**UNICEF Office in Kazakhstan**

**Insights in response to the Call for input for the upcoming report of the Special Rapporteur on the sale and sexual exploitation of children**

**30 September 2019**

1. **context, awareness and attitudes underpinning the sale and sexual exploitation of children**

Sexual violence against children remains a sensitive issue in Kazakhstan. According to the available administrative data the registered sexual crimes against children were growing from 100 in 2010 to 738 in 2015 with reduction to 274 in 2018[[1]](#footnote-1). The national authorities, including the Attorney General of Kazakhstan openly acknowledge that sexual violence against children is a point of concern, including child pornography and child abuse videos that are penetrating the Kazakhstan Internet space.[[2]](#footnote-2)

The 2016 *Knowledge, Attitudes and Practices Survey on Justice for Children in Kazakhstan* (hereinafter KAP Survey), conducted by Ombudsman for Human Rights with UNICEF’s support, measured knowledge, attitudes and practices related to child sexual abuse. As many as 87.1% of media representatives reported child sexual abuse is a ‘serious problem’ in Kazakhstan. In addition, 67.7% of general public adults and 67.4% of child protection and justice officials believed child sexual abuse is a ‘serious problem’ in Kazakhstan.

According to KAP survey, only 41.8 per cent of adults in the general public reported that perpetrators of child sexual abuse should be reported to the police.[[3]](#footnote-3) This implies that many child sexual abuse cases remain under-reported.

The KAP survey measures some **myths about sexual abuse of children**. As many as 58.9% of general public adults held the view that girls who are sexually abused are partly to blame because they probably acted in a sexual manner toward their perpetrator; only 35.8% of adults did not believe this myth. In addition, as many as 33.3% of media representatives and 39.3% of child protection and justice officials believed this myth about girls who are sexually abused; however, 47.2% of child protection and justice officials, and 66.7% of media representatives did not believe this myth about sexually abused girls.

According to KAP survey, the majority of general public adults (83.1%), child protection and justice officials (85.4%), and media representatives (90.3%) believed strangers are likely to sexually abuse children. Also, a significant proportion of general public adults (42.4%), child protection and justice officials (53.9%), and media representatives (48.4%) perceived that neighbors are likely to sexually abuse children. And, 40.4% of child protection and justice officials believed that friends of the family are likely to sexually abuse children. Despite fewer in number, a significant proportion of general public adults recognized that friends of the family (31.3%), teachers/school personnel (24.6%), and police (25.5%) are likely to sexually abuse children. Similarly, a significant proportion of media representatives and child protection and justice officials held the belief that friends of the family and teachers/school personnel were ‘very likely’ to sexually abuse children. Respondents were less likely to believe that family members could be perpetrators of child sexual abuse. In fact, only 47.9% of general public adults, 60.7% of child protection and justice officials, and 64.5% of media representatives believed that biological parents are likely to sexually abuse their children. They were much more likely to believe a step-parent is likely to sexually abuse a child.

To compare the data from KAP survey UNICEF would like to draw attention to the recent media statement of the Vice-minister of Internal Affairs of the Republic of Kazakhstan on perpetrators of sexual crimes against children. According to this statement, in 2019, 77 % of sexual crimes against children are committed by people from the close circle of the victims: fathers, step-fathers, mother’s boyfriend, relatives, neighbors, acquaintances[[4]](#footnote-4). He also mentioned that the fact that majority of child sexual abusers are family members it makes the investigation more complicated due to lack of witnesses.

1. **risk factors, root causes and demand for the sexual exploitation of children**

KAP Survey measured respondent’s perceptions of the risk factors for child sexual abuse such as **age, sex, and disabilities.** Adults were most likely to perceive that children age 11-14 years (70.6%) and 15-17 years (76.5%) are ‘very likely’ to be victims of sexual abuse, compared to children age 5-10 years (45.6%) and 0-4 years (25.1%). Similar to general public adults, child protection and justice officials recognized were more likely to recognize children 11-14 years (66.3%) and 15-17 years (78.7%) as ‘very likely’ to be sexually abused. Far fewer child protection and justice officials believed that children 5-10 years (47.2%) and 0-4 years (21.3%) were ‘very likely’ to be victims of sexual abuse. It is important to note that previous studies have found the most vulnerable age for sexual abuse is 7 to 13 years; however, general public adults were not aware that these are the most vulnerable age groups[[5]](#footnote-5).

