**Mandate of the Special Rapporteur on the right to education**

**Call for CONTRIBUTIONS:**

**THE RIGHT TO EDUCATION, ADVANCES AND CHALLENGES**

In her first report to the Human Rights Council, to be presented in June 2023, the Special Rapporteur on the right to education intends to undertake a review of the achievements of the mandate on the right to education over the last 25 years. Indeed, in 2023 the mandate will celebrate its 25th anniversary. The time has come to take stock of the advances the mandate has made in understanding the normative content of the right to education under international human rights law. It is also important to reassert and reassess the added value of an approach based on the human right to education in education matters.

In addition, in her report, the Special Rapporteur intends to identify the current main challenges to the right to education today and the crucial issues that deserve attention for the future.

Submissions should be sent electronically no later than **13 January 2023** to **hrc-sr-education@un.org**, using the email title: “Submission: the right to education”.

Please feel free to answer only the questions relevant to your work. Kindly limit your responses to **3,000 words** and attach annexes where necessary. Due to limited translation capacity, responses should be sent in a Word document, in English, French or Spanish. The document should include a clear reference to the submitting entity or person as well as paragraph numbers and be dated. Please also indicate if you have any objections regarding to your reply being posted on the OHCHR website.

**KAZAKHSTAN (prepared by UNICEF country office in Kazakhstan)**

1. **Assessing the achievements made by the mandate of the Special Rapporteur on the right to education over the last 25 years**
	* + 1. In your country, are education issues approached through the lens of the human right to education, and if so, with what challenges and results? In your view, what is the added value of such an approach in your work?

Kazakhstan’s national constitution, the national law on education as well other child rights related laws state education as the main human right.

Kazakhstan is a party to various core international human rights instruments: the International Covenant on Civil and Political Rights; Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Rights of Persons with Disabilities, Convention against Discrimination in Education; and the Convention on the Rights of the Child (CRC) and the Optional Protocols thereto, on the involvement A/HRC/20/21/Add.14 of children in armed conflict and on the sale of children, child prostitution and child pornography. The Senate advocates for signing and ratification of the OP to the CRC on a Communications Procedure. All these instruments contain specific provisions on education and place an obligation on the State to take all necessary steps to protect, observe and promote the exercise of the right to education for all persons in its territory, without discrimination.

Kazakhstan is working towards all provisions of the national legislation to be aligned with the ratified international treaties. Under domestic law and the international human rights instruments ratified by Kazakhstan, the State has an obligation to provide and facilitate education for its inhabitants without discrimination.

As observed in 2011 *visit report by the UN SR on the right to education*, Kazakhstan has not yet become a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provides for, inter alia, the right to access to education[[1]](#footnote-2). This is not done due to the high financial implication in its broader implementation. However, the Ministry of education takes necessary steps in ensuring the rights of children affected by migration are met in access to education. The main obstacle is in the implementation of the norm, when parents or caretakers have no document to prove their migration status, and school have no discretion to enrol children without documents by referring families to police.

The reliance on the human rights approach always supports UNICEF in its advocacy efforts with the government in promotion of equity, non-discrimination, inclusion and best interest of the child principles in access, acceptance and adaptation of the pre-primary, primary and secondary formal and non-formal education to realise the right to education. The human rights based approach is employed during the policy development, improvement of law enforcement and addressing the needs of the most excluded children and adolescents. In the context of Kazakhstan, children from remote areas, low income families, low performers, children with disabilities, affected by migration, returned from armed conflicts require specific attention in the education sectoral policies and practice.

* + - 1. How do you assess the 4 A’s framework of availability, accessibility, acceptability and adaptability as conditions for realizing the right to education? Is such a framework integrated in legal and policy documents relating to education in your country, as well as used in practice? If not, what are the key obstacles? Should the framework be reviewed to include other dimensions? If so, which?

Based on the recent observations, the 4 A’s framework of availability, accessibility, acceptability and adaptability is partially integrated in legal and policy documents relating to education in Kazakhstan. This happens due to the country context, priority setting, insufficient capacity and other resources at different levels of education. For example, earlier 4 A’s framework evidence revealed 90% of gender imbalance amongst teachers in the education system in Kazakhstan[[2]](#footnote-3).

To make the informed decisions about the status of the 4 A’s framework of availability, accessibility, acceptability and adaptability in Kazakhstan, it is recommended to have a detailed review of its integration within the legal and policy documents, enforcement and follow up recommendations.

