Criminal justice and crime prevention have been a major issue in the international community for the last 50 years, particularly in terms of the development of international standards in a human rights context. A UN Congress has been held on the subject every five years since 1955, when the UN Standard Minimum Rules for the Treatment of Prisoners were adopted. In recent decades, special attention has been paid to juvenile justice.


The main principles embraced in these wide-ranging juvenile justice standards can be summarized as follows:

- Prevent offending through social justice, access to education, vocational training, recreational and cultural activities, and "safety nets".
- Foster the well-being, rights and self-respect of juvenile offenders at all stages.
- Decriminalize offences as much as possible and adopt a reasonable minimum age for criminal responsibility.
- Establish a separate system to deal with juvenile offenders, serviced by appropriately trained professionals.
- Avoid the formal justice system where possible and appropriate.
- Ensure due process.
- Adopt responses that are educational and rehabilitative in nature.
- Use the deprivation of liberty only as a last resort and for the shortest possible time, both pre-trial and as a sentence.
- Prohibit the death penalty and life imprisonment for those under age 18 at the time of their crime.

The Committee on the Rights of the Child, which reviews compliance with the 1989 Convention, has given generally negative assessments to the transition countries regarding these standards. However, these evaluations capture as much the legacy inherited from former governments as they do the efforts of new democratic governments. In any case, it should be noted that the committee has criticized the great majority of the world’s countries – regardless of socio-economic status or political and legal system – for their records in the juvenile justice sphere.

Indeed, when opening the 22nd session of the Committee on 20 September 1999, the UN Deputy High Commissioner for Human Rights, Bertrand Ramcharan, declared that "juvenile justice constitutes one of the main challenges for the implementation of the CRC". As countries in the transition region reform their legal and justice systems, there is an important opportunity for them to rise to that challenge.
5.1 Changes in Youth Crime

Youth is a time of increased risk-taking behaviour, and, in keeping with that reality, young people tend to constitute a disproportionately high share of recorded criminal offenders. Typically, a distinction is made between younger and older offenders. Data used in this chapter generally differentiate between crimes committed by juveniles aged 14-17 and crimes committed by young adults aged 18-24. It is important to note that social and legal approaches to these two groups of young offenders vary considerably and that countries follow different practices, which may also change over time.

**Looking at and beyond juvenile crime rates**

The measured level of youth crime in any country depends on a number of factors, including the legal age of criminal responsibility, the definition of crimes, and the general level of reported crime in society. This section is concerned specifically with juvenile crime, which typically covers youth aged 14-17 and for which justice approaches are distinct from those taken with children under 14 and young adults 18 and over.

Figure 5.1 compares the number of registered juvenile crimes in transition countries in 1989 and 1998. While still protected by international standards relating to children, the adolescents to whom the data refer have reached the age of criminal responsibility - though the responsibility may be limited - for acts in conflict with the law.

The figure reveals two main findings. First, registered juvenile crime rates were much higher in 1998 than in 1989 in most countries, suggesting an overall rise in juvenile crime in the region. Of the 25 countries for which data are available for both years, rates were higher - almost double - in 16 countries, pushing the unweighted regionwide average from 1,100 to 1,800 crimes per 100,000 juvenile population.

However, few countries are "average" in this regard, as the second finding underlines. There is a marked difference in registered juvenile crime levels among the 27 countries of the region. Central European countries show consistently high juvenile crime rates, while the Baltic States and the western CIS countries have somewhat lower rates. The Balkan countries mix very high and very low rates, while the countries of the Caucasus and Central Asia have consistently low juvenile crime rates.

This subregional pattern has persisted over the transition years: rises in juvenile crime rates have taken place largely in countries where initial levels were high. In all nine countries where rates have dropped, initial rates were relatively low. However, in some Southeastern European countries, like Romania and Bulgaria, juvenile crime rates have gone from being relatively low to near the top of the range in the region.

Figure 5.2 shows trends throughout the transition
period for five countries from different subregions. It illustrates that registered juvenile crime rose quickly in the early 1990s in many countries, including Russia, where it peaked in the mid-1990s, and, in some countries, rates have increased again in recent years.

How well do these figures reflect reality? Certainly, there are reasons to assume the gap between registered and actual crime has widened during the transition. Weakened registration and the varying capacity of law enforcement institutions to identify perpetrators have no doubt influenced the size of the gap and contributed to changes in official crime rates. On the other hand, new problems such as the illegal drug trade have not only created new areas of criminal activity, but, in some cases, prompted new definitions of criminal activity in the law.

Although these considerations may blur the picture presented in Figure 5.1, the conclusion it points to is still obvious: in much of the region young people under 18 are now at greater risk of coming into conflict with the law than they were before the transition began. This means that the workings of the juvenile justice system are more in the spotlight, including how the system defines criminal responsibility and crimes and how it approaches and treats offenders.

The 1989 Convention on the Rights of the Child does not stipulate an age below which a child “shall be presumed not to have the capacity to infringe the penal law” (Article 40.3.a), but it calls on states to fix such an age. The 1985 UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) do, however, set out the guiding principle that “the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity”.

The UN Committee on the Rights of the Child, which monitors compliance with the Convention, has considered a minimum age of 10 unacceptably low for criminal responsibility, though this age or lower is found in several industrialized countries, including age 10 in England and Wales and age 7 in Switzerland and many US states.
Table 5.1 presents an important variable in juvenile justice: the minimum ages of criminal responsibility. Prior to the transition, all countries had established minimum ages of criminal responsibility that fell well above thresholds described by the UN Committee on the Rights of the Child (Box 5.2). As the table confirms, these levels have generally been maintained during the transition. While higher minimum ages of criminal responsibility are positive, they do not guarantee that the best interests of the child are protected, and, in some cases, adults who criminally exploit children can take advantage of them.

More important to the quality of justice for juveniles is how unlawful offences are defined, categorized, and processed, whether as criminal or non-criminal offences, as serious or non-serious crimes. In this regard, the standards inherited from the communist period are often less than benevolent for youth. In many transition countries, “serious” criminal offences cover a wide range of acts, and, where these exist, include property crimes, even petty property crimes such as shoplifting, youth are at high risk of tough sentencing, given that most youth crime is property crime.

As the transition progresses, the diversity is increasing in the way offences are classified and in the way they are dealt with in the countries of the region. For example, in Estonia, the deliberate destruction of property, petty theft, the illegal manufacture of a weapon, and the public consumption of alcohol all now fall under administrative or non-criminal law. Meanwhile, in a number of countries, petty theft is still considered a criminal offence. This diversity in approaches no doubt explains part of the differences in the registered juvenile crime rates in the region, as shown in Figures 5.3 and 5.2. However, it seems that the definitions and classifications of offences have a relatively minor impact on juvenile crime in society. A Figure 5.3 shows, throughout the region juvenile crime rates are generally high where total crime rates are high (as in the Czech Republic or Poland) and low where total crime rates are low (as in Uzbekistan or Turkmenistan). This suggests that it is the general level of criminality and how crimes are perceived and laws enforced that make the real difference.

Overall, the diagram suggests a close correlation between general crime rates and juvenile crime rates. However, it also calls attention to some outliers, such as Hungary, where juvenile crime rates are only half as high as overall crime rates, and, conversely, Slovenia, FYR Macedonia and Bulgaria, where juvenile crime rates are much higher than total rates. These particular cases raise questions about how adolescents are treated and protected in these countries.

Figure 5.3 also shows that countries tend to form clusters by subregion. (For comparison, the figure also includes some industrialized countries outside the region.) Overall, the geographical pattern suggests that the more urbanized societies have higher registered crime rates, both juvenile and total, than do those countries where traditional rural life styles and communities remain strong. While this pattern may reflect variations in actual levels of criminal activity, it is likely that traditional rural societies in the southern belt of the region rely more on family and community controls to prevent, proscribe and punish anti-social behaviours and therefore exhibit markedly lower registered crime rates. Meanwhile, the urban industrialized nations of Central and Eastern Europe may resort more to formal legal and judicial measures, which show up as higher crime rates. This pattern has implications for...
even considering these factors, it is apparent that juvenile crime has increased during the transition, and, in some countries, the increase has been considerable.

