children in institutions. In order to capture this information, data was gathered in all three countries during Spring and Summer 2014 by way of one-to-one interviews with children in different institutions, group interviews with children (particularly in Kazakhstan), interviews with staff and a desk review of relevant literature.¹⁹ This data will be used to inform future work on prevention and response to violence against children in closed institutions.

¹² United Nations Secretary-General, *World Report on Violence against Children*, 2006, p175.

¹³ NGO Advisory Council for Follow-up to the UN Study on Violence against Children, *Five years on: A global update on violence against children*, 2011.

¹⁴ *Sexual Violence in Institutions, including in detention facilities*, Statement by Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2010.

¹⁵ Convention on the Rights of the Child (CRC), Article 19.

¹⁶ The right of children to freedom from violence is also found in the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Under Article 24 of the ICCPR, children enjoy the right 'to such measures of protection as are required by [their] statuses as minors'. In addition, both the ICCPR and CAT prohibit cruel, inhuman, or degrading treatment.

¹⁷ CRC General Comment No. 10 (2007): *Children's Rights in Juvenile Justice*, 25 April 2007, CRC/C/GC/10 hereafter General Comment No.10, para 13.

¹⁸ The partner organisations are currently CREDO in 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 three countries.

¹⁹ This builds on earlier research examining the prevalence of torture; see for example UNICEF and National Center for Human Rights in Kazakhstan, *Assessment of violence against children in state-run residential institutions in Kazakhstan*, 2011; Commissioner for Human Rights in the Republic of Kazakhstan and UNICEF, *Analysis of legislation and complaints on torture and violence against children in the context of juvenile justice*, Astana, 2013; UNICEF and National Center for Human rights in Kazakhstan, *Protecting children from torture and cruel treatment in the context of juvenile justice in Kyrgyzstan*, 2012; and UNICEF and others, *Torture and ill-treatment in the context of juvenile justice in Tajikistan: Report on the results of legislation and practice review*, 2012.

2. Research methodology

Children detained in a range of different institutions participated in the survey and a description of each institution can be found in the Annex on page 28. These included institutions for:

- children awaiting trial or who had been convicted;
- children who were subject to ‘educational measures’ arising from concerns about their behaviour (which did not always amount to criminal behaviour);
- a psychiatric hospital; and
- state-run residential institutions for children who were in need of care and protection, for example, as a result of family break-down or homelessness.

The interviews were designed to gather quantitative data regarding the prevalence of violence and to identify which children were most at risk of violence and the circumstances and context in which it occurs. Interviews were conducted using a questionnaire to ensure that all children answered the same questions. The questionnaires were either completed during individual interviews or in small groups. The questionnaire covered the nature of response to any incidents of violence and there was scope for qualitative information to be gathered in addition. Staff were also interviewed in order to verify the information provided by children and to obtain additional insights on management and how they interacted with children.

Data from these interviews was then entered into a database and analysed to determine trends and patterns in children’s experience of violence. The findings for each country are presented separately below. In total, 274 children were interviewed. Efforts were made to interview girls as well as boys but the majority were boys – 86 per cent – reflecting the fact that the majority of children in conflict with the law in these countries, and indeed elsewhere, are boys.

Conducting research with children in closed institutions can be fraught with ethical considerations particularly concerning privacy, 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.²⁰ 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.²¹

Every effort was made by PRI, the National Center for Human Rights in Kazakhstan and the four organisations conducting the research to ensure that children were not harmed through their participation in the survey. At the same time, the research methods used allowed them to describe their experiences and express their views. All four 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.²² Participation was voluntary, the purpose of the research was clearly explained, information on the questionnaire was recorded anonymously, and efforts have been made to ensure that no child could be identified in this report.

At the end of the questionnaire, children were asked if it was difficult for them to be completely honest about what happens in the institution where they were detained – only four per cent of children interviewed in Tajikistan agreed with this but in Kyrgyzstan 36 per cent of children said it was difficult to be honest and in Kazakhstan as many as 39 per cent said this was the case. This indicates that children may have under-reported incidences of violence when giving their responses and the survey findings are really only an estimate of the true picture. 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.

²⁰ 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.

²¹ 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.

²² All interviewers had to agree to PRI’s *Child Protection Policy* and were familiar with PRI’s *Guidance Note for Interviewing Children*.

Table 1: Children and staff who participated in the survey

COUNTRY	Number of children interviewed	Number of boys	Number of girls	Number in state-run residential institutions	Number in closed institutions for children in conflict with the law	Number of staff interviewed
Kazakhstan	155	128	27	43	112	39
Kyrgyzstan	42	33	9	17	25	14
Tajikistan	77	74	3	4	73	7
TOTAL	274	235 (86%)	39 (14%)	64 (23%)	210 (77%)	60

3. Findings from the survey in Kazakhstan

- **70% of children had a parent or other adult present during their interview at the police station, but only half were offered legal assistance.**
- **62% of boys were held alongside adults in police detention; four out of the six girls were not separated from men.**
- **55% of children in conflict with the law said they were treated cruelly, badly or violently by the police; 37% of children said they had been abused by staff in a detention centre.**
- **63% of children in state residential institutions said they felt safe. However, 44% said they had been abused by another child and 42% by staff.**

3.1 Introduction

Children in conflict with the law are detained in a variety of different institutions in Kazakhstan. At the first stage of criminal proceedings, these include police stations, 187 temporary detention facilities as well as 18 pre-trial detention facilities. The total number of children held in these institutions is not known but we do know that in 2012, 1,152 children were convicted of criminal activity and that there is a downward trend in the conviction of children.²³ There are two detention centres for children who have been convicted of an offence – one for girls attached to a women’s prison near Almaty which held six girls on the day of the survey²⁴ and one which held 99 boys.²⁵ In addition, there is a Special Boarding School in East Kazakhstan Province for children who have committed offences when under the age of criminal responsibility, which on the day of the survey held 19 boys.²⁶ The age of criminal responsibility in Kazakhstan is 16 years of age but for certain serious crimes it is 14 years old.²⁷

Children are also detained in a number of state-run residential institutions including eight Special Schools for children who have exhibited so-called ‘deviant behaviour’ and 18 centres for the rehabilitation of minors who lack appropriate family care and protection and where children may stay for up to 90 days.

During May and June 2014, the NGO CREDO conducted research in five institutions where children were deprived of their liberty in Kazakhstan. In total 155 children were interviewed – 43 children living in state-run residential institutions and 112 living in institutions for children in conflict with the law. At the time the survey was undertaken, there were 238 children held in these five institutions overall so the survey captured the views of 65 per cent of children living in these five institutions. CREDO also interviewed 39 members of staff from different institutions.

While the proportion of boys and girls in state-run residential institutions was approximately the same, boys vastly outnumbered girls in institutions for children in conflict with the law and the majority of those who participated in the survey in Kazakhstan – 83 per cent – were boys. It is important to note that 39 per cent of children who took part in the survey said that it was difficult for them to be completely honest about what was happening in the institution where they were living. A fifth of staff also said it was difficult to be honest.

²³ TransMonEE database, 2014.

²⁴ Survey took place in girls’ detention centre on 6th June 2014.

²⁵ Survey took place in boys’ detention centre on 3rd, 4th and 5th June 2014.

²⁶ Survey took place in Special Boarding School on 22nd May 2014.

²⁷ 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.