The majority of general public adults (81.6%), child protection and justice officials (78.7%), and media representatives (73.3%) reported girls are ‘very likely’ to be sexually abused. Far fewer general public adults (43.5%), child protection and justice officials (39.3%) and media representatives (40.0%) perceived that boys are ‘very likely’ to be sexually abused. Respondents were more likely to believe boys are ‘somewhat likely’ to be sexually abused, than they were girls. It is notable that general public adults (11.5%) were two times more likely than child protection and justice officials (4.5%) to believe boys are ‘not likely’ to be sexually abused.

Media representatives (53.3%) and child protection and justice officials (43.8%) were most likely to believe that children with disabilities are ‘very likely’ to be sexually abused, compared to general public adults (36.7%). A significant proportion of general public adults (42.7%) and media representatives (40.0%) held the view that children with disabilities are only ‘somewhat likely’ to be sexually abused. It is notable that 15.3% of general public adults reported it is ‘not likely’ that children with disabilities are sexually abused.

Root causes of sexual violence and demand for sexual exploitation were not studied in detail.

1. **children’s vulnerability to sale and sexual exploitation, including in the context of cross-border challenges, technology and innovation**

Despite the actions of national authorities, sexual violence, sexual abuse and sexual exploitation of children remains a significant point of concern. Although comprehensive statistics on the commercial sexual exploitation of children in Kazakhstan is not available, there is evidence that trafficking in children and involvement of children in prostitution and pornography exist. The Prosecutor General’s Office conducted an awareness-raising campaign, which identified approximately 300 victims of child pornography and took steps to shut down the criminal groups involved.[[6]](#footnote-6)

1. **the overarching legal-normative framework, commitment and institutional capacity**

In Kazakhstan, violent acts of a sexual nature against children are punishable under the *Penal Code*. The amendments introduced in 2010 strengthened punishments for child sex trafficking offenders.[[7]](#footnote-7) The Government intensified its efforts to combat the trafficking and sexual exploitation of children that was reflected in a number of national action plans.[[8]](#footnote-8) They outline specific measures to combat trafficking and sexual exploitation, including prevention, detection, prosecution and social supports to the victims.

In Kazakhstan, the law prohibits prostitution. This covers the selling and buying of sex, regardless of the sex and age of the offender. All actions of sexual nature with person under the age of sixteen are criminalized under article 122 of the *Penal Code*.[[9]](#footnote-9) Human trafficking, the trafficking of minors and the involvement of minors in prostitution are all explicitly illegal in Kazakhstan, with criminal liability falling on the procurers who either traffic the children or the traffickers.[[10]](#footnote-10)

The Law *on Prevention of Domestic Violence* 2009 sets out legal and administrative measures with the aim to prevent domestic violence: including, physical abuse, psychological violence, sexual violence and economic violence. The law however does not establish an effective prevention system nor a coordination mechanisms among all partners responsible.[[11]](#footnote-11) The *Law on the Rights of the Child* 2002 and the *Marriage (Matrimony) and Family Code* 2011 also stipulate that children should be protected from physical and mental abuse.[[12]](#footnote-12) To address the widely spread problem of domestic violence, the Government adopted the national ‘Standards for Provision of Special Social Services to Victims of Domestic violence’ and the Inter-Agency[[13]](#footnote-13) Plan of Joint Actions for Prevention of Violence and Abuse of Children for 2019-2021. The Plan focuses on revision of normative framework, increasing capacity and number of specialists involved in child protection and service provision, awareness raising and education, promoting online safety of children.

The adopted on 1 April 2019 *Law concerning child rights* introduced administrative punishment of specialists working with children for non-reporting violations of child rights to police. The amendment seeks to strengthen the responsibility of health, education, social protection specialists for reporting violations of child rights.

Forensic expertise is in place to support investigations of crimes of sexual nature against children. However, the recent resonant case of child sexual abuse demonstrated lack of equipped forensic experts to investigate ‘old’ cases of sexual abuse.

Chemical castration of perpetrators who committed sexual abuse against children was introduced in Kazakhstan by law in 2016 and came into force in 2017.

Victim compensation fund was established by law in 2019[[14]](#footnote-14). According to the Law, child victims of sexual abuse and trafficking are entitled for monetary compensation of harm.

Following September 2019 Address to the Nation by the President of the Republic of Kazakhstan, the General Prosecutors Office is proposing to increase punishment for sexual crimes against children.

1. **new and innovative strategies to effectively prevent and protect children from sale and sexual exploitation**

Information not available.

**vi) data and monitoring**

Data on sexual violence against children is collected, analyzed and reported by the Statistics and Special Records Committee of the Office of the General Prosecutor of the Republic of Kazakhstan.

