

# ASSESSMENT OF JUVENILE JUSTICE REFORM ACHIEVEMENTS IN ARMENIA

**UNICEF Regional Office for Central  
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## CONTENTS

<b>Note on the Assessment Mission</b> .....	<b>3</b>
<b>Background</b> .....	<b>4</b>
<b>Executive Summary</b> .....	<b>7</b>
<b>PART I. The Process of Juvenile Justice Reform</b> .....	<b>9</b>
1) Policy and advocacy.....	9
2) Law reform.....	9
3) Administrative reform/restructuring.....	10
4) Allocation of resources.....	11
5) Training and capacity-building.....	11
6) Accountability mechanisms.....	12
7) Coordination.....	13
8) Data and research.....	13
<b>PART II. The Juvenile Justice System in Armenia</b> .....	<b>14</b>
1) Prevention.....	14
2) The detention and interrogation of suspects.....	15
3) Detention prior to and during trial.....	18
4) Diversion and restorative justice.....	20
5) Adjudication and sentencing.....	22
6) The rehabilitation of convicted juveniles.....	24
7) Younger children involved in criminal activity.....	26
<b>PART III. UNICEF's Support to Juvenile Justice Reform</b> .....	<b>31</b>
<b>PART IV. Conclusions and Recommendations</b> .....	<b>33</b>
POSITIVE DEVELOPMENTS.....	33
CHALLENGES.....	35
RECOMMENDATIONS.....	38
<b>Annex 1. Data collection and analysis</b> .....	<b>43</b>
<b>Annex 2. List of persons interviewed</b> .....	<b>47</b>
<b>Annex 3. List of documents consulted</b> .....	<b>49</b>
<b>Annex 4. Juvenile Justice in Armenia:</b>	
<b>Perspective of Children in Conflict With the Law (AST/ OSCE)</b> .....	<b>51</b>

*The juvenile justice system has two aims: fighting crime, and ensuring the normal development of the personality of offenders. We must fight crime in a way that does not damage the individual. Proper treatment helps prevent crime; mistreatment encourages aggressiveness.*

*– Deputy Head, General Investigative Department, Police of the Republic of Armenia*

*Freedom is not about being inside or outside walls. It is about being able to live as an individual.*

*– Director of Trtu, an NGO working with offenders in the juvenile prison*

## Note on the Assessment Mission

The assessment mission took place from 7 to 18 September 2009. The team consisted of Dan O'Donnell, international consultant, and Lilit Petrosyan, national consultant. Support was provided by Hayk Khemchyan of UNICEF Armenia.

The assessment team interviewed the Deputy Minister of Justice and representatives of the Prison Department; representatives of the Ministry of Foreign Affairs, the Ministry of Education and Science and the Ministry of Labour and Social Issues; a representative of the Judicial Department of the Police of the Republic of Armenia ('Police of RA'); the Deputy Heads of the Juvenile Department and the General Investigative Department of the Police of RA; the Heads of the Judicial School, the Prosecutor's School and the Law Institute (which trains prison staff); and a representative of the Police Academy.

The team also met with the Head of the Standing Committee on Protection of Human Rights and Public Affairs of the National Assembly; two trial court judges; a staff member of the Human Rights Defender; the President of the National Bar Association; the Head of the Public Defender's Office; the President and another member of the Group of Public Observers Conducting Public Monitoring of Penitentiary Institutions and Bodies of the Ministry of Justice of the Republic of Armenia (*hereafter* referred to as 'Prison Monitoring Group'); a member of the Group of Public Observers at the Detention Facilities of the Police System (*hereafter* referred to as 'Police Monitoring Group'); a lawyer in private practice; and representatives of six national or international NGOs.

Visits were made to the juvenile correctional facility and the juvenile section of the pretrial detention facility, a police detention centre, two 'schools for children with antisocial behaviour', the Children's Support Centre (formerly a 'reception and distribution' centre), the Guardianship and Trusteeship Council and the Community Justice Centre in Vanadzor (Lori *marz*).

Meetings also were held with the Organization for Security and Co-operation in Europe (OSCE) and the American Bar Association Rule of Law Initiative (ABA/ROLI). The last day of the assessment mission, the team debriefed representatives of many of the ministries, agencies and organizations mentioned above.

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

## Background

Armenia became independent of the former Union of Soviet Socialist Republics (USSR) in 1991. The constitution adopted in 1995 was replaced in 2005. Armenia is a presidential republic with a unicameral legislature, the National Assembly, and a unitary State, divided into 10 *marzes* (provinces).

The total population is approximately 3 million, of which some 26 per cent are under age 18.<sup>1</sup> Of the 2 million people who live in urban areas, more than 1 million live in the capital.<sup>2</sup> The population is almost 98 per cent Armenian and 95 per cent Apostolic Christian. The largest ethnic, religious and linguistic minority are the Yezide/Kurds, who make up 1.2 per cent of the population.<sup>3</sup>

Armenia is a founding member of the Commonwealth of Independent States. It joined the OSCE in 1992 and the Council of Europe in 2001. It became a Party to the European Convention on Human Rights in 2002.

The European Union Armenia Partnership and Cooperation Agreement (PCA) entered into force on 1 July 1999.<sup>4</sup> The European Union Armenia Action Plan calls for judicial reform, prison reform and police reform, but does not specifically call for any measures concerning juvenile justice.<sup>5</sup>

Armenia acceded to the Convention on the Rights of the Child in 1992. Article 6 of the Constitution provides that duly ratified treaties are part of the national law and, in case of conflict, prevail over legislation.

A National Plan of Action for the Protection of the Rights of the Child has been adopted, covering the years 2004–2015. The National Commission for Child Protection, established in 2005, is responsible for supervising the implementation of the Plan, analysing problems regarding the rights of children and fostering cooperation between “state governance bodies, public, political, scientific and other organizations implementing protection of the rights and interests of the child.”<sup>6</sup> The Commission is composed exclusively of high-ranking government officials and headed by the Minister of Labour and Social Issues.