* + - 1. The human right to education entails States’ obligations to respect, protect and fulfil the right to education in international human rights law. To what extent are these obligations clearly identified in your country’s legislation and in practice?

The state obligations to respect, protect and fulfil the right to education are presented to some extend in the constitution, education law and other laws contributing to realization of child’s rights.

In practical terms, there is an example of some attempts of the country to respect, protect and fulfil the right to education, but at the same time revealing new layers of challenges that should be addressed in advancing transformative education agenda. For example, before COVID-19, as per the recent VNR results, with the advanced legislative framework as well as implemented National education development programmes and SDG 4 targets, the country was able to reach the following results:

* 98.9% of children aged 3-6 and 86.9% of children aged 2-6 covered by preschool education.
* In primary and secondary education, an immense work is underway to reduce the gap in the quality of education between regions, urban and rural schools through the developed public and private partnerships, per capita financing.
* 38.2% of preschool organizations, 59.4% of schools, and 43% of universities claim conditions for inclusive education.
* 96.6% of schools are connected to 4 Mb/s broadband internet[[3]](#footnote-4).

But the weaknesses of the education system to achieve the fulfilment of the right to education were deteriorated during the crisis situations like COVID-19 and recent social unrest. The existing digital divide between rural and urban children, for example, in the field of education has become even more acute during the pandemic, as a result of low speed or lack of Internet and, accordingly, affected the quality education and access to educational resources, resulting in issues like poorer access to education for the most vulnerable children, learning losses, public education expenditure not leading to desired results.

* + - 1. Has the right to free education been progressively implemented at all levels of education in your country, based in particular on article 26 of the Universal Declaration of Human Rights, articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, and article 28 of the Convention on the Rights of the Child? If yes, please provide examples. If not, please explain why not.

The article 30 of the *National Constitution* provides for the guaranteed free secondary education to citizens of Kazakhstan as being mandatory, and fee-based education in private educational institutions carried out on the grounds and in the manner prescribed by law[[4]](#footnote-5). In 2021, a total of 121 public, 152 private schools and 4 schools through public-private partnership were put into operation[[5]](#footnote-6).. The regional disparities still exist, resulting in inequalities in access to quality education services by families from different income groups. The OECD has recommended that greater attention be given to low performing and disadvantaged students and schools, for example, rebalancing the allocation of resources from elite students and other students in the system. The OECD has also expressed, that expectations for all students should be raised system-wide and has discouraged the grouping of students into separate classes by ability[[6]](#footnote-7). The Ministry of education is recommended to continue implementing an equitable approach to free or fee-based education at all the levels of education by continuous monitoring of practices at the local level to ensure that no costs are imposed on parents with low income, finding solutions for compensation (vouchers), regardless of forms of school ownership, needs and ability of students.

* + - 1. Is the right to education considered a justiciable right in your country and if so which aspects of that right? If so, please provide a short summary of emblematic cases.

A justiciable right to education means that when this right is violated, the right-holder can take her claim before an independent and impartial body, and if the claim is upheld, be granted a remedy, which can then be enforced.

In Kazakhstan the complaint system is established by the independent Human rights institutions (HRIs) like the Commissioners for Human Rights and Child Rights[[7]](#footnote-8), their representatives in all regions of the country, as well as General Prosecutor’s office, Child Rights Protection Committee of the Ministry of Education. Communication channels are digitalized, and the procedures are described in the relevant web resources for placing an individual complaint. For example, in 2021 one fourth of the complaints received by the Commissioners for Human Rights and Child Rights were about the violation of the right to education. The actions taken by the human right institutions include informing relevant state bodies and prompting for their active engagement in addressing the issue. It is also recommended to continue conducting analysis of the remedy actions in the HRIs annual reports to public, but also providing the feedback to state bodies on their response. The mandate and functioning of the newly formed regional commissioners for child rights should be brought in line with Paris principles[[8]](#footnote-9) relating to the status of national HRIs.

Government, international organisation, including UN agencies, diplomatic missions, business community and NGOs conduct the opinion polls, international studies (for example, TIMSS, PISA, PIRLS, ICIL) and surveys to seek for the children’s view on their satisfaction, concerns, achievements and gaps in education.