Data on crimes against children including sexual crimes is also reported in the *Statistical Yearbook ‘Children of Kazakhstan’*, compiled by national statistics office, publicly available.

Statically bodies of Kazakhstan are part of the Inter-Agency Group on Violence against Children Data, currently chaired by UNICEF. Through this group, efforts are under way to strengthen administrative data on violence against children, classification of violence against children and measuring sexual violence against children.

1. **institutional accountability**

No meaningful prevention work is conducted with perpetrators and potential abusers who are on special police records. Child victims of sexual crimes are not provided with statutory rehabilitation services.

General Prosecutor’s Office monitor’s the situation with sexual abuse of children.

1. **the way forward**

**Strategy and infrastructure**

* Introduce local child protection bodies where all cases of violence against children are referred.[[15]](#footnote-15) In the absence of one well-resourced body at the local level that could receive all referrals of alleged child abuse, neglect and exploitation and be responsible for investigation, assessment and any necessary action that needs to be taken to protect a child, the protection of children who experience violence remains not comprehensive and child-focused.
* Improve mechanisms to detect and report on potential cases of sexual abuse or exploitation of children that would involve partners in multiple sectors are underdeveloped. Some duty bearers such as healthcare professionals, educators and other front-line staff do not know their responsibilities to detect and report suspicion of sexual violence and abuse. As not all perpetrators are identified and reported, it limits opportunities for prosecution of all alleged offenders.[[16]](#footnote-16)
* Address gaps in implementation of the existing legislation, including lack of mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation.[[17]](#footnote-17) The majority of cases of violence against women, including sexual violence, fall under the category “private” and “private-public” prosecution where investigations can be initiated upon official complaint by the victim and criminal proceedings can be terminated upon “reconciliation of the parties”.[[18]](#footnote-18) In the absence of effective support systems, victims are reluctant to report abuse as they may have to live with the perpetrator under one roof.[[19]](#footnote-19) 43.1 per cent of child trafficking victims and 47.9 per cent of child sex workers who had contacted the police were not satisfied with the police response to their problems. Many of them believing their complaint was not taken seriously and felt very little or nothing was being done to investigate their case and bring the perpetrators to justice.[[20]](#footnote-20)

**Services**

* Develop elaborate assistance programs for children and adolescents who are the victims and witnesses of crime. The system of supporting victims should take full account of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.[[21]](#footnote-21)
* Psychological, therapeutic and probational work should be introduced with sexual abusers who are on police registries as well as those who are in places of detention.

**Capacity building**

* Increase capacities of relevant professionals to detect signs of violence against children.[[22]](#footnote-22) A lack of a well-coordinated formalized referral system is currently acting as a barrier to reporting cases to the competent authorities, and sufficiently monitoring and following them up. It is therefore likely that many children at risk of further abuse, neglect and violence currently remain unidentified.
* It is important to develop Special Operating Procedures for specialists on investigating child sexual abuse cases. Training of specialists on such procedures should also be provided.
* Media should be educated on ethical reporting of cases of sexual abuse including protection of identity of children who are potential victims and witnesses

**Data**

* Improve the data on cases of sexual abuse of children, child sexual exploitation and pornography, child trafficking, and bride kidnapping and forced marriage of young girls.[[23]](#footnote-23)

**Awareness and social norms**

* Conduct awareness campaigns to combat social norms of tolerance and acceptance of violence and sexual violence with regard to children.

**Empower children and women:**

* Empower children who are victims of domestic violence and sexual abuse who often do not know where or how to seek support and protection and face predominant social norms prohibiting reporting their family members to the authorities.[[24]](#footnote-24) With the social acceptance of violent discipline in society and the reluctance of many educators, healthcare professionals and social workers to intervene in family matters, victims are often not properly supported and empowered to report incidents of domestic violence. Many victims of sexual violence are not filing complaints due to social stigma and persisting defamatory stereotypes for women and girls seeking justice.[[25]](#footnote-25) For instance, in cases of child marriage, it is reportedly very difficult for the child to leave or report their situation to the authorities as to do so would result in shame and stigma and a lack of support from the community.

