ASSESSMENT OF JUVENILE JUSTICE REFORM ACHIEVEMENTS IN UZBEKISTAN
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Courts, in considering cases involving minors, must above all ensure the correct application of the laws. However, in trying cases of this kind, courts do not always follow the … criminal and criminal-procedural legislation. Sometimes, they do not pay due attention to the causes and conditions that contributed to the perpetration of crimes, and do not take legal measures to address them. There are cases in the court practice where criminal acts are not qualified properly, collected evidence is not assessed thoroughly, principles regarding the individualization of punishment are not followed and punishments are not determined by an evaluation of the circumstances of the offences, the age, the family status, the health conditions, the ability to work, and the lifestyle of a perpetrator.

Supreme Court of Uzbekistan, Plenary Decision No. 21, On judicial practice in juvenile criminal cases, 15 September 2000*

You were raised during the Union (USSR). Then everything was different from what we have now… You will never understand us.

Fifteen-year-old student registered with the police, cited in Results of sociological survey on unlawful behaviour among the adolescents registered by bodies of the Ministry of Internal Affairs of Uzbekistan

Five out of ten juvenile respondents to an in-depth interview couldn’t answer the question “Do your parents love you?” Only four of them were confident that their parents loved them.

Results of sociological survey on unlawful behaviour among the adolescents registered by bodies of the Ministry of Internal Affairs of Uzbekistan

Note on the Assessment Mission

The assessment mission took place from 6 to 16 September 2010. The team was composed of Dan O’Donnell, international consultant, and Kamil Asyanov, national consultant. Support was provided by Alisher Abdusalomov, Child Protection Officer, and Nargiza Umarova, Assistant Child Protection Officer, UNICEF Uzbekistan. This report was prepared by Mr. O’Donnell, in consultation with the UNICEF Country Office and the UNICEF Regional Office.

Meetings were held with the Secretary of the National Commission on Minors’ Affairs, the head of the department of the Ministry of Public Education responsible for residential schools, the head of the Department on Minors of the Office of the Prosecutor General, representatives of the Ministry of Internal Affairs’ Department on Minors, a representative of the National Centre on Human Rights, a representative of the Tashkent State Law Institute and a prosecutor.

The assessment team also met with representatives of several NGOs, including the Legal Problems Study Centre, the Republican Centre for the Social Adaptation of Children and the Kamalak Children’s Organization. A discussion was held with lawyers and students involved in university law clinics.

Visits were made to a special educational boarding school for girls located in Chinaz, and a Centre of Social and Legal Assistance to children (formerly a reception and distribution centre) operated by the Ministry of Internal Affairs.

The head of the assessment team also met with representatives of the United Nations Development Programme (UNDP), the United Nations Office on Drugs and Crime (UNODC), the Organization for Security and Co-operation in Europe (OSCE) and the International Committee of the Red Cross (ICRC).

* Edited to improve translation.
Requests to meet with the Ombudsman, a Member of Parliament, the Bar Association and with representatives of the judiciary and the Ministry of Justice were not granted, nor was permission received to visit the juvenile prison and a pretrial detention facility.

The lists of persons interviewed and documents consulted are attached (see Annexes 2 and 3).

Note on Terminology

The term ‘offending’ is used to refer to criminal acts committed by juveniles in most of the reports on juvenile justice published by the UNICEF Regional Office for CEE/CIS. This is common usage in English. In Uzbekistan, however, the terms ‘crime’ and ‘offence’ have specific legal meanings: the former is an “illegal, culpable and legally punishable socially dangerous act” that poses a “real danger” to “social relations protected by law,”¹ while the latter is an illegal and culpable act but does not pose a real danger to legally protected social relations.² Examples include defiant behaviour, foul language, pugnacity, minor theft, drunkenness and vagrancy.³ Offences do not come within the scope of criminal law, but they may lead to the imposition of administrative sanctions.

Consequently, in this report, the term ‘crime’ is used in the sense explained above, rather than the terms ‘offence’ or ‘offending’, which are used in other reports.

Background

Uzbekistan became independent of the Union of Soviet Socialist Republics (the former USSR) in 1991. It is the most populated country in Central Asia, with nearly 27.2 million inhabitants, of which some 10.1 million (37 per cent) are under age 18.⁴ Approximately 80 per cent of the population is Uzbek. The largest ethnic minorities are Tajiks, Kazakhs, Russians, Tatars, Karakalpaks and Kirghizes.⁵

The Constitution was adopted in 1992. The Parliament (Oliy Majlis) is bicameral. The President, who has held office since 1991, was reelected in 2007.

Uzbekistan is divided, for administrative purposes, into 12 provinces (viloyats); the capital city, Tashkent; and the ‘sovereign Republic of Karakalpakstan’, located in the dry, sparsely populated western third of the country.

The economy, traditionally based largely on the export of cotton, is becoming more diversified. Earnings from manufacturing and export of gas, gold and other minerals are increasing. Uzbekistan is classified as a lower middle-income country, with a per capita GNI (PPP) of US$ 2,910 in 2009.⁶ In 2008, 22 per cent of the population was living in poverty.⁷

¹ Results of sociological survey on unlawful behaviour among the adolescents registered by bodies of the Ministry of Internal Affairs of Uzbekistan (‘Sociological Survey’), Legal Problems Study Centre, mimeo, 2005, p. 1.
² Ibid.
³ Ibid.
⁵ Core document forming part of the reports of States parties [to United Nations treaty monitoring bodies], published as United Nations document HRI/CORE/1/Add.129, 2004, p. 5.
Reported crime by juveniles increased by 10 per cent the year following independence, but fell dramatically by 1995, according to official data, and has fluctuated since 2000. In 2006, the most recent year for which data are available, the number of crimes committed by juveniles was less than half that of the last year before independence. The number of homicides committed by or with the participation of juveniles between 2000 and 2006 ranges from a low of 27 in 2004 to a high of 53 in 2003. This contradicts the data provided to the Committee on the Rights of the Child, which indicate that there were 15 homicides by juveniles in 2003 and 18 in 2004. Officials were unable to provide a logical explanation for apparent discrepancies in data from official sources.

There is no law on juvenile justice. Criminal matters involving offenders under age 18 are governed mainly by special sections of the Criminal Code and the Code of Criminal Procedure, which were adopted in 1994, and the Statute of the Commissions on Minors’ Affairs. Prevention is regulated by the 2010 Law on the Prevention of Child Neglect and Juvenile Delinquency.

Uzbekistan acceded to the Convention on the Rights of the Child in June 1994. International treaties do not form part of domestic law. Uzbekistan submitted its first report on the implementation of the Convention on the Rights of the Child to the Committee on the Rights of the Child ("the Committee") in 1999, its second report in 2005, and a combined third and fourth report in 2010. The initial report was examined by the Committee in 2001, and the second report in 2005. Consideration of the most recent report was pending at the time this report was finalized.

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8 Number of reported crimes: 5,588 crimes in 1990; 6,146 in 1992; and 3,583 in 1995. See United Nations Children’s Fund, TransMONEE 2010 Database, UNICEF Regional Office for CEE/CIS, May 2010, Table 9.3. (The TransMONEE Database uses data provided by the national statistical agency of the participating countries. Some independent observers believe that crime by juveniles has actually increased substantially since independence, and the decrease in reported offences is due to manipulation of data. The assessment team has no opinion on this, but does believe that official data must be viewed with great caution.)

9 Ibid. (From a high of 2,991 crimes in 2000 to a low of 2,551 crimes in 2005.)

10 Ibid. (2,623 crimes).

11 Ibid., Table 9.7.

12 Committee on the Rights of the Child, Written replies by the Government of Uzbekistan concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the second periodic report of Uzbekistan, CRC/C/UZB/Q/2/Add.1, 2006, p. 17.

13 Section 15 of Law No. 2012-XII of 24 September 1994 and Chapter 60 of Law No. 2013-XII of 24 September 1994, respectively. (Both sections apply to juveniles under age 18 at the time of the offence.) The Statute of the Commissions on Minors’ Affairs is an Annex to the Cabinet of Ministers Decree No. 360 of 21 September 2000.

14 Statements to the contrary (in HRI/CORE/1/Add.129, supra, paras. 71 and 79–80) are inaccurate, according to an Uzbek legal expert consulted during the preparation of this report. The only reference to the supremacy of international law found in the Constitution is contained in its Preamble, and refers only to ‘universally acknowledged norms of International Law’. Article 66 of the Court Act of 1993 prescribes that judges shall be guided by the Constitution and legislation in considering cases. The Law on Legal Acts of 2000 makes no mention of international treaties as part of the national law.


16 Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Second periodic report of Uzbekistan, CRC/C/104/Add.6, 2005.


After examining Uzbekistan’s initial report, the Committee recommended that the State party:

- establish a ‘minimum age of criminal responsibility’ in accordance with the principles and provisions of the Convention;
- ensure that children are not arbitrarily arrested;
- ensure that deprivation of liberty is only authorized by courts as a measure of ‘last resort’ and for the ‘shortest possible time’;
- ensure that persons under age 18 are not detained with adults;
- ensure that children have access to legal aid;
- ensure that children have access to independent and effective complaints mechanisms; and
- in general, ensure that juvenile justice is fully compatible with the Convention on the Rights of the Child and other relevant international standards, including the Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. 20

The Committee also recommended that the State party consider alternative measures to deprivation of liberty, such as probation, community service or suspended sentences, and that professionals be trained in the area of rehabilitation and social reintegration of children. 21

After reviewing the second report of Uzbekistan on the implementation of the Convention, the Committee expressed concern about “allegations of ill-treatment of children who are kept with adults in pretrial detention and in police custody.” 22 It also repeated the recommendations it had made five years before regarding the ‘last resort’ and ‘shortest appropriate period of time’ principles, the separation of juveniles from adults, and the need to train juvenile justice professionals, especially in the area of social recovery and social reintegration of children. 23 In addition, the Committee called for urgent measures to improve the conditions of detention of persons under age 18 and for the elimination of detention for “status offences.” 24

In 2002 and 2007, National Plans of Action were approved with the declared aim of responding to the recommendations of the Committee. A Law on the Guarantees of the Rights of the Child was adopted in 2008. 25 The same year, the President of Uzbekistan signed a decree expressing his commitment to comply with the concluding observations of the Committee. 26 The decree made express but general reference to juvenile justice.

Executive Summary

Reported crime by juveniles fell during the first decade after independence, according to official data. The most recent published data, for 2006, indicate that the number of reported crimes committed by or with the participation of juveniles is less than half that of the last year before independence. However, discrepancies in official data cast doubt on the reliability of such statistics.

20 Committee on the Rights of the Child, CRC/C/15/Add.167, supra, para. 70.
21 Ibid., para. 70 (e) and (f).
22 Committee on the Rights of the Child, CRC/C/UZB/CO/2, supra, para. 69.
23 Ibid., para. 70. (The Committee did not reiterate its previous recommendations regarding the minimum age for prosecution, legal assistance and complaints mechanisms.)
24 Ibid.
26 Resolution adopted by the participants in the Round Table on juvenile justice held on 7 May 2008, citing the Presidential Decree No. 805 of 29 February 2008 on the State Programme ‘The Year of Youth’.
Criminal matters involving offenders under age 18 are governed mainly by special sections of the Criminal Code, the Code of Criminal Procedure and the Statute of the Commissions on Minors’ Affairs. A draft law on juvenile justice was prepared and presented to the Cabinet of Ministers in 2007, but has not been presented to the legislature. A Law on the Guarantees of the Rights of the Child was adopted in 2008, and a Law on the Prevention of Child Neglect and Juvenile Delinquency (‘Law on Prevention’) was adopted in 2010.

The Law on Prevention has positive features: the definition of antisocial behaviour is relatively narrow; more due process is introduced to procedures for admission to residential facilities; the importance of the Rule of Law, support to families and respect for the child’s individuality is recognized, as are psychosocial assistance and ‘individual preventive work’. Some parts of the Law view children primarily as objects of social control, however, and place more emphasis on preparing and considering documents than on listening to the child and directly assessing his/her needs. Nevertheless, on balance, it makes a positive contribution to Uzbek legislation related to juvenile justice.

In 2008, the President expressed his commitment to bring juvenile justice into greater conformity with international standards. No national strategy on the development of juvenile justice exists, however. The National Plan of Action for Securing Child Welfare adopted in 2007 envisaged only two activities concerning juvenile justice, namely, training police on prevention, and ‘introducing proposals on further enhancement of the system of juvenile justice’.

The Republican Centre for the Social Adaptation of Children, an NGO closely linked to the government, has organized numerous training activities on juvenile justice and other child rights issues. Many of the activities carried out have targeted the police. The duration of most of them has been one or two days. The Legal Problems Study Centre, another NGO, has conducted valuable research on juvenile justice and prepared the draft law mentioned above.

Programmes emphasize prevention and the role played by the juvenile police, the Commissions on Minors’ Affairs and community organizations (Mahallas) in assisting children and adolescents involved in minor offences. The National Commission on Minors’ Affairs, which meets quarterly, is composed of the most important agencies and ministries and has links with relevant government departments on the regional and local levels. Its mandate is limited to prevention, however.

There are some 200 district and municipal Commissions on Minors’ Affairs, whose mandate includes children who commit ‘antisocial acts’ and younger children involved in crime. In cooperation with the Mahallas, they try to solve social problems through referrals, bringing social pressure to bear on children and their parents, and providing informal support, assistance and advice. There are no community-based, non-residential programmes offering professional assistance on a regular basis to children at risk, children who commit minor crimes and juvenile offenders seeking to reintegrate into the community. The Republican Centre for the Social Adaptation of Children provides such assistance on an ad hoc basis.

The police force has a department specialized in ‘juvenile delinquency prevention’. It registers children and adolescents at risk of involvement in crime and operates 14 Centres of Social and Legal Assistance. In 2005, 7,381 children were registered, which presumably involves ‘individual prevention’. The impact of registration has not been objectively evaluated, but it has been reported that registration can be arbitrary and have negative consequences – in particular stigmatization – that affect access to education and employment.
The Centres of Social and Legal Assistance are closed facilities for boys and girls aged 3–18 years who are in need of protection or have been involved in antisocial activity, and younger children involved in criminal activities. The Centres provide shelter, education and other services on a temporary basis, while the courts decide on longer-term measures. The 2010 Law on Prevention improves the procedures for admission to these Centres, from the perspective of due process. Conditions in the Centre visited by the assessment team, in the capital, are good.

A Parliamentary Human Rights Ombudsman was established in 1995. About half of the 6,000 complaints received in 2009 concerned law enforcement or the administration of justice. The Ombudsman’s annual report contains frank descriptions of human rights violations, but less than 10 per cent of the complaints received are ‘resolved’. There is no special unit for child rights and, at present, it does not appear to be an effective mechanism for defending the rights of children who come into contact with juvenile justice.

The law in force contains important safeguards for the rights of juvenile suspects. A 2005 study found, however, that the right to have an attorney present during questioning was frequently ignored and that 15 per cent of juvenile suspects experience beatings during interrogation. No other recent study exists. The police may detain suspects for 72 hours, a practice that no doubt facilitates abuse.

Detention before trial must be authorized by a judge, and the normal time limits for legal proceedings meet international standards. In 2000, a Supreme Court Plenary Decision emphasized the need to ‘study carefully the grounds’ for the detention of juveniles before trial. Fragmentary data suggest that one juvenile out of ten is confined before trial and most of them, reportedly, in adult facilities.

Cases of first offenders accused of a minor crime may be diverted by prosecutors to a Commission on Minors’ Affairs, which may issue a warning or order supervision. Diversion is positive, but public participation in the proceedings of the Commissions does not seem to comply with the right to privacy. There are little data on the use of diversion.

Reports on the social background of accused juveniles are prepared by the juvenile police, who lack the necessary expertise and whose professional responsibilities are not entirely compatible with this role.

The participation of a defence attorney is mandatory in all stages of criminal proceedings concerning juveniles. An attorney must be appointed if the accused has not retained one, and evidence obtained in the absence of a lawyer is inadmissible. There are neither specialized courts nor specialized judges. Judicial proceedings are open to the public, unless the judge decides otherwise. Training in child rights has been limited, and many judges reportedly do not treat juveniles any differently than adults.

Non-custodial dispositions include apologies, reparation of damages and fines. Dispositions involving deprivation of liberty include prison sentences and placement in a vocational college for offenders operated by the Ministry of Higher and Secondary Specialized Education. Conditional sentences are recognized, and probation is supervised by the police. The maximum prison sentence

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27 The term ‘disposition’ is used generically; technically, placement in a vocational college is a ‘compulsory measure’ and is considered non-custodial. In practice, however, it is a closed facility. See Annex No. 1 ‘Regulations on specialized schools for children in need of special conditions of maintenance, upbringing and education’ to the Cabinet of Ministers Decree No. 268 of 26 November 2010. Para. 5 of the Regulations provides that the school is to ‘control’ students 24 hours per day and ‘restrict exit’ from the premises; students may only leave with written permission accompanied by a staff member, parent or guardian, or if given permission to visit their home for holidays or funerals. Those who leave without authorization are reported to the police. See also paras. 35–40.
for a single very serious crime is 10 years. The rules on sentencing are largely in harmony with international standards, although the ‘last resort’ and ‘the shortest appropriate period of time’ principles are not expressly recognized. Scarce data on sentencing suggest that, on average, some 200 juveniles receive prison sentences annually.