Armenia had a weak juvenile justice system at the time it became a Party to the Convention on the Rights of the Child. There were no specialized juvenile courts, although there was an informal practice of assigning juvenile cases to the chief judge of the relevant court. There was a Juvenile Police Department whose functions were mainly in the area of prevention and supervision of younger children involved in crime or antisocial behaviour. There was one special facility for juveniles serving

<sup>1</sup> See [http://www.unicef.org/infobycountry/armenia\\_statistics.html](http://www.unicef.org/infobycountry/armenia_statistics.html), accessed 31 January 2010.

<sup>2</sup> National Statistical Service of the Republic of Armenia, *The Demographic Handbook of Armenia 2009*, Part II, p. 34, available at [http://www.armstat.am/file/article/demos\\_09\\_2.pdf](http://www.armstat.am/file/article/demos_09_2.pdf), accessed 31 January 2010.

<sup>3</sup> Second report submitted by Armenia pursuant to Article 25, paragraph 1 of the Framework Convention for the Protection of National Minorities, Council of Europe, ACFC/SR/II(2004)010, 2004, available at [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_2nd\\_SR\\_Armenia\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_SR_Armenia_en.pdf), accessed 31 January 2010. The larger Azeri minority left after the conflict that followed independence.

<sup>4</sup> Commission of the European Communities, Annex to: European Neighbourhood Policy (ENP), Country Report Armenia, COM(2005) 72 final, Section 1.1.

<sup>5</sup> See [http://ec.europa.eu/world/enp/pdf/action\\_plans/armenia\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/armenia_enp_ap_final_en.pdf), accessed 31 January 2010. The Country Strategy Agreement 2007–2011 likewise makes no reference to juvenile justice. See [http://ec.europa.eu/world/enp/pdf/country/enpi\\_csp\\_armenia\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/enpi_csp_armenia_en.pdf), accessed 31 January 2010.

<sup>6</sup> Resolution of the Prime Minister of the Republic of Armenia of October 28, 2005, No. 835-N ‘On establishing a National Commission for Child Protection, approving the bylaws and composition of the Commission’. (It replaced the National Committee on Coordination of Activities related to Children, established in 1999.)

sentences and another, within the same complex, for juveniles detained before trial. Cases of younger children involved in criminal activity and children of any age involved in antisocial behaviour were handled by the Commissions on Minors, who had the power to place them in closed 'special schools' where conditions were poor and policies repressive. Corporal punishment and physical abuse in correctional and detention facilities were practised. There was no special legislation on juvenile justice.

Offending by juveniles reportedly was low prior to independence. Armenia's Initial report to the Committee on the Rights of the Child stated, "the number of juvenile offences in 1989 was the lowest of any of the 15 republics" of the USSR.<sup>7</sup> The second report to the Committee indicated, citing data from the Department for the Enforcement of Criminal Penalties, that 243 offences were committed by juveniles in 1989 and 256 in 1990. Data on offending for the first two years after independence are not available, but for the rest of the decade data show that the number of juvenile offenders and the number of offences committed by juveniles decreased from 1993 to 1995, peaked in 1997, then fell sharply in 1998 and remained low for the rest of the decade.<sup>8</sup> The number of offences registered by the General Investigative Department of the Police of RA in recent years is even lower.<sup>9</sup>

The number of juveniles prosecuted reportedly more than doubled during the first years after independence, from 134 in 1990 to 306 in 1994.<sup>10</sup> In recent years (2005–2008), it has remained relatively stable, between 146 and 156 cases.<sup>11</sup>

The number of juveniles convicted of offences fell sharply after 1997 (from 424 in 1997 to 201 in 2002) and has decreased even further in recent years.<sup>12</sup> The percentage of convicted persons who are juveniles has remained relatively steady, however, suggesting that the decrease may be due largely to improvements in the economy and social conditions, rather than any policies or programmes concerning juveniles.<sup>13</sup> Indeed, from 2002 to 2005 the number of juveniles convicted remained fairly steady while the number of convicted adults fell.

The number of juveniles serving custodial sentences and the number of juveniles detained prior to trial have both declined significantly during the last decade. In 1998, there were 82 juveniles serving sentences in the juvenile 'colony' and 45 in the pretrial detention facility, in addition to four adolescent girls detained or serving sentences in the women's prison.<sup>14</sup> In 2005, there

<sup>7</sup> Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Initial reports of States parties due in 1995: Armenia, CRC/C/28/Add.9, 1997, para. 151.

<sup>8</sup> 436 offences committed by 552 juvenile offenders in 1993; 420 offences committed by 444 juveniles in 1995; 741 offences committed by 975 juveniles in 1997; 589 offences committed by 479 juveniles in 1998. See Giles, G., Report on Juvenile Justice and Delinquency in Armenia, UNICEF Yerevan, 2001, citing unpublished Ministry of Justice data.

<sup>9</sup> 175 offences committed by 211 offenders in 2004; 150 offences committed by 185 juveniles in 2005; 161 offences committed by 199 juveniles in 2006; 189 offences committed by 261 in 2007; and 174 offences committed by 223 juveniles in 2008, according to unpublished data provided to the assessment team.

<sup>10</sup> Report on Juvenile Justice and Delinquency in Armenia, p. 28. According to data for 2001 from the Ministry of Internal Affairs, Department for the Enforcement of Criminal Penalties, cited in Armenia's second report, the number of offences by juveniles reported rose from 243 in 1989 to 403 in 1995 (no figure is given for 1994). See Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Second periodic report of Armenia, CRC/C/93/Add.6, 2003, para. 391, Table 25.

<sup>11</sup> Unpublished data provided to the assessment team by the Police of RA.

<sup>12</sup> 198 juveniles convicted of offences in 2003; 222 in 2004; 192 in 2005; 168 in 2006; 179 in 2007 and 178 in 2008 (unpublished data provided by the Ministry of Justice to UNICEF). The number of juveniles 'sent to court' during 2004–2008 was even lower, according to unpublished data provided to the assessment team by the Police of RA (see section 2 of Annex 1).

<sup>13</sup> The data needed to identify the impact of demographic change are not available.