 For example, according to recent public opinion studies, young people are often not satisfied with the quality of national education, also showing concern with corruption in universities. For example, in Friedrich-Ebert-Stiftung survey more than half (52%) of respondents confirmed that ‘buying grades’ take place in universities[[9]](#footnote-10). Young people do not consider higher education just as a way for getting better job, they believe and rely on social networks both in life and career instead[[10]](#footnote-11) (Ed. by Laurelle, 2019)

In response to this concern, during the last decade, Kazakhstan made a number of significant changes in the Technical and Vocational Education and Training (TVET) area, reinforcing “inclusion for socially vulnerable young people and young people with special needs, countering labor market imbalances, improving the national qualifications framework, and enhancing the prestige of TVET and attracting more students to colleges”[[11]](#footnote-12).

In the 2018 ICIL[[12]](#footnote-13) study Kazakhstan showed poorest performance among 14 participated countries in Computer and Information literacy (CIL), which is defined as an individual’s ability to use computers to investigate, create and communicate in order to participate effectively at home, at school, in the workplace, and in society. A total of 33% of Kazakhstani students have not even reached the minimum level of CIL. The average CIL score is 395 points, which is 101 points lower than the international ICILS average (496). 407 score points make the minimum requirement. Only 1% of Kazakhstan eighth-graders reached the highest level of CIL (above 661 points). There is a statistically significant difference in the results of Kazakhstan, depending on the type of school, language of test and location (urban/rural). Thus, the problem of the inequality of educational results also affected the computer literacy of Kazakhstani children.

* + - 1. To what extent are the non-discrimination and equality principles respected in implementing the right to education in your country? Have past recommendations made by the Special Rapporteur on the right to education of vulnerable and marginalized populations been taken into account? If so, can you list which ones?

In January 2016 Kazakhstan ratified the Convention against Discrimination in Education.

Reducing the gap in the quality of education between regions, urban and rural schools in Kazakhstan (based on the results of PISA), quality assurance and public-private partnership, developing meaningful citizenship and engagement with parents, as well as increasing the coverage of children with extra-curriculum development activities are main priorities in the National Project "Quality Education "Educated Nation" for 2021-2025 and newly adopted Education Development Concept 2022-2026.

To address past recommendations made by the Special Rapporteur on the right to education of vulnerable and marginalized populations the Minister of Education, by order of November 29, 2022, amended the Rules for obtaining pre-school, primary, basic secondary and general secondary education by foreigners and stateless persons permanently residing in Kazakhstan. The document states that children of foreigners and stateless persons permanently residing in Kazakhstan, as well as persons temporarily residing in the country (refugees, asylum seekers, consular officials, employees of diplomatic institutions, labor migrants working in Kazakhstan) are accepted in the organization of education to receive pre-school, primary, basic secondary and general secondary education and enjoy the same rights as citizens of Kazakhstan. Further monitoring is needed to understand if the acting legislation allows the issuance of birth certificates to children of parents who do not have identity documents, which has been an obstacle in access to education, free medical care and freedom of movement.

According to 2020 Country Reports on Human Rights Practices despite the fact that education authorities reported that 55 percent of schools were equipped and had staff for inclusive education for children with specific needs, independent observers alleged that the number of such schools was in fact lower. The statistics on children with disabilities who attended preschool institutions is not available. Twenty percent of children with specific needs between the ages of 7 and 18 attended regular schools. The majority attended special correctional classes or were home schooled. Some parents refused to send children with disabilities to school and viewed their education as unnecessary. Other parents did not know where they could refer their children. Some children from migrant families, particularly undocumented migrants and stateless persons, did not get education because they could not enrol in school.

* + - 1. In countries where the Special Rapporteur has undertaken visits[[13]](#footnote-14), have recommendations been implemented? If so, please list recommendations acted upon.

The visit to Kazakhstan was held in 2011 - <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/134/50/PDF/G1213450.pdf?OpenElement>

From our own knowledge, the following recommendations were acted upon:

1. *On promotion of inclusive education*, the Ministry of education has issued an order #468 as of November 29, 2022, with the amended Rules for obtaining pre-school, primary, basic secondary and general secondary education by foreigners and stateless persons permanently residing in Kazakhstan[[14]](#footnote-15) to provide all children, including migrant and refugee children, with access to education without any legal or administrative precondition such as the propiska.