The number of juveniles serving sentences reportedly fell by 80 per cent or more over the last ten years (i.e., to less than 200). The assessment team has no information on prison conditions, since permission to visit one was not received. Early release is permitted, but no data on its use are available. Labour is compulsory, and solitary confinement is allowed, in violation of international standards. Many juvenile offenders remain in the juvenile prison until age 21, a practice that raises issues regarding compatibility with international standards. The Ministry of Labour and Social Protection, the Commissions on Minors’ Affairs, the Mahallas and the police share responsibility for helping juveniles after release.

Children involved in criminal activity while too young to be prosecuted may be placed, by a court order, in a ‘special boarding school’. Children involved in ‘antisocial behaviour’ (defined as systematic use of alcohol or drugs, begging, prostitution and other ‘acts that violate the rights of third persons’) may also be placed in these schools. Conditions in the new special boarding school for girls visited by the assessment team were good, although it appeared that the main reason for the placement of many of the students was their family’s unwillingness to care for them. Despite this, there is no systematic outreach to families and no programme to improve parenting skills or provide family counselling. Prior to the adoption of the Law on Prevention, the statutory basis for placement was vague.28 The new Law does not explicitly recognize the ‘last resort’ principle, however, and the need for a closed school for girls under age 14 involved in antisocial behaviour and crime does not appear to be fully demonstrated.

The recommendations made by the assessment team include:

• Priority should be given to implementing the Law on Prevention, including the preparation of a plan or strategy with cost estimates, training needs assessments and a list of needed regulations, job descriptions, professional standards, protocols for inter-agency cooperation, psychosocial diagnostic tools etc.

• Reliable, transparent procedures should be established to monitor the effectiveness of the different types of preventive measures.

• Consideration should be given to eliminating the registration of children, because the risk of stigmatization may outweigh the value of the services provided to registered children.

• Trained professionals should play a greater role in the prevention of crime and repeat offending by juveniles, and consideration should be given to establishing a community-based, non-residential programme for offenders who are diverted or given non-custodial sentences.

• A strategy should be adopted to ensuring that legal proceedings involving children and adolescents are handled by specialized judges and that prosecutors and investigators have adequate training in the relevant law and demonstrated competence in the appropriate skills; as a first step, specialized judges should be appointed in jurisdictions where there is a sufficient number of cases, and a plan should be developed to ensure that in all courts there is at least one judge, one prosecutor and a small number of investigators with sufficient training in the relevant law and skills.

28 New regulations on special educational institutions were also adopted in November 2010.
• The training needs of all relevant sectors should be assessed; curricula or modules should be designed to meet the needs identified; training materials should be developed and tested; and standards and procedures for evaluating professional qualifications and competence should be developed and adopted.

• The draft law on juvenile justice should be reviewed and, after any necessary amendments, submitted to the legislature; or, in the alternative, action should be taken to amend provisions of existing laws that do not comply with international standards; in particular, the duration of police detention should be reduced to 24 hours, the possibility of extending proceedings for more than six months should be eliminated, prison labour should be made voluntary, and solitary confinement as a disciplinary measure should be banned.

• Indicators should be reviewed to ensure the availability of the data necessary to develop laws and policies and to monitor their implementation; data on basic indicators should be published annually.

• Another survey of the experiences of children with respect to juvenile justice should be conducted to update the one published in 2005.

• Independent monitoring mechanisms should be further developed and give greater attention to children.

• The Ombudsman should continue to investigate complaints regarding the use of violence against children by law enforcement authorities, and criminal proceedings should be initiated when complaints are found to be valid. Any administrative sanctions imposed on persons directly or indirectly responsible for such grave violations of the rights of children should be calculated and publicized to ensure that all public officials involved in juvenile justice understand that violence or exploitation will not be tolerated.
PART I. The Process of Juvenile Justice Reform

1. Policies and strategies

No national policy or strategy on juvenile justice has been adopted. A National Plan of Action for Securing Child Welfare, approved in 2007 in response to the recommendations made by the Committee on the Rights of the Child the previous year, contains two references to juvenile justice. One calls for “drafting and introducing proposals on further enhancement of the system of juvenile justice in Uzbekistan” and the other calls for “... training for law enforcement bodies on prevention of juvenile offending and drop-outs from the education system.”

The National Commission on Minors’ Affairs adopted a programme concerning the implementation of measures “for raising cultured, physically sound and competent youth, [and] preventing delinquency, crime and religious extremism among young people” for the period 2000–2005. The assessment team has no further information about the content or implementation of the programme.

Round tables on juvenile justice were held in 2007 and 2008. Participants, including government officials, adopted resolutions concerning actions to be undertaken. These resolutions have no official status, however, and those adopted in 2008 were much more modest than those approved the previous year.

2. Law reform

A new Criminal Code and a new Code of Criminal Procedure were adopted in 1994, less than two years after independence. Both contain separate sections on cases involving juveniles and some provisions more favourable to juveniles than the Soviet Codes. The former Code of Criminal Procedure, for example, did not require that juveniles detained before trial be separated from adults. The new Code of Criminal Procedure also exempts juveniles suspected of the commission of serious crimes from solitary confinement, and specifies that an attorney must be appointed if a juvenile suspect or accused has not retained one. The new Criminal Code permits juveniles to be given probation even if they have previously received a prison sentence. Not all the changes were favourable to juveniles, however. The minimum age for prosecution was lowered from 14 years to 13 years, albeit only for the crime of murder.

A new Statute of the Commissions on Minors’ Affairs was adopted by the Cabinet of Ministers in 2000, enhancing the role and powers of the Commissions.

Work on the preparation of a draft law on juvenile justice began in 2005. The suggestion that such a law be drafted was made by the National Centre on Human Rights, the official body responsible for...
follow-up to the recommendations of the United Nations human rights bodies. The group of experts that drafted the text was convened by the Legal Problems Study Centre. Two international experts provided technical assistance.

The draft law, if adopted, would make some important improvements in juvenile justice and eliminate a number of legal provisions that are incompatible with international standards. Diversion would become available for minor offences regardless of whether or not the juvenile is a first offender or repeat offender, and three new diversion measures would be included. New alternative sentences would also be recognized, including supervision by a social worker or an NGO, restrictions on activities and community service. Important changes would be made concerning the apprehension (i.e., arrest) of juveniles: they would be given a medical examination within two hours of apprehension; the “prosecutor and court” [sic] would need to decide whether or not to order pretrial detention within 24 hours of the apprehension of a suspect, and information obtained through interrogation in absence of a defence lawyer would be inadmissible. Detention before trial would be limited to two months, or three months in exceptional cases; placement of juvenile detainees in isolation or solitary confinement would be prohibited; and the right of juvenile detainees to legal, social, medical and psychological assistance would be recognized. Primary responsibility for the preparation of reports on the background of accused juveniles would be transferred from the police to social workers, and court proceedings would be closed to the public.

The draft law does not eliminate all incompatibilities between existing law and practice and international standards, however. The draft contains provisions on child victims and witnesses, but it does not address the issue of prevention, nor the treatment of younger children involved in criminal activity. These aspects of the draft law also require further attention.

The draft law was presented to the Cabinet of Ministers in 2007. A plan for its implementation and an estimate of the cost of implementation were also prepared but not officially presented to the government. The Cabinet did not forward the draft law to the legislature for enactment, due in part to the opposition of the National Commission on Minors’ Affairs and to the financial implications.

**Law on the Prevention of Child Neglect and Juvenile Delinquency**

The Law on the Prevention of Child Neglect and Juvenile Delinquency (‘Law on Prevention’) was adopted in September 2010. The existence of a law on this subject, defining the kind of interventions to be used, the circumstances in which prevention is needed, and the responsibilities of a wide range of ministries, agencies and institutions, is a positive development. A number of features deserve to be mentioned. One is that the protection of children’s rights is recognized as one of the key objectives of the Law. Similarly, its basic principles include the Rule of Law, humanity, support to families

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37 Draft law on juvenile justice, draft article 11. (The term ‘diversion’ is not used, but rather ‘pretrial treatment measures’.)

38 Ibid., Part 3.

39 Ibid., draft articles 22, 24 and 25.

40 Ibid., draft articles 31–34.

41 Ibid., draft articles 36 and 41.

42 The issues of prevention and children involved in crime and antisocial behaviour are addressed by the 2010 Law on the Prevention of Child Neglect and Juvenile Delinquency, which was adopted after the draft law was prepared.

43 Further comments on the draft law have been provided to UNICEF by the author of this report.

and respect for the child’s individuality.\textsuperscript{45} The definition of antisocial behaviour is relatively narrow: systematic use of alcohol or drugs, begging, prostitution and other acts that violate the rights of third persons.\textsuperscript{46} The importance of psychosocial assistance in prevention is recognized.\textsuperscript{47} More due process is introduced to procedures for admission to residential facilities such as the ‘special educational institutions’ and the Centres of Social and Legal Assistance; and there is an article specifically on the rights of persons subject to “individual preventive work.”\textsuperscript{48}

The new Law on Prevention also contains some provisions or gaps that are less positive. It seems unfortunate that it makes no reference to international standards or to Uzbekistan’s obligations under international law regarding the rights of children. Juveniles involved in prostitution should be seen primarily as victims, and not as criminals. The article on the rights of children subject to ‘individual prevention’ ignores some important rights.\textsuperscript{49} Some parts of the Law – Article 6, for example, concerning the duty to report various matters to the competent authorities, and the repeated references to ‘shaping law-abiding behaviour and healthy lifestyle’ – seem to rely on measures of an essentially repressive nature and view children as objects of social control rather than persons whose well-being and development is the primary concern.\textsuperscript{50} Provisions concerning legal procedures place more emphasis on the preparation, presentation and consideration of documents than on interviewing the child as soon as possible and taking decisions based, at least in part, on the child’s views and direct assessment of his/her needs.\textsuperscript{51}

On balance, the Law represents a valuable step forward. It is much too early to evaluate its implementation, but this is an important law whose impact should be closely monitored by national authorities, and no doubt will also be watched by other countries in the region.

3. Administrative reform/restructuring

During the 1990s, the Ministry of Public Education operated a unified primary and secondary education system covering 11 years. This system comprised three ‘special schools’ for children with behavioural problems, including offenders: one for younger boys in Samarkand, another for older boys in Bakht, and one for older girls in Kokand.

Compulsory education was gradually extended to 12 years, and the Ministry of Higher and Secondary Specialized Education was made responsible for vocational ‘colleges’ and academic ‘lyceums’ that provide three additional years of education to children who have completed grade 9. It was also given responsibility for ‘special vocational colleges’ for juvenile offenders over age 16. The pre-existing...
facility for girls in Kokand was transformed into a vocational college for girls aged 14–18 years, and a new special boarding school for girls under age 14 was opened in Chinaz. The existing facility for boys aged 8–14 years in Samarkand was transformed into a special boarding school for boys aged 11–14 years, and the facility for older boys in Bakht was transformed into a vocational college for male juvenile offenders aged 14–18 years.

The special boarding school for younger girls in Chinaz was visited during the assessment mission. From what he observed and heard, the author of this report believes that separation of younger girls, many of whom are not offenders or have committed very minor offences, from older girls, many of whom reportedly have been involved in more serious offences, is beneficial for the younger girls. However, he also has serious doubts about the need for girls under age 14 who have been involved in minor offences and/or ‘difficult behaviour’ to be confined in a residential facility because of their behaviour. These issues are considered at greater length, below, in Part II of this report.

The assessment team was unable to visit the special boarding school and the vocational college for boys, to locate any documentation on conditions there, or to interview any persons having direct knowledge of them. Consequently, the team has no views on the implications of the changes described above for the boys confined in these facilities.

4. Allocation of resources

The assessment team obtained little information on the amount of resources available for different services related to juvenile justice. The Centre of Social and Legal Assistance in Tashkent does not appear to lack resources, but it is funded by the city government and no information is available on the adequacy of funding for other Centres. The social work unit of the Republican Centre for the Social Adaptation of Children indicated that financial constraints have affected the recruitment of social workers by programmes and institutions assisting children involved in or at risk of involvement in crime.

One official interviewed considered that the cost of implementing the draft law on juvenile justice was the main obstacle to its approval, but other sources did not agree. The assessment team considers that, although cost may well be a consideration, some influential authorities simply do not see the need for the new law nor for juvenile courts.

5. Training and capacity-building

Nearly 800 staff members of the Ministry of Internal Affairs participated in training activities organized within a project on assistance to children in difficult situations implemented in 2003–2004. Representatives of the Ministry interviewed by the assessment team considered that the training had been useful.

The Republican Centre for the Social Adaptation of Children organizes training in juvenile justice for prosecutors, police inspectors, Commissions on Minors’ Affairs and attorneys. During the period 2006–2008, 14 regional seminars were held for officers of the Ministry of Internal Affairs, including police officers responsible for the prevention of delinquency and the staff of the juvenile correctional facility. During the period 2008–2010, 487 persons participated in workshops on juvenile justice. The duration of many of these activities was one or two days.

52 Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 281.
6. Accountability

Uzbekistan does not have an ombudsman on the rights of the child, but a Parliamentary Human Rights Ombudsman was established in 1995.\(^{53}\)

The Ombudsman investigates complaints received from individuals, proposes and comments on new legislation or amendments to existing legislation, and carries out educational and promotional activities. The Ombudsman has regional offices throughout the country, and publishes an annual report of activities.\(^{54}\) Three ‘specialized ombudsmen’ operate within the Office of the Ombudsman, although there is no legislative basis for this specialization: one on universities, one on the rights of patients and one on prisons.\(^{55}\) The Ombudsman has not been recognized by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, whose membership requirements include compliance with the Paris Principles on the independence of such bodies.\(^{56}\)

In 2009, the Ombudsman received over 6,000 individual complaints.\(^{57}\) Almost half of the complaints concerned law enforcement, the treatment of prisoners and detainees and the administration of justice.\(^{58}\) More than half of the complaints received were followed up, and 452 were ‘resolved’.\(^{59}\) Sixteen complaints were ‘positively resolved’ and ‘conclusions’ were adopted with regard to eight individual complaints, and forwarded to the appropriate authorities.

Although the number of cases resolved is relatively small, the Ombudsman’s 2009 report contains frank general descriptions of the problems raised by complaints. It mentions, for example, “Complaints of the citizens to the Ombudsman state that human rights are violated most blatantly upon arrest and detention of the suspects.”\(^{60}\) The Ombudsman also concludes that ignorance of the law by investigating authorities leads to “frequent cases of ... justified complaints” regarding the investigative stage of proceedings. Arbitrary detention, the use of pressure to obtain confessions and hindrance of the work of defence lawyers are mentioned in the description of cases investigated.\(^{61}\) In some instances, the officers or public officials responsible for human rights violations were disciplined or dismissed as a result of the referral of a case by the Ombudsman to the responsible authority.\(^{62}\)

The published reports of the Ombudsman do not disaggregate complaints concerning the police, prisons and criminal proceedings by the age of the victim. The periodic report on the implementation of the Convention submitted to the Committee on the Rights of the Child in 2010 indicates that, in 2008, 23 complaints regarding children were received, and that most concern family matters.

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\(^{53}\) United Nations document HRI/CORE/1/Add.129, supra, para. 51. The Ombudsman’s activities are governed by the Human Rights Commissioner of the Oliy Majlis (ombudsman) Act of 25 April 1997, which was replaced in 2004 by a new law (Law No. 669–II).

\(^{54}\) Reports are available at www.ombudsman.uz, accessed 15 January 2011.

\(^{55}\) Report on the Activities of the Authorized Person for Human Rights (ombudsman) of the Oliy Majlis of the Republic of Uzbekistan for 2009, Tashkent, 2010, p. 280. (The ombudsman on patients’ rights was established with the support of the World Health Organization, pp. 284–285.)


\(^{58}\) Ibid., p. 204.

\(^{59}\) Ibid.

\(^{60}\) Ibid., p. 226.

\(^{61}\) Ibid., pp. 226–227.

\(^{62}\) Ibid., pp. 228 and 231.
or social rights. The Ombudsman’s 2009 report mentions one case involving the beating of two adolescent girls during their arrest, and indicates that a criminal investigation was initiated thanks to the Ombudsman’s intervention. The outcome of the investigation is not reported, but UNICEF has been informed that a minor disciplinary sanction was imposed. This does not seem adequate, given the nature of the violation.