Age and gender patterns in youth crime

So far, this chapter has considered only juvenile crime, involving youth under 18 – those who are still covered by the Convention on the Rights of the Child. This Report also seeks to draw attention to young people aged 18-24. These people are typically considered “adults” in terms of the justice system, but they are, nonetheless, still maturing into adulthood.

Studies have found that, in industrialized societies, committing offences is most common among older adolescents and young adults. Usually, the acts are not serious, and most first-time young offenders do not end up pursuing a criminal career. For example, government statistics for 1996 in the Netherlands showed that rates of criminal offence peaked at ages 18-19, and a 1993 study in Scotland found the peak age for committing crimes was 18. A 1993 study in the UK based on self-reported offending revealed rates which were much higher among the 18-25 age group than among 14-17 year-olds. Serious and more deliberate offending tends to appear during early adulthood, but, like frequency of offending, it usually decreases among people above age 25.

Data available for the transition region suggest that the age structure of registered offenders follows this pattern. Figure 5.6 shows the ratios between juvenile and young adult crime rates in 12 countries. In most of the countries crime rates were higher among 18-24 year-olds than among 14-17 year-olds, though differences ranged widely among countries. Only Poland and Bulgaria reported higher crime rates among juveniles than among young adults. In line with the perception that juvenile crime may involve less contact with the formal justice system in countries along the southern belt of...
 Officials data on crimes are the end result of legal definitions of crimes, the vigour with which these laws are enforced, the propensity of victims to report crimes, and the efficacy of the police in responding – a complex process which changes not only from place to place, but also over time. It is accepted that crime data underestimate actual levels of crime in any country.

Victim surveys, though they have their limitations, can help shed light into the gap between reported crime rates and the true safety of the social environment. Such surveys have been largely unknown in the transition region, but the International Crime Victim Survey, conducted by the UN Interregional Crime and Justice Research Institute, included 19 transition countries in its 1996 round.

Figure 5.5: Source: Zvekic (1998).

Victimization by type of crime, 1996 (percent)

<table>
<thead>
<tr>
<th>Country</th>
<th>Assault</th>
<th>Robbery</th>
<th>Burglary</th>
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<tbody>
<tr>
<td>Czech Republic</td>
<td>1.5</td>
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<td>Estonia</td>
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<td>FYR Macedonia</td>
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<td>FR Yugoslavia</td>
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Note: Data refers to burglary, robbery, assault with force, and sexual assault. They show the share of people aged 16 years or over living in urban areas who experienced a specific form of crime once or more than once in 1996. The surveys followed the same methods for obtaining cross-country comparability, and the results were weighted to make the sample representative. CEE/CIS refers to the 19 transition countries listed. “New World” includes the US, Canada, Australia, and New Zealand. The estimates for Western Europe, Asia, Africa, and Latin America are based on selected countries.

The survey gathered information about property crimes and crimes that involved the threat of personal injury – assault, robbery and burglary. As Figure 5.5 shows, responses from the transition countries indicate relatively high victimization rates, and, overall, these present a rather flat pattern across the region (with a few exceptions like Hungary and Estonia).

This perspective on crime is notably different from that presented by the reported crime rates in Figures 5.1 and 5.3, where the range among countries is much greater and the subregional patterns are more pronounced. This suggests that there is a gap between actual crime and reported crime and that the relative size of the gap varies among countries, dependent on a number of factors, as noted above.

Interestingly, the survey also asked respondents their reasons for not reporting crimes. Compared to other regions of the world, a lack of confidence in the capacity or willingness of law enforcement agencies to act on complaints was especially evident in the transition countries, where this was the main reason. The survey also found that prevalence rates of victimization for these crimes was generally higher in the transition countries than in

Western Europe, the English-speaking New World and Asia, but generally lower than in Africa and Latin America. The picture that emerges from the victim survey in the transition countries is that the prevalence rates of victims of crime are similar to those in industrialized countries, but the rates of reporting crimes is much lower than in industrialized countries; the reporting rates are more comparable, in fact, to those in developing countries.
which data are available, older juveniles (age 16-17) are more criminally active than younger ones (age 14-15). In Latvia and Lithuania, for example, the share of older juveniles is 1.5 to 2 times greater than the share of younger perpetrators. The same pattern emerges in Slovenia; in Russia in 1998, older juveniles committed 72 percent of all juvenile crimes.

However, particularly troubling evidence suggests that there has been a disproportionate increase in the number of very young offenders, those under age 14, though data are scarce. In Georgia in 1998, offenders under 14 accounted for more than 7 percent of all registered crimes. In Russia, the estimated share of very young offenders in recent years has been one-third in total crimes.

Data from the region do not yet suggest an unduly high incidence of repeat offences, although this is clearly rising. Recidivism among juveniles in Belarus more than doubled between 1989 and 1998, involving 15 percent of all young offenders. In the Czech Republic, the share of repeat offenders among juveniles also climbed, exceeding 20 percent in 1996, 1997 and 1998. In Estonia in 1998, 23 percent of juveniles charged with a criminal offence were repeat offenders.

This raises the question of whether the "experimental" brushes with the law common in early adolescence are, in fact, leading to more chronic criminal behaviour among youth in the region. This bears investigation in light of the growing risks, weakened protective factors and lack of early intervention strategies and services, an environment discussed below. The question also calls attention to the efficacy of the inherited juvenile justice systems in integrating offenders into society.

A round the world, breaking the law is predominantly a male phenomenon. Evidence from the U.K., for example, shows that, in 1997, males made up 83 percent of offenders for all age groups. In the transition region, too, males are over-represented and consistently account for 90-95 percent of juvenile offenders in all countries for which data are available.

Evidence suggests, however, that the number and the share of girls coming into conflict with the law have recently begun to rise, especially in the northern and western parts of the region - a trend found also in some industrialized countries. In Hungary, for instance, the number of young female offenders increased by 20 percent between 1994 and 1998, while the total juvenile crime rate was levelling out. In Russia, the number of girls brought to Offices of Internal Affairs (the OVD) was 2.5 times higher in 1998 than in 1993, whereas the registered juvenile crime rate declined over the same period. Girls are still committing far fewer crimes than boys, but the fact they are gaining ground is disturbing. This "catching up" by girls has also been observed for other risk-taking behaviours, such as smoking and substance abuse, as Chapter 2 describes.

This phenomenon has not been evident in the

Caucasus or Central Asia. Since the onset of the transition, societies in these subregions have tended to maintain and sometimes even strengthen traditions which exert stronger social control over the behaviour of girls than they do over the behaviour of boys, resulting in tighter ties to the household and not much deviancy among girls. The number and the share of girls registered by inspectorates in juvenile cases in Azerbaijan, for instance, have fallen and constituted only 2 percent of all registered juveniles in 1998.

The Regional Monitoring Reports pay close attention to gender inequities and point to opportunities to redress historical imbalances. In the case of juvenile crime, the gender gap is being closed because of the expanding role of young female offenders. This is patiently the wrong direction and requires public policies which confront the root causes of both male prominence in crime and growing female participation.

The changing nature of youth crime
Youth crime has not only become more prevalent in the region during the transition, but it has also changed in nature. Property crimes account for more than two-thirds of juvenile crimes in all countries for which data are available. However, the share of violent crimes by young people is likewise expanding in many countries.
Homicides, rapes, aggravated assaults, and grievous bodily harm committed by juveniles have become more frequent in the majority of countries for which data are available. In some countries, the rise in violent juvenile crimes has been greater than the rise in property crimes. The biggest increases have been in Poland, where violent crime rates among juveniles have quadrupled, and in Bulgaria, where they have more than tripled. In Lithuania, the share of violent juvenile crimes has been growing during the transition, nearly tripling in recent years: violent crimes now constitute more than 20 percent of all juvenile crimes, the highest share in the region. In 1998, recorded juvenile violence was tending to stabilize in these Baltic States and CEE countries, albeit at the new, higher levels.

In the CIS, register data show a decline in the violent crimes committed by juveniles, most notably in Moldova, Ukraine and Russia. Evidence suggests, however, that young people in these countries, as well as in the Caucasus and Central Asia, are more frequently committing aggressive and violent acts. A recent study has found, for instance, that violence was strongly underreported in Moldova, especially against women and, in particular, rape.