<sup>14</sup> The Status of Juveniles in the Juvenile Colony, UNICEF/National Centre for Democracy and Human Rights, Yerevan, 1998, p. 2. (The legal status of the girls was not stated.)

were 31 juveniles serving sentences and 18 in pretrial detention.<sup>15</sup> At the time of the assessment mission, there were 18 juveniles serving sentences (including four or five over age 18) and 24 juveniles in the pretrial detention facility. No girls were detained or serving sentences in the women's prison.

Armenia's Initial report on the implementation of the Convention on the Rights of the Child was prepared in 1997 and examined by the Committee on the Rights of the Child ('the Committee') in 2000.<sup>16</sup> A second report was presented to the Committee in 2002 and examined in 2004.<sup>17</sup> On both occasions, the Committee expressed concern about "the absence of a system of juvenile justice, in particular the absence of specific laws, procedures and juvenile courts."<sup>18</sup> Specific concerns expressed by the Committee in 2000, and again in 2004, include "the length of pretrial detention and the limited access to visitors during this period; the use of detention not as a measure of last resort, and the often disproportionate length of sentences in relation to the seriousness of offences; the conditions of detention; and the absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders."<sup>19</sup>

The recommendations made by the Committee in 2004 include:

- (a) To give priority attention to proposals to establish specific courts to deal with all persons under age 18;
- (b) To develop and implement alternative measures to reduce the use and length of pretrial detention and other custodial sentences;
- (c) To ensure that the deprivation of liberty of juveniles is only used as a measure of 'last resort', for the 'shortest appropriate period of time', and that children have access to legal aid;
- (d) To ensure that training of prosecutors, judges, lawyers and others involved in the administration of justice is carried out systematically and consistently;
- (e) To develop programmes and provide facilities for the physical and psychological recovery and social reintegration of juveniles.<sup>20</sup>

UNICEF's involvement in juvenile justice began in 1998 with its support to an investigation on the conditions in the correctional facility for juveniles.<sup>21</sup> A situation analysis was prepared in 2001, but did not lead to the adoption of a programme on juvenile justice.<sup>22</sup> At the time of the assessment mission, the Country Programme 2010–2015 was being prepared. It will contain activities on juvenile justice, but not a separate juvenile justice programme.

<sup>15</sup> National Statistical Service of Armenia, Children in conflict with the law in Armenia, MONEE Country Analytical Report, UNICEF Innocenti Research Centre, Florence, 2006, p. 5.

<sup>16</sup> Committee on the Rights of the Child, Initial report of Armenia, CRC/C/28/Add.9; Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Concluding observations to the initial report of Armenia, CRC/C/15/Add.119, 2000.

<sup>17</sup> Committee on the Rights of the Child, Second periodic report of Armenia, CRC/C/93/Add.6; Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Concluding observations to the second periodic report of Armenia, CRC/C/15/Add.225, 2004.

<sup>18</sup> Committee on the Rights of the Child, CRC/C/15/Add.119, para. 56 and CRC/C/15/Add.225, para. 70.

<sup>19</sup> Ibid. (The only concern expressed in 2000 and not reiterated in 2004 was the detention of juveniles together with adults.)

<sup>20</sup> Ibid., para. 71.

<sup>21</sup> The Status of Juveniles in the Juvenile Colony, UNICEF/National Centre for Democracy and Human Rights, Yerevan, 1998.

<sup>22</sup> The reason was that the number of 'children in conflict with the law' was considered too low to make this a priority.

## Executive Summary

Offending by juveniles appears to have increased in Armenia during the years after its independence from the USSR and those following the conflict with neighbouring Azerbaijan, but began to fall in 1998<sup>23</sup> and seems to have now reached levels lower than the years before independence. Correspondingly, the number of juveniles serving sentences and the number of juveniles in pretrial detention have decreased by more than two thirds since 1998. At the time of the assessment mission, there were 18 juveniles serving sentences (including four or five over age 18) and 24 juveniles in the pretrial detention facility in the entire country.

The structure of the Armenian juvenile justice system has changed little since independence. There are still a Juvenile Police Unit; two 'special schools' whose students include an unknown number of underage offenders and children at risk; one Children's Support Centre in the capital; one correctional facility for convicted juveniles and one centre for juveniles awaiting trial and sentencing; and judges appointed to handle juvenile cases, but no specialized juvenile court.

Many of these institutions have undergone extensive reforms, however. The Police have entrusted management of the reception and distribution centre – renamed 'Children's Support Centre' – to an NGO that has converted it into a model centre for children at risk. The Juvenile Police participate in innovative programmes on community-based prevention and treatment, in cooperation with NGOs. Policies and programmes in the juvenile correctional facility have improved, although a coherent approach to rehabilitation is lacking.

Some new programmes and institutions have been established. In cooperation with the Police of RA and the NGO Project Harmony, a successful community-based prevention and rehabilitation programme was launched, which is operational in six cities and is included in the National Plan of Action for the Protection of the Rights of the Child 2004–2015. The Public Defender's Office is providing legal services to accused juveniles and the Monitoring Groups are making valuable contributions to the transformation of juvenile justice.

There is no framework law on juvenile justice; as in Soviet times, cases involving juvenile suspects and defendants, convicted juveniles and juvenile prisoners are governed by the Criminal Code, the Code of Criminal Procedure, the Executive Criminal Code and other laws and regulations. Most of the relevant legislation has been amended, and some of the amendments bring the law into greater conformity with international standards. Juvenile suspects have a right to legal assistance as from the moment of detention, and accused juveniles from the moment charges are filed. Representation by a defence attorney is mandatory. Once a juvenile is accused of an offence, only a court may order detention. Those accused of minor offences may not be detained. Prison sentences may not be imposed for minor offences. The maximum sentence for convicted juveniles is ten years, but few receive sentences of more than five years. Training in the rights of the child has had significant positive impact on the Juvenile Police, and the courts.

Although many improvements have been made, further progress is required. Some advances are urgent. Police have authority to detain juvenile suspects for 72 hours; cases of abuse and even torture have been reported; and commitment to eradicating these practices is insufficient. Renovation of the physical infrastructure of the facility for convicted juveniles is urgently needed. While physical conditions in the pretrial detention centre have improved, restrictions on activities and movement incompatible with the rights to education, recreation and humane treatment are applied.