The Office of the Ombudsman has requested support from UNICEF. In 2007, the Committee against Torture concluded that the Ombudsman “was not effective in combating torture and lack[s] full independence.” In 2010, the Human Rights Committee welcomed legal reforms that “strengthen the Office of the Ombudsman.” The small number of cases resolved and the outcome of the case mentioned above concerning the beating of two girls seem to indicate that the effectiveness of the Ombudsman’s interventions remains limited, but the possibility of improvement may exist. In the circumstances, it may be appropriate to wait for concrete indications of more effectiveness before giving favourable consideration to any request for support. If a decision to support the Office of the Ombudsman is taken, the assessment team would recommend that it be for the establishment of a special unit or team to investigate alleged violations of the rights of children rather than a separate ombudsman, and that support be linked to specific tasks or outputs.

The Office of the Prosecutor General also has a mandate to investigate complaints concerning violations of the legislation concerning children, and has a special department for matters concerning children. The 2010 report to the Committee on the Rights of the Child indicates that, during the period 2006–June 2009, 1,428 complaints regarding the rights of the child were received and that, during the first half of 2009 alone, the rights of 472 adolescents were restored. It also indicates that, during the last two years, no case of cruel treatment of a juvenile has been confirmed. If it were true that violence by law enforcement officers has been eliminated since 2005, when an independent study found that 24 per cent of the juvenile offenders surveyed experienced ‘brutal’ and unnecessary force during apprehension (see below), this would be a remarkable development. Unfortunately, although it may be that the incidence of abuse has declined, this figure appears to confirm the concerns expressed by the Human Rights Committee in 2010, concerning the “inadequate or insufficient nature of investigations” of abuse by law enforcement officers, and highlights the need for another independent study on the experiences of juvenile suspects and offenders.

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63 Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, paras. 967–969.
64 Report on the Activities of the Authorized Person for Human Rights, supra, p. 231.
65 Committee against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Conclusion and recommendations of the Committee against Torture, third periodic report of Uzbekistan, CAT/C/UZB/CO/3, 2008, para. 15. (This conclusion also applied to the Office of the General Prosecutor.)
67 For example, inclusion in the annual report of a section on complaints regarding children’s rights that have been received and investigated and the outcome, visits to the juvenile correctional facilities and other relevant correctional/detention facilities etc.
68 Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, para. 974.
69 Ibid., para. 975.
70 Analysis of Legislation of the Republic of Uzbekistan and its Compliance with International Legal Documents in the area of Juvenile Justice, UNICEF and Legal Problems Study Centre, Tashkent, 2005, p. 27.
7. Coordination

The National Commission on Minors’ Affairs, which is chaired by the Prosecutor General, has a mandate to coordinate the activities of ministries, state committees and agencies in matters concerning the prevention of delinquency and the protection of the rights of children. It meets quarterly and is linked to Commissions on the provincial and the district/municipal levels, which are accountable to it. Membership in the Commissions on the provincial and local levels includes the departments of education, health, law enforcement, social services and labour, as well as women’s organizations and NGOs. Resolutions adopted by the Commissions are binding on official bodies, public officials, organizations and private individuals.

The Commission has a mandate to coordinate the activities of public and semi-public bodies regarding the prevention of juvenile delinquency, but it does not have an express mandate to coordinate juvenile justice as such.

8. Data and research

The only data, in a sense, are published on a regular basis are data on crimes committed by juveniles and homicides committed by juveniles. Data on crimes by juveniles for the years 1989 to 2006 have been published by the UNICEF TransMONEE project. Uzbekistan began to provide TransMONEE with data on homicides committed by juveniles in 2000. Unfortunately, data from certain years incorporated into another official report contradict the TransMONEE data for the same years. This raises questions as to the reliability of official data.

Some other data have been released from time to time, in particular in reports on the implementation of the Convention on the Rights of the Child. The written replies made in 2006 to a request for additional information contained data on the number of offences committed by juveniles for the years 2003–2005, disaggregated by the nature of the offence. Eight categories were employed: intentional homicide, aggravated assault, rape, armed robbery, robbery, theft, ‘hooliganism’ and drug crimes. Simple theft represented 54 per cent of all crimes committed by juveniles during this three-year period; homicide, aggravated assault and rape constituted 6 per cent of crimes.

The replies also contained data on the number of juveniles prosecuted in 2003–2005, disaggregated by age group (13–15 years; 16–17 years), by social status (student, employed, unemployed), by whether the offence was committed while the offender was ‘intoxicated’ and the number of cases in which the offender was a recidivist. The number of juvenile recidivists was 10 per cent of those prosecuted, but the definition of ‘recidivism’ used is unknown. Data on convicted juveniles given prison sentence during the years 2003–2005, as well as the number of juveniles detained before trial during the years 2003–2006, were also included in the replies.
The 2010 report submitted to the Committee on the Rights of the Child also contains data on juvenile justice, although not necessarily on the same indicators. These data, for the years 2006–2008, include the number of juveniles detained before trial, the number convicted, the number given prison sentences, the number given certain non-custodial sentences, and the number placed in Centres of Social and Legal Assistance during the year. The report does not contain data on reported offending or offenders, on the number of cases or juveniles prosecuted, or on recidivism. The inclusion of some new data seems to indicate the intention to improve transparency, but the differences between the data released in 2006 and those provided in 2010 underline the need to clarify policies and practice in this important area.

Some research on juvenile justice has also been conducted, notably by the Legal Problems Study Centre and the Republican Centre for the Social Adaptation of Children. In 2005, the former prepared a valuable study on juvenile offenders, based in large part on a survey of the population of the juvenile correctional facility and on children ‘registered’ by the police. The same year, it prepared an analysis of the national law in the light of international standards. The Republican Centre for the Social Adaptation of Children reportedly has published more than 50 articles on juvenile justice in recent years.

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79 Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, paras. 956–959. (Para. 960 includes data for the first half of 2009.)

80 Results of sociological survey on unlawful behaviour among adolescents registered by bodies of the Ministry of Internal Affairs of Uzbekistan, Legal Problems Study Centre, mimeo, 2005.

81 Analysis of Legislation of the Republic of Uzbekistan and its Compliance with International Legal Documents, supra. Both studies were undertaken with the support of UNICEF.
PART II. The Juvenile Justice System in Uzbekistan

1. Prevention

The effectiveness of primary prevention is an important issue, but this series of juvenile justice assessments carried out by the UNICEF Regional Office for CEE/CIS focuses on secondary prevention, i.e., programmes that benefit individuals or smaller groups demonstrating behaviour or personality characteristics, which indicate a higher risk of involvement in crime. It should be noted, parenthetically, that neither primary nor secondary prevention programmes should be seen exclusively from the perspective of the prevention of crime; they also promote healthy development and help avoid other social problems, such as substance abuse, premature sexual activity, poor education and, in adulthood, unstable employment and family life.

Responsibility for secondary or ‘individual’ prevention

Responsibility for secondary prevention lies primarily with the juvenile police, who carry out this function in cooperation with the Commissions on Minors’ Affairs and ‘organs of self-government of citizens’, known as Mahallas. In addition, some children considered ‘difficult to raise’ because of behaviour that falls short of criminal behaviour are placed in specialized educational institutions (see section 2, below). The role of the Commissions is regulated by their Statute, and the role of the juvenile police was recently redefined in the Law on the Prevention of Child Neglect and Juvenile Delinquency.

The new Law appears to envisage a shift of responsibility for such prevention. The Cabinet of Ministers Decree identifies them as “the bodies on prevention of juvenile delinquency and ... neglect” in charge of the coordination and semi-annual review of the preventive activities of all relevant agencies and bodies. The Law also recognizes their responsibility to “develop integrated activities on prevention,” to coordinate the preventive actions of other agencies and institutions and “to put into effect the measures on prevention of child neglect and juvenile delinquency.” However, ‘individual prevention work’ is assigned to the juvenile police and Centres of Social and Legal Assistance, and responsibility for “participating in individual prevention work” lies with the educational authorities, the homes for children without parental care, the trusteeship and guardianship authorities and the labour and social protection authorities. The role of the Mahallas and NGOs is defined as ‘cooperating with’ the agencies in charge of prevention.

82 The assessments also cover tertiary prevention, i.e., prevention of reoffending.
83 The term ‘individual prevention’, as used in the Law on Prevention and, in so far as it applies to the prevention of participation in activities of a criminal nature (in this law, the term also appears to apply to the prevention of child neglect), includes both secondary prevention (i.e., activities addressed to persons identified as being at risk of committing crimes) and tertiary prevention (i.e., the prevention of recidivism). See Article 20.
84 Also translated as Mahaliyas or Makhalas.
85 Annex No. 1 ‘Regulations governing Commissions on Minors’ Affairs’ to the Cabinet of Ministers Decree No. 360 of 21 September 2000 on enhancing the activities of the Commissions on Minors’ Affairs, as amended by the Cabinet of Ministers Decrees No. 162 (2001), No. 73 (2005) and No. 156 (2005), and Law on the Prevention of Child Neglect and Juvenile Delinquency (Law No. 263 of 29 September 2010), Article 11, respectively.
86 Cabinet of Ministers Decree No. 360 of 21 September 2000 on enhancing the activities of the Commissions on Minors’ Affairs, paras. 2, 4 and 10, respectively.
87 Law on the Prevention of Child Neglect and Juvenile Delinquency, Article 9.
88 Ibid., Articles 11–13, 15, 17 and 18 [emphasis added]; see also Article 23.
89 Ibid., Article 19.
Commissions on Minors’ Affairs exist in some 200 districts and cities. They meet quarterly. Their broad mandate includes, in addition to the functions mentioned above, the identification and registration of adolescents who have left school and are unemployed and to “involve communities in the re-education of children.”\(^90\) They have competence to take action on behalf of young children who have committed crimes and children of any age who do not attend school or commit ‘antisocial acts’.\(^91\) They may impose fines, reprimands and warnings on parents who do not properly supervise their children.\(^92\)

The assessment team was informed that there are 10,000 Mahallas, each of which has a Commission on Work with Youth. The new Law on Prevention defines their role as providing assistance to children and families at social risk, cooperating with the responsible authorities and agencies in the prevention of child neglect and juvenile delinquency, and participating in the ‘moral, aesthetic, legal, physical and labour education of the juveniles’ and helping ‘shape’ their healthy lifestyle.

**Registration of children and adolescents by the juvenile police**

The juvenile police (lit.: juvenile delinquency prevention department of the militia) have at least one officer in every police station. As in most other countries that formed part of the former Soviet Union, the juvenile police ‘register’ children considered to require supervision.\(^93\) There are different paths to registration. One is diversion (discretionary referral by prosecutors of first offenders who have committed minor offences), which is described in a separate section, below. Juveniles released from custody are also registered. The juvenile police register some juveniles themselves, on the basis of their own outreach and observations. The basis for registration on these grounds is found in regulations.

Some data on the activities of the police and the Commissions on Minors’ Affairs with regard to registration and related activities are available for a small number of years of the last decade. The number of children and adolescents brought to the attention of the police for vagrancy and similar matters was 46,000–48,000, for the years 2003 to 2005.\(^94\) Roughly one in seven was referred by the police to the Commissions on Minors’ Affairs.\(^95\) The number ‘registered’ or subject to police supervision apparently varied considerably, however, from 3,592 (7.5 per cent) in 2003 to 7,381 (16 per cent) in 2005.\(^96\) A 2005 study, citing official sources, found that 42 per cent of registered children were 12–13 years of age, below the minimum age for prosecution.\(^97\)

Registration by the juvenile police can have negative consequences for the persons concerned. There appears to be a considerable risk of stigma that may adversely affect the juvenile’s future access to education and employment, as well as the community’s attitude towards him/her and, eventually, his/ her own self-image. A study by the Legal Problems Study Centre in 2005 concluded that registration

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\(^90\) Regulations governing Commissions on Minors’ Affairs’, supra, paras. 13–14, 19, 20.

\(^91\) Ibid., para. 22.

\(^92\) Ibid., para. 24.

\(^93\) They were eliminated in Georgia. See Assessment of Juvenile Justice Reform Achievements in Georgia, UNICEF Regional Office for CEE/CIS, Geneva, 2010.

\(^94\) Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 302 and CRC/C/UZB/Q/2/Add.1, supra, p. 22.

\(^95\) Ibid. (Calculations by the author.)

\(^96\) It should be noted that Uzbekistan’s second report on the implementation of the Convention on the Rights of the Child (CRC/C/104/Add.6) contains two apparently contradictory figures for 2003: para. 278 indicates that the Ministry of Internal Affairs was ‘working with’ 6,313 children and adolescents in 2003.

\(^97\) Analysis of Legislation, supra, p. 19.
by the juvenile police for a minor offence “can negatively affect the whole life of a young person.” Sources interviewed confirmed that registration with the police causes the stigmatization of children.

The knowledge and many of the skills needed to assist juveniles at risk of involvement in crime are different from the kind of knowledge and skills normally expected of police officers. Indeed, the fact that the individual responsible for providing such assistance belongs to an institution whose primary role is law enforcement may interfere with establishing the kind of relationship needed for assistance to be effective. The juvenile no doubt is aware that the information provided to the police officer is not confidential, and may have adverse legal consequences for his/her family or friends, or himself/herself. The prevalence of violence by police officers (see below) also presumably undermines their ability to establish a positive working relationship with children at risk.

Unfortunately, no research has been conducted on the effectiveness of registration, or on its possible negative consequences.

Some countries of the region have established specialized bodies for the supervision of diverted juvenile offenders. Others have established community- or school-based programmes for younger children who commit offences, or children of any age involved in behaviour that is associated with a greater risk of future involvement in crime. Social workers, psychologists and specialized educators generally have more of the knowledge and skills needed to assist such children. In Uzbekistan, these professions presently have a rather small role in prevention, primarily through bodies such as the Commissions on Minors’ Affairs and the Mahallas, and independent agencies such as the Republican Centre for the Social Adaptation of Children. In accordance with the Law on Prevention, responsibility for providing psychological and/or social assistance to children and adolescents lies with the educational system, in particular secondary schools, the public health system and the Ministry and departments of Labour and Social Protection, but the number of staff specialized in psychosocial care in these systems is relatively small. The assessment team believes that the role of such specialists in secondary prevention should be expanded, and the role of the juvenile police should be complementary to that of specialized services and programmes.

Consideration should be given to eliminating the practice of registering children, not only because of the risk of negative consequences of stigma, but also because of the risk of arbitrary registration. In this regard, the study cited above observes, “Most often the decision [to register a child] is made on the basis of subjective perception of the child’s personality or from characteristics given by third persons (neighbours, school administration, relatives).”

2. The Centres of Social and Legal Assistance

In Uzbekistan, there are two main kinds of residential facilities for children involved in or at risk of involvement in crime or antisocial behaviour that are not part of the correctional system. One kind

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98 Ibid., p. 31.
100 The programme of the NGO Jean Valjean Association in Romania provides an example of a school-based programme, and the ‘disciplinary centres’ in Bosnia and Herzegovina are an example of a community-based programme. See Thematic Evaluation of UNICEF’s Contribution to Juvenile Justice System Reform in Montenegro, Serbia, Romania and Tajikistan, Development Research Network and UNICEF Regional Office for CEE/CIS, 2007, p. 77 and Assessment of Juvenile Justice Reform Achievements in Bosnia and Herzegovina, UNICEF Regional Office for CEE/CIS, Geneva, 2011.
101 Law on the Prevention of Child Neglect and Juvenile Delinquency, Articles 13, 16 and 17.
102 Analysis of Legislation, supra, p. 31.
consists of the specialized educational institutions. There are four such institutions, two for boys and two for girls. The ‘special boarding schools’ for younger children are operated by the Ministry of Public Education, and the other two are operated by the Ministry of Higher and Secondary Specialized Education. They are described in more detail in section 10, below.

The police operate the Centres of Social and Legal Assistance, which have replaced Soviet-era reception and distribution centres. There are 14 such Centres, one in Tashkent, one in Karakalpakstan and one each in province. Prior to the adoption of the Law on Prevention, the operation of these Centres was governed by a decree of the Ministry of Internal Affairs. Subsequent to the approval of the Law on Prevention, a regulation was adopted by the Cabinet of Ministers.

The Centres receive boys and girls aged 3–18 years. Their mandate includes confirming children’s identity; protecting their life or health; identifying the causes of neglect, homelessness, delinquency or antisocial conduct; prevention; and providing shelter while the authorities render decisions regarding children and take steps to implement the measures approved. The ‘categories’ of children who may be placed there include neglected or abandoned children; those who have ‘escaped’ from orphanages, special schools or other facilities; those whose placement in a special school is under consideration by a court; and those who have committed crimes while too young to be prosecuted, if their identity is unknown, if they are homeless, or if there is a risk of involvement in more crime.

Placement may be authorized temporarily by the head of the Centre or juvenile police, or his/her deputy. A prosecutor and the Commission on Minors’ Affairs must be notified “promptly but not later than within 24 hours,” and documentation supporting the placement must be forwarded to a court within 48 hours. Upon receiving it, the court must approve or disapprove placement within 24 hours. The child must be present at the hearing, and must be heard. Placement is normally for 30 days, which may be extended to 45 days in exceptional cases.