Table 2: Closed institutions in Kazakhstan where children participated in the Survey

Closed institution	Responsible Ministry	Function of institution	Number of children on day of Survey	Number of children who participated in survey
Special 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	19 boys	13 boys
Detention centre for girls 155/4 (attached to Almaty Prison for Women)	Ministry of Internal Affairs	Girls under 18 who have been convicted of a criminal offence	6 girls	6 girls
Detention centre for boys 155/6 (Almaty)	Ministry of Internal Affairs	Boys under 18 who have been convicted of a criminal offence	99 boys	92 boys
Centre for Rehabilitation of Minors (Temirtau, Karagandinskaya oblast)	Ministry of Education and Science	Children lacking appropriate parental care	63	21 (12 boys and 9 girls)
Special residential school for children with anti-social behaviour (Kernei village, Karagandinskaya oblast)	Ministry of Education and Science	Children found to have engaged in anti-social behaviour or who have committed repeated administrative offences	51	22 (10 boys and 12 girls)

3.2 Findings for children in conflict with the law in Kazakhstan

Background characteristics of the children

In total 106 boys and six girls in conflict with the law were interviewed in the three different institutions – detention centre for convicted girls, detention centre for convicted boys and a Special Boarding School for children who commit offences but who are under the age of criminal responsibility. Nearly a quarter of these children were between 14 and 16 years old, 70 per cent were between 16 and 18, and six per cent were over 18 years old. This age distribution reflects the fact that the age of criminal responsibility in Kazakhstan is 16 years but falls to 14 years for certain offences that are classified as serious such as murder and rape. It also reflects the fact that there were detainees in the boys' detention centre who were over 18 years old.

Before arriving in the institution, 66 per cent of these children were living with both parents, 15 per cent with

a single parent, four per cent with another family relative and seven per cent were living independently. A very small number were living in a children's home or with a guardian. For nearly all of these children – 94 per cent – this was the first time they had been in this institution. Only one boy said he had been placed in an institution many times before. Most children – 68 per cent – had been in the institution for less than a year and a fifth for between one and two years. Twelve per cent had been there for more than two years, all of whom were boys in the detention centre near Almaty.

Treatment at the police station

Contact with parents and lawyers

In Kazakhstan, when the suspect is under 18 years old, a parent or other responsible guardian must be notified of their arrest²⁸ and a lawyer, parent or other responsible adult must be actually present whilst a child is in police custody.²⁹ According to the survey, 63 per cent of children were able to contact a parent or guardian to

²⁸ 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.

²⁹ The Kazakhstan Criminal Procedure Code CPC Art. 487(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'.

inform them of their arrest and 70 per cent had a parent, relative or other adult present during interview. Only half were offered legal assistance whilst in police detention. 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 and one of them explained that he had no adult with him at all whilst being questioned.

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.³⁰ 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 37 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 14 per cent were held for 1-2 days. However, ten per cent were held for 3-4 days and 21 per cent for over five days.

Detention alongside adults at the police station

Six girls participated in the survey and four of these girls said that they were not separated from men whilst at the police station. Four girls also said they were detained alongside adults (either men or women) – three of them whilst they were inside a police station cell and one whilst being transported to and from court. Amongst the boys who participated in the survey, 66 per cent were separated from detainees of the opposite sex during police detention and 62 per cent were held alongside adults. This took place inside a police station cell for 44 per cent of children and whilst being transported for the rest.

Prevalence and nature of violence against children in police detention

Only 28 per cent of children said they felt safe whilst at the police station and 55 per cent said that they were treated badly by the police. Amongst those children who said that they had been abused at the police station, a third experienced this once and nearly half more than once (16 per cent were not sure). A quarter of all children in conflict with the law who participated in the survey said they experienced harsh verbal abuse from the police,³¹ nine per cent psychological abuse, and 18 per cent moderate physical violence. A third said they had endured severe physical violence.³²

When asked to elaborate, 40 out of the 62 children who said they had been treated badly said that they did not wish to speak about it. Twelve children simply said that they were beaten. Others provided more detail such as:

‘I was beaten with plastic bottles on the kidneys, so I told all.’

Girl, aged 16-18 years old

‘When I got there, they began to beat me and beat me to such an extent that I fainted. I woke up to the fact that they had stuck a needle under my nails.’

Boy, aged 14-16 years old

‘I was beaten and forced to clean the toilet in the police station. I did not commit this crime, but was told to take it on myself.’

Boy, aged 14-16 years old

‘They dipped my head into the toilet and put a bag over my head.’

Boy, aged 14-16 years old

‘They made me wear a gas mask and they were blowing smoke from cigarettes. They put a bag over my head.’

Boy, aged 14-16 years old

‘I was beaten and forced to clean the toilet in the police station.’

Boy, aged 16-18 years old

The Convention against Torture³³ defines torture as an act of severe pain or suffering – physical or mental – that is intentionally inflicted by a public official in order to obtain information or confession, as punishment, to intimidate or to coerce. According to this definition, it is likely that the treatment endured by children described above does amount to torture.

Response to abuse

Seventeen per cent of the children who said they had been abused by the police (both physically and psychologically) said that they received medical treatment for their injuries and most of this took place in the hospital with some treatment being provided at the police station. Just over a quarter of children who had been abused told an adult about this. Of the 17 children who did tell an adult, 35 per cent told a police officer, 12 per cent informed a social worker, 47 per cent a lawyer, and nearly all told their parents. Those who had been abused but did not tell an adult were asked to explain why: 13 per cent said it was because they were afraid of the consequences, nine per cent they didn’t know that they could tell an adult, and 44 per cent did not think anything would happen if they did tell an adult.

³⁰ Kazakhstan’s CPC, Art. 13(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’.

³¹ Please note that children were allowed to tick more than one box.

³² ‘Severe’ physical violence was defined in the questionnaire as for example to shake children; slap children in the face or on the head; slap children on the buttocks, back, leg, arm; grab, push, or knock children down; hit or kick children; hit children with a hard object or weapon, e.g., stick, belt, whip, ruler, or other little things that hurt; hit children so hard that they had marks or were injured; burn children with cigarettes or other hot items.

³³ Article 1(1), UN Convention against Torture.

Treatment in the detention facility

Perception of safety

The majority of children in conflict with the law who took part in the survey – 69 per cent – said that they felt safe living in their institutions. This proportion was evenly spread across all three institutions (the detention facility for girls, the detention facility for boys and the Special Boarding School). At the same time, 13 per cent said they were afraid of other children and a quarter that they were afraid of members of staff.

Held alongside adults in detention

Fifty-four per cent of children who participated in the survey said they had been held alongside adults whilst in detention (not including police detention). For 67 per cent of these children this contact with adults took place whilst they were in a temporary detention facility. Seven per cent of detainees in the detention centre for boys were aged over 18 years old yet living alongside children under 18 years old.

Contact and visitors from outside

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

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

Recommendation for improvement by girl, 16-18 years old, in detention facility for girls in Almaty

Disciplinary measures or punishment

Corporal punishment is not permitted as a disciplinary measure although at the time of conducting the survey, solitary confinement for up to seven days was available as a punishment in detention facilities for children. 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. These include: warning, reprimand, strong reprimand and placement in a cell for ‘temporary isolation for 72 hours’. When asked which disciplinary measures were used in the Special Boarding School in East Kazakhstan, all staff stated that they used warnings or reprimands as well as oral or written apologies but nothing else. As of 2014, when the previous revision of the Criminal Code was in force, in the detention facilities for girls, one member of staff stated that they used oral or written apologies and also transfer to a different room and solitary confinement.

Nearly half of children who took part in the survey said they had been subject to disciplinary measures or punishment. The biggest proportion of these – 65 per cent – were given warnings or a reprimand, whilst 26 per cent said they had been transferred to a different room or unit in the institution. A quarter said they had experienced physical punishment such as beatings. Nearly a fifth had had to prepare a written apology. Nine per cent (five boys

in total) said they had experienced solitary confinement (all of whom were in the boys’ correctional facility).