Following the recommendations from the SR on the right to education as well as other human rights bodies, in 2015 Kazakhstan ratified the UN CRPD and adopted National Plan for Ensuring Rights and Improving Quality of Life of Persons with Disabilities until 2025. That was followed by a series of amendments to the law on education[[15]](#footnote-16) with the focus on respect for the rights of children with disabilities; on individual learning pathways; teachers’ assistants; on the free use of information resources in educational institutions, including in an accessible form for persons with disabilities, children with disabilities, the provision of textbooks, educational and methodological guides and teaching aids, including assistive devices for persons with disabilities, children with special educational needs; at the same time, parents of children with disabilities have the right to choose the place of education of the child - in a regular or special educational organization - taking into account the recommendations of specialists; expanding the network of medical psychological consultations (PMPC). It is recommended to continue strengthening the capacity of the Ministry of education in inclusive education, especially at the central level and on the ground, alignment of the PMPC mandate to the human right model of disability, capacity in planning and quality assurance of the functioning at different levels.

1. *Enhancing investment in education*. The President’s statement in September 2022, and recent information from the Ministry of Education confirm their commitment to bring additional investments into education through the National Fund and starting from 2024 introduce education vouchers system allowing parents to choose education organisations. Overall, public and private resources for preschool education services increased by 32% in 2022. In addition, government announced that by 2025, four hundred new schools will be constructed.[[16]](#footnote-17)
2. *Institutionalized and adequate data collection mechanism*. The recent attempts of the country in alignment of different datasets available in the Ministry of Education, Ministry of Health, Ministry of Labour and Social Protection of Population, Ministry of Justice, and Ministry of Digital Development, Innovations and Aerospace Industry, especially on access of some vulnerable groups to basic services, for example, children and adolescents with disabilities, is commendable. It is recommended to continue improvement of statistics on children and adolescents in education. The recent evidence identified that the National education management information system (NOBD) did not include any indicators on monitoring the quality of public and private pre-schools. Some data is not segregated by disability and migration status or available only through dashboards with a restricted access[[17]](#footnote-18). The National Statistical Bureau and the Ministry of Education are recommended to review the set of indicators in the annual statistical yearbook/dashboards on children by adding a set of indicators on all levels of education, including school dropouts, statistics on adolescents not in education or employment (NEET), to employ real time monitoring tools and inform decision making.
	* + 1. In countries to which the Special Rapporteur has sent communications (allegation letters, urgent appeals and other letters)[[18]](#footnote-19), have measures been adopted to address the issues raised and ensure their non-recurrence? Please provide specifics.

No communications on the right to education are available for Kazakhstan.

1. **Main challenges and crucial issues for the future**
2. In your view, what are the main challenges in your country in implementing the right to education?

School closures during the pandemic have resulted in the interruption of learning for many students, introduced threats to their health and well-being, including increased risk of violence and exploitation, malnutrition due to disruption of school meals, as well as the deterioration in the mental health of students.

The major challenges impede children from the full exercise of their right to education and need to be addressed:

* *Increased digital divide*: it is estimated that more than half (57.2%) of students in Kazakhstan were not able to learn continuously and fully because of a low level of digital hardware availability. Children in remote areas were more likely to go without schooling compared to their urban counterparts. Learning loss due to COVID-induced school closures and disrupted learning is a key issue in the education system today. More than half (57.2%) of students were not able to learn continuously and fully because of uneven availability of and unequal access to digital hardware across the country[[19]](#footnote-20). Students from already disadvantaged backgrounds have suffered the most through lack of access to good teaching and the social isolation experienced during the lockdown. Online learning opportunities were hampered for many because of a lack of access to digital devices and poor internet connectivity. On-line safety, digital literacy, accessible learning platforms and mental health support are critical in future policy development, when access to internet is provided to children.
* *Poor internet connectivity*: About 20% of students had either a low speed or no internet connection and an additional 50% only had an average speed connection. 52% of teachers reported being constantly interrupted lessons due to the fact that one of the children was disconnected from the broadcast. From an economic perspective, broadband connectivity to all schools is considered to be a prerequisite for development; consequently, the upgrading of all under-connected schools to 20 Mbps is proposed as a minimum criterion[[20]](#footnote-21) to be introduced in connectivity standards for primary and secondary schools.
* *Lack of teacher skills to fully support digital/blended learning and recover learning losses*. Many teachers did not have sufficient basic ICT skills before COVID and even before COVID, digital skills training was one of the most in-demand options for teachers. As a result, almost a quarter of teachers experienced difficulties in delivering alternative provision due to insufficient digital skills. In the post-COVID period, teachers are struggling with blended learning teaching, identifying and implementing effective remedial programmes to recover learning losses in their students.
1. What are the crucial issues to address, nationally as well as internationally, to ensure the realization of the right to education?