Visit to the Centre of Social and Legal Assistance in Tashkent

The assessment team visited the Centre of Social and Legal Assistance in Tashkent, which was established in 2002 by decision of the Cabinet of Ministers.

During their stay children receive a medical exam, and ‘all the documents necessary’ to settle their case are collected. The Head of the Centre stated that the decision on whether to return children to their family or place them in an orphanage or special school is taken by the trusteeship and

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103 Ministry of Internal Affairs Decree No. 239 of 17 September 2004, adopting the regulations of the children’s social and legal assistance centres of the internal affairs authorities of Uzbekistan, cited in Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 310.

104 Cabinet of Ministers Decree No. 269 of 26 November 2010 on approval of regulation of Centres of Social and Legal Assistance to adolescents under the bodies of Internal Affairs.

105 Law on the Prevention of Child Neglect and Juvenile Delinquency, supra, Article 12.

106 Ibid.

107 Ibid. [Also, children suspected of an administrative offence whose identity is unknown, who are foreigners or who are homeless.]

108 Ibid.

109 Ibid., Article 26.

110 Ibid.

111 Ibid., Article 12.

112 Cabinet of Ministers Decree No. 301 of 26 August 2002 on organization of activities for the prevention of crime among unsupervised minors in Tashkent.
guardianship authorities, under the municipal department of education. However, the new Law on Prevention provides that placement in a special school is to be made by a court. The Director also indicated that the Centres were classified as ‘open’, but the regulation adopted in November 2010 indicates that they are not open facilities.\textsuperscript{113}

The Centre visited was spacious, and the grounds included flower gardens, a playground for small children, a small zoo, sports facilities, including an indoor pool, and a ‘national gallery’ containing a replica of a traditional home and historical figures. It has a capacity of 160, and had a population of 63. The staff includes teachers, and a psychologist. Classes are small. Dormitories are spacious and include cabinets for the children to keep personal belongings. The building is old, but appeared to be clean and in good repair. The Head of the Centre seemed to be familiar with the rights of children, and expressed appreciation for the training provided to the Ministry of Internal Affairs with support from UNICEF some years ago, as well as interest in future cooperation.

The uses of the Centres and the rights of children

Information on the operation of the Centres is not released on a regular basis. The 2005 report submitted to the Committee on the Rights of the Child indicates that, in 2003, 6,953 children and adolescents were placed in the 12 Centres then in existence.\textsuperscript{114} During the first 10 months of 2004, the Tashkent Centre received approximately half of all children admitted.\textsuperscript{115} During 2005, 6,951 children and adolescents without parental care were placed.\textsuperscript{116} The number of admissions has increased significantly since then, to 8,528 in 2006; 11,352 in 2007; 11,438 in 2008; and 5,876 in the first half of 2009.\textsuperscript{117} The reason for this increase is unknown.

Data on the reasons for admission are unclear: the 2005 report indicates that 80 per cent of the children admitted in 2003 “had left their families voluntarily,” but it also states that 51 per cent of them were placed in centres due to “systematic truancy.”\textsuperscript{118} Data for 2004 indicate that 95 per cent of all children admitted to such Centres were returned to their families, 3 per cent were placed in residential schools for children with social or educational problems and 2 per cent in orphanages.\textsuperscript{119}

These data, although somewhat outdated, suggest that, in practice, the main purpose of these Centres is to provide children with protection and assistance, rather than preventing crime as such. In that sense, they are to some extent peripheral to the juvenile justice system. Nevertheless, certain rights and principles must be respected whether they are part of the juvenile justice system or the child protection system.

Since the regulation adopted in 2010 confirms that they are closed facilities, placement “shall be used only as a measure of last resort and for the shortest appropriate period of time.”\textsuperscript{120} However, the information available does not indicate that the decision to approve or disapprove placement must be guided by the ‘last resort’ principle. Although the main reason for placement is to obtain sufficient

\textsuperscript{113} Cabinet of Ministers Decree No. 269, supra, paras. 6 and 19.

\textsuperscript{114} Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 311. (This was twice the number admitted in 2002 – 3,477.)

\textsuperscript{115} Ibid.

\textsuperscript{116} Written replies by the Government of Uzbekistan, CRC/C/UZB/Q/2/Add.1, supra, p. 22.

\textsuperscript{117} Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, para. 978.

\textsuperscript{118} Committee on the Rights of the Child, CRC/C/104/Add.6, supra, paras. 280 and 314.

\textsuperscript{119} Ibid., para. 312.

\textsuperscript{120} Convention on the Rights of the Child, Article 37(b).
information about the child and his/her family to decide on the measures to be taken, one cannot presume that deprivation of liberty and separation from one’s family for 30 days are necessary, even though the aim may be to protect the child’s rights.

The requirement that information concerning the reasons for placement be provided to a court within 48 hours and that the court render a decision within 24 hours is an important improvement and ensures greater protection of the rights of children. It nevertheless falls short of the recommendation of the Committee on the Rights of the Child that the legality of deprivation of liberty should be reviewed within 24 hours.\textsuperscript{121}

The requirement that the child be heard in person is another important advance. The case for placement is presented by the police, but a prosecutor and representative of the trusteeship and guardianship authorities must participate in the hearing.\textsuperscript{122} Both are mandated to protect the rights of children, but the role of helping children express their own views is somewhat different. Children should have independent advice and assistance, in order to be able to better understand the proceeding and to express their views.

There is, no doubt, a need for short-term shelters for runaways and other children at risk. In principle, police forces are not the agencies best prepared to care for children, although their logistical and communications capacities and expertise in identifying and locating persons are useful. In some countries, responsibility for the operation of centres of this kind has been transferred, with positive results, to NGOs or social welfare agencies.\textsuperscript{123} This is an option that may deserve consideration at some point. At the present time, however, the assessment team has no information to suggest that the operation of these centres by law enforcement bodies has negative consequences for the rights of children.

\section*{3. Police, the apprehension of suspects and the investigation of offences}

The investigation of a crime has two stages. The inquiry, or first stage, is handled by the police.\textsuperscript{124} It may last up to 10 days. The case must be referred to an investigator or prosecutor as soon as the police conclude that there are grounds to take a suspect into custody, that the crime is a serious one, or that no crime has been committed.

The police may apprehend suspects without a court order so as to prevent a crime, escape, concealment, the destruction of evidence or the continuation of criminal activity, in certain conditions.\textsuperscript{125} A suspect apprehended by the police may be kept in custody for 72 hours.\textsuperscript{126} These rules apply to juveniles aged 14–18 years as well as adults.\textsuperscript{127}

\begin{footnotesize}
\textsuperscript{121} Committee on the Rights of the Child, CRC/C/GC/10, supra, para. 83. (The recommendations refer specifically to ‘arrest’, but the same standard would seem applicable to any deprivation of liberty, especially when the child placed in a closed facility may be as young as four years of age.)

\textsuperscript{122} Law on the Prevention of Child Neglect and Juvenile Delinquency, Article 26.

\textsuperscript{123} See, e.g., \textit{Assessment of Juvenile Justice Reform Achievements in Armenia}, supra, pp. 17–18.

\textsuperscript{124} The second stage is described below in the section on ‘pretrial detention’.

\textsuperscript{125} Code of Criminal Procedure, Article 220. (The requisite conditions are: either the suspect is apprehended during or shortly after the crime and is identified by an eyewitness or by physical evidence of the crime on his person or clothing or in his dwelling; or there is other evidence and the suspect has no identification, no permanent residence, or has attempted to flee. See Article 221.)

\textsuperscript{126} Ibid., Article 226.

\textsuperscript{127} They also apply to juveniles aged 13 years accused of aggravated homicide (see below).
\end{footnotesize}
Responsibility for the investigation of crimes committed by juveniles normally lies with the investigative department of the police, not with a prosecutor. Juveniles may be interrogated for a maximum of six hours per day, with a break, and not after 8 p.m. The investigating police officer (lit.: inquiry officer) or investigator must ensure that a defence attorney is present as from the first questioning of a juvenile suspect or accused. The presence of parents during the interrogation of a juvenile is discretionary, as is the participation of a teacher or psychologist.

In general, the parents or guardian have the right to participate in preliminary proceedings. They may be barred from participating in them if the investigator concludes that their presence is detrimental to the interests of the juvenile, in which case their role shall be assumed by another legal representative or by the guardianship agency. The juvenile’s school or employer and the local Commission on Minors’ Affairs should also be notified of proceedings concerning juveniles.

A study published in 2005, based on a survey of 220 juvenile offenders, found that nearly two out of five were interrogated with no one present, parents, teacher or defence lawyer. No similar survey has been carried out during the last five years. Defence lawyers who spoke with the assessment team did not comment on interrogations without the presence of lawyers, but did indicate that when a teacher is present they often just sit in a corner and sign the protocol prepared by the interrogator without playing any active part in the process.

During the preliminary investigation, in addition to gathering evidence regarding the crime, the investigator must document the age, health, living conditions, ‘personality’ and ‘upbringing’ of juvenile suspects.

The Code of Criminal Procedure prohibits the use of violence, torture and other cruel or degrading treatment. However, the study cited above found that 24 per cent of the juvenile offenders surveyed experienced ‘brutal’ and unnecessary force during apprehension, and 15.8 per cent experienced beatings during interrogation.

In 2010, the Human Rights Committee expressed concern about “the continued reported occurrence of torture and ill-treatment, the limited number of convictions of those responsible, and the low sanctions generally imposed, including simple disciplinary measures, as well as indications that individuals responsible for such acts were amnestied and, in general, the inadequate or insufficient
nature of investigations on torture/ill-treatment allegations.\textsuperscript{140} This, and the case of two girls beaten during their arrest mentioned in the 2009 report of the Ombudsman, suggests the possibility that abuse of juvenile suspects may continue. A new survey to determine whether the incidence of violent treatment has changed during the last five years would be timely.

4. The preliminary investigation and detention before trial

The second stage of preliminary or pretrial proceedings occurs when the police inquiry is completed and the case is transferred to an investigator or prosecutor for the reasons indicated in the preceding section of this report. In principle, this stage of proceedings must be completed within three months.\textsuperscript{141} It normally ends either with an indictment or with dismissal of the case.\textsuperscript{142}

The investigation of the background and personality of the accused

In cases involving juveniles, the preliminary investigation must document the age, health, living conditions, ‘personality’ and ‘upbringing’ of juvenile suspects, in addition to gathering evidence about the crime.\textsuperscript{143} This task is carried out by the police or an investigator. The issues to be investigated include:\textsuperscript{144}

- the relationship among parents and other members of the family;
- the names of the friends of the accused, in particular those who have a negative influence;
- hobbies and interests of the accused, the way he/she spends his/her leisure time;
- attitudes of the accused towards teachers and parents;
- whether the accused uses alcohol or drugs and, if so, how often and who provides them;
- how the accused interacts with peers: whether he/she is sociable, withdrawn, generous, aggressive, short-tempered, mean, respectful of the opinion of classmates etc.; and
- sources of antisocial views and habits.

It is not appropriate for the authority that is responsible for investigating a crime to also enquire into matters such as these. There are several reasons for this. First, police officers and investigators lack expertise in assessing personality or mental health.\textsuperscript{145} Secondly, questions concerning friends and family constitute an invasion of privacy. They also may pose a moral dilemma that, in the long run, may not be conducive to the development of values such as loyalty and truthfulness. This is particularly so since some of the issues the investigator is to examine may involve criminal or administrative responsibility of the suspect’s friends or family members. Although such matters may well be relevant, expecting the investigator to get that information from the accused is not the most appropriate or effective way of obtaining it. It is likely that a juvenile would be more inclined to provide such information to a social worker having no responsibility for law enforcement and a duty to respect the confidentiality of information that is not necessary for proper resolution of the case, or who would disclose sensitive information only with the informed consent of the accused.

\textsuperscript{140} Human Rights Committee, CCPR/C/UZB/CO/3, supra, para. 11.
\textsuperscript{141} Code of Criminal Procedure, Article 351. (Exceptionally, it can be extended for an additional nine months.)
\textsuperscript{142} Ibid. (It may also end with a resolution referring a case to a court for the imposition of ‘compulsory medical measures’.)
\textsuperscript{143} Ibid., Article 548.
\textsuperscript{144} The Foundations of the Juvenile Justice, Legal Problems Study Centre, unpublished manual, pp. 49–51.
\textsuperscript{145} Ibid., p. 53. The draft manual indicates that interrogators should ‘reasonably and carefully’ ask the juvenile suspect about his/her mental health.
Detention during the investigative stage of proceedings

The grounds for detention during this stage of proceedings (lit.: custody as a measure of restraint) recognized by the Code of Criminal Procedure are the usual ones: risk of flight, the commission of new crimes, or interference with the investigation. In general, a suspect or accused may not be detained before trial unless one of these grounds exists and the crime is punishable by a sentence of three years imprisonment. If the crime is a serious one (i.e., punishable by more than five years imprisonment), the suspect or accused may be detained regardless of whether there are other specific grounds to suspect flight, the commission of additional crimes or interference with the investigation.

Alternatives to detention include a recognizance for good conduct, a personal surety, a surety of a public association or employer, bail and taking oversight of a juvenile. Age and family status are among the circumstances to be considered in determining the kind of measures to impose. As a rule, suspects or accused persons should not be detained for minor offences. Detention before trial must be authorized by a judge.

Detention orders are valid for three months during the investigative stage of proceedings. This can be extended to nine months or, exceptionally, in complex cases involving serious crimes, to one year.

In general, these rules apply to juveniles as well as adults. The main differences are two: a juvenile must be interviewed in person by the prosecutor before detention is ordered, and there is a presumption that juveniles should not be detained when suspected or alleged to have committed a crime punishable by less than five years imprisonment (cf. three years for adults). The Supreme Court Plenary Decision adopted in 2000 on proceedings concerning juveniles emphasized the need to "study carefully the grounds" for the detention of accused juveniles or juvenile suspects so as to ensure that it is used only as a 'last resort' and is justified by the dangerousness of the offence and the personality of the accused or suspect.

The law allows juveniles to be detained in specialized juvenile institutions during the investigative stage (i.e., Centres of Social and Legal Assistance or eventually special schools), but in practice they are normally detained in separate cells in pretrial detention centres.

146 Code of Criminal Procedure, Article 236.
147 Ibid., Article 242. (A different standard applies to juveniles, as indicated below.)
148 Ibid., Article 236.
149 Ibid., Article 237.
150 Ibid., Article 238.
151 Ibid., Article 242.
152 Ibid., Article 243 (as amended in 2005).
153 Ibid., Article 245.
154 Ibid.
155 Ibid., Article 555.
156 Ibid., Articles 557 and 558. (The presumption also applies to offences punishable by more than five years imprisonment, if the crime is not premeditated.)
157 Supreme Court Plenary Decision No. 21, supra, para. 2. (Quoted on the first page of the present report.)
158 Code of Criminal Procedure, Article 557. Article 228 allows prosecutors to order juveniles and adults to be detained together 'exceptionally', but the possible reasons for authorizing such an exception are not specified.
Data on the use of pretrial detention are fragmentary and somewhat contradictory. Data for the years 2003–2006 suggest that 9–10 per cent of the juveniles prosecuted were detained before trial. The most recent data available indicate that the number of juveniles so detained was 233 in 2006, 263 in 2007 and 216 in 2008.

5. Diversion

Cases of first offenders accused of a minor offence may be referred by a prosecutor to the Commission on Minors’ Affairs, instead of being prosecuted. The criterion for discharging a first offender accused of a minor offence is the conclusion that ‘correction’ is possible without the imposition of a sentence. The consent of the juvenile is required.

The only measures that the Commission may impose of its own accord are warnings or placement under the supervision of the child’s parents or guardian, the Mahalla or some other individual or group. Supervision does not last more than one year. In addition, the Commission may request a court to impose an obligation to apologize, or to compensate the victim, or to place the child in a specialized educational institution. If the Commission decides that the juvenile has not complied satisfactorily with the measures imposed, it may return the case to the prosecutor for prosecution.

The Statute of the Commissions on Minors’ Affairs defines the procedures to be followed, in general terms. Proceedings are not adversarial; the prosecutor makes a proposal to the Commission as to the appropriate response, and the juvenile and his/her family are heard, but do not have a right to legal advice or representation. Basic rights and principles such as the independence and impartiality of the tribunal, equality of the parties, presumption of innocence and right to remain silent are not recognized. However, the only measures that a Commission may impose on its own authority, as indicated above, are warnings, supervision and fines for administrative offences; any other measure must be confirmed by a court. Consequently, diversion to the Commission appears compatible with international standards.