Complaints mechanisms

Forty-one per cent of children said they were aware of a complaints mechanism being available to them.

Violence amongst children

Fifteen per cent said they had witnessed violence amongst children. Thirteen per cent said they had witnessed bullying, a fifth harsh verbal abuse, 16 per cent psychological abuse and 10 per cent physical violence. A fifth of children said they had been abused by another child in the institution – with 43 per cent saying this happened once and 35 per cent more than once. Nearly half of these children had been harshly verbally abused and 13 per cent had received psychological abuse at the hands of other children in the institution. Over half had been subject to moderate physical violence and 17 per cent to severe physical violence. Nearly half of those who said they had been abused by another child said they had received injuries such as small bruises, scrapes and cuts. Four boys out of 23 who had been abused by other children said they had received internal injuries. Nearly half received medical treatment. Staff intervened in fewer than 40 per cent of such incidents.

Violence and staff

A quarter of children said they had witnessed staff using violence against children, 23 per cent had witnessed staff bullying children, 29 per cent staff using harsh verbal abuse and 15 per cent staff psychologically abusing children. Nearly a third had witnessed staff using physical violence against children and 65 per cent of these said that the violence was severe.

As many as 37 per cent of children who took part in the survey said they had been abused by staff, with a third of these children saying this happened once and 40 per cent saying it was more than once. These proportions were spread evenly between the different institutions. For 37 per cent the abuse received was being spoken to harshly, for a fifth it was psychological abuse, 32 per cent experienced moderate physical violence, and 37 per cent severe physical violence. Nearly 40 per cent of those who said they had been abused by staff received injuries such as small bruises, scrapes and cuts, 12 per cent said they received internal injuries, and 12 per cent said they had been knocked out.

A third of children who had been injured said they received medical attention for their injuries whilst staff intervened in a fifth of such incidents. Only 15 per cent of children who said they had been abused by a member of staff decided to tell an adult in the institution. Overwhelmingly this was because they didn’t think anything would happen as a result of their complaint. In just seven cases, action was taken against the person who hurt the child. Only four out of eleven members of staff working in these facilities said they had received training on how to identify and respond to violence against children and no staff said they had witnessed violence against children.

Improvements

Children were asked what improvements they would like to see happen. Their answers were diverse and focused mainly on conditions of detention. They suggested: setting up a sports hall, improving the food, and better heating. The eleven members of staff working in institutions for children in conflict with the law who participated in the survey explained that the biggest problems they faced were the lack of resources, poor working conditions and low pay.

3.3 Findings for children in state-run residential institutions in Kazakhstan

Background characteristics of children

‘My father was a bad person. He forced my mother to drink vodka. Because of this, I left the house. The police caught me and sent me to a school for street children.’

Boy 16-18 years old

In total 22 boys and 21 girls were interviewed in two different closed institutions for children in need of care and attention described in the Annex on page 28 (the Special School and Centre for Rehabilitation of Minors). One child (living in the Rehabilitation Centre) said they were under ten years old, a third were between 10 and 14 years old, 39 per cent between 14 and 16, and 35 per cent between 16 and 18 years old.

Before arriving in the institution, 40 per cent were living with both parents, 42 per cent with a single parent, and 12 per cent with another family relative. A very small number were living with a guardian. For most children – 86 per cent – this was the first time they had been in this institution. Six children said they had been placed there once before. A fifth of children had been there for less than one month, a half between one and six months and a third between one and two years. Forty-two per cent said they had contact with children in conflict with the law whilst in the institution. Twenty-eight members of staff were interviewed in the Special School.

Treatment in the state-run residential institutions

‘Staying within the walls of our school, children develop creatively and physically. They participate in regional competitions and win prizes. Children are happy, but when they return home, parents cannot send them to college or to get a job, and the children begin to return to closed institutions again. I hope the government will pay attention to this problem.’

Member of staff working in Special Boarding School for Boys

Perception of safety

The majority of children in need of care and protection who took part in the survey – 63 per cent – said that they felt safe in their institutions. This figure is slightly less than for children in conflict with the law (69 per cent). This proportion was evenly spread across both institutions. At the same time, a fifth said they were afraid of other children and nine per cent that they were afraid of members of staff.

Contact with visitors from outside

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

Disciplinary measures or punishment

‘All children want to go home, but they are hampered by bad behaviour, that’s why the staff become angry. We have the help of many psychologists, teachers and trainers. I always feel good and calm with them.’

Boy, 16-18 years old, in Special School

In Kazakhstan’s eight Special Schools, the only disciplinary measures permitted are: warning, reprimand, discussion at a general meeting and extraordinary duties.³⁴ Corporal punishment is expressly forbidden as a disciplinary measure. Twenty-eight members of staff were interviewed in the Special School. Five expressed the view that no disciplinary measures were used at all. However, 18 (64 per cent) said that warnings or reprimands were used by staff and four that written

³⁴ 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.’

warnings or apologies were used. Two members of staff said that solitary confinement was used and one that physical punishment was used. Amongst all staff interviewed for the survey, just two (five per cent) said they supported the use of corporal punishment, both of whom were working in the Special School.

Three quarters of children in state-run residential institutions who took part in the survey said they had been subject to disciplinary measures or punishment. The biggest proportion – 47 per cent – were given warnings or a reprimand whilst 15 per cent had to make an oral or written apology. A third said they had experienced physical punishment such as beatings. A fifth said they were punished by restriction of contact with their family and 12 per cent that they had been transferred to a different room or unit in the institution. None had experienced solitary confinement.

Complaints mechanisms

Forty nine per cent of children said they were aware of a complaints mechanism being available to them.

Violence amongst children

A third of children said they had witnessed bullying and 65 per cent harsh verbal abuse, 40 per cent psychological abuse and 35 per cent physical violence amongst children. Forty-four per cent of children said they had been abused by another child in the institution – with half saying this happened once and half more than once. Nearly three quarters of these children had been harshly verbally abused and 16 per cent had received psychological abuse at the hands of other children in the institution. Over a third had been subject to moderate physical violence and five per cent to severe physical violence. Over half said they had received injuries such as small bruises, scrapes and cuts. Staff intervened in around half of such incidents.

Twenty-eight members of staff in the Special School were interviewed and gave a different picture. A third said that they had witnessed harsh verbal abuse among children and 18 per cent had witnessed bullying. Eleven per cent had witnessed psychological abuse and physical violence.

Violence and staff

Nearly a third of children said they had witnessed staff bullying children, 42 per cent staff using harsh verbal abuse and 16 per cent staff psychologically abusing children. Forty-four per cent had witnessed staff using physical violence against children and nearly half of these children said that the violence they witnessed was severe.

As many as 42 per cent of children who took part in the survey said they had been abused by staff with a third of these children saying this happened once and over half saying it was more than once. These proportions were spread evenly between the different institutions. For 61 per cent the abuse received was being spoken to harshly, for 39 per cent it was psychological abuse, and 45 per cent experienced moderate physical violence. One boy said he had received severe physical violence. Nearly 70 per cent of those who said they had been abused by staff received injuries such as small bruises, scrapes and cuts.

A third of children who had been injured said they received medical attention for their injuries whilst staff intervened in a fifth of such incidents. Over a third of children who said they had been abused by a member of staff decided to tell an adult in the institution. Of those who did not tell anyone, most said this was because they didn't think anything would happen as a result of their complaint. In just five cases, action was taken against the person who hurt the child.

The staff interviewed in the Special School gave slightly different responses – 18 per cent said they had witnessed staff using physical violence against children and in two cases this violence was severe, 11 per cent said they had witnessed the use of harsh verbal abuse, and four per cent had witnessed bullying and psychological abuse. Just under a third of staff said they had received training on how to identify and respond to violence against children.