<sup>23</sup> Committee on the Rights of the Child, Second periodic report of Armenia, CRC/C/93/Add.6, para. 391, citing data from the Department for the Enforcement of Criminal Penalties (from 256 offences in 1990 to 403 in 1995).

Further amendments to legislation also are required. Prison regulations still allow solitary confinement as a punishment, in violation of international standards. Legal standards on pretrial detention are too vague, and the maximum period of detention before and during trial should be reduced to comply with the recommendation of the Committee on the Rights of the Child. Similarly, the maximum period of police custody without a court order should be reduced to 24 hours. If one or more special schools remain open, norms governing them, which consist mainly of regulations, should be replaced by legislation compatible with international standards.

Other recommendations made by the assessment team include:

- The effectiveness of existing institutions and programmes for the prevention of offending and re-offending should be assessed to obtain the information needed in order to take decisions regarding the future of the Community Justice Centres, the Legal Socialization Project and the special schools.
- The possibility of designating certain investigators to become specialized in criminal cases involving juveniles should be considered.
- The need for a specialized children's court should be assessed, *inter alia*, by an evaluation of the way specialized judges carry out their duties.
- Data on the impact (positive and negative) of custodial and non-custodial sentences on convicted juveniles should be collected and analysed to shed light on the effectiveness of existing sentencing policies and practice.
- Consideration should be given to the adoption of a framework law specifically on juvenile justice to eliminate the gaps in existing legislation and norms applicable to both juveniles and adults that are incompatible with the rights of children.
- Training should be conducted in the psychology of offenders, the prevention of offending and re-offending (rehabilitation of offenders), the treatment of child victims and the skills necessary to conduct criminological research.
- Existing inter-agency coordination mechanisms should be strengthened.
- A specialized child rights unit should be created by the Human Rights Defender.
- Relevant indicators concerning juvenile justice should be identified and the corresponding data published annually.



## PART I. The Process of Juvenile Justice Reform

### 1) Policy and advocacy

Part VII of the National Plan of Action for the Protection of Children's Rights 2004–2015 refers to juvenile offenders, in the context of other issues including vagrancy, trafficking and sexual exploitation of children. It calls for greater identification of juvenile offenders and the offences committed by them; prevention of offending and protection of their legal rights; greater use of alternative sentences; reduction of the number of juveniles in the correctional system; and better cooperation among the responsible ministries and the statistical and correctional services.<sup>24</sup>

The National Programme for the Prevention of Crime 2008–2012 also includes activities specifically designed to prevent offending by juveniles.

There is no national strategy on juvenile justice *per se*. A senior representative of the Ministry of Labour and Social Issues indicated that she believes one is needed, especially with regard to the role of 'special schools'. The assessment team agrees that it is urgent to adopt a policy regarding the schools, as well as the roles of the Children's Support Centre, the Community Justice Centres and, in general, the whole area of community-based secondary and tertiary prevention and reintegration. Ideally, a policy on these dimensions of juvenile justice should form part of a comprehensive policy on juvenile justice.

### 2) Law reform

The 1995 Constitution, amended in November 2005, recognizes many human rights concerning criminal justice.<sup>25</sup> The Law on the Rights of the Child adopted the following year contains two articles concerning juvenile justice. Article 31 recognizes the inviolability of the person; the principle that arrest, search or detention must be legal; that the parents or guardians of a child deprived of liberty must be informed immediately; that children may not be compelled to testify against themselves or against close relatives; that convicted children have the right to appeal; and that children may not be detained with adults. Article 32 recognizes the right of children in special educational facilities to, *inter alia*, respect, education, health care and contact with parents.<sup>26</sup>

In order to bring Armenian legislation in line with the Convention on the Rights of the Child, a comparative analysis of Armenia's domestic law and the Convention was carried out in 1999.<sup>27</sup>

A new Code of Criminal Procedure, adopted in 1998, entered into force in 1999, and a new Criminal Code was adopted in 2003. Chapter 1 of the Criminal Code and chapter 2 of the Code of Criminal Procedure incorporate most of the guarantees of due process recognized by international human rights law, such as the principle of legality and equality of all persons before the law, the right to a fair and public trial by an independent and impartial court, the presumption of innocence, the right to a defence, the right not to be obliged to give incriminating testimony, the right not to be prosecuted twice for the same offence, and the right of a suspect to be informed of the legal and factual basis for the investigation.<sup>28</sup> Torture and cruel, inhuman and degrading treatment are prohibited by the

<sup>24</sup> National Plan of Action for the Protection of the Rights of the Child 2004–2015, translated and published by the UNICEF Armenia Office, Yerevan, 2005, pp.16–17.

<sup>25</sup> Constitution, Articles 19–22.

<sup>26</sup> Strangely, the government claims that this article does not apply to any existing facility.

<sup>27</sup> Committee on the Rights of the Child, Concluding observations, Second periodic report of Armenia, CRC/C/15/Add.225, para. 25.

<sup>28</sup> Criminal Code, Articles 4–11; see also Article 13 prohibiting the retroactive application of the criminal law. Code of Criminal Procedure, Articles 10–21.

Constitution, the Criminal Code and the Code of Criminal Procedure, as well as the 1996 Law on the Rights of the Child.<sup>29</sup>

The new 'Criminal Executive Code' or Penitentiary Code, adopted in 2004, contains one article on "sentence serving particularities of juvenile convicts."<sup>30</sup> A few other articles contain provisions recognizing the rights of juveniles to more favourable treatment with regard to visits, exercise and discipline. Similarly, the 2002 Law on Treatment of Arrestees and Detainees contains one article on "Specifics of Keeping Women and Juveniles under Arrest or Detention," and two other articles on special provisions for juveniles concerning food and disciplinary sanctions.<sup>31</sup>

Important changes were made to the Code of Criminal Procedure in 2001.<sup>32</sup> In particular, the amount of time suspects can be detained by the police without court order was reduced from 96 hours to 72 hours. In 2006 the Code was amended to recognize the right of persons participating in criminal proceedings to protection,<sup>33</sup> and at the time of the assessment mission a significant package of new amendments was being prepared.