The assessment team does, however, have two concerns. One is regarding Article 562 of the Code of Criminal Procedure, which allows representatives of the Commission on Minors’ Affairs to be called as witnesses in proceedings in which juveniles are accused of a criminal offence. Testimony as to statements by a juvenile before the Commission that were made without legal advice and might be incriminating should not be accepted as evidence in proceedings that may lead to a criminal sanction. Whether this occurs in practice is not known, but it would be preferable to amend the law to ensure that such testimony is inadmissible. The other concerns the emphasis on the participation of the community in proceedings of the Commission, which regardless of the kind of measures that may be imposed does not seem compatible with the juvenile’s right to privacy and may pose a risk of counterproductive stigmatization.

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159 Written replies by the Government of Uzbekistan, CRC/C/UZB/Q/2/Add.1, supra, pp. 16–17. (Calculations by the author.)
160 Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, para. 956.
161 Sometimes referred to in Uzbekistan as ‘pretrial educational measures’.
162 Criminal Code, Article 87. (This is referred to, in English, as ‘discharge from liability’.)
163 Ibid.
164 Ibid., Article 84.3.
165 Regulations governing Commissions on Minors’ Affairs’, supra, para. 23. (Very minor cases may be referred to a Mahalla for resolution. See para. 35.)
166 Ibid., para. 27. (It may be ended earlier.)
167 Ibid.
168 Ibid., Section X.
The assessment team was unable to identify any data on the number of cases diverted, as such. The number of cases prosecuted is known, for a small number of years; it indicates that from 90 per cent to nearly 100 per cent (2,503 out of 2,505 in 2004) of reported offenders are prosecuted.169

6. The adjudication of juveniles

The minimum age for prosecution ('age of criminal responsibility')

Persons aged 16 years may be prosecuted, as juveniles, for most crimes defined by the Criminal Code.170 Persons aged 13 years may be prosecuted only for aggravated homicide, and persons aged 14–15 years may be prosecuted for some 21 other serious crimes, such as intentional homicide, aggravated assault, rape, robbery, destruction of property, illegal possession of firearms, hijacking, theft of drugs and aggravated hooliganism.171

The age of 16 years is also the age of liability for offences under the Administrative Liability Code.172 The offences recognized by this Code include minor theft, simple hooliganism, disobedience of the lawful orders of a police officer, illegal possession of firearms, and traffic offences. When the offender is under age 18, the case may be referred to the Commission on Minors’ Affairs.173

General principles

The Criminal Code and the Code of Criminal Procedure contain many articles applicable to juveniles and adults alike that recognize basic human rights’ principles and standards. Article 4 of the Criminal Code, for example, includes the principle of legality or *nulla poena sine lege* and Article 8 the principle that no one may be punished twice for the same offence. Article 5 of the Criminal Code and Article 16 of the Code of Criminal Procedure recognize the principle of equality before the law.174 Article 23 of the Code of Criminal Procedure recognizes the presumption of innocence and Article 24 the right to a defence. Article 25 of the Code of Criminal Procedure provides that the judge must be impartial.

Confidentiality of proceedings

Legal proceedings regarding juveniles are open to the public, although judges have broad discretion to close them to the public.175 This is incompatible with the juvenile defendant’s right to privacy.176

The right to be present during proceedings

A juvenile defendant may be removed from a courtroom if the court concludes that the issue about to be considered ‘may have a negative influence’ on the defendant.177 The defendant’s parents and attorney must be heard before the defendant is removed, and when the defendant returns the judge must inform him/her of what has been said and allow him/her to pose questions to any witness who has been examined in his/her absence.178

169 Written replies by the Government of Uzbekistan, CRC/C/UZB/Q/2/Add.1, supra, p. 16. (Calculations by the author.)
170 Criminal Code, Article 17. (Only persons over age 18 may be prosecuted for certain crimes, such as failure to care for parents, corruption of minors, electoral offences, abuse of power or military offences.)
171 Ibid.
172 Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 247.
173 Regulations governing Commissions on Minors’ Affairs, supra, para. 23.
174 See also Code of Criminal Procedure, Article 25.3.
175 Ibid., Articles 19 and 560; see also Supreme Court Plenary Decision No. 21, supra, para. 10.
176 See Committee on the Rights of the Child, CRC/C/GC/10, supra, paras. 64–66.
177 Code of Criminal Procedure, Article 561.
178 Ibid.
This rule seems to strike a good balance between the obligation to protect the best interests of the child, in particular the right to be protected from information that may be harmful to emotional well-being, and the defendant’s right to be heard and participate in the proceeding.

**The right to be represented by an attorney**

The participation of a defence attorney is mandatory in criminal proceedings concerning accused juveniles, during the preliminary stage of proceedings as well as the trial.\(^\text{179}\) If a juvenile suspect, accused or defendant has not obtained counsel, the police officer, investigator, prosecutor or court, as appropriate, shall require the Bar Association or equivalent to appoint one to represent the juvenile.\(^\text{180}\) The participation of the attorney of a convicted juvenile is mandatory in proceedings concerning the execution of a sentence.\(^\text{181}\)

The Supreme Court Plenary Decision on proceedings concerning juveniles adopted in 2000 states that failure to respect this requirement is a significant violation of the Code of Criminal Procedure and nullifies the sentence.\(^\text{182}\) Similarly, the Decision states that any evidence obtained in violation of the rule that a lawyer must be present is inadmissible.\(^\text{183}\) Finally, the Supreme Court confirmed that legal provisions on the mandatory presence of lawyers in proceedings concerning juveniles apply regardless of the age of the suspect, accused or defendant at the time of the proceeding.\(^\text{184}\)

**The right to be tried without delay**

The Convention on the Rights of the Child provides that children accused of an offence have the right “To have the matter determined without delay.”\(^\text{185}\) According to the Committee on the Rights of the Child, this means that cases should be resolved within six months.\(^\text{186}\) The Code of Criminal Procedure, in provisions applicable to juveniles and adults alike, indicates that, in principle, cases should be resolved at the trial level within less than six months.\(^\text{187}\) The law also requires that, in exceptional circumstances, the preliminary stage may be extended by as much as a year, and the duration of a trial may be extended by four months. Furthermore, certain delays (e.g., the time given to the victim to become acquainted with the case) are not counted within these time limits.

No information is available on the actual duration of cases involving juveniles in practice. Cases involving juveniles usually are not complicated, and the possibility of excluding the likelihood of exceptions to the usual limits should be considered.

**The right to treatment that takes into account the child’s age**

The Convention on the Rights of the Child recognizes the right of every child accused of an offence “to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and

\(^\text{179}\) Ibid., Articles 51.1 and 549.

\(^\text{180}\) Ibid., Article 51.3.

\(^\text{181}\) Ibid., Article 542.1.

\(^\text{182}\) Supreme Court Plenary Decision No. 21, supra, para. 3.

\(^\text{183}\) Ibid.

\(^\text{184}\) Ibid.

\(^\text{185}\) Convention on the Rights of the Child, Article 37.2(b)(iii).

\(^\text{186}\) Committee on the Rights of the Child, CRC/C/GC/10, supra, para. 83.

\(^\text{187}\) Article 351 of the Code of Criminal Procedure provides that the preliminary stage normally should not exceed three months. Article 405 provides that the trial stage normally should not exceed two months, and provides also that the delay between the preliminary stage and the trial should not exceed 10 days.
which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society." 188 The Committee on the Rights of the Child has concluded that the best way to guarantee this right is through specialized juvenile courts or specialized judges. 189

There are neither specialized courts for cases involving juvenile offenders nor specialized judges, in Uzbekistan. Prosecutors that handle cases in which the accused is a juvenile are especially designated, however. Some judges and prosecutors have received training in child rights and juvenile justice, as indicated above. Most such training activities have been two days in duration, or less.

Since no judges were met during the assessment mission, it is not possible to form any opinion on their attitudes towards juvenile offenders. A study on decisions concerning accused juveniles that was carried out several years ago led to a Supreme Court Plenary Decision calling for proper application of the law. 190 One lawyer informed the assessment team that many judges still do not treat juvenile suspects or defendants any differently than adults, which, if true, would violate the above-cited provision of the Convention. Another lawyer confirmed that the principle of the equality of parties is not respected in practice.

7. Sentencing and other dispositions

Article 7 of the Criminal Code, which applies to all offenders, regardless of age, recognizes the principle that the sentences or other measures imposed must be intended to prevent reoffending, and that the most lenient measure that will satisfy this objective must be imposed. This is similar to the ‘last resort’ and the ‘shortest appropriate period of time’ principles contained in Article 37 of the Convention on the Rights of the Child. Article 8.1 of the Criminal Code recognizes the principle of proportionality.

Non-custodial or alternative sentences and measures

The measures that may be imposed on a convicted juvenile offender fall into two categories, namely, penalties and ‘compulsory measures’. Two compulsory measures are non-custodial: making an apology to the victim and compensation or reparation of the damage caused. 191 The third, placement in a special boarding school or vocational college, involves deprivation of liberty. 192 There are two non-custodial sentences or ‘penalties’ that may be imposed on juveniles convicted of a crime: fines and ‘correctional labour’. 193 Correlation of fines involves withholding part of the earnings of a convicted person who is employed. 194

There are three rules that may lead to the imposition of a non-custodial sentence or measure. One is that the court must consider the possibility of imposing a compulsory measure when a first

188 Convention on the Rights of the Child, Article 40.1.

189 Committee on the Rights of the Child, CRC/C/GC/10, supra, para. 93.

190 Supreme Court Plenary Decision No. 21, supra.

191 Criminal Code, Article 88.

192 Ibid., Article 81.

193 Ibid., Article 83.
offender has committed a ‘less serious’ crime, or more than one minor offence.195 The second is that the court must “consider the advisability of substituting a penalty with a compulsory measure” when the juvenile, regardless of age, is not fully “aware of a meaning of an act committed” due to “underdevelopment.”196 Decisions as to whether or not to substitute a compulsory measure in these circumstances must include a statement of reasons, and may be appealed.197 The third is that prison sentences should not be imposed on juveniles who have committed minor crimes.198

More generally, the “level of a juvenile’s development, conditions of his life and fostering, reasons of commission of a crime, as well as other circumstances influencing his personality” must be taken into account in imposing a penalty, i.e., a prison sentence, a fine or correctional labour.199

The Supreme Court Plenary Decision on proceedings concerning juveniles emphasizes the need to respect the principle that custodial sentences shall only be imposed when correction would be impossible without separation from society, and indicates that the reasons for imposing a custodial sentence must be explained when the sentence is announced.200

Little data are available on the number of juveniles given non-custodial sentences. One study indicated that, in 2003, conditional sentences (probation) were given to 41 per cent of sentenced juvenile offenders, and other non-custodial sentences (correctional labour and fines) to nearly 9 per cent. The following year, conditional sentences were imposed on 45 per cent and correctional labour and fines on over 11 per cent.201

**Custodial sentences**

The maximum sentence that may be imposed on a juvenile depends on the gravity of the offence and the age of the offender, as the following table shows.202 A longer sentence may be imposed when a juvenile is convicted of two or more offences. The maximum sentence that may be imposed on a juvenile aged 13–16 years convicted of multiple offences is 12 years, and the maximum sentence that may be imposed on a juvenile aged 16–17 years in these circumstances is 15 years.203 In both cases, this sentence may only be imposed if one of the crimes is an ‘especially serious crime’, such as murder.

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195 Ibid., Article 87. (This is referred to, in English, as ‘discharging the penalty’.) Crimes are divided into four degrees of gravity: ‘minor crimes’ are those punishable by a sentence of three years or less (or five years if the crime is not a crime of intent); ‘less serious crimes’ are those punishable by sentences of three to five years (or more than five years for crimes that are not crimes of intent); ‘serious crimes’ are those punishable by five to ten years of imprisonment; and ‘especially serious crimes’ are those punishable by more than ten years imprisonment.

196 Ibid. See also Supreme Court Plenary Decision No. 21, supra, para. 6.

197 Code of Criminal Procedure, Article 564.2–3.

198 Criminal Code, Article 85.

199 Ibid., Article 86.

200 Supreme Court Plenary Decision No. 21, supra, para. 9.

201 Analysis of Legislation, supra, p. 17. (In these years, prison sentences were imposed on 32 and 25 per cent of juvenile offenders, respectively; while 16 and 17 per cent were given ‘other types of punishment’.)

202 Criminal Code, Article 85.

203 Ibid., Article 86.
The number of juveniles given prison sentences in the period 2003–2006 was provided to the Committee on the Rights of the Child in 2006. A very sharp increase was reported, from 19 in 2003 to 90 in 2004, 210 in 2005 and 204 in 2006.\(^\text{204}\) The number of girls sentenced to prison was 4 in 2003, 5 in 2004 and 3 in 2005.\(^\text{205}\) The number of juveniles sentenced during these years is not known, but the number of prison sentences imposed represents less than 1 per cent of those prosecuted in 2003 and roughly 9 per cent of those prosecuted in 2005. The explanation of this increase is unknown.\(^\text{206}\)

The number of juveniles sentenced to prison was somewhat higher during the most recent years for which data are available: 233 in 2006, 263 in 2007 and 216 in 2008.\(^\text{207}\) This represents 16–18 per cent of those convicted.

### Conditional sentences and probation

When imposing a prison sentence, a court may suspend the obligation to serve the sentence if it concludes that the offender ‘may be corrected’ while remaining at liberty under supervision.\(^\text{208}\) This applies to juveniles and adults alike. In deciding whether to impose a conditional sentence the court must consider the nature, gravity and circumstances of the crime committed and the personality of the offender. The period of probation may be from one to three years.\(^\text{209}\) If probation is not revoked the conviction is nullified at the end of the probationary period.

Conditions that may be attached to conditional sentences by the court include the obligation to compensate the victim, find employment, enrol in school, avoid certain places and participate in the treatment of substance abuse. A conditional sentence may be revoked by the court for the commission of a new offence, disturbing public order or violation of conditions.

There is no probation department, and probationers are obliged to report periodically to the police.\(^\text{210}\) The Code of Criminal Procedure provides that, when imposing a conditional or non-custodial sentence, the court must consider the need to appoint a ‘social educator’ who might be a reliable relative, teacher, employer or representative of the Mahalla.\(^\text{211}\)

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204. Written replies by the Government of Uzbekistan, CRC/C/UZB/Q/2/Add.1, supra, p. 17.
205. Ibid.
206. A governmental official advised the assessment team that the figures for 2003 and 2004 may not be accurate.
208. Criminal Code, Article 72.
209. Ibid.
210. Ibid.
211. Code of Criminal Procedure, Article 563.
Conciliation or reconciliation\footnote{Both terms are used in English translations of the relevant laws.}  

An amendment to the Criminal Code adopted in 2001 allows for the ‘discharge of criminal liability’ of first offenders who admit guilt, are reconciled with the victim and have repaired the damage caused.\footnote{Criminal Code, Article 66.} This procedure applies to some 20 crimes, including numerous crimes of assault and theft. Any offender may benefit, regardless of age.\footnote{Some of the offences for which the procedure is applicable may only be committed by adults, however.} It is the victim who must initiate the request, which if accepted leads to the suspension of the criminal proceeding and the commencement of a special conciliation procedure.\footnote{Code of Criminal Procedure, Articles 583–584.} No information is available on the number of cases in which this procedure is applied.

8. The treatment of juvenile offenders in correctional facilities

In 1992, 1,770 minors were ‘detained’ according to one official report. By 1996, this number dropped to 1,390.\footnote{Committee on the Rights of the Child, CRC/C/41/Add.8, supra, para. 297. One source interviewed indicated that, in Soviet times, the number of juveniles deprived of their liberty for crimes was in excess of 6,000, but the assessment team has seen no documentary evidence of this.} The head of the juvenile department at the Office of the Prosecutor General stated that 860 juveniles were serving sentences in 1999 and that, in 2009, this number had been reduced to 189.

At the time of the assessment mission, the number of juveniles serving sentences in a correctional facility for juveniles was 127, including 23 girls confined in the women’s prison. The main reason for the decline, according to a prosecutor, is the increased use of compensation of the victim.

Convicted prisoners, other than the elderly, pregnant prisoners and those with disabilities, are required to work.\footnote{Compare Rule 45 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and Article 8.3(a) of the International Covenant on Civil and Political Rights. (The prohibition of forced labour does not include minor tasks like cleaning one’s cell.)} The work of juvenile prisoners must respect relevant national standards regarding hours, working conditions and prohibition of hazardous work. The general minimum age for full-time employment is 16 years, but persons aged 15 years may work with the permission of their parents. Parental consent is not required for prisoners aged 15 years, who may consent themselves. International standards recommend that juvenile prisoners be given opportunities to perform paid work if they choose to do so, but compulsory labour is prohibited by international human rights law.\footnote{Code on the Execution of Sentences, Article 127; see also para. 68.329 of the Rules on Internal Regulation of Facilities on Execution of Sentences of Deprivation of Liberty (Annex to the Order of the Minister of Internal Affairs No. 118 of 8 May 2001).}

Prisoners aged 13–16 years may be placed in solitary confinement for up to seven days as a disciplinary measure, and those aged 16 years or older may be punished with solitary confinement of 10 days.\footnote{Compare Code on the Execution of Sentences, Article 127; see also para. 68.329 of the Rules on Internal Regulation of Facilities on Execution of Sentences of Deprivation of Liberty (Annex to the Order of the Minister of Internal Affairs No. 118 of 8 May 2001).} The solitary confinement of juveniles is considered cruel and inhuman treatment, according to international standards.\footnote{United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Rule 67; see also Committee on the Rights of the Child, CRC/C/GC/10, supra, para. 89.}
Juveniles who reach age 18 while serving a sentence in the juvenile facility ‘as a rule should stay’ until reaching age 21.\textsuperscript{221} The criteria for allowing them to remain are defined partly in terms of the interests of the prisoners, namely, completing their education and consolidating the process of rehabilitation, and partly in terms of their behaviour. Allowing juvenile prisoners to remain in the juvenile prison after becoming adults is a humane measure, but the criteria for allowing them to do so should expressly require that their continued presence be compatible with the interests of younger juvenile prisoners.