‘Punishing juveniles in a closed institution completely obstructs the needs of adolescents and deforms their personality.’

Member of staff in Special School

Improvements

Children were asked what improvements they would like to see happen. Their answers were diverse and focused mainly on conditions of their detention. They suggested: setting up a sports hall and having more visits from parents. One boy in the Special School suggested separating girls and boys. Out of 28 members of staff interviewed, 36 per cent said their main problem was with children's personalities, a third said it was low pay and ten per cent complained of too much work, lack of resources and poor working conditions.

4. Findings from the survey in Kyrgyzstan

- **12% of children spent more than five days in police custody.**
- **68% of children said they were treated badly by the police.**
- **Half of children in pre-trial detention had regular contact with parents or family, but only 29% of children in residential institutions did.**
- **Six out of eight children in pre-trial detention said they had been abused by staff, with four experiencing severe physical violence.**
- **Around a third of children in the state-run residential institutions said they had witnessed physical violence among children; 53% said they had been abused by staff.**

4.1 Introduction

There are a number of institutions where children in conflict with the law are detained in Kyrgyzstan:

- 46 temporary detention facilities (IVS);
- five pre-trial detention centres, one of which is for juveniles only;
- a detention centre for juvenile boys (No.14, Voznesenovka village);
- a detention unit for girls (Women's detention centre No.2, Stepnoye village);

There is one Special School for boys who are under the age of criminal responsibility or who have repeatedly committed administrative offences. There are also two Centres for Crime Prevention amongst Minors which report to the Ministry of Interior. Children are also detained in a range of state-run residential institutions including boarding schools, a psychiatric hospital and homeless shelters.³⁵ Kyrgyzstan is attempting to reduce the numbers of children placed in residential institutions through measures such as ensuring only courts have the power to place children in such institutions.

During Spring and Summer 2014, the NGO Youth Human Rights Group (YHRG) and the National Center for the Prevention of Torture conducted research in six institutions where children were deprived of their liberty. In total 42 children were interviewed – 17 children in state-run residential institutions and 25 in institutions for children in conflict with the law. It is important to note that the NGO conducting the survey in the boys' detention centre only asked the respondents to complete questions relating to their treatment at the police station and in pre-trial detention. This was due to restricted access to this institution.

At the time the survey was undertaken, there were 155 children held in these six institutions overall, so the survey captured the views of 27 per cent of children in these institutions.³⁶ While the proportion of boys and girls in state-run residential institutions was approximately the same, boys vastly outnumbered girls in institutions for children in conflict with the law and the majority of those who participated in the survey in Kyrgyzstan – 78 per cent – were boys.

³⁵ According to a government official giving evidence to the UN Committee on the Rights of the Child in 2014, there are 117 residential facilities in Kyrgyzstan; <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14651&LangID=E> <accessed 29 April 2015>.

³⁶ This figure excludes the nine children under three years old living with their mothers in Stepnoye Prison who were not part of this survey.

Table 3: Closed institutions in Kyrgyzstan where children participated in the Survey

Closed institution	Responsible public agency	Function of institution	Number of children on day of survey	Number of children who participated in survey
Detention unit for girls (attached to Stepnoye Women's Prison No. 2)	GSIN	Girls who have been convicted of a criminal offence	1 detainee (18 years old on day of Survey)	1 detainee
Detention centre for boys No. 14 (Voznesenovka Village)	GSIN	Boys aged between 14-18 years old who have been convicted of an offence	33 boys	16 boys NB these boys only answered questions about police and pre-trial detention
Pre-trial detention centre No. 21, Bishkek	GSIN	Boys 14-18 years old awaiting trial	9 boys	8 boys
Centre for Social Adaptation of Minors	City Hall, Bishkek	Children lacking appropriate family care who stay for up to six months	57 boys and girls	5 (3 girls and 2 boys)
Republican Psychiatric Hospital for children (Ivanovka village)	Ministry of Health	Provision of medical care to children with psychiatric disorders	16 boys and girls	4 (3 girls and one boy)
Centre for Homeless Children, Bishkek	City Hall, Bishkek	Children lacking appropriate family care	39 boys and girls	7 (5 boys and 2 girls)

The biggest proportion of children who participated – 36 per cent – were between 16 and 18 years old, a third were between 14 and 16 years old and 16 per cent were between 10 and 14 years old – none were under ten years of age. One girl of 18 was interviewed in Stepnoye Women's Prison. It is interesting to note that 36 per cent of children who took part in the survey said that it was difficult for them to be completely honest about what was happening in the institution where they were living. Fourteen members of staff from different institutions were also interviewed and just one of them said it was difficult for them to be completely honest about what happened in the institution where they were working.

4.2 Findings for children in conflict with the law in Kyrgyzstan

Background characteristics of children

In total 24 boys and one girl were interviewed in three different institutions: a detention unit for girls attached to Stepnoye Women's Prison, a detention centre for boys and Facility No.21 (a pre-trial detention centre). Eight boys were in pre-trial detention and the rest of the children had been convicted. Forty per cent were

between 14 and 16 years old, 56 per cent were between 16 and 18, and the girl interviewed was over 18 years old.

Before arriving in the institution, 36 per cent of children were living with both parents, 36 per cent with a single parent, four per cent with another family relative and eight per cent were living independently. For nearly all of these children – 96 per cent – this was the first time they had been in this institution. Only one boy said he had been placed there one or two times before. Most children – 68 per cent – had been in the institution for less than a year and 16 per cent for between one and two years. Sixteen per cent had been there for more than two years.

Treatment at the police station

Contact with parents and lawyers

Under Kyrgyzstan's Criminal Procedural Code (CPC) Article 393(4), the family or legal representative of a child under arrest should be immediately notified. According to the survey, 52 per cent of children were able to contact a parent or guardian to inform them of their arrest and 40 per cent had a parent, relative or other adults present during interview. Only half were offered legal assistance whilst in police detention.

Length of time in detention

Under Article 393 (3) of the CPC, a detainee must be brought before a judge within 24 hours. Just under half of children who took part in the survey were held in police detention for less than 24 hours before being taken to a court and eight per cent were held for 1-2 days. However, 16 per cent were held for 3-4 days and 12 per cent for over five days.

Detention alongside adults

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’.³⁷ The survey found that in practice children are placed with adults whilst in police detention. Just one girl in conflict with the law participated in the survey and she said that she was separated from men whilst at the police station but was detained alongside women (she did not specify where this took place). Amongst the boys who participated in the survey, 60 per cent were separated from detainees of the opposite sex during police detention and 62 per cent were held alongside adults. This took place inside a police station cell for a third of children and whilst being transported.

Prevalence and nature of violence against children in police detention

A quarter of children said they felt safe whilst at the police station and 68 per cent said that they were treated badly by the police. Amongst those children who said they were abused at the police station, a third experienced this once and 59 per cent more than once. Nearly half of all children in conflict with the law who participated in the survey said that they experienced harsh verbal abuse from the police and 40 per cent psychological abuse. A fifth endured moderate physical violence and 56 per cent severe physical violence. When asked to elaborate on what had happened to them at the police station, the children gave the following answers.

‘In the police department I was standing for around five hours. On the road to the IVS (temporary detention facility) I was beaten. In the IVS I was persuaded to sign a confession.’

‘After I was taken to the hospital, I was beaten and kicked in the back. In pre-trial detention (SIZO) I was placed with adults. There was a camera near the medical room.’