There is no framework law on juvenile justice, however, and the chapters of the Criminal Code and the Code of Criminal Procedure on juvenile suspects, accused and offenders are short and do not incorporate the basic principles set forth in Articles 37 and 40 of the Convention on the Rights of the Child.<sup>34</sup> The legislation on the treatment of prisoners contains some provisions that are incompatible with international standards, such as those authorizing solitary confinement of juveniles as a punishment for five or ten days.<sup>35</sup>

The assessment team concludes that, although important changes have been made in the legislation concerning juvenile offenders, further changes in several laws are needed.

### 3) Administrative reform/restructuring

In 2001, the prison system was transferred from the Ministry of Internal Affairs to the Ministry of Justice. This 'de-militarization' has greatly facilitated the humanization of conditions and policies, to the benefit of juveniles and adults.

In 2007, the General Prosecutor's Office was deprived of responsibility for investigating offences. This function is now entrusted to the General Investigative Department of the Police of RA. Since the

<sup>29</sup> Constitution, Article 17; Criminal Code, Articles 11.2, 119 and 341; Code of Criminal Procedure, Article 7; and Law on the Rights of the Child, Article 9. (The punishment for torture under Article 119 of the Criminal Code is a mere three years, in the absence of aggravating circumstances.)

<sup>30</sup> Criminal Executive Code, Article 109.

<sup>31</sup> Law on Treatment of Arrestees and Detainees of 6 February 2002, Articles 27, 19 and 35, respectively.

<sup>32</sup> The Code of Criminal Procedure was amended three times, by the Law on Amendments to the Republic of Armenia Code of Criminal Procedure of 12 December 2001, by the Law on Amendments to the Republic of Armenia Law on Advocacy, Civil Procedure Code and Code of Criminal Procedure of 23 October 2001 and by the Law on Amendments to the Republic of Armenia Code on Administrative Offences, Criminal Code and Code of Criminal Procedure.

<sup>33</sup> Law on Amending and Supplementing the Code of Criminal Procedure of 25 May 2006. This law amended chapter XII (Articles 98–99) of the Code, defining in detail the types of protection measures for persons participating in criminal proceedings (victims, witnesses, accused, members of their families and closed relatives, procedures for the protection of their personal data, their rights and obligations etc.).

<sup>34</sup> Chapter 14 of the Criminal Code on 'Peculiarities of criminal liability and punishment for minors' contains twelve articles, and chapter 50 of the Code of Criminal Procedure on 'Peculiarities of proceedings on cases concerning the under-aged' contains five articles.

<sup>35</sup> Law on Treatment of Arrestees and Detainees, Article 35 (up to five days for juvenile detainees); Criminal Executive Code, 2004, Article 95 (ten days for convicted juvenile prisoners). Solitary confinement of juveniles is prohibited by the Havana Rules, cited below.

responsibilities of the General Prosecutor's Office include monitoring compliance with the law by civil servants, administrative control over investigators was considered a conflict of interests.

During the first years of independence, the Commissions on Minors became inoperative. They were revived by an ordinance signed by the Prime Minister in 1999, but in 2000 their functions were merged with those of the Guardianship and Trusteeship Councils.<sup>36</sup> In 2006, Child Protection Units (CPUs) were established under the local governments (*marzpetarans*). There are eleven, one in the capital and one in each of the 10 provinces (*marzes*) in Armenia. In contrast to the Guardianship and Trusteeship Councils and former Commissions on Minors, the Child Protection Units have small salaried professional staff, including psychologists, social workers, educators and health workers. Their role is described below, in the section on prevention. Their working methods are still being developed, and their mandate extends far beyond issues related to offending by juveniles, but they have the potential to play a valuable role in prevention, in assistance to younger children involved in criminal activity and in post-release support and assistance. The European Union supported a three-year project for developing the capacity of the Child Protection Units, which ended in August 2009.<sup>37</sup>

#### 4) Allocation of resources

The staff of the Child Protection Units may be cut because of the economic crisis. The economic crisis also has delayed renovation of the juvenile correctional facility, although it has not had an adverse impact on the operating budget of the facilities for juvenile detainees and prisoners. Heavy caseloads of the psychologists and social workers working in the prison system do, however, prevent them from fulfilling their role adequately. Financial constraints also are cited as a reason that the Human Rights Defender has not established a separate unit on child rights.

Financial constraints have not had a perceptible impact on the budget of other bodies involved in juvenile justice, such as the Juvenile Police.

The salaries of various sectors of law enforcement and the administration of justice, such as prison staff and judges, were increased some years as part of a strategy to improve professionalism and combat corruption. Most observers agree that this strategy has been effective, although abuse or corruption may not have been eliminated completely. Similarly, the salaries of public defenders have been set at the same level as those of prosecutors, a policy intended to ensure the quality of services provided and to respect the principle of the equality of parties in criminal proceedings. These salary levels have been maintained despite the recent financial crisis.

In general, limited resources do not appear to be a major obstacle to bringing juvenile justice into greater harmony with international standards at this time.

#### 5) Training and capacity-building

Most professionals involved in juvenile justice have received some training in child rights and related subjects during the last few years, and some progress has been made in institutionalizing training in child rights, especially for the police.

The Ministry of Justice and the Association of Judges organized training programmes for judges in 2003, before the new Criminal Code entered into force. Almost all judges of trial courts of general jurisdiction and some appellate participated. The following year a training programme on children

<sup>36</sup> Report on Juvenile Justice and Delinquency in Armenia, p. 37.

<sup>37</sup> The project also benefited the Guardianship and Trusteeship Councils.

and women's issues was organized for one judge from every trial court. The course, organized by the Ministry of Justice with the support of UNICEF, focused on the provisions of the new Criminal Code that deal with women and children, the Convention on the Rights of the Child and other international standards, as well as child development and psychology and their implications for judicial practice.

In 2003–2005, the Ministry of Justice conducted seminars for prison staff on the psychological, legal and educational aspects of dealing with juveniles in the correctional system. The objective of the training, organized with the support of UNICEF, was to build the capacity of correctional staff working with children and women by developing skills and changing attitudes. The 2004 training also covered the new provisions of the Criminal Code as well as other relevant legislation. Responsibility for training prison staff now lies with the Ministry's Law Institute. All prison staff are required to attend a refresher course once every five years. The course includes a component (one or two hours) on human rights, which touches on the rights of children.