In the region during the transition Russia has had the highest juvenile homicide rates, a relatively well-documented and unambiguous source of evidence on violence. The peak rate for the whole region - 29.7 homicides per 100,000 males aged 14-17 - was registered there in 1994. In the late 1990s, the juvenile homicide rate also exceeded 20 per 100,000 relevant male population in Belarus, Kaakstan, Estonia, and Lithuania, a rate three or more times higher than the rates in Central Europe, the Caucasus and Central Asia. In the US the peak for male juvenile homicide rates was considerably greater, at 52.2 per 100,000 in 1993. This puts the rates in the transition region into perspective.

Figure 5.8 illustrates two scenarios: in Poland, violent juvenile crime rates more than tripled from 1991 to 1994, easily surpassing young adult rates; in Ukraine, by contrast, violence was being committed more frequently by young adults than by juveniles, and this pattern has become more evident during the transition. Studies conducted in other regions of the world have found that violent crimes are being committed largely by youth on the threshold of adulthood.

Another significant change in the nature of crime committed by youth is the expanding involvement of youth in the illicit drug trade and drug use, as Chapter 2 describes. Some Central Asian countries, in particular, have become both producers of drugs and major portals for drugs from A sia, notably Afghanistan, to other parts of the region, to Western Europe and beyond.

Recent studies in the region have found that drugs are a mounting problem among youth both as users and as perpetrators of drug-related crimes. The number of registered drug-related crimes in Kazakhstan rose from very low levels at the outset of the transition to...
Notwithstanding the caution with which data have to be interpreted, the findings in this section send a clear message: the climbing numbers and the changing nature of youth crimes deserve more in-depth investigation and action regarding the circumstances that foster and promote this perilous environment.

In Slovenia, where drug use among young people has been expanding, the increasing association of juveniles in illegal drug production and the drug trade has also become apparent. There is evidence of similar developments in FR Yugoslavia and of a rapid rise in drug-related crimes in the Baltic States. In Bulgaria, the number of identified perpetrators of drug-related crimes more than quadrupled from 1996 to 1998 (Table 5.2). These crimes were committed mainly by young adults, with the growing involvement of juveniles.

In Russia, the number of registered drug-related crimes committed by juveniles increased from 3,500 in 1993 to 11,200 in 1998. Numbers soared in 1997, doubling from the previous year. This type of crime is also a serious juvenile problem in Ukraine, as Table 5.3 shows, with high and growing rates in recent years.

The 1999 Regional Monitoring Report, “Women in Transition”, calls attention to a similar burgeoning in the sex trade in the region, one that involves not only greater activity in the transition countries, but “exports” to Western Europe and other regions, including trafficking in human beings. This insidious industry overlaps with the drug trade and disproportionately affects young people, especially young women, exposing them to greater risks both as perpetrators and as victims.

It is a commonly held view, for example, that economic needs and desires can prompt people to take up crime. A recent study in Latvia, carried out by the Criminological Research Centre, found that 82 percent of respondents considered unemployment and low income the main causes of juvenile delinquency. Large falls in economic output have entailed poor job prospects and persis-
5. YOUNG PEOPLE IN CONFLICT WITH THE LAW

With the general lack of stability that has accompanied the transition, a growing number of families have fallen into distress, if not crisis. In Poland, research indicates that about half of young perpetrators come from broken homes; the share of young offenders from incomplete families in Slovakia and Slovenia is also significant.

Living in a single-parent family is recognized as a factor in offending in Latvia. However, research in the West has repeatedly found that single-parent and step-parent families are not in and of themselves associated with children who offend. What matters is the parental capacity and willingness to supervise and support children and the qual-

tent unemployment for many young people in much of the region and may create greater vulnerability to offending among youth. Certainly, it is tempting to link the big rises in youth unemployment rates in Romania, Bulgaria and the Baltic States to the higher levels of juvenile crime registered in those countries.

Nonetheless, youth crime does not necessarily exhibit a strong association with youth unemployment, as the cases of the Czech Republic and Poland show. In the Czech Republic, registered youth crime has climbed by more than 60 percent during the transition, despite only modest long-term unemployment among youth, a recovery in real wages and only moderate increases in income inequality. Poland, on the other hand, has experienced much higher youth unemployment, but a smaller rise, 30 percent, in juvenile crime. In terms of poverty, the poorest 10 percent of the Czech population endured a 17 percent decrease in real income levels between 1989 and 1997, while the poorest 10 percent in Poland suffered a 50 percent drop during the same period.

It therefore appears that, while poverty may be a factor in youth crime, it is not the only factor and perhaps not even the most pivotal one. A mong the social factors that matter, family cohesion and supportive social environments play a powerful preventive role against the involvement of young people in high-risk behaviour, as research in a number of Western countries has demonstrated.

Within the family, both parental presence at home and attachment to family members are important. Living in dysfunctional families characterized by conflict, inadequate parental control, weak intergenerational ties, and premature autonomy is closely associated with delinquency. Peer pressure (including siblings) is also very important, as is connectedness to teachers and school. A UK study involving a self-reporting survey among adolescents found that kids who spent time with friends who were contact with delinquent peers, truancy and low parental supervision. Among those who reported weak or medium intrafamily relationships, 70 percent of males and 33 percent of females acknowledged that they had committed a criminal offence. These factors were also linked among youth reporting a strong family attachment.

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Efforts to counter the conditions that precipitate unlawful behaviour can be made at primary, secondary and tertiary levels. On all three levels, most countries in the region have been confronted by formidable challenges since the transition began. Yet, though the collapse of authoritarian governments has been accompanied by instability over the short term, the removal of oppression has also freed up space and energy for building systems, processes and structures anew.

- Primary prevention. This broadest level of protection national policies and programmes that contribute to economic well-being, social justice and an inclusive society includes opportunities for education, employment and social mobility that meet the expectations of young people. A supportive environment for private initiative and entrepreneurship, labour rights, social security benefits, youth associations and other nongovernmental organizations, and after-school cultural and leisure facilities are also part of this basic level of protection, as is a well-defined and accepted system of civic values.

- Secondary prevention. This is the constellation of positive measures that creates a "safety net" able to benefit those persons who have been identified as being "at special risk". While some elements of the primary prevention system were abundant under communism, these individual secondary supports and intermediaries, services were largely absent. They include appropriate monitoring systems and a wide range of family and individual counselling services that reach out to the most marginalized and at-risk young people in an attempt to remedy the conditions which can foster offending.

- Tertiary prevention. This tactical layer is basically reactive, responding to offenders with a view to avoiding recidivism. It requires measures specifically targeting persons in conflict with the law. Again at this level, the policies and structures inherited from the communist past have proved inadequate to meet the new social environment of the transition, characterized by new patterns and levels of offending. Particular attention must be paid to the development of positive, non-custodial sentencing options that serve to prevent the further marginalization of young offenders and, in conjunction with after-care services, favour the reintegration and participation of these young people in society.

Countering juvenile crime: prevention and intervention

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ily of the relationships between parents and children. Indeed, in the transition region, recent studies in Georgia have found that children deprived of parental control and attention are increasingly at risk of offending; in some cases parents actually push children to commit crimes. In Turkmenistan, young offenders most often come from families where both income and family cohesion are low.

As the 1997 Regional Monitoring Report, "Children at Risk in Central and Eastern Europe: Perils and Promises", points out, since the transition began, higher numbers of children and juveniles in the region are being neglected by their parents and are suffering abuse and violence at home: both are factors which contribute to a strong predisposition to offend. Children in disadvantaged families with few opportunities for legitimate employment and facing growing risk of social exclusion are overrepresented among offenders. The plight of ethnic minorities and migrants, including the displaced persons and refugees in parts of the region, is especially distressing.

Where parental behaviour endangers the physical or mental health of children, the conventional solution in the region has been to remove the children and place them in state institutions. Children suffering from inappropriate care and neglect in institutions – as Human Rights Watch, an international NGO, has documented in Romania and Russia in its World Report 2000 – are at high risk of offending, especially given their lack of preparation, support and opportunities when they have to leave institutional care at age 18 (Voices of Youth 14).

This pattern points to the vacuum that exists in most transition countries in the secondary levels of prevention and intervention, in the context of family, school and the community, that seek to keep a bad situation among children at risk from getting worse. It also speaks to the lack of "appropriate responses", as international standards require, at the most serious stage of intervention, institutionalization, which still dominates policy in the region, creating growing pools of young people who leave public care ill prepared for independent adult life.