Boy, 16-18 years old, in pre-trial detention

‘As soon as I got caught, the policemen broke my nose, tied my hands, beat me in the kidney area and on my back. At the police station on the second floor (I don’t remember the room but I could show you), they forced me to confess to

other crimes. I was beaten in the face and they threatened to put a bag on my head. Tried to persuade me and to promise that they would help. Again began to beat me in the face, put a book on my head, swore at me, humiliated me saying that I am not a man. After, I was strapped to a chair and I sat up until the morning, then was transferred to the “monkey” (slang word for IVS).’

Boy, 16-18 years old, in pre-trial detention

‘I did not admit guilt, so they beat me with a baton and fists, about 15 people kicked me. Then the chief came, and threw them all out, because some of them were not police officers. I had to sign a document stating that I am guilty. But I am not guilty. If I was guilty, I would not deny that.’

Boy, 16-18 years old, in pre-trial detention

‘In the Leninsky district police department three “opera” (slang word for police officers) beat me. I beat one guy, and the police wanted me to admit the rape, but I did not sign.’

Boy, 16-18 years old, in pre-trial detention

‘I was electrocuted. One sits down on my knees, puts a plastic bag on my head, hits me hard in the chest, stops me breathing. Then again, they beat me on my heels with a baton, I had the feeling that my whole body was beaten with batons. Electricity was put under my armpits, yes, awful. Other “opera” (policemen) came and asked me to write the “visyaki” (slang word for crimes that remain unsolved). I refused to accept what I am not guilty of, so they beat me. I was beaten on the head with a plastic bottle filled with water, and needles were stuck under my fingernails.’

Boy, 16-18 years old, in pre-trial detention

‘In the IVS (temporary detention facility) I was with adults for 3-4 days. In the police department I was brought into another room and five or six people stripped me naked and then beat and kicked me.’

Boy, 14-16 years old pre-trial detention

‘I was held for five days in solitary confinement and beaten with hands, feet and batons for four days.’

Boy, 14-16 years old, detention centre

‘They put a plastic bag on me and beat me with a baton, so that I took the blame.’

Boy, 14-16 years old, in detention centre

‘They put me in handcuffs, put a plastic bag on my head, stripped me naked, I was beaten with a baton in the kidneys.’

Boy, 14-16 years old, in detention centre

³⁷ Penal Reform International, *Analysis of legislation on prevention of violence against children in Central Asia*, 2014.

‘Opera (policemen) told me I could safely go into the IVS (temporary detention facility) in Bishkek. After two days they took me out and tried to force me to confess to two other crimes. TORTURE? Yes I was beaten with a chair, then they put a plastic bag on my head. I started chewing on the bag and they bought a more durable bag for 5 soms. During the three days at the police station, I was beaten every hour. I am charged with three offences, the first I admitted in court the second was forced by torture. During the torture, I lost consciousness. They also collected water in a plastic bottle and hit me on the head.’

Boy, 14-16 years old, in detention centre

‘I was interrogated 20 or 30 times and my mother was present only once. In the car, police stuck needles in my feet and I was beaten with electric wire and a fork.’

Boy, 14-16 years old, in detention centre

‘In the IVS (temporary detention facility) I was dragged out twice and beaten. Handcuffs were put behind my back and they put a plastic bag on my head. At the police station in Osh, I was tortured for two days. I did not sleep for two days. If I fell asleep, they put a gas mask on or woke me with ammonia. I admitted to one offence, but because of the torture I was ready to sign up to as many and whatever offences. I lost consciousness. I was electrocuted and beaten.’

Boy, 14-16 years old, in detention centre

‘I was beaten at the police station and was forced to confess. There were several staff who kept us apart from each other and questioned us separately, they said that a friend had already signed a confession.’

Boy, 16-18 years old, in detention centre

Response to abuse

Twelve per cent of children who said they had been abused (both physically and psychologically) said that they received medical treatment for their injuries. A third of children who had been abused told an adult about this with most telling their parents. No action was taken against the abusers. One boy who gave an account of torture at the police station that included suffocation with a plastic bag, sleep deprivation, beating and electrocution explained that he told a police officer ‘who wrote it all down but nothing happened’.

Treatment in the pre-trial detention facility³⁸

Perception of safety

Only one child in the pre-trial detention facility said they felt safe. No children said that they were afraid of other children but three said that they were afraid of members of staff.

Held alongside adults in detention

Four children said they had been held alongside adults whilst in a temporary detention facility whilst for a quarter it was in a different detention facility. The law ‘On the procedure and conditions of detention of persons detained for suspected and accused of committing a crime’ allows for children to be placed with adults ‘in exceptional cases with the permission of the prosecutor’.

Contact and visitors from outside

Nearly all children said that they were allowed regular visits of around one to two hours with visitors. Half said that they had regular contact with parents or other family members.

‘My parents rarely come, just once in two years.’

Boy, 16-18 years old pre-trial detention

‘In four months I have met with my parents twice through the little window. It lasted 29 minutes. Sometimes I meet with my parents at court and sometimes they pass me a parcel.’

Boy, 14-16 years old pre-trial detention

Conditions in the pre-trial detention centre

Children complained that they were not involved in any education or training, their dormitories were overcrowded and poorly ventilated, clothing was inadequate and the food not plentiful enough. Children may stay in the pre-trial detention centre for up to a year (and indeed one child said he had been there for over a year).

Disciplinary measures or punishment

Children in 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. Amongst our small sample of eight children, half had been subject to disciplinary measures including warnings and reprimands, physical punishment and solitary confinement.

According to research conducted by YHRG in 2012, solitary confinement in institutions for children in conflict with the law in Kyrgyzstan is ‘not characterized as an extreme and exceptional measure of punishment’.³⁹ UN rules regarding the protection of children deprived of their liberty are clear that the use of solitary confinement as a disciplinary measure for children amounts to cruel,

³⁸ Please note that only eight boys in the pre-trial detention centre completed this section of the survey.

³⁹ UNICEF and others, *Protecting children from torture and cruel treatment in the context of juvenile justice in Kyrgyzstan*, 2012, p40.

inhuman or degrading treatment.⁴⁰ When asked to elaborate further, it seems that boys were placed in solitary confinement for relatively minor issues such as complaining about food.

‘Here in the SIZO (the pre-trial detention centre), there are many diseases because the rooms are cramped and poorly ventilated. We almost do not eat the food here, just take the bread and sugar. Once the potatoes had worms. Having only one kind of food spoils the appetite. One day we asked for a bath and a normal meal, because of this we were beaten. Three or four times I was locked up alone in an empty room (where there were only the walls and floor). Often the process of beating is recorded on cell phones. One of my toenails fell off because of the heavy shoes pressed on to my feet.’

Boy, 16-18 years old, in pre-trial detention

‘I do not eat the food, the potatoes have worms and bird feathers. If you complain about the food, staff give you a reprimand or insult you. Each reprimand is accompanied by a beating.’

Boy, 16-18 years old, in pre-trial detention

‘I was punished for what I said because I would not eat the food (potatoes with worms) and was placed in solitary for one hour. The room is small, in the corner there's a toilet, floor tiles, nothing more.’

Boy, 16-18 years old, in pre-trial detention

Complaints mechanisms

Only one of the children surveyed in the pre-trial detention centre said they were aware of a complaints mechanism being available to them.

‘Twice I wrote a complaint to the chief of SIZO that did not reach him, the staff tore it up. Not only mine, but also a complaint of another boy did not make it.’

Boy, 16-18 years old, pre-trial detention centre

Violence amongst children

None of the eight children in the pre-trial detention centre said that they had witnessed violence amongst children or experienced it themselves. Half of the members of staff interviewed said they had witnessed such violence and that in almost all cases staff would intervene.