In 2022, Kazakhstan, following national consultations including children, with UNICEF and UNESCO support – further enhanced commitments for Education, at the Global Transforming Education Summit, prioritizing: financial investment by reaching OECD level, strategies in overcoming learning loss, equity and inclusion, digital transformation, quality assurance of education system, teachers’ status and development, mental health and life-skills.

You are invited to provide information only on the questions relevant to your work.

1. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/134/50/PDF/G1213450.pdf?OpenElement> [↑](#footnote-ref-2)
2. Human rights obligations: making education available, accessible, acceptable and adaptable, Tomasevski review. 2009 <https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski_Primer%203.pdf> [↑](#footnote-ref-3)
3. Voluntarily National Review, 2022 - <https://economy.kz/documents/SGD/END___ENG__Report__DNO__06-2022__END.pdf> [↑](#footnote-ref-4)
4. <https://www.akorda.kz/en/official_documents/constitution> [↑](#footnote-ref-5)
5. <https://economy.kz/documents/SGD/END___ENG__Report__DNO__06-2022__END.pdf> p.74 [↑](#footnote-ref-6)
6. <https://www.oecd.org/education/Education-Policy-Outlook-Country-Profile-Kazakhstan-2018.pdf> [↑](#footnote-ref-7)
7. <https://bala-ombudsman.kz/activity/education/> [↑](#footnote-ref-8)
8. <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris> [↑](#footnote-ref-9)
9. UNESCO. 2021. Youth of Central Asia, challenges for Peacebuilding: a comprehensive research review. [https://unesdoc.unesco.org/ark:/48223/pf0000380326](https://unesdoc.unesco.org/ark%3A/48223/pf0000380326) [↑](#footnote-ref-10)
10. Laruelle, M (Eds). 2019. The Nazarbayev Generation. Lanham, MA, USA, Lexington Books. [↑](#footnote-ref-11)
11. UNESCO. 2021, p.59. Youth of Central Asia, challenges for Peacebuilding: a comprehensive research review. [https://unesdoc.unesco.org/ark:/48223/pf0000380326](https://unesdoc.unesco.org/ark%3A/48223/pf0000380326) [↑](#footnote-ref-12)
12. <https://www.iea.nl/sites/default/files/2019-11/ICILS%202018%20infographics%20final%20release%205%2011%2019.pdf> [↑](#footnote-ref-13)
13. Algeria, Bhutan, Bosnia and Herzegovina, Botswana, Chile, China, Colombia, Ecuador, Fiji, Germany, Guatemala, Indonesia, Ivory Coast, Kazakhstan, Malaysia, Mexico, Mongolia, Morocco, Paraguay, Senegal, Seychelles, Tunisia, Türkiye, Uganda, United Kingdom and Northern Ireland, United States, Qatar.

[OHCHR | Country visits](https://www.ohchr.org/en/special-procedures/sr-education/country-visits) [↑](#footnote-ref-14)
14. <https://online.zakon.kz/Document/?doc_id=33075205> [↑](#footnote-ref-15)
15. The last amendments were made in June 2021 - <https://adilet.zan.kz/rus/docs/Z2100000056> [↑](#footnote-ref-16)
16. Minister of Education [↑](#footnote-ref-17)
17. Education Management Information System (EMIS) in Eastern Europe and Central Asia, UNICEF 2022 [↑](#footnote-ref-18)
18. [Communication search (ohchr.org)](https://spcommreports.ohchr.org/Tmsearch/TMDocuments) [↑](#footnote-ref-19)
19. Situation Analysis on the Effects of and Responses to COVID-19 on the Education Sector in Central Asia - Kazakhstan Country Report, April 2022, UNESCO, UNICEF ECARO [↑](#footnote-ref-20)
20. Feasibility study of Potential Technical and Financial Solutions for Upgrading School Connectivity to Broadband Speeds in Kazakhstan, UNICEF, 2022 [↑](#footnote-ref-21)