**Reduction of sentences and conditional early release**

Juvenile prisoners are eligible for early release (lit.: conditional early release) after serving one quarter of a sentence for a minor crime, one third of a sentence for a serious crime, or one half of the sentence for an especially serious crime, or if the offender has previously served a sentence.\textsuperscript{222} In determining whether to grant early release, the prisoner’s work and study records in prison are taken into consideration.\textsuperscript{223}

In addition, a court may reduce the length of a sentence after the prisoner has begun serving it.\textsuperscript{224} The reduction may be as small as one fifth for a minor crime, or as large as one third for a longer sentence (e.g., sentences for repeat offenders or those convicted of an especially serious crime). Here, too, the prisoner’s work and study records are taken into consideration in determining whether to reduce the sentence.

The effect of these two measures may be cumulative. For example, if a sentence is reduced by one quarter, the prisoner becomes eligible for conditional early release after serving the relevant portion (one fifth to one half) of the reduced sentence.

**Post-release assistance**

Responsibility for assisting juveniles released from special schools or correctional facilities is widely shared. In accordance with Decree No. 360 of the Cabinet of Ministers, the responsibility for providing assistance in obtaining housing and education lies with the Ministry of Labour and Social Protection, the local government and law enforcement authorities.\textsuperscript{225} The Statute of the Commissions on Minors’ Affairs provides that assisting juveniles released from special schools or correctional facilities is one of their ‘key objectives’, especially with regard to work and living conditions, and especially when the child cannot be returned to his/her former home.\textsuperscript{226} The Law on Prevention authorizes the Mahallas and NGOs to facilitate the social reinsertion of children released from special schools and correctional facilities.\textsuperscript{227} One source indicated that, in practice, the Mahallas are active and often make serious efforts to help the juvenile – and in some cases his/her parents – find employment and social or financial assistance.

\textsuperscript{221} Code on the Execution of Sentences, Article 128.

\textsuperscript{222} Criminal Code, Article 89.

\textsuperscript{223} Ibid.

\textsuperscript{224} Ibid., Article 90. (This is referred to as ‘mitigation of penalty’.)

\textsuperscript{225} Cabinet of Ministers Decree No. 360 of 21 September 2000 on enhancing the activities of the Commissions on Minors’ Affairs, supra, para. 9, as amended in 2001.

\textsuperscript{226} Regulations governing Commissions on Minors’ Affairs, supra, paras. 13 and 32; see also Law on the Prevention of Child Neglect and Juvenile Delinquency, Article 9.

\textsuperscript{227} Law on the Prevention of Child Neglect and Juvenile Delinquency, Article 19.
9. Underage offenders

Responsibility for children who engage in criminal behaviour while too young to be prosecuted as juveniles lies mainly with the Commissions on Minors’ Affairs (‘Commissions’). The Commissions are a legacy of the Soviet period. On the national level, the Commission is chaired by the Prosecutor General and composed largely of representatives of different ministries. Regional and city or district Commissions are composed mostly of representatives of different departments, including health, education, internal affairs and social services, and organizations like the Women’s Union.

The Commissions are administrative bodies that have some quasi-judicial functions. They have competence over the following types of cases:

- children under age 14 allegedly involved in criminal acts;\(^\text{228}\)
- juveniles aged 14–15 years accused of an offence for which they may not be prosecuted (see the section on the minimum age for prosecution, above);
- first offenders whose cases have been diverted to the Commission by the prosecutor (see the section on diversion, above);
- persons under age 16 accused of traffic offences;
- juveniles accused of certain administrative offences;
- children who have not completed compulsory education and who do not attend school;\(^\text{229}\) and
- children allegedly involved in other antisocial actions.\(^\text{230}\)

After studying a file on the offence prepared by the investigator, the circumstances of the offence and the background of the child, the Commission holds a hearing in which it hears the child and his/her parents or guardian, the victim and witnesses. Warnings are practically the only measure that a Commission may impose without the consent of the child and his/her parents or confirmation by a court.\(^\text{231}\) Fines may be imposed for administrative offences, if the offender is 16 years of age and has independent earnings.\(^\text{232}\) If the Commission concludes that compensation or reparation of the victim would be appropriate, it may forward a recommendation to this effect to the competent court, or it may order reparation, with the consent of the offender and his/her family. If the Commission concludes that placement in a special school would be appropriate, it must forward a recommendation to that effect to the competent court.

Until recently, the Statute of the Commissions on Minors’ Affairs provided that the Chair or Deputy-Chair of a Commission could, with the agreement of a prosecutor, place a child aged 11–14 years suspected of participation in a severe crime in a ‘reception and distribution centre’ for 30 days, while a court decides whether the child should be placed in a special school or authorized to return to his/her home. This provision of the Statute was deleted in January 2011, and placement in a Centre of Social and Legal Assistance (which replaced the reception and distribution centres) now must be authorized by a court within 72 hours, as indicated above.

\(^{228}\) Except children aged 13 years accused of aggravated homicide, who may be prosecuted as juveniles.

\(^{229}\) Including vocational colleges.

\(^{230}\) Regulations governing Commissions on Minors’ Affairs, supra, para. 22.

\(^{231}\) Ibid., para. 23.

\(^{232}\) Ibid.
10. Special educational institutions

There are four ‘special educational institutions’: one for boys aged 11–14 years in Samarkand; one for girls aged 11–14 years in Chinaz; one for boys aged 14–18 years in Bakht and one for girls aged 14–18 years in Kokand. The ‘special boarding schools’ for younger children are operated by the Ministry of Public Education, and the other two are operated by the Ministry of Higher and Secondary Specialized Education.

The Statute of the Commissions on Minors’ Affairs provides that children and adolescents may be placed in these schools for “commit[ting] socially dangerous actions [i.e., crimes] or maliciously and systematically violating the social behaviour rules.” Placement must be ordered by a court, at the joint request of a Commission on Minors’ Affairs and the police. Parental consent is not required. The 2010 Law on Prevention contains somewhat different criteria for placement: commission of a crime while too young or immature to be prosecuted; continued involvement in ‘antisocial action’ despite prevention; as an alternative to the prosecution of older juveniles; and as an alternative to the imposition of criminal sentence. Antisocial behaviour is more narrowly defined by the new law as systematic use of alcohol or drugs, begging, prostitution and other acts that violate the rights of third persons.

Although some sources informed the assessment team that the specialized schools are not closed facilities, the new Law on Prevention confirms that they are. In principle, placement should not exceed the time necessary for rehabilitation, and may not go beyond three years. The provision to the effect that placement should not surpass the time needed to accomplish rehabilitation is consistent with the ‘shortest appropriate period of time’ requirement of Article 37(b) of the Convention on the Rights of the Child. The need for continued placement must be reviewed at least once a year by the Commission on Minors’ Affairs, according to recently adopted regulations, and may be reviewed at any time, at the request of the school or the child’s parents.

The capacity of the specialized vocational school for older girls is 200 students; in 2005, the government reported that the population was 169.

Visit to the specialized boarding school for girls

The school visited was opened in 2006, in a former military base. It has three large buildings on seven hectares. The ground floor of one three-storey building is used for offices, a visiting area and classrooms; the second floor has more classrooms, a computer room and a library, and the third floor a large gymnasium. A second building consists of bedrooms on the ground floor, a living area with a television and a clinic with several bedrooms for patients; the second floor is unused. A third building contains the kitchen and dining area. The school is surrounded by a wall, and comprises a sports field, flower gardens and a small vegetable patch.

\[233\] Regulations on specialized schools for children in need of special conditions, supra, para. 10.
\[234\] Regulations governing Commissions on Minors’ Affairs, supra, para. 23.
\[235\] Ibid.
\[236\] Ibid., para. 25.
\[238\] Ibid., Articles 12 and 14; see also Regulations on specialized schools for children in need of special conditions, supra, para. 5.
\[239\] Law on the Prevention of Child Neglect and Juvenile Delinquency, Article 29.
\[240\] Regulations on specialized schools for children in need of special conditions, supra, para. 15.
\[241\] Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 264.
The school has a capacity of 150 and, at the time of the visit, a population of 22. Since its opening, the population of the facility has never exceeded 30 girls. The staff of 32 includes a physician, nurse, psychologist, 7 teachers and 8 monitors, 6 who work nights and 2 who work days.

All the children were placed by court order, but only about half of them for involvement in a crime. All the underage offenders were placed for theft, in most cases from their own home. The remainder were admitted because their parents or guardian ‘requested help in raising them’. These requests were examined by the Mahallas and Commissions on Minors’ Affairs, which forwarded them to a court for approval. To explain the legal basis for these decisions, the Director mentioned a placement order made by a criminal court. Although the girl had not been involved in criminal activity, her guardian (an elder sister who was married) was unwilling to continue caring for her. On petition of the Commission of Minors’ Affairs, and after meeting with the girl and her sister, a criminal court issued a placement order that cited an article of the Code of Criminal Procedure on pretrial detention and an article of the Family Code on the protection of children whose life or health is at risk.

In principle, placement is for three years, although the Director can request that release be authorized at any time. The promise of early release is used to motivate students to behave. Often, however, the possibility of early release depends mainly on the willingness of the girl’s family to receive her. When a girl reaches age 14, the Director contacts the local authorities to determine whether she can return home. If not, she may be transferred to the facility for older girls, by court order. In 2009, eight girls returned home and four were placed in the closed ‘vocational college’ for older girls in Kokand. Almost one girl in four has indicated that she prefers not to return home because of violence.

Children may receive visits from family members, who can stay overnight if they wish, but poverty is an obstacle to visits and there are no funds to help family members cover travel expenses. Girls are also allowed to visit their families. The Director makes a point of speaking with family members when they visit and sometimes also speaks with them by phone, especially when girls who have returned home experience difficulties. However, there are no organized outreach programmes to assist families with problems that have contributed to placement or to prepare them for the return of their child.

Activities, in addition to education, include sports, music, sewing and art. There is no access to religious services. Individual attention is given to each student. The Director stated that disciplinary sanctions are not used and interaction with the girls is guided by the belief that “Only by treating them positively can you get results.”

The assessment team considers that both conditions and treatment in the school visited are good. In so far as the programme or services offered are concerned, two suggestions could be made. The first is that girls who so wish should have access to religious counselling or instruction. Article 14 of the Convention on the Rights of the Child recognizes the right of children to “freedom of thought, conscience and religion,” and the United Nations Rules for the Protection of Children Deprived of their Liberty provides,

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242 Regulations on specialized schools for children in need of special conditions, supra, paras. 11 and 14.
243 The regulation adopted after the assessment mission provides that the school should finance travel by the student to visit his/her family in special circumstances, e.g., death or serious illness of a parent or caregiver. See para. 35.
Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.

Secondly, since placement of girls in the facility is caused to a very large extent by difficulties in their family life, a programme should be developed to identify the factors within the family that have contributed to placement and provide the parents or guardian with assistance in overcoming them. There are examples, within the region, of programmes that provide counselling to the families of children placed in similar schools, as well as non-residential programmes to prevent involvement in crime or reoffending, which provide counselling to the parents of children with difficult behaviour to complement the assistance provided to their children.

As indicated above, the statutory basis for placement was poorly defined at the time of the assessment mission. The new Law on Prevention, as indicated above, clarifies the grounds for placement. However, it also confirms that the schools are closed facilities. This being so, the Convention on the Rights of the Child provides that placement must be the ‘last resort’.

The Law on Prevention does not expressly provide that children may be placed only if all alternatives have been exhausted. It may be that, in practice, judges will sometimes apply this criterion. However, since there are no specialized judges or courts, it is unlikely that judges will react consistently to situations that might lead to placement, in the absence of an explicit legal norm.

The ‘last resort’ principle would apply even if the school were not a closed facility. Article 20 of the Convention on the Rights of the Child, regarding children who need to be cared for because they have no parents or have been separated from them, indicates that placement in an institution should be the ‘last resort’. This raises the question of whether there are sufficient grounds for the kind of children confined in the school visited by the assessment team to be placed in a closed school rather than a children’s home. Further reflection on the need for and proper functions of these schools, and their complementarity with other kinds of residential facilities for children, would be beneficial.

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244 United Nations Rules for the Protection of Children Deprived of their Liberty, Rule 48.
245 See Assessment of Juvenile Justice Reform Achievements in Armenia, supra.
246 See Convention on the Rights of the Child, Article 37(b).
247 “A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State... Such care could include... if necessary placement in suitable institutions for the care of children.” (Emphasis added.)
248 One possible reason is that placement in a children’s home (or orphanage) is only possible when parental authority has been removed. In contrast, children placed in this school remain under the authority of their parents or guardian, and the placement is presumed to be temporary.
PART III. UNICEF’s support to Juvenile Justice Reform

Strategy

The issue of juvenile justice began to receive attention some 10 years ago. In 2001, the same year the Committee on the Rights of the Child examined Uzbekistan’s initial report on the implementation of the Convention on the Rights of the Child, the National Human Rights Centre and UNICEF jointly sponsored an international conference on juvenile justice in Central Asia and Mongolia.249

The Open Society Institute and Save the Children Foundation played active roles in the area of juvenile justice in these years. In 2002, an activity on juvenile justice in Uzbekistan was sponsored by the Legal Problems Study Centre, with support from the Open Society Institute; a forum on juvenile justice was co-sponsored by Save the Children UK, UNICEF, OSCE, UNDP, the Legal Problems Study Centre, and others; and a national seminar on juvenile justice reform was sponsored by the Central Asian regional office of Save the Children in collaboration with UNICEF.250 A handbook of international standards on the rights of children was translated into the national language the same year, with support from UNICEF.251

In 2001–2002, the National Human Rights Centre, with support from UNICEF and Save the Children UK, carried out an art therapy project within the juvenile correctional facility, the residential school for juvenile offenders in Samarkand and the women’s prison.252 Unfortunately, the assessment team was unable to find any documentation on the results of this project.

In October 2004, UNICEF, together with the Uzbek Children’s Fund, and NGO, held a series of forums on juvenile justice with a view to formulating recommendations for the establishment of a juvenile justice system.253 No further information is available about these forums or their outcome.

In 2005, the National Human Rights Centre requested the assistance of UNICEF to draft a law on juvenile justice. UNICEF helped the Legal Problems Study Centre form a group of experts to prepare a draft law. Two European experts were invited to contribute to this process, and a national NGO prepared two studies, one on the characteristics of juvenile offenders and one on the compatibility of national law with international standards. During the following two years, UNICEF also supported a study visit to France, in cooperation with the French Ministry of Justice, and the participation of Uzbek authorities and experts in international meetings in Northern Ireland, Tunisia and Turkey.

This process, which began in 2005, led to round tables, in 2007 and 2008. The first adopted a resolution calling for, inter alia, the adoption of a law on juvenile justice, the establishment of a pilot juvenile court, the training of juvenile justice professionals, the amendment of several laws and regulations and giving social workers a role in juvenile justice. It also recommended the creation of an inter-agency working group to coordinate the implementation of the other recommendations. A follow-up meeting, in 2008, made no reference to the adoption of a law on juvenile justice, or the establishment of a juvenile court.

At the time of the assessment mission, no document defining a strategy on the development of juvenile justice had ever been adopted by UNICEF. (One was adopted later in 2010.) The strategy that

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249 Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 216.
250 Ibid.
251 United Nations document HRI/CORE/1/Add.129, supra, para. 87.
252 Committee on the Rights of the Child, CRC/C/104/Add.6, supra, para. 262.
253 Ibid., para. 216.
seems to have been implicit in the activities supported over the last ten years includes the following components:

- cooperation, in the first stage, with non-governmental international partners (Save the Children and the Open Society Institute);
- cooperation with civil society in addition to official agencies, including support for at least three research projects;
- advocacy and support to the recommendations of the Committee on the Rights of the Child;
- study tours, participation in international meetings and use of international experts; and
- support to research.