The topic of child rights has been incorporated into the curriculum of the Police Academy, and a manual on the treatment of juvenile offenders and child victims of crime is in use. The manual and the training provided cover issues such as interviewing children, symptoms and evidence of violence and a code of conduct about the treatment of children.

Training related to juvenile justice has not been evaluated, but many observers agree that it has had a positive effect on juvenile justice, in particular regarding the police and the courts.

## 6) Accountability mechanisms

A Human Rights Defender was established in 2003. It has no unit specialized in the rights of children, however, and receives few complaints of violations of the rights of children.<sup>38</sup>

Two independent groups monitor the treatment of persons deprived of liberty, one established in 2004 for prisons and pretrial detention facilities under the Ministry of Justice, and one established in 2006 for the investigative custody facilities operated by the Police of RA.<sup>39</sup> Their functions and powers as independent monitors are recognized by law.<sup>40</sup> Both prepare annual reports, 'current' reports and, when an urgent case arises, '*ad hoc*' reports. Their mandate includes both physical abuse of individuals and conditions of detention. Sources agree that the establishment and the activities of these groups have made a significant contribution to improving the treatment of prisoners and detainees.

Sources interviewed agreed that physical abuse of juveniles no longer exists in the prison and pretrial detention centre operated by the Ministry of Justice. The Police Monitoring Group maintains, and another source confirmed, that physical abuse and even torture are still inflicted on suspects by the police before the suspects are placed in investigative custody facilities. Indeed, a member of the Group informed the assessment team that a 17-year-old suspect was subjected to beatings and electric shock in a police station in Yerevan during the assessment mission. This report is being investigated by the Police, the General Prosecutor and the Human Rights Defender.

There is no public information on police officers having ever been sanctioned or prosecuted for torture or cruel and inhuman treatment of a juvenile or adult suspect. The Monitoring Groups perform

<sup>38</sup> Eleven complaints in 2008, all submitted by parents and none about issues related to juvenile justice.

<sup>39</sup> As mentioned in the Note on the Assessment Mission, their full names are Group of Public Observers Conducting Public Monitoring of Penitentiary Institutions and Bodies of the Ministry of Justice of the Republic of Armenia and Group of Public Observers at the Detention Facilities of the Police System.

<sup>40</sup> Law on Treatment of Arrestees and Detainees, Article 47; Criminal Executive Code, Article 21.

a valuable service in deterring ill-treatment of juvenile (and adult) suspects, detainees and prisoners – and, indeed, represent a ‘good practice’ deserving to be emulated in other countries – but their efforts have not been sufficient to ensure accountability. The Public Defender informed the assessment team that in some cases courts have excluded statements obtained through coercion, but an NGO stated that in many cases courts ignore claims of abuse by defendants. Accountability requires the political will on the part of the responsible authorities to investigate and prosecute officials who violate the rights of prisoners, as well as to make this information public. This still seems to be lacking.

## 7) Coordination

Coordination between the different parts of the juvenile justice system is very poor. According to one governmental official, “Each sector works separately... there is no team work.” An NGO representative agreed, stating that “more continuity of services is needed.” Specific examples were given, such as the inability of social workers in the correctional system to coordinate with anybody in the community to communicate or provide services to the families of juveniles deprived of liberty, or help with their reintegration into the family and community after release. The Head of the Children’s Support Centre indicated that there are *ad hoc* consultations on how to handle ‘difficult’ individual cases. In general, however, it seems clear that coordination on the level of case management is sporadic and insufficient.

In principle, one of the functions of the National Commission for Child Protection is to “submit proposals on activities of state governance bodies and NGOs related to prevention of juvenile delinquency.” However, the Commission has only recently begun to meet after a period of more than 18 months without activity. The creation of a working group on juvenile justice, incorporating some members of the Commission (or their representatives) and representatives of civil society, could both foster cooperation at the local level and help develop a broad and coherent national policy on juvenile justice and monitor developments regarding offending, law enforcement, adjudication, rehabilitation and reintegration into society.

## 8) Data and research

Data concerning juvenile justice are compiled by at least four agencies: the Police of RA, the Judicial Department, the Penitentiary Department of the Ministry of Justice, and the General Prosecutor’s Office. These data do not include information on residential programmes such as the special schools and the Children’s Support Centre, or community-based programmes such as the Community Justice Centres, although information about the youth served in these centres is communicated to the Police of RA. One of the functions of the newly established Child Protection Units is to maintain a database on ‘beggar, vagrant and delinquent adolescents’, although to date this has not been implemented.<sup>41</sup> None of the data concerning juvenile justice compiled by the relevant ministries or agencies are published regularly. They are not confidential, however, and are provided to interested NGOs and international organizations on request.

Data on some important indicators are not recorded. There is no information, for example, on the number of children under age 14 investigated by the police because of involvement in criminal activity; on the number of prisoners sentenced as juveniles who are serving sentences in an adult prison after reaching age 18; nor on the number of adult offenders having a prior record of offending as juveniles.

Most of the persons interviewed were unaware of any studies on offending by juveniles in Armenia, and many of them agreed that more research is needed.<sup>42</sup>

<sup>41</sup> Joint Directive of the Ministry of Regional Governance and Ministry of Labour and Social Issues ‘On approving of sample charters of child protection departments of *marz* authorities (Yerevan municipality) of the Republic of Armenia’, 17 November 2005, Sample Charter [Annex], Article 7(g).

<sup>42</sup> A study by L. Gavukchyan on the family background of 80 juvenile offenders detained between 2002 and 2006 was published in *Law and Reality*, General Prosecutor’s Office, Yerevan, June 2006.