"The trouble is the lack of legislation to protect them [the young people] and, as a consequence, the lack of a coherent programme to assist those who leave institutional care," according to a care provider at a government institution in Romania, interviewed for this Report. Without appropriate care and rehabilitation in children’s homes to prepare youth to reintegrate in society, there is a strong probability that these young people will return to state institutions, this time to prisons.

Chapters 3 and 4 describe the growing numbers of early school-leavers and dropouts in the region since the transition began and the large numbers of youth who are neither receiving an education, nor working. This trend shows up in crime statistics in the CIS countries, where the school and work status of youth who commit offences is still recorded. In Ukraine, about one-third of the offenders monitored by police in recent years neither attend school, nor work. In Azerbaijan the share is above 35 percent. In

Russia, the ranks of those adolescents who, through their actions, their friends, or simply their environments, have somehow caught the attention of the authorities have swelled 2.5 times during the transition, to about 100,000 persons. Figure 5.10 illustrates the trend in Belarus, Moldova and Georgia, where the number of crimes committed by juveniles had doubled by the mid-1990s and has remained at the higher levels.

As Western research has established, there is a link among school attendance, connectedness to teachers and involvement in crime or other negative behaviours. This

![Figure 5.10](image-url)

**Voice of Youth 14**

**Leaving institutional care: an anxious time for vulnerable young people**

When youth have become wards of the state, the passage from childhood to adulthood is particularly trying, and the passage from the institutional setting to independence in society is an especially vulnerable time. These voices have been gathered from focus-group sessions and individual interviews in Romania among youth who were in institutions or who had recently left institutional care. They reflect attitudes and anxieties about finding work, a home and a place in the world, and they illustrate the intergenerational nature of social marginalization.

- "I don’t get anything out of [financial advice], since I don’t have any money." (Edi, 18)
- "I would like to apply for an allowance, but I don’t know how to go about it." (Emerich, 17)
- "Pretty often, violence is unavoidable." (Paul, 18)
- "I try to listen to what others say about [health risks]. I suppose sexually transmitted diseases could be a big threat." (Adrian, 19)
- "We live in an aggressive environment. Drugs are a bad part of it. We’ve got to know how to protect ourselves." (Angela, 17)
- "I don’t want children. I don’t like them." (Ana-Maria, 17)
- "You have to start from scratch: home, family, . . . You have to get rid of the habits of ‘flock’ life." (Razvan, 19)
- "You have to begin with gathering things, starting with teaspoons . . . ." (Gheorghe, 19)

Notes:
- Data for Belarus and Moldova refer to the number of perpetrators and for Georgia to the number of crimes.
- The rise in crime among juveniles out of school and out of work, Belarus, Moldova and Georgia, 1995-98 (999-100) Social MINER project database.
5. YOUNG PEOPLE IN CONFLICT WITH THE LAW

"I started because I felt that my family saw me as scum and good for nothing. You feel you are different." (Libor, 17)

"Everyone wants to get the respect of the others in the gang; others will follow . . . ." (Jarda, 16)

"It’s important what kind of friends you have. Once you have been part of a gang, you get bored with normal people." (Martin, 18)

"You feel you are different." (Libor, 17)

"I started because I felt that my family saw me as scum and good for nothing. Later, I started enjoying it; I needed more money." (Petr, 19)

Changing values and changing behaviours

During a time of rapid social change and unstable conditions such as those accompanying the transition, young people are more vulnerable to coming into conflict with the law: all of society is adapting to new realities, and previously established social norms and taboos are being widely challenged.

Their ties to family and school weakened, a greater number of young people in the region are seeking a feeling of connection and belonging by joining or setting up groups or even organized gangs. In association, youth have a high propensity for committing offences, usually acting together and often after excessive alcohol consumption. These spontaneous gangs of young people also attract the attention of those adults wishing to engage youth in criminal activities.

The relative status of many families during the transition – less than half the respondents were prepared to support blackmail, fraud and theft or other property crimes.

In Hungary, Latvia and Ukraine in the mid-1990s, for example, only 20 percent of the juveniles who committed crimes were acting alone. The rest were acting in groups, on occasion with adults. In Poland, two-thirds of the identified juvenile offenders had been acting in association with peers or adults. In Estonia, 74 percent of the juveniles convicted of criminal offences in 1998 had been acting as members of groups.

Indirect evidence of the recruitment of young people by adults for criminal activity can be found in the number of registered crimes for which juveniles are charged with adults. In Russia, for instance, the number of these crimes tripled between 1990 and 1998, reaching 20,000 cases. In 1998, 20 percent of adults who were charged for crimes involving children. Organized crime, including the illicit drug trade, has contributed significantly to this trend. A 1998 report for UNAIDS stated that, in Kazakhstan, “drug dealers widely involve minors (under 16) in the drug business.”

Table 5.4

<table>
<thead>
<tr>
<th>Status of Family</th>
<th>Poor family, poorly educated mother</th>
<th>Poor family, highly educated mother</th>
<th>Affluent family, poorly educated mother</th>
<th>Affluent family, highly educated mother</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reject behaviour</td>
<td>47</td>
<td>40</td>
<td>44</td>
<td>48</td>
</tr>
<tr>
<td>Understand behaviour</td>
<td>31</td>
<td>42</td>
<td>20</td>
<td>28</td>
</tr>
<tr>
<td>No clear opinion</td>
<td>22</td>
<td>18</td>
<td>39</td>
<td>24</td>
</tr>
</tbody>
</table>

Turning to crime: why do young people offend?

In focus groups conducted for this Report, young offenders in two reform schools in the Czech Republic talk about why they had committed crimes.

- “I enjoy stealing. I like it.” (Milan, 17)
- “You could make ends meet, but what kind of life is that? You can’t afford a lot of things – entertainment, good quality shoes and clothes – you have to be very modest.” (Jarda, 16)
- “You feel you are different.” (Libor, 17)
- “I started because I felt that my family saw me as scum and good for nothing. Later, I started enjoying it; I needed more money.” (Petr, 19)
5.3 Public Policy Responses to Young Offenders

The rise in youth crime in the region has taken place in an environment of broader social and economic changes which have affected families, communities, employment opportunities, social values, civil society, and the role of the state. Attitudes, behaviours and policy strategies in each of these areas can have an impact, positive or negative, on young people coming into conflict with the law.

This section looks specifically at how countries are responding to youth crime through their justice systems and whether these responses are effective, respect human rights and follow international guidelines and principles.

According to the 1985 U.N. Standard Minimum Rules for the Administration of Juvenile Justice, the aims of juvenile justice are to "emphasize the well-being of the juvenile" and "ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence". The rules also state that "strictly punitive approaches are not appropriate."

The reference points change dramatically, however, for young adults. At their 18th birthday, young people are invariably dealt with under the "generic" justice system, where emphasis is at least as much on punishment as on rehabilitation and where the standards of protection are lower. This poses problems for the simultaneous examination of the situations of juveniles and of young adults in conflict with the law – the age ranges covered by this Report. However, international standards provide justification for applying a juvenile justice "lens" to young adults, and this chapter adopts such a perspective.

Justice systems in transition

The transition countries have been faced with tremendous tasks – and opportunities – in rebuilding their justice systems to align with the shift to democratic societies. Often concurrently, this involves, notably: reviewing and reforming laws, law enforcement and the judiciary; training and retraining the variety of professionals concerned; creating new instruments for preventing crime and dispensing justice, and securing resources to implement the new legislative provisions and policy decisions. Not surprisingly, the results of such a vast enterprise have been checkered, as the findings of the U.N. Committee on the Rights of the Child, summarized in Box 5.5, indicate. When confronting the "new face" of crime in the region, resource-stapped governments with a vast range of transition-related problems to resolve have relied largely on inherited responses and infrastructures.

Most countries in the region have at least amended and some have overhauled the fundamental legislation affecting juvenile justice. Particularly during the second half of the 1990s, Bulgaria has adopted amendments to the penal code and enacted a new law for combating and preventing juvenile delinquency, and the Czech Republic and Ukraine have both taken steps to protect children’s rights through reforms in penal codes.