Violence and staff

Six out of eight children interviewed in the pre-trial detention centre had witnessed staff using some kind of violence against children. Five out of eight had witnessed bullying, six harsh verbal abuse, one psychological abuse and six had witnessed staff using physical violence against children which they classified as being severe – no children were provided with medical treatment following this.

Six of the eight children said they had been abused by staff themselves, all more than once. All experienced harsh verbal abuse, five psychological abuse, five moderate physical violence and four severe physical violence resulting in large bruises, major cuts, black eyes and head injuries. None received medical treatment and staff intervened on only two occasions.

Staff were asked if acts of violence against children were recorded or registered but only 14 per cent said that this took place. Half of staff had received training on how to identify or respond to violence against children.

Improvements⁴¹

Children in the pre-trial detention centre were asked what improvements they would put in place if they were the director of the centre. Their answers were diverse:

‘I would change the attitudes of guards.’

Boy, 16-18 years old, in pre-trial detention

‘I am tired of the concrete walls and want longer for walking outside. They need to improve food and improve conditions. I don't want to be the director because they torture and mock people but they should not because we are people too. I would change the bed linen.’

Boy, 16-18 years old, in pre-trial detention

‘I would pay more attention to children and give milk and eggs and other products. Previously we were given milk and eggs but no longer. I would improve the children's cells.’

Boy, 16-18 years old, in pre-trial detention

‘I would improve the cells and not lock more than 20 people in one cell, and have one cell only for three or four people. I would improve the food for the children, and provide milk and eggs. Allow a bath two times a week in the summer, or at least once per week.’

Boy, 16-18 years old, in pre-trial detention

‘I would improve the cells for children, the food, and children would not be beaten.’

Boy, 16-18 years old in pre-trial detention

⁴⁰ UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), adopted by General Assembly resolution 45/113 of 14 December 1990.

⁴¹ ‘The Government acknowledged the current shortfalls in the juvenile justice system and accepted that more needed to be done to implement international standards regarding the detention of minors. Work was therefore under way to find solutions to the lack of available staff and resources in the judicial and prison systems, and it was hoped that improvements would be seen in the near future.’ Extract from Summary Record of Committee on the Rights of the Child consideration of third and fourth periodic reports of Kyrgyzstan on the implementation of the CRC, (6 June 2014 CRC/C/SR.1881)

4.3 Findings for children in state-run residential institutions in Kyrgyzstan

Background characteristics of children

In total, nine boys and eight girls were interviewed in three different institutions (one Republican psychiatric hospital for children, one social rehabilitation centre and one centre for homeless children). Over a third of these children were under ten years old, 41 per cent were between 10 and 14 years old and 18 per cent between 14 and 18 years old. Before arriving in the institution, 76 per cent were living with both parents or with a single parent; the others were living in different institutions previously. For many children – 59 per cent – this was the first time they had been in this institution. A quarter of respondents had been there for under one month, a quarter under a year, and a quarter for between one and two years. Twelve per cent had been there for longer than two years.

Treatment in the state-run residential institutions

Perception of safety

The vast majority of children in need of care and protection who took part in the survey – 88 per cent – said that they felt safe in their institutions. This proportion was evenly spread across the three institutions. At the same time, 12 per cent said they were afraid of other children and 41 per cent that they were afraid of members of staff.

Contact and visitors from outside

Nearly all children said that they were allowed regular visits of around one to two hours with visitors and one said there was a physical barrier in place during visits. However, only 29 per cent said that they had regular contact with parents or other family members.

Disciplinary measures or punishment

Seventy-one per cent of children said they had been subject to disciplinary measures or punishment. Thirty-five per cent of children had received a warning or reprimand or had had to make an oral or written apology whilst a third said they had received physical punishments such as beatings. When asked to explain further what sort of disciplinary measures they had received, they referred to being made to clean rooms and wash windows, being made to stand in the corner on one foot, and two children from the psychiatric institution explained that when they misbehaved they were given injections.

Fourteen members of staff were interviewed in different institutions. All said that they did not support the use of corporal punishment. Thirty-five per cent said that warnings, reprimands or apologies were used as disciplinary measures. Two employees said that solitary confinement was used and one referred to restriction of contact with family as a disciplinary measure. Well over

half of employees complained of too much work, lack of resources and poor working conditions and low pay. A third also cited children's personalities as a problem that they encounter.

Complaints mechanisms

Only one child (detained in the psychiatric hospital) said that they were aware of a complaints mechanism being available to them.

Violence amongst children

A third of children said they had witnessed bullying among children and 12 per cent harsh verbal abuse, six per cent psychological abuse and 47 per cent physical violence among children. Just under a third of children said they had been abused by another child in the institution, most of whom who received harsh verbal abuse and moderate physical violence. Just one child said they had experienced severe physical violence. Most of those who had been abused had received injuries such as small bruises, scrapes and cut or larger bruises, major cuts and black eyes. Only 40 per cent of those who said they had been abused by other children received medical treatment and had a staff member intervene.

Violence and staff

Nearly 60 per cent of children said they had witnessed staff using some kind of violence against children: 41 per cent had witnessed staff bullying children, 24 per cent staff using harsh verbal abuse and 6 per cent staff psychologically abusing children. Nearly 60 per cent had witnessed staff using physical violence against children and nearly half of these children said that the violence they witnessed was severe. Medical treatment was not provided.

Just over half of children (53 per cent) said that they had been abused by staff themselves and 78 per cent of these children said that this abuse happened more than once. Over half of all children had experienced harsh verbal abuse and a third moderate physical violence resulting in small bruises, scrapes and cuts. One child living in a shelter complained of severe physical violence resulting in major cuts, bruises and black eyes and said that she received medical treatment afterwards (she was the only child who said this).

None of the children who said they had been abused told an adult in the institution about this, with most saying that they did not know that they could.

Improvements

When asked what they would do if they were the director, few children responded but one child said, 'I would fire all the bad staff and only have good staff left'.

'Nobody wants the job. The employees are of pre-retirement or of retirement age.'

NGO responsible for conducting survey
in psychiatric institution, Kyrgyzstan

5. Findings from the survey in Tajikistan

- Only 37% of children were offered legal assistance at the police station.
- A third of children said they were treated badly by the police. Only 13% of children received medical treatment for their injuries and only 8% told an adult.
- Only 7% of children in detention centres said they had witnessed violence among children and 3% that they had seen violence by staff.
- None of the children from state-run residential institutions said they had seen or experienced violence.

5.1 Introduction

Closed institutions for children in Tajikistan include: a Temporary Isolation Facility; Special School; Special Vocational School; and detention centres for boys and for girls (attached to the Women's Prison in Nurek). During June and July of 2014, the NGO Child Rights

Centre conducted interviews with children from four closed institutions. In total, 77 children were interviewed – 73 of whom were in different institutions for children in conflict with the law (see Annex on page 28 for a detailed description of the institutions). It proved difficult to access social care institutions and so four children who had previously been held in a state-run residential

Table 4: Closed institutions in Tajikistan where children participated in the 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	Ministry of Internal Affairs	Girls and boys lacking appropriate family care	Not known	4 (3 girls and 1 boy who were interviewed after their release)
Detention centre for boys No.3/12	Ministry of Justice	Boys aged between 14-18 years old who have been convicted of an offence	62 boys	33 boys (20 were interviewed in the institution and 13 were interviewed after their release upon completion of their sentence)
Special Vocational and Technical College	Ministry of Labour, Migration and Employment	Boys aged between 14 and 18 years old found to have engaged in anti-social behaviour or who have committed repeated administrative offences	50 boys	20 boys
Special School	Ministry of Education	Boys aged from 10 to 14 years old who have committed crimes or whose behaviour is deemed to be beyond family control	30 boys	20 boys

institution were interviewed in their own homes. The vast majority of those who participated – 95 per cent – were boys in conflict with the law. A quarter of children were aged between 10 and 14, a fifth between 14 and 16, and 44 per cent were between 16 and 18 years old. Eight per cent were over 18. The Child Rights Centre also interviewed seven members of staff from different institutions.