## PART II. The Juvenile Justice System in Armenia

### 1) Prevention

Article 9 of the 1996 Law on the Rights of the Child recognizes the duty of the State to protect children against all forms of violence, exploitation or involvement in criminal activities.<sup>43</sup>

In 2008, the Government approved a National Programme for the Prevention of Crime 2008–2012.<sup>44</sup> A few activities envisaged by the Programme specifically concern juveniles, such as the creation of “rehabilitation centres for juvenile offenders in Yerevan, Gyumri and Vanadzor,” ensuring cooperation between the municipal Child Protection Units and NGOs, and the introduction of Juvenile Police officers in 10 secondary schools on a trial basis.<sup>45</sup> The decree approving the Programme also established an interministerial commission to coordinate implementation.<sup>46</sup> The commission should meet quarterly, but to date it has met only once, in August 2009.

The government bodies that have most responsibility for the prevention of offending by juveniles are the Juvenile Police and the newly established Child Protection Units. There are 280 Juvenile Police officers throughout the country, and all have received training in child rights and related issues. A code of conduct on the treatment of children was adopted in 2005.

Traditionally, the Juvenile Police undertake this responsibility mainly through the ‘registration’ of children at risk. They have now taken on another role in a ‘Legal Socialization Project’ aimed at sensitizing schoolchildren about offending. This project, known as ‘Project Zang’, has been incorporated into the National Programme for the Prevention of Crime and is implemented with the assistance of the NGO Project Harmony Armenia. Throughout 2003–2008 it was implemented in grades six to nine by teams of teachers and Juvenile Police officers. The organizers report that there was initial resistance to the Project because of the negative image of the police, but parents and schools later evaluated the experience positively and the Project has helped change the attitudes of participating police officers. In addition to this qualitative feedback, the impact of the Project has reportedly been evaluated, but the assessment team was not provided with reports or indicators such as, for instance, re-offending trends.

The Juvenile Police are also cooperating with the Community Justice Centres and sharing with them responsibility for supervising or monitoring children at risk. In this way, children at risk are provided with a range of services that the Juvenile Police were and are unable to provide themselves.

Another component of ‘Project Zang’ consists of Community Justice Centres, which provide secondary prevention (prevention for individual children identified as being at high risk of offending) as well as diversion for juveniles involved in offences. It is further described below, in section 4 on ‘Diversion and restorative justice’.

The Child Protection Units, as their name suggests, have a broad mandate to protect children. The Child Protection Unit of the capital has an interdisciplinary staff of seven, for a population of approximately 1 million. This ratio is better in the province. However, they cannot intervene on the basis of perceived risk alone, but only when a violation of a right of the child has been reported.

<sup>43</sup> The consumption, production or sale of narcotics, begging, prostitution and gambling are expressly mentioned.

<sup>44</sup> Decree No. 1039-N of 27 March 2008.

<sup>45</sup> Many of the other activities concern prevention of re-offending within the prison system, and potentially may benefit both juveniles and adults (e.g., improving cultural and athletic opportunities in correctional facilities).

<sup>46</sup> Decree No. 1039-N of 27 March 2008, para. 4 and Appendix 2.



The assessment team considers that the government is aware of the importance of prevention, and considers that the existence of the National Programme for the Prevention of Crime and the activities being implemented in the framework of that plan are positive. Most of the activities and institutions that help prevent offending by children also serve other objectives, such as diversion or child protection, and for that reason some of them are described in more detail below. The assessment team would like to express the view here that the Community Justice Centres are a good practice, and that the Child Protection Units also have potential to make a positive contribution to the prevention of offending. Some other projects described below, such as the Children's Support Centre and a de-institutionalization project supported by the Ministry of Labour and Social Issues, also contribute to the prevention of offending, although it is not their main goal. The information available on the other activities of the Juvenile Police, such as registration and 'legal socialization', is insufficient for the assessment team to form an opinion as to their value.

## 2) The detention and interrogation of suspects

As in most countries, police officers have the power to detain for purposes of investigation persons "suspected in immediate [commission] of crime" (i.e., those who are caught in the act of committing an offence; those who are identified by an eyewitness or found in possession of evidence of the offence shortly after an offence; those who flee the scene of a crime; those who do not have a permanent residence in the area where the offence occurred; and those whose identity cannot be established).<sup>47</sup> Whether they are adults or juveniles, such persons may be detained by the police for 72 hours without a court order.<sup>48</sup>

In addition, the police have a broader power to 'institute a criminal case' and carry out an 'inquiry' regarding reported crimes.<sup>49</sup> The aim of an inquiry, which must be completed within 10 days, is to collect evidence of the crime and 'discover' the offender.<sup>50</sup> In the exercise of this function, police officers may take suspects into custody and interrogate them.<sup>51</sup> If the police obtain sufficient evidence to charge a suspect, the case is forwarded to the General Investigative Department.<sup>52</sup>

Investigators are posted in every province, under the authority of the Head of the General Investigative Department in the capital. They do not answer to the head of the police in the province in question. When a case is forwarded to the Department, investigators carry out – or complete – a preliminary investigation.<sup>53</sup> The preliminary investigation begins when a decision to 'initiate criminal prosecution' has been made, and may last two months.<sup>54</sup> Investigators have authority to detain and interrogate suspects during the preliminary investigation, but only for 72 hours.<sup>55</sup> Further deprivation of liberty can only be authorized by a court once the suspect is charged, thus becoming an accused.<sup>56</sup>

<sup>47</sup> Code of Criminal Procedure, Articles 62 and 129.

<sup>48</sup> Ibid., Article 62.2. (Prior to 2006, the limit for police detention was 96 hours.)

<sup>49</sup> Ibid., Article 57.2(3) and 57.3.

<sup>50</sup> Ibid., Article 57.2(1), (5) and (6); see also Article 197(1). (This does not give authority to extend detention for more than 72 hours without a court order.)

<sup>51</sup> Ibid., Article 57.2(5). See also Articles 128.3(2) and 6.22.

<sup>52</sup> Ibid., Articles 57.2(6) and 196.

<sup>53</sup> The terms 'inquiry' and 'preliminary investigation' are usually used in contradiction to one another, although the inquiry apparently also 'can be considered' part of the preliminary investigation. Ibid., Article 188.

<sup>54</sup> Ibid., Articles 192 and 197.

<sup>55</sup> Ibid., Article 55.4(2) and (13), and Article 130.