New or modified penal or civil codes have also been adopted in Albania (1995), Poland (1998), Russia (1996), and Georgia (1997), and revised codes of criminal procedure have been approved in, for example, Russia and Georgia. Usually, one aim of the revision process is to ensure that international standards are well reflected in the texts. Thus, the new Polish penal code places special emphasis on non-custodial measures for juveniles, and the Lithuanian Code of Criminal Law envisions a special system of sanctions for juveniles. Azerbaijan and Georgia, among other nations, are in the process of reviewing the legislative provisions relating specifically to juvenile offenders.

There are also cases where new legislation may be seen as going in the opposite direction. Reforms to criminal codes in some Central Asian countries, for instance, have resulted in harsher maximum sentences for most types of offences, and, correspondingly, there is an apparent hardening of the judicial response to "habitual" petty offenders. Similarly, Russia’s 1996 criminal code expands the list of "serious" offences for which the minimum age of criminal responsibility is 14 rather than 16. Reportedly, Slovakia is considering lowering the age of responsibility in response to an increase in serious crimes by younger children.

Contact with the justice system has long-term consequences for young people, and every point of contact, from the moment of arrest to the final decision of the court, is crucial to the success or failure of the intervention.

It is useful to map out the dimensions of the discussion on youth justice in transition countries. There are generally three distinct age groups to consider in regard to young people in conflict with the law: children under 14, juveniles aged 14-17 and youth aged 18-24. There are two primary avenues for dealing with young people in conflict with law: the courts and non-judicial bodies such as the commissions for youth affairs or the equivalent entities that exist in many transition countries. Generally, young people over 18 are dealt with through the courts; children under 14 are handled by non-judicial mechanisms, and juveniles can be processed through either. This last "grey area" requires particular attention, since it means that juveniles in different jurisdictions may be treated quite differently for the same type of offence, and it raises questions about how "appropriate" are the responses in terms of international standards on juvenile justice.

Furthermore, jurisdictions assign varying degrees of "seriousness" to similar types of offences, so that the same act of offending may be considered non-criminal in one country and a serious criminal offence in another. Again, the juvenile age group seems the most likely to get caught up in this discretionary middle ground.

Finally, there are two main sentencing options: deprivation of liberty and non-deprivation of liberty. There is reason for particular concern regarding the age and the type
UN Committee on the Rights of the Child reviews juvenile justice in the transition region

So far, 20 countries in the transition region of Central and Eastern Europe, the Commonwealth of Independent States and the Baltic States have submitted initial reports to the Committee on the Rights of the Child. As of June 2000, 16 of these reports had been reviewed.

In general, the Committee’s assessments have been critical, calling overall juvenile justice “a matter of concern” in the Czech Republic, Hungary, Bulgaria, Slovenia, Ukraine, Belarus, and Russia. It has commented positively on law reform in Bulgaria, the Czech Republic, Georgia, and Ukraine, and Russia was commended in a 1993 review for its stated intention to establish juvenile and family courts, but then chastised in a 1999 progress review for failing to realize that goal. Among those countries reviewed, the only transition country that has escaped comment, positive or negative, is Croatia.

Some of the main needs pinpointed by the Committee are highlighted below. It should be noted that the Committee, in its remarks and recommendations, is not always consistent among countries and over time and that some reviews date from the early 1990s. Furthermore, often the Committee has naturally commented in most detail on those reports which have been the most informative and self-critical.

- A comprehensive review and reform of the juvenile justice system in the spirit of international standards: particular attention is needed in Armenia, Azerbaijan, Bulgaria, the Czech Republic, Georgia, Kyrgyzstan, Romania, and Russia.
- Training on relevant international standards for judges, law enforcement officials, correctional officers, and social workers: particular attention is needed in Azerbaijan, Bulgaria, the Czech Republic, Georgia, Hungary, Kyrgyzstan, Poland, Romania, Russia, Ukraine, and FR Yugoslavia.
- Better protection of the rights of children deprived of their liberty: particular attention is needed in Armenia (with special reference to the length of pre-trial detention, the limited access to visitors during that period, the length of sentences, and the conditions of detention, including non-separation from adults), Azerbaijan (“corrective labour institutions”), Georgia (the conditions of detention, including inadequate food, clothing, heating, educational opportunities, and leisure activities), Hungary (ill-treatment in detention centres), Kyrgyzstan (the length of pre-trial detention, the limited access to visitors and the non-separation from adults during that period, and the length and conditions of detention as a sentence, including inadequate food, clothing, medical care, and educational and leisure activities), Poland, Slovenia (the length of pre-trial detention), Russia (the length of pre-trial detention, the conditions in pre-trial detention facilities and special educational establishments, the treatment in educational colonies, and the conditions in prisons in general), Ukraine (“correctional labour colonies”), and FR Yugoslavia (pre-trial detention).
- An independent and accessible complaints system for detained juveniles: particular attention is needed in Georgia, Russia and FR Yugoslavia.
- Less recourse to deprivation of liberty, development of alternative measures: particular attention is needed in Armenia, Azerbaijan, Bulgaria, the Czech Republic, Georgia, Hungary, FYR Macedonia, and Russia.
- Adequate respect for the child’s right to prompt legal assistance and judicial review: particular attention is needed in Armenia (access to legal aid), Bulgaria, the Czech Republic, and Kyrgyzstan (access to legal aid).
- Adequate respect for the views of the child in court proceedings: particular attention is needed in Armenia, Georgia and Kyrgyzstan.
- Eliminating, in the justice system, stigmatization of particularly vulnerable groups of children, such as Roma: particular attention is needed in Bulgaria, the Czech Republic and Hungary.
- More attention to preventive measures: particular attention is needed in Poland and Ukraine.

Among other country-specific concerns of the Committee:

- Azerbaijan: the lack of an appropriate and independent monitoring system for all types of detention centres and the need for disaggregated data and appropriate indicators to assess the situation of children.
- Russia (1999 review): police brutality and the torture of juveniles detained during the investigation of alleged offences.
- Ukraine: inadequate respect for fundamental rights and legal safeguards in all aspects of the juvenile justice system and the full independence and impartiality of juvenile judges.
- FR Yugoslavia: lack of protection of the rights of the child during investigation procedures.

Clearly, many of these issues, though raised in relation to given countries, are, in fact, of wider concern in the region. Likewise, the highlighting of particular issues does not set a limit to the scope of change needed. Countries in the transition region and, indeed, around the world have much to accomplish in order to breathe the spirit of the Convention into their juvenile justice systems.

Note: Countries which have submitted initial reports not yet reviewed by the Committee (as of 15 June 2000): Albania, Bosnia-Herzegovina, Croatia, Estonia, Georgia, Hungary, FYR Macedonia, Kazakhstan, Moldova, Mongolia, Turkmenistan, and Uzbekistan.
relevant youth issues.

Although attempts are being undertaken to ensure that all

sentencing options are available, and, in theory at least, access to legal counsel is automatic. The lack of special training to deal with young people and the lack of familiarity with the rights of young people are pervasive, although attempts are being undertaken to ensure that all judges and professionals have the proper understanding of relevant youth issues.

International standards do not explicitly require the establishment of separate courts for juveniles, but do demand that states promote the establishment of laws, procedures, authorities, and institutions specifically relevant to children.

All Western democracies have courts for young offenders that involve a distinct setting and specially trained personnel, as well as unique procedures and tailored sentencing options. Such courts have existed in the transition region, for example in Poland, but have been more the exception than the rule, particularly in the CIS countries, though the governments of Kazakhstan and Kyrgyzstan are among those which have expressed a desire to establish a special juvenile court system when resources become available.

Prior to the communist system, Bulgaria relied on designated judges and prosecutors in major cities to deal with juvenile cases, and efforts are now under way to reinstate this scheme. Russia has a number of specialized judges, too. However, such an approach is often difficult to implement. Albania is a hard case in point: abolished as “unnecessary” under communism, the Ministry of Justice was reestablished in 1991, and courts were set up in each of the country’s 36 districts. Unfortunately, a third of these courts were disabled or destroyed during civil unrest in 1997, and the juvenile justice system is only beginning to recover. A World Bank study that year showed that many district court judges were new graduates in their early 20s who had no practical experience. The country’s first graduating class of junior judges and prosecutors from a newly established school for magistrates was expected in 2000. A start has also been made in the adoption of special provisions for juveniles in the creation of family sections in courts in the main cities and steps, as yet unrealized, to assign specially qualified judges in juvenile cases.