1. Children of Kazakhstan, Yearbook, Statistics Committee of the Ministry of National Economy of the RK, 2018 [↑](#footnote-ref-1)
2. Satayeva, A. and Urazova, D. 2015, Surge of paedophilia in Kazakhstan: Prosecutor General raises alarm, Tengrine news, online article 12 June 2015. Available at: https://en.tengrinews.kz/crime/Surge-of-paedophilia-in-Kazakhstan-Prosecutor-General-raises-260752/ [↑](#footnote-ref-2)
3. Robin Haarr, Violence Against Children in Families in Kazakhstan: 2016 Survey of Knowledge, Attitudes, and Practices, 2017 [↑](#footnote-ref-3)
4. Retrieved from <https://tengrinews.kz/kazakhstan_news/detey-v-kazahstane-nasiluyut-ih-blizkie-mvd-378939/> [↑](#footnote-ref-4)
5. David Finkelhor, Director of the Crimes Against Children Research Center. Retrieved from:

   https://www.victimsofcrime.org/media/reporting-on-child-sexual-abuse/child-sexual-abuse-statistics [↑](#footnote-ref-5)
6. US Department of Labor, Kazakhstan, 2017 [↑](#footnote-ref-6)
7. UN Committee on Economic, Social and Cultural Rights 2017 (State Party Report) [↑](#footnote-ref-7)
8. О Плане мероприятий Правительства Республики Казахстан по профилактике, предотвращению и борьбе с преступлениями, связанными с торговлей людьми, на 2018 – 2020 годы [↑](#footnote-ref-8)
9. Articles 122, 123 and 124 of the Penal Code. [↑](#footnote-ref-9)
10. Articles 128, 134 and 135 of the Penal Code. See also Articles 308 on involvement in prostitution by use of force and article 309 on Organization or keeping disorderly houses for prostitution and procuration [↑](#footnote-ref-10)
11. Гульнарa Кысыковa, Анализ законодательства Республики Казахстан по вопросу бытового насилия в отношении женщин и детей, Подготовлен для ЮНИСЕФ в РК and Канатов Алмас Канатович, Тұрлыбек Дана Манарқызы, Ахметов Ерлан Кадиржанович for UNICEF Анализ закона Республики Казахстан «О профилактике бытового насилия» и практики его применения, 2017 [↑](#footnote-ref-11)
12. UN Committee on Economic, Social and Cultural Rights 2017 (State Party Report). Including measures regarding restraining orders, work with NGOs and crisis centres attending to victims and school inspections. [↑](#footnote-ref-12)
13. The Plan is the result of the joint efforts of six ministries including the Ministry of Education and Science, the Ministry of Health, the Ministry of Information and Communication, the Ministry of Internal Affairs, the Ministry of Labour and Social Protection, and the Ministry of Public Development. [↑](#footnote-ref-13)
14. Link to the Law on Victim Compensation Fund <https://online.zakon.kz/document/?doc_id=32981304#pos=64;-58> [↑](#footnote-ref-14)
15. More detailed recommendations on Modelling for Integrated Child Protection System in Kazakhstan, 2011 [↑](#footnote-ref-15)
16. UN Committee on the Elimination of Discrimination Against Women, 2014 [↑](#footnote-ref-16)
17. UN Committee on the Rights of the Child, 2015 [↑](#footnote-ref-17)
18. UN Human Rights Council 2016. See for example, article 125 of The Penal Code allows the kidnappers to escape from criminal responsibility if they voluntarily release the abducted person, without committing any other criminal act in the process. [↑](#footnote-ref-18)
19. See the Code of Criminal Procedure of the Republic of Kazakhstan, 2014 Article 32, especially Articles 32(2) and (3), and Article 35. This is of particular concern regarding crimes such as trafficking of minors and coercion of children under 16 into sexual relationships, in which in most cases the victims have to bring a complaint in order to bring criminal proceedings. See Articles 32, 35, 123 and 135 of The Penal Code. More information: OECD 2017d, UN Human Rights Council 2016, United States Department of State, Bureau of Democracy, Human Rights and Labour 2016 [↑](#footnote-ref-19)
20. Robin Haarr, A Rapid Assessment of Children’s Vulnerabilities to Risky Behaviours, Sexual Exploitation, and Trafficking in Kazakhstan, 2012 [↑](#footnote-ref-20)
21. UN, Guidelines on justice in matters involving child victims and witnesses of crime, 2005 [↑](#footnote-ref-21)
22. UN Committee on the Elimination of Discrimination Against Women 2014 [↑](#footnote-ref-22)
23. ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), 2013, *Global Monitoring: status of action against commercial sexual exploitation of children*. Kazakhstan; OECD 2017, Social Institutions & Gender Index. Kazakhstan, UN Committee on the Rights of the Child 2015, Concluding observations on the fourth periodic report of Kazakhstan, 30 October 2015 [↑](#footnote-ref-23)
24. UN Committee on the Elimination of Discrimination Against Women, 2014, interview with a child protection NGO [↑](#footnote-ref-24)
25. UN Committee on the Elimination of Discrimination Against Women, 2014. [↑](#footnote-ref-25)