5.2 Findings for children in conflict with the law in Tajikistan

Background characteristics of children

In total 73 boys were interviewed in three different institutions. A quarter were aged between 10 and 14, 22 per cent between 14 and 16, and 44 per cent were between 16 and 18 years old. Eight per cent were over 18. Before being placed in the institution just over half of these boys were living with both parents, 22 per cent were living with a single parent, and 18 per cent were living with another relative. So 93 per cent had been living with parents or relatives prior to their detention. For nearly all of these boys – 96 per cent – this was the first time they had been in this institution. Most of the boys – 63 per cent – had been in the institution for less than a year. However, 21 per cent had been there for between one and two years and 14 per cent for more than two years.

Treatment at the police station

Contact with parents and lawyers

Only 60 per cent of boys were able to make contact with a parent or guardian on their arrest and 45 per cent had a parent or guardian present whilst they were being interviewed. Just 37 per cent were offered legal assistance whilst in police detention. This is much lower than in either Kazakhstan or Kyrgyzstan.

Length of time in detention

According to the Criminal Procedure Code, children may be held in detention for up to 72 hours. A total of 44 per cent were held in police detention for less than 24 hours before being taken to a court or second facility. Nearly a fifth were held for 1-2 days, 8 per cent for 3-4 days and 11 per cent for over five days.

Detention alongside adults

Nearly 20 per cent of children said they were detained alongside adults whilst in police detention. All of these boys were from the detention centre. For just over half of these children this contact with adults took place in a police station cell and a third were with adults whilst being transported to and from court.⁴²

Prevalence and nature of violence against children in police detention

Sixty-three per cent of children participating in the survey said they felt safe whilst at the police station whilst 37 per cent said they did not. A third of children said that they were treated badly by the police. When asked to elaborate they explained that the police beat them, treated them cruelly and were often merciless. Amongst children who said they had been abused, a quarter said this happened just once, whilst three quarters said it happened more than once. A total of 80 per cent of those who complained of abuse experienced harsh verbal abuse, 54 per cent severe physical violence and 38 per cent moderate physical violence. A third of these children experienced psychological abuse.⁴³

‘During my time in police detention I received cruel treatment and was tortured. I had no lawyer and my parents were never informed. Now my father doesn’t have enough money to come and visit me.’

Boy, police detention

Response to abuse

Thirteen per cent of those children who experienced abuse received medical treatment for their injuries. Only eight per cent told an adult about the abuse they experienced. When asked why they didn’t tell an adult, 68 per cent said it was because they were afraid of the consequences. For 14 per cent they either didn’t know that they could tell an adult or did not think anything would happen if they did. For the two children who did notify an adult of their abuse at the hands the police, one told their lawyer and the other their parent. As far as they are aware no action was subsequently taken.

Treatment in the detention facility

Perception of safety

A very large number of children – 89 per cent – said that they felt safe in their institutions. This proportion was evenly spread across all three institutions (the detention centre, Specialised Training and Vocational School and the Special School). Seven per cent said they were afraid of other children and eight per cent that they were afraid of members of staff.

Held alongside adults in detention

Fifteen per cent of children who participated in the survey said they had been held alongside adults whilst in detention (not including police detention). For 73 per cent of these children this contact with adults took place whilst they were in a temporary detention facility. This is permitted under the law regarding ‘the order and conditions of detention in custody’ in exceptional cases.

⁴² In a recent report, the UN Special Rapporteur on torture noted that: ‘According to credible reports, there is no strict separation between adults and juveniles in pre-trial detention facilities or police cells outside the capital’. *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment, Addendum : Mission to Tajikistan, 2013, para 76.*

⁴³ Please note that children were allowed to tick more than one box.

Contact with visitors from outside

Nearly half of children said that they had contact with friends and family during visits that lasted 1-2 hours, and 19 per cent for under an hour. Eighty-two per cent said that they regularly had contact with parents or other family members.

Disciplinary measures or punishment

In Tajikistan, the use of solitary confinement as a disciplinary measure for children was abandoned in 2002 but restored in 2010. Placement is for a maximum of seven days. Fifteen per cent of children said they had been subject to disciplinary measures or punishment with the biggest proportion receiving a warning or reprimand. The vast majority of these children were in the detention centre for boys. No children said they had been punished with solitary confinement although it is interesting to note that the Special Rapporteur on torture asserts there are 'credible reports' of disciplinary isolation cells found in the boys' detention centre as well as the Special School.⁴⁴

Complaints mechanisms

82 per cent of children said they were aware of a complaints mechanism being available to them.

Violence amongst children

Very small numbers of children said that they had witnessed violence among children – just seven per cent. Four per cent said they had been abused by another child and that this had included harsh verbal and psychological abuse and moderate physical violence resulting in bruises, scrapes and cuts for which they received medical treatment. Two out of seven members of staff who participated in the survey said that they had witnessed violence amongst children.

Violence and staff

Three per cent of children said they had witnessed staff using violence against children and/or bullying them, using harsh verbal abuse, psychologically abusing them or using physical violence which was defined as severe. One child said they had been abused by a member of staff. This happened once and involved harsh verbal abuse and moderate physical violence for which they received large bruises and major cuts. They didn't tell an adult because they were afraid of the consequences and no action was taken against the person concerned.

Improvements

Children were asked what improvements they would like to see happen. Their answers were diverse and focused mainly on conditions of detention. They suggested: setting up a sports hall, having computers, improving the food, having air conditioning. Many children commented that they had been ill-treated whilst in police detention.

5.3 Findings for children in state-run residential institutions in Tajikistan

Four children – three girls and a boy were interviewed after having left the Reception and Referral Centre. They were aged between 10 and 16 years old. All were living with relatives before they moved to the Centre. This was the first time they had been placed there. Three out of four children said they felt safe in the Centre. Two said they had to share facilities with children of the opposite sex. They responded positively to questions around conditions such as having sufficient space in their dormitories. However, only one of them was aware that there was a complaints mechanism in place for them to use. None of them said they had witnessed or experienced any violence themselves.

⁴⁴ UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Addendum: Mission to Tajikistan*, 28 January 2013, A/HRC/22/53/Add.1, para 73.

6. Recommendations

This research does not assess the extent to which the authorities in these three countries have implemented international standards on justice for children across the board nor does it focus in detail on the conditions in closed institutions. So the recommendations set out below highlight areas of priority for eliminating violence against children. It is hoped that these recommendations will inform current and future policies and programmes for children in closed institutions during a phase of ongoing reform and improvement.

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

- 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.
- In Kazakhstan and Tajikistan, 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. In Kyrgyzstan, ensure compliance with this international standard.
- 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.

Prohibit the use of solitary confinement as a disciplinary measure for children in conflict with the law

- In all countries, specific regulations must be drawn up and implemented concerning the use of discipline measures in all closed institutions where children are held. These must be in line with the Havana Rules and in particular must prohibit solitary confinement and restriction or denial of contact with family members as disciplinary measures.⁴⁵ These regulations must be known about by children and staff.