A viable court-based juvenile justice system requires a substantial financial investment and a supportive environment. This means not only special courts, but also the availability of specialized professionals, programmes and facilities aimed at prevention and intervention before and after the court appearance of an individual juvenile offender. The existence of sentencing options is particularly important, especially alternatives to the deprivation of liberty.

**Sentencing and the deprivation of liberty**

The deprivation of liberty – defined according to international standards as placement in any kind of facility, penal or not, from which the person concerned cannot leave at will – at any point in juvenile justice processes is an issue of grave concern. International standards call for the use of detention only as a last resort and for the shortest time possible.

It can be persuasively argued that custody exacerbates the propensity to re-offend. As Martin, 18, an offender in a Czech correction facility, said in focus-group research carried out for this Report: “Prison has changed me, but in a negative way – I now know how to behave real bad.” There are certainly legitimate concerns about the impact of conditions in state facilities on young offenders.

A 1995 survey on secondary school-age children in Ukraine revealed the staggering scope of physical and sexual abuse among adolescents living in the institutions of the Ministry of the Interior, with 50 percent of adolescents reporting unwanted sexual contact, and as many as 30 percent reporting having been raped. Several of the HIV epidemics noted in Chapter 2 that swelled the number of HIV-infected people in the CIS began in prisons, where young male adults can be particularly vulnerable to abusive practices.

Although conditions vary greatly, problems include overcrowding, poor nutrition and lack of medical supplies. Regimes can be harsh, making use of punishments prohibited according to international standards. UNICEF surveys have found that solitary confinement is allowed in all five Central Asian countries; corporal punishment and reduced rations are permitted in Kyrgyzstan and Uzbekistan, and family visits are restricted in all these countries except Kazakhstan. As recently as late 1999, the UN Special Rapporteur on Torture expressed concern about the health status of the detainees and the inadequate food, clothing and footwear in two juvenile correctional facilities in Kyrgyzstan.

The deprivation of liberty of young people is not only an outcome of sentencing, but can and does take place before trial. In Kyrgyzstan, all boys charged with “serious” offences, which in that country include minor property offences, are detained in a wing of the youth penal colony to await court appearance. They are allowed just one hour of daily exercise outside their cells and have no access to educational facilities, nor rights to family visits. Worse, the average pre-trial detention period for accused juveniles in 1997 was six months. Similarly, pre-trial custody for juveniles in Albania can run to eight months or more, and of special concern is the practice of detaining juveniles along with accused adults in overcrowded and unhygienic facilities, although the juveniles are allowed family visits fortuitously.

Following reviews in 1994 and 1999, the UN Special Rapporteur on Torture severely criticized Russian authorities for heavy-handed use of pre-trial detention, especially for first-time offenders, and for the “life-threatening” and “torturous” conditions of detention. The Special Rapporteur found that there had been no improvements on either
count between the reviews. The recourse to pre-trial detention for juveniles in Romania has been a cause of similar concern. For their part, Bulgarian authorities have conceded that penal proceedings often continue well beyond the time limits allowed by law and that the long period of pre-trial detention can lead to serious conflicts between juvenile detainees and staff in the correctional homes where the juveniles are remanded.

The deprivation of liberty can also be the final outcome of judicial proceedings: the sentence. Although judges have some discretion in sentencing, evidence in a number of transition countries, including Romania and Russia, shows that children as young as 14 have been sentenced to long periods of deprivation of liberty for minor offences such as petty theft, even when it is a first offence.

Comparing evidence on sentencing patterns from country to country over time can be difficult, yet there are some observable trends in the region.

Prior to the transition, courts in most countries relied heavily on two types of sanction: the deprivation of liberty and the threat thereof, that is, a form of suspended sentence often involving reporting to and surveillance by authorities. With the exception of some Central and Southeastern European countries, including former Yugoslavia, non-custodial options were rare.

Today, the availability of sentencing options other than the deprivation of liberty (actual or “suspended”) varies greatly, and so, consequently, does the recourse to custodial sentences. In countries where probation services exist, they tend to be frequently used in addition to or instead of custody. For example, Russian authorities report that, from 1992 to 1996, recourse to probation more than doubled, accounting for 16 to 35 percent of juvenile cases.

In Hungary in 1997, 61 percent of juvenile offenders were put on probation; in Poland, the share was 40-50 percent, with another 20 percent placed under the “accountable supervision of parents or guardians”.

In contrast, Albania has no probation option and relies heavily on the deprivation of liberty, with no less than 80 percent of juveniles convicted of penal offences in the first nine months of 1999 receiving custodial sentences, compared to 8 percent in Hungary in 1997, for example. Functional probation services remain unavailable in many countries, including Georgia, Lithuania and Kazakhstan. In three countries in 1998, judges ordered custodial sentences for almost one-third of the convicted juvenile offenders (28 percent, 31 percent and 31 percent, respectively). Nonetheless, in Lithuania, this represented a substantial improvement over the situation just two years earlier, when almost half (47 percent) of the sentences involved the deprivation of liberty.

When probation is unavailable, the recourse to suspended sentences, with or without supervision, is gaining favour in many countries. In Estonia and Kazakhstan, two-thirds of the juvenile sentences in 1998 were suspended, as were the majority of cases in the Czech Republic and Lithuania. In contrast, the increasing reliance on probation in Russia in 1992-96 was accompanied by a drop in the use of suspended sentences from 70 percent to 33 percent rather than by a substantial fall in imprisonment rates, which declined only from 30 percent to 25 percent.

Though suspended sentences avoid the problem of incarceration and can be effective deterrents, they still do not constitute “positive sentencing”. Though not exhaustive, Table 5.5 shows that many countries are making efforts through penal codes to establish or expand non-custodial penalties, including apologies to vic-

| Various non-custodial sentencing options available in the transition countries |
|-------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
|                        | Warning | Reprimand | Apology | Compensation | Fine | Community service | Restrictions | Supervision | Suspended sentence / conditional discharge | Probation |
| Czech Republic         | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Poland                 | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Hungary                | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Slovenia               | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Croatia                | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| FYR Macedonia          | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| FR Yugoslavia          | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Bulgaria               | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Romania                | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Estonia                | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Latvia                 | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Lithuania              | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Moldova                | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Russia                 | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Ukraine                | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Georgia                | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Kazakhstan             | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Kyrgyzstan             | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Tajikistan             | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Turkmenistan           | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |
| Uzbekistan             | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     | √√     |

Sources: MONEE country reports; UN (1995, 1997a, 1998a); Asquith (1999); UNICEF (1999a).

Note: The table is indicative, not exhaustive. Double ticks correspond to an option which is reportedly relied on with particular frequency.
tims and community service. Such alternatives are an important basis upon which to build positive sentencing.

Overall, the evidence does suggest that the recourse to sentences of deprivation of liberty may be levelling off or even declining in parts of the region. This would be promising given the relatively long periods of detention to which juveniles and young people can be sentenced. The maximum prison terms for juveniles convicted of “very serious” criminal offences are often 10-15 years (Table 5.6).

Table 5.7 attempts to pull together the available data on registered juvenile crimes and sentencing, including sentences of deprivation of liberty. Such data are very difficult to obtain (indeed, the table covers only 11 of the 27 countries in the region), and the reliability and comparability of the data are problematic even within the same countries over time.

So, what can be said about trends in sentencing? The figures on the changes over time suggest that, with few exceptions, the number of formal sanctions broadly followed the increases in registered juvenile crimes between 1989 and 1998 in most countries. The difference between the registered crimes and the sentencing figures implies that in the majority of cases juveniles were acquitted, were not processed, or were dealt with through non-judicial procedures, whilesimilarities in the figures suggest that the proportion of such cases remained relatively constant over time, although further investigation would be needed to reach a firm conclusion.

The situation in terms of sentences involving the deprivation of liberty is less clear. It appears that, in Central and Southeastern Europe, the deprivation of liberty was relied on less frequently in 1998 than in 1999, while in the countries of the former Soviet Union an opposite trend seems to have taken place.

Figure 5.11 shows that, while Russian courts seldom levy maximum sentences on juveniles, they nonetheless impose substantial jail time. In 1996, when 30,000 juvenile offenders were deprived of their liberty, 40 percent were sentenced to more than three years, including 26 percent of those sentenced for the relatively lesser crimes of theft and “hooliganism”. Figure 5.12 further illustrates how discretionary sentencing can differ considerably among countries, in this case Estonia and Russia, where young offenders are much more likely to receive sentences of more than two years.