This tacit strategy, which led to the definition of objectives, appears to have focused mainly on advocacy, with some capacity-building and technical assistance. Certain priority was given to the adoption of a law on juvenile justice and the establishment of a juvenile court. In the short term, the strategy was not successful. Three years after the 2007 round table, the pilot juvenile court had not been established and, although a draft law on juvenile justice has been prepared, adoption does not seem imminent. The limited information available to the assessment team does not identify any other significant improvements in juvenile justice.

The reasons why the approach employed by UNICEF has not been successful thus far are difficult to identify with any degree of certainty. It seems clear that the government prefers to approach the problem of juvenile crime primarily through prevention. Interviews with government officials willing to meet the assessment team also suggest that the relatively low level of crime by juveniles, combined with the perception that juvenile justice is associated with countries where crimes committed by juveniles are more serious, is an obstacle to the development of a system of juvenile justice in harmony with international standards. It may be that advocacy has emphasized compliance with international standards at the expense of arguments based on the real difficulties with the existing law and practice and the practical value of improvements. Indeed, the emphasis has not been on international standards as such, but on certain interpretations of international standards and specific ways of developing juvenile justice, such as the adoption of a juvenile justice law and the establishment of a juvenile court. While the adoption of a good comprehensive law on juvenile justice and the establishment of at least one juvenile court would be very positive developments, they would not solve all the existing problems and are not the only way to improve juvenile justice in Uzbekistan.

The government’s proclaimed commitment to complying with Uzbekistan’s obligations under international human rights law should remain one of the bases of advocacy for the development of juvenile justice, but more effort should be made to document how the system currently works and identify concrete problems that are clearly incompatible with international standards. This will not be easy, but the research carried out in 2005 and the data provided to the Committee on the Rights of the Child in 2006 suggest that it should be possible.

A new, flexible strategy for supporting the development of juvenile justice should be adopted, with clearly defined aims of different kinds (short-, medium- and long-term, high and medium priority) based not only on an analysis of law and practice but also on an analysis of opportunities and potential sources of support, obstacles, opposition and risks.

**Evaluation**

None of the activities concerning juvenile justice carried out thus far have been evaluated independently, as far as the assessment team has been able to determine.
PART IV. Conclusions and Recommendations

ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

1. The Republican Centre for the Social Adaptation of Children

The Republican Centre for the Social Adaptation of Children, the main independent body for research, training, coordination and monitoring of policies and action concerning children, has a department on juvenile justice. The Centre is committed to bringing the law and practice into conformity with Uzbekistan’s international obligations, cooperating with international organizations and learning from the experience of other countries.

2. The new Law on Prevention

The new Law on Prevention introduces improvements in procedures concerning the placement of children in special schools and the Centres of Social and Legal Assistance. It is based on a comprehensive, interdisciplinary approach to prevention, and assigns responsibilities to a large number of relevant actors, including the non-governmental sector.

3. Decrease in juvenile crime

Crime by persons aged 14–18 years appears to have fallen during the first part of the last decade, according to official data.

4. Decrease of the juvenile prison population

Although data on the population of correctional facilities for juvenile offenders are fragmentary, over the last ten years there appears to have been a decrease in the population of such facilities that is substantially greater than the decrease in crime by juveniles. The information available does not allow the reasons for this decrease to be identified.

5. Decrease in the population of ‘specialized educational institutions’

Similarly, anecdotal evidence indicates that the population of the specialized educational institutions for underage offenders and juvenile offenders has decreased substantially over the last two decades.


The National Plan of Action for Securing Child Welfare adopted in 2007 calls for the creation of an Interdepartmental Coordination Council on juvenile justice and for the implementation of the recommendations of the Committee on the Rights of the Child.

7. Reform of criminal legislation

The Criminal Code and the Code of Criminal Procedure adopted in 1994, and amendments to these Codes approved subsequently, make some important improvements in the rights and treatment of juveniles.

8. Supreme Court directives

In 2001 and 2006, the Supreme Court adopted important directives concerning juvenile justice, which provide, inter alia, that any evidence obtained in violation of a juvenile’s right to be interrogated in the presence of his/her attorney is inadmissible, and any proceedings based on such evidence are null.
9. Survey of juveniles
An important survey of the experiences of adolescents arrested and prosecuted was carried out with the cooperation of the authorities some years ago. The survey provided valuable information in identifying problems that needed to be addressed, in particular practices that violate the law in force.

10. Conditions in the boarding school for girls
Conditions in the boarding school for underage girls who have committed offences are good and policies regarding such matters as family visits are humane. The staff seems motivated and has a good basic understanding of and commitment to the rights of children.

11. Training
The Republican Centre for the Social Adaptation of Children has organized training in juvenile justice for hundreds of prosecutors, police inspectors, Commissions on Minors’ Affairs and attorneys.

12. Civil society
A small number of civil society organizations are very interested in juvenile justice, and knowledgeable. One has made significant contributions to raising awareness on juvenile justice and promoting reform, and another provides useful services to juveniles at risk. Both are ready to assume larger roles, if requested.

13. Legal assistance
Five clinics that provide legal aid to children, including juvenile suspects, accused juveniles and juvenile offenders, are operational.

14. Draft law on juvenile justice
A draft law on juvenile justice has been prepared, with inputs from civil society and an international expert, and submitted to the Cabinet of Ministers. Some official institutions support the adoption of the law.

15. Prosecutors
Specially designated prosecutors are responsible for cases involving juvenile suspects and accused juveniles, as well as supervision of legislation and regulations concerning juveniles.

16. Ombudsman
The Parliamentary Human Rights Ombudsman gives priority to issues concerning law enforcement, the administration of justice and prisons, and has taken action concerning violations of the rights of juveniles in this area.

17. Commissions on Minors’ Affairs
The National Commission on Minors’ Affairs has a strong mandate to coordinate the activities of ministries and other public bodies in matters concerning the prevention of delinquency and the protection of the rights of children. It is linked to Commissions on the provincial and the district/municipal levels, which are accountable to it and which also have ample powers concerning the prevention of crime and reoffending.
CHALLENGES

1. Data on crime, law enforcement and the administration of justice are not published on a regular basis. Information that has been made public on an ad hoc basis is limited in scope and often contradictory.

2. Until very recently, legal criteria for placement of children in closed schools were vague, which allowed placement and confinement of children whose behaviour did not require treatment in a residential facility. Some, and perhaps many, were placed because their parents or guardian were not willing to care for them, or did not have access to assistance that might have allowed them to fulfil adequately their responsibilities regarding the upbringing of their children. At the time of the assessment mission, the new legislation had not yet affected practice.


4. The incidence of psychological and behavioural disorders (as opposed to mental illness and retardation) on crime is not well understood by most practitioners.

5. Responsibility for preparing reports on the background and personality of juvenile suspects and accused juveniles lies with investigators who do not have the required expertise and whose involvement in such issues poses legal and ethical problems.

6. The law allows juvenile suspects to be held in police custody for 72 hours without personal appearance before a prosecutor or court. In 2005, the Human Rights Committee informed Uzbekistan that it considered keeping suspects in police custody for 72 hours without a judicial order incompatible with Uzbekistan’s obligations under Article 9 of the International Covenant on Civil and Political Rights, even when the suspect is an adult. The Committee on the Rights of the Child has indicated that any child deprived of liberty should be brought before a competent authority within 24 hours.

7. There are no special facilities for juvenile suspects in police custody and juveniles in custody during the preliminary proceedings and trial. Although they may be held in separate cells, this does not prevent contact with adult suspects and detainees.

8. Responsibility for the supervision of offenders diverted before trial lies primarily with their parents. There are no non-residential programmes providing diverted juveniles, and their families, with appropriate assistance to overcome problems that have contributed to crime.

9. There are neither specialized courts nor specialized judges. Trials of juveniles may be held in public.

10. The number of lawyers specialized in the representation of accused juveniles is insufficient, and they are available only in the capital and two other cities.

11. Although there are limits for specific stages of legal proceedings and pretrial custody, there are no overall limits to the duration of proceedings concerning juvenile offenders. (The Committee on the Rights of the Child recommends six months from accusation to sentence or other disposition.)


255 Committee on the Rights of the Child, CRC/C/GC/10, supra, para. 83.
12. The range of non-custodial sentences is limited, and does not include community service or participation in non-residential programmes designed to reduce the risk of reoffending. (The juvenile police provide supervision, but they do not have the range of skills necessary to address other needs of offenders, and there are no community-based programmes offering juveniles and their families assistance in overcoming problems that contribute to reoffending.)

13. Legislation concerning prison conditions permits the use of solitary confinement as a disciplinary measure, and requires juvenile (and adult) prisoners to work. The former is incompatible with the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the latter is incompatible with the International Covenant on Civil and Political Rights, to which Uzbekistan is a Party.

14. The Interdepartmental Coordination Council called for by the National Plan of Action for Securing Child Welfare has not yet been created, and many of the recommendations of the Committee on the Rights of the Child have not yet been implemented.

RECOMMENDATIONS

1. Registration by the juvenile police

Consideration should be given to eliminating the practice of registering juvenile offenders and children at risk, because the danger of stigmatization appears to outweigh the value of the services provided to registered children. This would not necessarily prevent the juvenile police from participating in the supervision of juvenile offenders diverted by prosecutors, or given conditional sentences. However, programmes or services should be developed to provide juveniles diverted or given conditional sentences, and their families, with psychosocial assistance in addition to supervision.

2. Secondary prevention

Priority should be given to the implementation of the Law on Prevention, including the development of a realistic comprehensive plan or strategy comprising estimates of the costs and training needs assessments, as well as a list of regulations, job descriptions, standards of professional conduct, protocols for inter-agency cooperation, diagnostic tools and other similar documents. Relevant international standards should be taken into account in the drafting of regulations and similar instruments. The possibility of establishing an inter-agency body or mechanism specifically to coordinate and monitor the implementation of the law should be considered. Reliable and transparent procedures for monitoring and evaluating the effectiveness of the diverse types of preventive actions envisaged by the law should be established.

Trained professionals should be given a greater role in the prevention of crimes committed by juveniles. Consideration should be given to establishing, in the capital, a community-based, non-residential programme for offenders who are diverted, or given non-custodial sentences.

3. Special schools

The need for residential schools should be assessed objectively, taking into account the needs of the present population, the reasons for placement, and the relevant international standards. This should be done as part of a broader assessment of facilities and programmes for children and adolescents in need of alternative care, children and adolescents at risk and children and adolescents with some degree of involvement in criminal activities. The goal should be to ensure that children who require care that could be provided in a non-residential setting are not institutionalized, and that those who do require placement are admitted in facilities providing the kind of care they need and for no longer as necessary in facilities that limit their freedom only to the extent suitable for effective treatment or protection.
4. Specialized courts, judges and investigators

A strategy should be adopted with a view to ensuring that legal proceedings of a criminal nature involving children and adolescents are handled by specialized judges, prosecutors and investigators who have adequate training in the relevant law, including international law, and demonstrated competence in the skills necessary for handling cases concerning children and adolescents in a manner that fully respects their special rights and needs.

As a first step, priority should be given to the appointment of specialized judges to handle cases involving juvenile offenders and cases in which children are victims, in jurisdictions in which the number of such cases is sufficient to justify the designation of a specialized judge within the existing criminal court. In all jurisdictions where specialized judges are appointed, specialized prosecutors and investigators should also be designated.

In addition, a plan should be prepared and implemented to ensure that in each jurisdiction, including those where the caseload involving juvenile offenders and child victims is too small to justify the appointment of a judge to handle them on a full-time basis, there is at least one judge, one prosecutor and a small number of investigators that have sufficient training in the relevant law and skills.

In the longer term, when it becomes possible to assess the effectiveness of the measures described above, the advantages and costs of establishing special juvenile or children’s courts should be considered.

5. Training

Training needs of all relevant sectors, including the staff of all agencies and institutions mentioned in the Law on Prevention, prosecutors, judges and the staff of detention and correctional facilities for juveniles, should be assessed. Curricula or modules should be designed to meet the needs identified, training materials should be developed and tested, and standards and procedures for evaluating professional qualifications and competence should be developed and adopted. When this has been done, training in child rights, child and adolescent development, psychology and social work, the prevention of crime by juveniles and juvenile justice should be incorporated into the permanent training programmes of all relevant institutions and agencies.

6. Legislation concerning juvenile justice

The draft law on juvenile justice that has been submitted to the Cabinet of Ministers would solve some, but not all, of the gaps and inconsistencies in existing legislation and regulations concerning juvenile justice. The adoption of a comprehensive law on juvenile justice has advantages. It ensures that the various aspects of juvenile justice – from prevention to police procedures, and from the investigative stage of proceedings to trial, sentencing, treatment in correctional facilities and the rights of released prisoners to assistance in social reintegration – are regulated in a way that is logical and coherent. In addition, the drafting and legislative processes focus exclusively on the needs, characteristics and proper treatment of children. When children are peripheral to the main concerns of lawmakers, the resulting laws often fail to take their specificities sufficiently into account.

An argument therefore can be made that a law on juvenile justice is the most convenient legal basis for a holistic juvenile justice system. Many countries do not have such laws, however, and it may be that in Uzbekistan a consensus on the value of such a law does not yet exist. If that is the case, measures should be taken in the meantime to amend certain provisions of existing laws that do not comply with international standards and fill gaps that allow practices incompatible with them. These measures include:
• banning the use of solitary confinement as a disciplinary measure in the juvenile colony and in pretrial detention facilities;
• making labour optional for juvenile prisoners;
• reducing to 24 hours the length of police custody without authorization of a prosecutor; and
• eliminating exceptions to the usual length of proceedings.

7. Data

Indicators on crime by juveniles and juvenile justice should be reviewed to ensure that legislators and policy makers have the data necessary for the development of law and policy, and for monitoring the implementation of law and policy.

Data on basic indicators should be published annually, perhaps by the State Statistical Committee or the Republican Centre for the Social Adaptation of Children, to allow academia and civil society to contribute more effectively to the development of juvenile justice.

8. Survey of juveniles

It would be useful to carry out another survey of the experiences of children with respect to juvenile justice, similar to the one published in 2005.

9. Monitoring mechanisms

Independent monitoring mechanisms should be further developed and give greater attention to children.

10. Interministerial and intersectoral cooperation

The Interdepartmental Coordination Council called for by the National Plan of Action for Securing Child Welfare or a similar body should be created.

11. Accountability for mistreatment

The Parliamentary Human Rights Ombudsman should continue to investigate complaints regarding the use of violence against children by law enforcement authorities, and criminal proceedings should be initiated when complaints are found to be valid and made known to the public in order to convey the message that violence is not tolerated.
Annex 1. Data collection and analysis

Data on offending by juveniles or juvenile justice are not published on a regular basis in Uzbekistan. Some data are provided regularly to the TransMONEE256 project, in particular data on crimes by juveniles for the years 1989 to 2006 and data on homicides by juveniles as from 2000, whereas other important data, such as the juvenile prison population, are not released periodically.

Unfortunately, much of the data provided to TransMONEE are not consistent with those published by official sources on an ad hoc basis, in particular in reports to the Committee on the Rights of the Child. Data on the period 2003 to 2009 have been provided to the Committee in 2005 and in 2010. Although relatively detailed and useful, these datasets do not cover the same indicators. Furthermore, the fact that some of them only cover three years greatly limits their value.

Key data provided in 2005 include:

- offences by juveniles, disaggregated by the nature of the offence
- juveniles prosecuted, disaggregated by age, status and other factors
- juveniles detained before trial
- juveniles given prison sentence.

Data on pretrial detention and prison sentences were provided again in 2010, but not on reported offences or juveniles prosecuted. Other information shared in 2010 includes:

- convicted juveniles
- non-custodial sentences
- children placed in Centres of Social and Legal Assistance.

None of the data on offenders provided in 2010 are disaggregated by age, sex or other relevant factors.

The provision of these data seems to indicate a certain commitment to transparency, but the differences between the data provided to the Committee on the Rights of the Child and those provided to TransMONEE, as well as other inconsistencies mentioned below, underline the need to clarify policies and improve methodologies regarding data management. A commitment to publish data annually within Uzbekistan would oblige the responsible authorities to take these policy decisions and create an incentive to identify and resolve the technical difficulties that affect the reliability of data.

1. National data collection system and international and regional indicators

(a) Crimes committed by juvenile offenders

The TransMONEE matrix defines this indicator as the “the number of crimes committed by or with the participation of persons aged 14–17,” disaggregated by the kind of crime, i.e., violent, property or other.257

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256 TransMONEE is a database established by the UNICEF Innocenti Research Centre that contains social data provided by the national statistical offices of Central and Eastern Europe and the Commonwealth of Independent States (CEE/CIS). It is presently maintained by the UNICEF Regional Office for CEE/CIS. Available at www.transmonee.org/ accessed 15 January 2011.