Build the capacity of staff working in closed institutions

- Develop a system of selection, recruitment and development of staff to ensure the appointment and retention of competent and well-trained professionals. Adequate remuneration will play an important part in this.
- Staff must be trained in non-violent disciplinary measures and to immediately report any concerns, suspicions or disclosures of violence against children to the appropriate authorities.
- Establish a clear child protection policy in closed institutions that is known about by all staff with step by step procedures on how allegations and disclosures of violence are to be handled. In Tajikistan, ensure that the 2008 policy for the protection of children's rights in closed facilities is backed up by legislation.
- In Kazakhstan and Kyrgyzstan, ensure that 'persons acting in an official capacity', which covers staff working in Special Schools who are employed by private organisations, are included in Article 146 of the revised Criminal Code in Kazakhstan and Article 305-1 of the Criminal Code in Kyrgyzstan so that they are not immune from prosecution for acts of torture.

Increase children's knowledge and use of complaints mechanisms

- 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.

⁴⁵ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of 14 December 1990 known as the Havana Rules.

- In all countries, ratify the Third Optional Protocol on a communications procedure, which will allow individual children to submit complaints regarding specific violations of their rights under the Convention on the Rights of the Child and its first two optional protocols, and initiate investigation procedures in cases where violations of the rights of the child are systemic and gross in nature.
- Monitoring bodies should ensure that written rules regarding the use of disciplinary measures are known about by children and staff alike.
- In Kazakhstan, 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. The mandate of the National Preventive Mechanism (NPM) should be broadened to include all places of deprivation of liberty including orphanages and special boarding schools in line with the Optional Protocol of the Convention against Torture (OPCAT).

Ensure that monitoring bodies investigate the use of violence against children

- All monitoring bodies should have appropriate training on interviewing children about violence. Where possible, medically trained monitors should be on hand to help document allegations.
- Monitoring bodies should be given sufficient human and financial resources and have the mandate to visit children whilst they are held in police stations.
- Allegations of torture or ill-treatment should be transmitted, to the authorities responsible for investigation, at all times ensuring that the procedure will not endanger the child concerned and acting at all times in their best interests.
- Tajikistan should ratify the Optional Protocol to the Convention against Torture and establish an effective National Preventative Mechanism.
- Kyrgyzstan should continuously strengthen the capacity of the NCPT and ensure it has budget allocation for visiting places where children deprived of their liberty/whose liberty is restricted are held.

Closed institutions where children were interviewed

Kazakhstan

Special Boarding School for Children with Deviant Behaviour (East Kazakhstan Province)

The age of criminal responsibility in Kazakhstan is 16 years of age but for certain serious crimes it is 14 years old. Children who have committed offences when under the age of criminal responsibility can be placed in this Special Boarding School for Children in East Kazakhstan Province. On the day of CREDO's visit 19 boys aged between ten and 18 years old were in this school, 13 of whom participated in the survey (68 per cent). In addition, five members of staff were interviewed.

Detention centre for girls LA 155/4 (attached to Almaty Prison for Women, Almaty Province)

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, six girls were held here all of whom participated in the survey. They were aged between 14 and 18 years old and had been convicted. Six staff members also participated in the survey.

Detention centre for boys LA155/6 (Almaty Province)

Boys are placed here upon conviction. At the time of the survey, 99 boys were in the facility and 92 of them participated in the survey (93 per cent). The majority (74 per cent) were aged between 16 and 18 years old, 18 per cent were between 14 and 16, and seven per cent were over 18 years old.

Centre for Rehabilitation of Minors (Karagandy Province)

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. On the day of CREDO's visit there were 30 boys and 33 girls living there, with the oldest aged 16 years old. Twenty-one children participated in the survey – 12 boys and nine girls (33 per cent of total).

Special School (Karagandy Province)

The Special School is a closed institution for girls and boys who have been engaged in anti-social behaviour that may or may not amount to a criminal offence.

There are eight such Special Schools in Kazakhstan and children are placed there following a decision by the Specialised Court for Affairs relating to Minors. On the day of CREDO's visit there were 51 children and 22 participated in the survey – 10 boys and 12 girls. In addition, 28 members of staff were interviewed.

Kyrgyzstan

Detention unit for girls (attached to Stepnoye Women's Prison No. 2)

This detention centre is the responsibility of the State Service for the Execution of Punishments (GSIN). Girls who have been convicted of an offence are held in a unit attached to the only women's prison in Kyrgyzstan. At the time of the survey only one girl was in this unit and in fact she was 18 years old. The unit itself is very dilapidated and there is inadequate provision for education or rehabilitation.

Detention centre for boys No. 14 (Voznesenovka Village)

This detention centre is the responsibility of the State Service for the Execution of Punishments (GSIN). Boys aged between 14 and 18 years old are placed here on conviction. There were 33 boys in this detention centre on the day of the survey and 16 participated in the survey (48 per cent). However, the NGO conducting the survey felt it appropriate to only ask them to complete questions relating to their treatment at the police station and in pre-trial detention.

Pre-trial detention centre No. 21 (Bishkek)

This detention centre is the responsibility of the State Service for the Execution of Punishments under the oversight of the Ministry of Justice. There were nine boys in this pre-trial detention centre on the day of the survey and eight participated aged between 14 and 18 years old (89 per cent of the total). No girls were detained here. Children are not adequately separated from adults in this facility.

Centre for Social Adaptation of Minors (Bishkek)

This centre is for children who do not have appropriate family care and are in need of care and protection for example because they are homeless, orphaned or living and working on the street. On the day of the visit there were 57 children in this centre and five participated in the survey. It is the responsibility of City Hall in Bishkek.

Republican Psychiatric Hospital for Children (Ivanovka village)

Children who have psychiatric disorders receive medical care at this hospital. There were 16 children there on the day of the survey and five took part. It is under the responsibility of the Ministry of Health.

Shelter for Homeless Children (Bishkek)

Children are placed here when they are in need of care and protection. On the day of the visit 39 children were there and seven participated in the survey. It is the responsibility of City Hall in Bishkek.

Tajikistan

Reception and Referral Centre

Children are placed in this Centre when they are lacking appropriate family care, for example, when police are unable to locate the child's parents or they have been abandoned or are homeless. The centre is the responsibility of the Ministry of the Interior. There are no children in conflict with the law in this centre. Four children were interviewed after having left this Centre – three girls and one boy aged between ten and 16 years old.

Detention centre for boys (Dushanbe)

Boys are placed here when they have been convicted of relatively serious offences in order to serve their sentences. The age of criminal responsibility in Tajikistan is 16 for most offences and 14 for certain grave offences.⁴⁶ The majority of boys in this detention centre

are aged between 16 and 18 years old although on the day of the visit, five boys (just eight per cent of the total number of boys) were aged between 14 and 16 years old. There were also 11 young men aged over 18. Thirty-three boys participated in the survey – 20 were interviewed in the institution and 13 in their own homes. It is the responsibility of the Ministry of Justice.

Special Technical and Vocational School

The Special Technical and Vocational School is the responsibility of the Ministry of Labour, Migration and Employment. It is for boys aged between 14 and 18 who have committed relatively minor crimes or anti-social acts. Most are held here on the basis of a decision by the Commission for the Rights of the Child. Twenty boys participated in the survey representing 40 per cent of all children there at the time of the visit.

Special School (Dushanbe)

The Special School in Dushanbe, which falls under the jurisdiction of the Ministry of Education, is a closed institution for boys who have committed crimes or whose behaviour is deemed to be beyond family control. Boys are placed there by court order. Some of these children will have been placed in the Special School because they were under the age of criminal responsibility when they came to the attention of the Commission for the Rights of the Child which has the power to send them to the Special School. On the day of the survey there were 30 boys in total aged between 10 and 16 years old. Twenty boys participated in the survey representing 67 per cent of children there.

⁴⁶ These offences include homicide, kidnapping, assault, rape, theft, robbery, production or trafficking of drugs, terrorism and aggravated hooliganism.

About this report

This is the first 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 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 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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