It also seems that judges in several countries are shying away from lengthy prison sentences, and a more lenient approach in general is reported in a number of countries. In Hungary, for example, judges reportedly are resorting less often to imprisonment for property crimes in 1997, 43 percent of such cases entailed prison terms of less than six months, compared to only 27 percent in 1990, and this despite a rising crime rate.

The problem is that “leniency” remains at the discretion of the court and does not represent a firm principle for the delivery of juvenile justice, as envisioned in international standards and conventions. Truly “positive” sentencing requires appropriate and constructive responses tailored to the offender, rather than simply a lighter version of the punitive sanctions imposed on adults.

**“Educational” approaches raise concerns**

It is often claimed that the basic approach to juvenile offenders in the transition region has been and still is “educational” rather than punitive. The emphasis on education is particularly marked in countries of the former Yugoslavia. In Slovenia, educational measures accounted for half the sentences of juveniles in 1998; supervision orders and reprimands made up a further 40 percent. In FR Yugoslavia, responses are mainly educational or involve additional supervision, and FYR Macedonia also emphasises educational measures. Russia

### Juvenile crime, sentencing and the deprivation of liberty, 1989 and 1998

(Tables and percent)

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Czech Republic</td>
<td>13,688</td>
<td>16,730</td>
<td>122.2</td>
<td>3,500</td>
<td>4,605</td>
<td>131.6</td>
</tr>
<tr>
<td>Slovakia</td>
<td>4,103</td>
<td>6,849</td>
<td>166.9</td>
<td>2,151</td>
<td>3,027</td>
<td>140.7</td>
</tr>
<tr>
<td>Hungary</td>
<td>9,661</td>
<td>12,886</td>
<td>133.2</td>
<td>6,362</td>
<td>8,036</td>
<td>128.3</td>
</tr>
<tr>
<td>FYR Macedonia</td>
<td>3,753</td>
<td>5,010</td>
<td>157.5</td>
<td>1,216</td>
<td>745</td>
<td>61.4</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>6,022</td>
<td>18,943</td>
<td>314.6</td>
<td>1,734</td>
<td>2,605</td>
<td>150.2</td>
</tr>
<tr>
<td>Romania</td>
<td>9,245</td>
<td>43,839</td>
<td>474.2</td>
<td>1,983</td>
<td>11,196</td>
<td>556.6</td>
</tr>
<tr>
<td>Estonia</td>
<td>1,561</td>
<td>2,264</td>
<td>148.9</td>
<td>963</td>
<td>1,502</td>
<td>156.0</td>
</tr>
<tr>
<td>Latvia</td>
<td>2,562</td>
<td>4,033</td>
<td>157.0</td>
<td>1,142</td>
<td>1,678</td>
<td>146.9</td>
</tr>
<tr>
<td>Lithuania</td>
<td>2,702</td>
<td>4,917</td>
<td>184.2</td>
<td>1,228</td>
<td>2,221</td>
<td>171.7</td>
</tr>
<tr>
<td>Belarus</td>
<td>6,574</td>
<td>9,990</td>
<td>152.0</td>
<td>3,303</td>
<td>5,712</td>
<td>159.0</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>593</td>
<td>766</td>
<td>152.3</td>
<td>324</td>
<td>458</td>
<td>141.4</td>
</tr>
</tbody>
</table>


Note: To Latvia the maximum prison sentence for the most serious crime is 6 years.
5. YOUNG PEOPLE IN CONFLICT WITH THE LAW

Figure 5.12

Prison sentences for juveniles, by type of crime, Russia, 1996

(percentage)

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>Russia</th>
<th>Estonia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hom</td>
<td>28.6</td>
<td>6.7</td>
</tr>
<tr>
<td>Burglary</td>
<td>22.5</td>
<td>8.5</td>
</tr>
<tr>
<td>Rape</td>
<td>13.8</td>
<td>6.8</td>
</tr>
<tr>
<td>Assault</td>
<td>23.6</td>
<td>10.8</td>
</tr>
<tr>
<td>Robbery</td>
<td>5.5</td>
<td>5.2</td>
</tr>
<tr>
<td>Theft</td>
<td>45.5</td>
<td>40.8</td>
</tr>
<tr>
<td>Drug-related crimes</td>
<td>8.5</td>
<td>5.2</td>
</tr>
</tbody>
</table>

Figure 5.13

Young offenders by length of prison sentences, Russia, 1996, and Estonia, 1999

(percentage)

<table>
<thead>
<tr>
<th>Length of Sentence</th>
<th>Russia</th>
<th>Estonia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1 year</td>
<td>31.5</td>
<td>28.6</td>
</tr>
<tr>
<td>More than 1 up to 2 years</td>
<td>29.6</td>
<td>31.5</td>
</tr>
<tr>
<td>More than 2 up to 3 years</td>
<td>20.6</td>
<td>20.6</td>
</tr>
<tr>
<td>More than 3 up to 5 years</td>
<td>6.7</td>
<td>5.2</td>
</tr>
<tr>
<td>More than 5 up to 10 years</td>
<td>2.5</td>
<td>2.5</td>
</tr>
<tr>
<td>More than 10 years</td>
<td>2.5</td>
<td>2.5</td>
</tr>
</tbody>
</table>

has “educational colonies”, and there is evidence that first-time offenders as young as 14 who have been sentenced for petty theft are being detained in these institutions.

So, though the “educational” approach sounds progressive on the surface, there is cause for misgiving. Many countries do not have the adequately trained social workers, psychologists and special teachers that educational facilities imply. Some efforts are being made in this regard, but the lack of qualified staff and of funding remains an obstacle. And, as importantly, educational measures still involve the deprivation of liberty, usually for up to three years, in a closed educational or correctional facility.

Of special concern regarding these “educational” placements is the fact that they can be ordered not only by the courts, but also by administrative bodies. In other words, the deprivation of liberty may not be subject to a judicial decision or to judicial review. Though non-judicial bodies are positive mechanisms for handling young people who come into conflict with the law, as Box 5.6 describes, such authority to deprive young people of their liberty, as in the case of commissions for youth affairs, is inconsistent with due process and human rights.

In Lithuania, juveniles can even be sent by protection services and schools to “special correctional care homes”. In Estonia, the Committee for the Under-aged, set up in 1998 to deal with 7-18 year-olds, can send juvenile offenders to a “special educational institution”. The Commission for Youth Affairs in Georgia can send young offenders to an open rehabilitation centre or “children’s shelter”, but also, if they do not reform, to a closed correctional institution for one to three years. The counterpart in Turkmenistan can place a juvenile in a special “vocational” school. In the countries of former Yugoslavia, the centres for social work, which predate the transition, play this role. Such centres in Slovenia initiate about 80 percent of the admissions to “institutions for children and youth with behavioural and personality disorders”, while the rest are sent by the courts.

While “diversion” to non-judicial settings is a well-accepted and preferred channel for dealing with juveniles in conflict with the law, the rights of children are vulnerable and can be violated if democratic values and due process are not integral to these intermediary processes and environments. The international standards are clear: human rights and legal safeguards must be fully respected, including the right to contest the facts and appeal to a higher authority.

Yet, there is also an obvious need for more intermediary interventions in all countries of the region, including constructive approaches such as mediation and reparation. Nonetheless, there are glimmers of “restorative” justice in the region: in the community mahalla committees in Uzbekistan, in Latvia, where mediation is practised to some degree, in the family courts of Poland, and in Estonia’s vision of juvenile justice. The overarching goal of these approaches is to confront young offenders with their accountability without reinforcing the social marginalization which only increases the propensity to re-offend.