Uzbekistan has provided TransMONEE with data on crimes committed by or with the participation of minors covering the years 1989 to 2006. Data for the years subsequent to 1994, when the minimum age for prosecution for murder was lowered to 13 years, presumably include offences committed by persons aged 13–17 years, although the TransMONEE database does not note this change.\textsuperscript{258}

Data for a smaller range of years (2003–2005) on “the number of minors who acted as accomplices” were provided to the Committee on the Rights of the Child (‘The Committee’) in 2006.\textsuperscript{259} The source cited is the Ministry of Internal Affairs’ Information Centre. UNICEF has been informed that the data do not refer to accomplices as such but to children who participate in an offence. However, the figures do not match those on crimes provided to TransMONEE:

<table>
<thead>
<tr>
<th>Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>TransMONEE</td>
<td>2,856</td>
<td>2,586</td>
<td>2,551</td>
</tr>
<tr>
<td>Ministry of Internal Affairs</td>
<td>2,974</td>
<td>2,837</td>
<td>2,727</td>
</tr>
</tbody>
</table>

(TransMONEE data released in 2010 give the figure of 2,623 offences for 2006.)

Discrepancies also exist on the number of homicides by juveniles. Table 9.7 of the TransMONEE database on “reported homicides committed by or with the participation of juveniles” contains data for the years 2000 to 2006. The information provided to the Committee in 2006 contains two different sets of data on ‘intentional homicide’ committed by minors:\textsuperscript{260}

<table>
<thead>
<tr>
<th>Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>TransMONEE</td>
<td>53</td>
<td>27</td>
<td>33</td>
<td>43</td>
</tr>
<tr>
<td>Reply to Committee, p. 16</td>
<td>50</td>
<td>34</td>
<td>29</td>
<td>[no data]</td>
</tr>
<tr>
<td>Reply to Committee, p. 17</td>
<td>15</td>
<td>18</td>
<td>35</td>
<td>32</td>
</tr>
</tbody>
</table>

The explanation for these discrepancies is unknown, but they underline the need to improve the data management system.

The data on offences committed by minors contained in the 2006 written replies to the Committee are disaggregated by eight types of offences: intentional homicide, aggravated assault (lit: ‘grievous bodily harm’), rape and attempted rape, armed robbery, robbery, theft, hooliganism and drug-related crimes. Simple theft constituted between 49 and 60 per cent of all offences during these three years.

The data are also disaggregated by the age of the offender. During these years, some 78–79 per cent of juvenile offenders were 16–17 years of age.

(b) Children in conflict with the law/children arrested

The term ‘arrest’ is defined by the UNODC-UNICEF Manual as “placed in custody by the police ... or other security forces because of actual, perceived or alleged conflict with the law.” ‘Conflict with the law’ is, in turn, defined as having “committed or [being] accused of having committed an offence,” although the definition adds that, “Depending on the local context,” the term may also mean “children dealt with by the juvenile justice or adult criminal justice system for reason of being...


\textsuperscript{259} Written replies by the Government of Uzbekistan, CRC/C/UZB/Q/2/Add.1, supra, pp. 16 and 17.

\textsuperscript{260} Ibid.
considered to be in danger by virtue of their behaviour or the environment in which they live." The TransMONEE matrix defines this more clearly as “the number of children/juveniles taken into police custody (following arrest on suspicion of having committed an offence)...”

Data on these forms of detention are not a reliable indicator of the number of juveniles considered criminal suspects or the subject of criminal investigations, because a suspect may be charged without being taken into custody. The data provided to the Committee in 2006 include more relevant data on this subject, in particular, “the number of criminal cases brought against minors,” “the number of offences committed by minors” and “the number of minors who acted as accomplices.”

<table>
<thead>
<tr>
<th>Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal cases brought against minors</td>
<td>2,571</td>
<td>2,471</td>
<td>2,373</td>
</tr>
<tr>
<td>Offences committed by minors</td>
<td>2,856</td>
<td>2,588</td>
<td>2,551</td>
</tr>
<tr>
<td>Minors who acted as accomplices</td>
<td>2,974</td>
<td>2,837</td>
<td>2,727</td>
</tr>
</tbody>
</table>

The discrepancies here are relatively small and might be due to factors such as the number of cases brought in one year that end in judgment the following year, or the number of cases in which there is more than one defendant or in which more than one crime is charged. Unfortunately, the data provided to the Committee were not accompanied by definitions of the indicators used or an explanation of the apparent discrepancies.

The data provided to the Committee in 2006 indicate that “in 2003, 403 minors were arrested.” The discrepancy between this figure and the figures cited above for juvenile offenders and juveniles prosecuted illustrates the unsuitability of the indicator ‘children arrested’ for the purpose of documenting the number of ‘children in conflict with the law’.

(c) Children in detention

The UNODC-UNICEF Manual describes this indicator as “children detained in pretrial, pre-sentence and post-sentencing [sic] in any type of facility (including police custody).” TransMONEE defines this indicator as “the total number of children/juveniles in conflict with the law in closed correctional/punitive institutions or open/semi-open institutions at the end of the year.”

No data on this indicator are published regularly in Uzbekistan, and the information provided to TransMONEE does not include data on this indicator.

The 2006 written replies to the Committee contained data on the number of persons below age 18 who have been sentenced and who have served sentences in juvenile correctional facilities during the years 2003 to 2005.

<table>
<thead>
<tr>
<th>Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population of juvenile correctional facilities</td>
<td>19</td>
<td>90</td>
<td>210</td>
<td>204</td>
</tr>
<tr>
<td>Girls serving sentences</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>[no data]</td>
</tr>
</tbody>
</table>

261 Ibid., pp. 15 and 16.
262 Ibid., p. 18.
263 Ibid., p. 17.
The assessment team requested confirmation of the surprising figures for the juvenile correctional facilities in 2003 and 2004, but official sources were unable to confirm them or to provide any explanation.

The report submitted to the Committee in 2010 indicates that, at the time it was prepared, the population of the facility for juvenile offenders (boys) was 184.\textsuperscript{264} UNICEF was informed that, in reality, these were year-end data for 2009. In September 2010, after the traditional annual amnesty, an official informed the UNICEF assessment team that the population of this facility was 104.

(d) Children in pretrial or pre-sentence detention

The TransMONEE matrix defines this indicator as “the number of children who are placed in pretrial detention during the year.” The UNODC-UNICEF Manual describes it as including children deprived of liberty while awaiting trial and convicted juveniles awaiting sentencing, but not those who are sentenced and awaiting the outcome of an appeal.

No data on this indicator are published regularly in Uzbekistan, nor have any such data been provided to TransMONEE. However, the information provided to the Committee in 2006 included the following data on “the number of minors under 18 years of age who were placed in pretrial detention centres of the penal correction system of the Ministry of Internal Affairs and were awaiting court decisions.”\textsuperscript{265} Data on juveniles in pretrial detention were also included in the 2010 report submitted to the Committee.\textsuperscript{266}

<table>
<thead>
<tr>
<th>Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detainees as per 2006 report</td>
<td>229</td>
<td>253</td>
<td>215</td>
<td>194</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detainees as per 2010 report</td>
<td>233</td>
<td>263</td>
<td>216</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(e) Duration of pretrial detention

No data on this important indicator are compiled in Uzbekistan.

(f) Child deaths in detention

No data on this indicator are available.

(g) Separation from adults

The UNODC-UNICEF Manual defines this indicator as “the percentage of children in detention not wholly separated from” adult prisoners.\textsuperscript{267}

No data on this indicator are published in Uzbekistan. Since the assessment mission was unable to visit any detention or correctional facility and had no contact with the authorities responsible for such facilities, it is unable to comment further.

\textsuperscript{264} Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, para. 987.

\textsuperscript{265} Written replies by the Government of Uzbekistan, CRC/C/UZB/0/2/Add.1, supra, p. 17.

\textsuperscript{266} Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, para. 956.

\textsuperscript{267} The TransMONEE project does not include this indicator.
(h) Contact with parents and family

The UNODC-UNICEF Manual defines this indicator as “the percentage of children in detention who have been visited by, or visited, parents or guardian or an adult family member during the last three months.”

No data on this indicator are published in Uzbekistan.

(i) Convictions

The TransMONEE matrix describes this indicator as “the number of juveniles convicted during the year,” disaggregated by sex, age and type of crime, i.e., violent, property, or other.\textsuperscript{268}

Data on this indicator are not published in Uzbekistan. However, the report submitted to the Committee in 2010 contained the following data (as well as partial data for 2009):\textsuperscript{269}

<table>
<thead>
<tr>
<th>Year</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juveniles convicted</td>
<td>1,618</td>
<td>1,524</td>
<td>1,317</td>
</tr>
</tbody>
</table>

(j) Custodial sentences

The UNODC-UNICEF Manual defines this indicator as “the percentage of sentenced children who receive a custodial sentence,” i.e., one of confinement to an open, semi-open or closed facility. The TransMONEE matrix limits this to children aged 14–18 years.

No data on this indicator are published in Uzbekistan. The TransMONEE database contains data on juveniles sentenced during the years 1989–1992, but they are not disaggregated by the nature of the sentence.\textsuperscript{270}

The report submitted to the Committee in 2010 does contain data on “juveniles sentenced to deprivation of liberty,”\textsuperscript{271} as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juveniles sentenced to deprivation of liberty</td>
<td>294</td>
<td>241</td>
<td>241</td>
</tr>
</tbody>
</table>

(k) Alternative sentences

The TransMONEE matrix requests information on the kind of sentences imposed on convicted juveniles. The 12 categories used are: committal to a penal institution; committal to an educational-correctional institution; pre-sentence diversion; formal warning/conditional discharge; apology; fine/financial compensation; community service or corrective labour; supervision order; probation order; postponement of sentencing; release from sentencing; and other.

No data on this indicator are published in Uzbekistan. The report submitted to the Committee in 2010 contains information on the number of juveniles given fines and sentences of ‘correctional works’

\textsuperscript{268} The UNODC-UNICEF Manual does not include this indicator.

\textsuperscript{269} Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, paras. 957–959.


\textsuperscript{271} Combined third and fourth periodic report, CRC/C/UZB/3-4, supra, paras. 957–959.
during 2006, 2007 and 2008, but the total of these sentences and sentences to deprivation of liberty falls far short of the number convicted. The explanation of the difference is unknown.

(i) Pre-sentence diversion

The UNODC-UNICEF Manual defines this indicator as “the percentage of children diverted or sentenced who enter a pre-sentence diversion scheme,” adding that it is intended to measure “the number of children diverted before reaching a formal hearing.” This is somewhat confusing, and the Manual recognizes that what constitutes diversion “will need to be identified in the local context.”

No data on this indicator are published in Uzbekistan.

(m) Aftercare

This indicator is defined as “the percentage of children released from detention receiving aftercare.” There is a problem with the way this indicator is defined, because aftercare programmes are generally considered important for offenders released from custodial facilities after serving a sentence, not those released from pretrial detention.

No data on this indicator are published in Uzbekistan.

2. Other relevant data and information

Repeat offending

No data on this indicator are published regularly in Uzbekistan. However, the data provided to the Committee in 2006 indicated that the number of recidivists was approximately 10 per cent each year. The definition of recidivism used is not known.

Disaggregation by ethnicity

Data on offending (recorded but not published) are not disaggregated by ethnicity. 273

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272 It is unclear why the percentage of offenders diverted should be calculated with reference to the number diverted or sentenced, rather than the number accused or prosecuted.

273 Written replies by the Government of Uzbekistan, CRC/C/UZB/Q/2/Add.1, supra, p. 15.
Annex 2. List of persons interviewed

Government
F. Bakaeva, Deputy Director, National Human Rights Centre
T. Narbaeva, Secretary, National Commission on Minors’ Affairs
R. Khvan, Senior Inspector for Special Assignments, Main Directorate, Ministry of Internal Affairs
B. Egamberdiev, Head, Centre of Social and Legal Assistance to Juveniles, Tashkent
N. Sodikov, Head, Department on Law Implementation with regard to Minors, Office of the Prosecutor General
Y. Mirzaeva, Prosecutor, Zangiata District
M. Akhunova, Head, Special Education Department, Ministry of Public Education
F. Djumaeva, Head, Special School for Girls, Chinaz

UNICEF
J. Delmotte, Representative
O. Dendevnor, Deputy Representative

Other international agencies
N. Alkhazishvili, Deputy Representative, United Nations Development Programme (UNDP)
A. Umarova, Head, UNDP Good Governance Unit
O. Zudova, Senior Legal Adviser, United Nations Office on Drugs and Crime (UNODC)
B. Rouault, Senior Project Officer, Organization for Security and Co-operation in Europe (OSCE)
I. Fayzullin, Project Officer, OSCE Rule of Law Project
Y. Giovannoni, Head, International Committee of the Red Cross (ICRC) Regional Delegation in Central Asia
C. Patronoff, Head of Protection, ICRC Regional Delegation

Civil society
S. Asyanov, Director, Legal Problems Study Centre
G. Korsun, Deputy Director
J. Fazilov, Deputy Director, Republican Centre for the Social Adaptation of Children
N. Israilova, Head, Juvenile Justice Department
S. Ganibaeva, Legal Department
L. Kim, Head, Social Work Department
K. Rijkova, Director, Law Clinic
O. Jamoldinovna, Chair, Kamalak Children’s Organization
Annex 3. List of documents consulted

Legislation


Law on the Guarantees of the Rights of the Child, Law No. ZRU-139 of 7 January 2008

Law on the Prevention of Child Neglect and Juvenile Delinquency, Law No. 263 of 29 September 2010

Other legal norms

Cabinet of Ministers Decree No. 269 of 26 November 2010 on approval of regulation of Centres of Social and Legal Assistance to adolescents under the bodies of Internal Affairs

Cabinet of Ministers Decree No. 268 of 26 November 2010, Annex No. 1 ‘Regulations on specialized schools for children in need of special conditions of maintenance, upbringing and education’

Cabinet of Ministers Decree No. 268 of 26 November 2010, Annex No. 2 ‘Regulations on specialized vocational schools (colleges) for children in need of special conditions of maintenance, upbringing and education’

Cabinet of Ministers Decree No. 301 of 26 August 2002 on organization of activities for the prevention of crime among unsupervised minors in Tashkent

Cabinet of Ministers Decree No. 360 of 21 September 2000 on enhancing the activities of the Commissions on Minors’ Affairs, Annex No. 1 ‘Regulations governing Commissions on Minors’ Affairs’

Presidential Decree No. 805 of 29 February 2008 on the State Programme ‘The Year of Youth’

Rules on Internal Regulation of Facilities on Execution of Sentences of Deprivation of Liberty, Annex to the Order of the Minister of Internal Affairs No. 118 of 8 May 2001

Supreme Court Plenary Decision No. 21 of 15 September 2000 (as amended in 2002, 2006 and 2007)

Other official documents


Committee against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Conclusion and recommendations of the Committee against Torture, third periodic report of Uzbekistan, CAT/C/UZB/CO/3, 2008

Committee on the Rights of the Child, Written replies by the Government of Uzbekistan concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the second periodic report of Uzbekistan, CRC/C/UZB/Q/2/Add.1, 2006
Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Second periodic report of Uzbekistan, CRC/C/104/Add.6, 2005

Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Initial report of Uzbekistan, CRC/C/41/Add.8, 2001

Core document forming part of the reports of States parties [to United Nations treaty monitoring bodies], published as United Nations document HRI/CORE/1/Add.129, 2004

draft Juvenile Justice Law, 2006


United Nations documents

Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Concluding Observations on the second periodic report of Uzbekistan, CRC/C/UZB/CO/2, 2006

Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Concluding Observations on the initial report of Uzbekistan, CRC/C/15/Add.167, 2001

Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the International Covenant on Civil and Political Rights, Concluding observations on the third periodic report of Uzbekistan, CCPR/C/UZB/CO/3, 2010

Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the International Covenant on Civil and Political Rights, Concluding observations on the second periodic report of Uzbekistan, CCPR/CO/83/UZB, 2005

United Nations, Manual for the measurement of juvenile justice indicators, Office on Drugs and Crime (UNODC) and UNICEF, New York, 2006

UNICEF documents

Analysis of Legislation of the Republic of Uzbekistan and its Compliance with International Legal Documents in the area of Juvenile Justice, UNICEF and Legal Problems Study Centre, Tashkent, 2005

TransMONEE 2010 Database, UNICEF Regional Office for CEE/CIS, May 2010

Towards development of a child friendly juvenile justice system in the Republic of Uzbekistan [undated]

Other documents

Analysis of Legislation of the Republic Uzbekistan and its Compliance with International Legal Documents in the Area of Juvenile Justice, Legal Problems Study Centre, mimeo, 2005


Results of sociological survey on unlawful behaviour among the adolescents registered by bodies of the Ministry of Internal Affairs of Uzbekistan, Legal Problems Study Centre, mimeo, Tashkent, 2005

The Foundations of the Juvenile Justice, Legal Problems Study Centre, [unpublished manual]

The Republican Centre for the Social Adaptation of Children, Republican Centre for the Social Adaptation of Children, Tashkent [undated]

The Republican Centre for the Social Adaptation of Children, Information and Consulting Service, Tashkent, 2010