The role of civil society and public opinion

While responsibility for juvenile justice lies directly with the authorities, it is clear that civil society also plays a significant role. The attitude of the community, expressed through organized civil society and more informal “public opinion”, can influence the degree to which responses to juvenile offenders are punitive or positive. And international standards, which recognize that voluntary organizations are insufficiently depended on in juvenile justice systems, call on governments to “coordinate crime prevention efforts with non-governmental agencies”. The Committee on the Rights of the Child has specifically recommended to several countries in the region - Armenia, Azerbaijan, Belarus, Bulgaria, Kyrgyzstan, FYR Macedonia, and Russia
Alternatives to the courts: non-judicial entities in the region

Procedures to deal with certain offences by entities other than the courts have existed in the region for some time. In the CIS, the most common “diversionary” structures are the commissions for youth affairs (the exact name differs from country to country). Their composition may vary, but it usually includes representatives of state stakeholders, for example departments of health, education, social affairs, youth police, the guardianship commission, and community organizations. These commissions typically report to the local executive authority and deal with children under the age of criminal responsibility for the particular offence committed, those accused of a “non-serious” offence, all administrative offences committed by young people, and cases of children for whom the use of protection measures may be required. The decisions of the commissions in regard to offenders may range from a simple warning to a child and the child’s parents, the requirement that the child make a public apology, the requirement to pay a fine or compensation, through to placement in a “special” reform, educational, or vocational training establishment.

Diversionary structures do not have to be exclusively devoted to dealing with young offenders. In Uzbekistan, “mahalla” committees are a traditional form of community organization that survived the communist period. They are now being actively promoted as a low-level administrative unit. The mahallas constitute a nationwide network of local units, with each neighbourhood committee covering from 150 to 1,500 households. The committees currently serve a dual role. On the one hand, they administer state social assistance to the most needy in their communities, and, on the other, they perform their traditional function of helping to solve social and family conflicts within communities. This latter function is based on cultural traditions of respect for the authority of community elders. The commissions for youth set up in many mahallas can play a significant role in dealing with minor offences, supervising offenders and working with children with behavioural difficulties.

- that they improve cooperation with NGOs.

The efforts of organized civil society and the legislative, policy and programme initiatives of governments are undertaken within the wider context of public readiness. Manifest as public opinion or as the reaction of unorganized civil society, this public readiness is a factor in determining the speed and degree with which change can be effected. As one observer in the region notes, alternatives to custodial sentencing can be successful in a functioning community-based culture, but a gestation period is required before they can be introduced into societies where community structure is dysfunctional for socio-economic or political reasons.

Since civil society is in the process of being rebuilt in the region, NGOs are relatively new. They often lack experience, skills and funding. It is also often a struggle to develop public confidence in services such as confidential hotlines and crisis centres, because these are novel and unfamiliar and because of an “allergy” to and a distrust of the organizations inherited from the communist past. This experience has been reported by NGOs running phone helplines and crisis centres in Estonia, Latvia, Lithuania, and Poland.

Governments are still not accustomed to working with NGOs and can be suspicious of allowing them to grow, let alone fostering this growth. Access to detention facilities by NGOs in some countries remains difficult or impossible.

On the positive side, civil organizations are actively involved with young people in conflict with the law at the level of both prevention and intervention. In Kyrgyzstan, for example, the Child Protection Centre works with school and street children, providing “safe houses” for the latter. CAR MEL organizes activities for young detainees, including recreation and education programmes and family visits, as well as pre-release preparation and post-release support. The Kyrgyz Youth Human Rights Group, an advocacy and monitoring group founded in 1995, has assigned special importance to children’s issues, including the deprivation of liberty. It coordinated an “alternative report” on the situation of the country’s children for presentation to the Committee on the Rights of the Child in February 2000.

5.4 Conclusions

Governments, civic institutions and international organizations concerned with youth development face particular challenges in dealing with the issue of young people in conflict with the law in the transition region. Youth is the age when individuals typically assert their place in society and experiment with anti-conformist behaviours. However, in the context of the rapid changes, the new circumstances and the weakened protection that have accompanied the transition, this tendency renders the young people in the region especially vulnerable to coming into conflict with the law.

Indeed, analysis finds that registered juvenile crime rates – notably low in the tightly controlled communist societies of the past – have risen in most transition coun-
YOUNG PEOPLE IN CONFLICT WITH THE LAW

Of the less serious offences would offer broad benefits. That only a few thousand offenders and the emergence of new types of offences, such as drug-related crimes, that hardly existed before the transition. Property crimes still constitute the majority of offences, but violence is becoming more frequent. In some countries, like Poland, Bulgaria and Lithuania, reports of violent crime involving youth have increased many times over.

These higher levels of crime are certainly cause for concern. Moreover, they can make it politically difficult to reform justice systems to satisfy international standards based on human rights. International victim surveys carried out in the mid-1990s suggest that people in all parts of the transition region are exposed to relatively high crime levels in terms of assaults, robbery and burglary. Acts like these are not tolerated in any society and can mobilize public opinion in such a way as to create a hostile climate against social groups associated with lawbreaking.

Given this situation and the broad streak of anti-authoritarianism that communism eventually provoked in much of society in the region, a broad dialogue on justice and law enforcement, one that includes the voices of younger generations, would clearly be worthwhile. The views of young people about issues of crime and justice hold up a mirror to the societies in which they live, but they also reveal much about young people’s beliefs regarding the rights and responsibilities of citizenship. In this light, the apparently temperate and even approving attitudes of many young people in the region towards unlawful acts are no less disquieting than is the evidence that juvenile offending is growing.

The registered figures on juvenile crime are still relatively moderate in international terms. Nonetheless, among the 27 million youth under age 18 in the region, there are about a half-million new cases of adolescents in conflict with the law every year. That only a few thousand young people commit major violent crimes shows clearly that the reform of juvenile justice systems in the vast area of the less serious offences would offer broad benefits.

There is no doubt that the transition countries are confronted by a complex task in the effort to reform justice systems, including juvenile justice systems. Young people and their behaviours are substantially shaped by experiences in a variety of settings: home, school, community, and the general society. These settings and structures have been under great stress and are undergoing profound change during the transition. Addressing the root causes of youth crime requires action at the primary and secondary prevention levels in the everyday environments of young people.

Effecting the changes required to bring legislation, policies and practices more into line with international standards at the tertiary level – at the level of the justice system itself – will take time and will require more wide-ranging changes in society. Yet, one issue stands out as particularly urgent in most countries of the region: the excessive reliance on the deprivation of liberty as a response to young offenders. Whether through pre-trial remands, court sentences, or “correctional” or “educational” measures meted out by courts or non-judicial bodies, recourse to institutional placements remains high in the region. Moreover, detention facilities can be overcrowded, unhealthy and sometimes very harsh. Justice systems in many transition countries still send adolescents to closed institutions for long periods of time for acts, like shoplifting or taking a bicycle, that most teenagers commit at some time as they are growing up, though they do not embark on a life of crime.

Many countries have reviewed their approach to juvenile offenders – though, it appears, this is less often the case in their approach to young adult offenders – and are placing more emphasis on non-custodial responses and prevention. Several countries have expressed the intention to adopt special measures in dealing with youth in the courts and in seeking non-custodial outcomes. Implementation has been less successful, however, due in part to shortages in funding and in appropriately trained personnel.

Alternatives to the judicial process already exist in the region, largely through inherited structures like commissions for youth affairs or similar non-judicial bodies. Building upon these mechanisms is vital, but progress needs to be consistent with international standards in terms of the respect for human rights and legal safeguards. One of the concerns revolving around existing non-judicial bodies is their authority to deprive young citizens of liberty without due process or access to judicial review. One of the benefits, perhaps the greatest one, is the opportunity to prevent the remarginalization of young offenders and to reduce greatly their propensity to re-offend.

There have also been tentative steps along the road to “restorative justice”. Psychosocial services have been reinstated in many countries. A small but growing number of qualified personnel now exists to provide more opportunities for improving preventive services and extending the use of “positive” non-custodial sentencing options. Training based on best practices reflecting international standards is becoming more widespread in many countries.

The space for non-governmental initiatives is increasing. The climate within which NGOs operate can still be disusive or grudgingly tolerant, but the state and the public are sometimes very supportive. Though often
The experiences of young offenders in terms of treatment prior to a hearing and constructive sentencing options count at least as much and may count far more. In this light, how society treats its young members who are in conflict with the law should be seen in the context of broader policy approaches and in terms of what society offers its youth as citizens.

The task of developing an appropriate justice policy to respond to young people in conflict with the law involves much more than merely setting up a specialized court system or providing training in human rights for the personnel dealing with offenders. The fragility of young offenders and the efforts of organized civil society in responding both preventively and reactively to juvenile offending can be encouraged and built upon.

In this light, how society treats its young members who are in conflict with the law should be seen in the context of broader policy approaches and in terms of what society offers its youth as citizens.