<sup>56</sup> Ibid., Article 55.4(24). See also Article 55.4(14). As in other post-Soviet countries, deprivation of liberty after an accused has been charged is known as 'arrest'.

The preliminary investigation ends when the case is forwarded through the prosecutor to the court for indictment, or closed.<sup>57</sup>

Suspects and accused persons have the right to an attorney as from the time of detention or accusation, and to have an attorney present during interrogation.<sup>58</sup> The participation of a defence attorney in criminal proceedings is mandatory (i.e., cannot be waived) if the suspect or accused was a juvenile at the time of the offence.<sup>59</sup>

Relatives of detained juvenile suspects must be informed immediately, and have the right to visit.<sup>60</sup> If the detainee is under age 16, parents also have the right to be present when he/she is interrogated. If the presence of parents cannot be arranged, a representative of the Guardianship and Trusteeship Council should take their place. In practice, however, this does not always occur.

Suspects detained by the police are held in detention facilities operated by the Police of RA (see below). There is no specific time limit for the transfer of suspects from the place of capture to the detention facility, but the head of the detention facility informed the assessment team that it usually occurs within a few hours. The detention facility is subject to supervision by the Police Monitoring Group, but police stations are not.

### *Police detention facilities*

In Yerevan the assessment team visited a police detention facility for suspects who have not yet been charged. The total number of such facilities is 40. There is one such facility in the capital, and 32 in the provinces.<sup>61</sup> Seven of the facilities are not operational due to different reasons (insufficient physical conditions, humidity etc.). Suspects may be detained here without a court order for 72 hours, as indicated above.<sup>62</sup> Within 72 hours they must be released or charged with an offence; if they are charged and if a court approves detention, they must be transferred to the pretrial detention facility operated by the Ministry of Justice.

The police detention facility was built in 1986, and has a capacity of 36. Men, women and juveniles may be detained there. The Director informed the assessment team that seven suspects were detained there at the time of our mission, and that 19 juvenile suspects had been detained in the facility since the beginning of 2009.

Suspects generally are detained separately, one person per cell. Since the cell doors are solid steel, rather than bars, this effectively prevents contact between juveniles and adults, and men and women. Requests to be detained in the same cell as another person sometimes are granted, according to the Director, to prevent isolation. Indeed, Article 31 of the Law on Treatment of Arrestees and Detainees, which states, "Arrestees shall be kept in places of arrest separately, in solitary confinement,"<sup>63</sup> is

<sup>57</sup> Ibid., Article 196. See also Article 55.4(14).

<sup>58</sup> Constitution, Article 20; Code of Criminal Procedure, Articles 63.2(4) and (6), 65.2(3) and (5); and 211.

<sup>59</sup> Code of Criminal Procedure, Article 69.1(5).

<sup>60</sup> Article 63.2(9) of the Code of Criminal Procedure provides that the relatives of detained suspects must be informed within 12 hours, but Article 31 of the Law on the Rights of the Child provides, "The child's parents or other lawful representatives shall be immediately notified about the child's detention or arrest."

<sup>61</sup> Juveniles are detained in only 32 of those outside the capital.

<sup>62</sup> The 72 hours begin to run when the officer who takes the suspect into custody prepares a 'protocol', i.e., records the event, which is done in the police station.

<sup>63</sup> The term 'arrestees' refers to persons in police custody, while 'detainees' refers to those in court-ordered detention prior to trial – to which this clause does not apply.



not compatible with international standards, which qualify the solitary confinement of juveniles as a form of cruel, inhuman or degrading treatment.

Each cell has two beds, and is large enough for two persons. Meals are ordered from outside the facility, and served in cells. There is an area for 'outdoor exercise', rooms for meetings with interrogators and lawyers, and a small room for receiving visits from family members. The facility appeared generally clean and in good repair, although some refurbishment was needed. The staff of 48 includes 4 nurses, but no social worker or psychologist. The detention centres in the regions comprise five staff members each.

Torture and abuse of prisoners do not occur in the police detention facility, according to the Police Monitoring Group, but does occur in police stations. The assessment team was informed of the case of a 17-year-old tortured in a police station during the assessment mission. The victim was reportedly in the police detention facility when it was visited by the assessment team, although the Director informed the team that no juveniles were present. He also told the assessment team that since the beginning of the year the medical exam performed on admission had not revealed any cases of juvenile suspects with signs of physical abuse. The team believes that this illustrates the danger of allowing juvenile suspects to remain in police custody for 72 hours.

A survey of juvenile offenders and other juveniles having had contact with the police, carried out in parallel to the present assessment (see Annexe 4 to the present report), suggests that violence is routine:

*“The majority of respondents mentioned that they had been beaten at police stations. Some of them noted that police officers usually beat juveniles to make them admit (or take responsibility for) the crime or name persons who had participated in it (theft, fighting, etc.). Respondents who said they had not been subjected to violence explained it by the fact that they had confessed their guilt immediately.”<sup>64</sup>*

### *The Children's Support Centre*

In 1999 responsibility for the operation of the 'reception and distribution centre' in Yerevan, a legacy of the Soviet system, was transferred from the police to the Fund for Armenian Relief (FAR), an NGO established under the auspices of the Armenian Church. FAR operates the centre, now called 'Children's Support Centre', pursuant to an agreement with the Juvenile Police. The powers of the police under relevant law and regulations still form the legal basis for the Centre's existence and functioning, although the approach used and the methods employed have been transformed.

The capacity of the Centre is 30 children. There are separate buildings for young children, and for older children and adolescents. The larger building, which contains dormitories for older children and adolescents, also comprises classrooms and activity rooms as well as administrative offices. The smaller building includes a dispensary. Between the two there is a paved area used for recreation, and the grounds also include a garden. The facilities are clean, in good repair and pleasantly decorated (including with art work produced by the children).

Children aged 3 to 18 years of both sexes are admitted for a wide variety of reasons: homeless children and street children; victims of abuse, exploitation and trafficking; and 'registered' children, including younger children who have been involved in criminal activity. During 2008, 220 children

<sup>64</sup> Juvenile Justice in Armenia: Perspective of Children in Conflict With the Law, Advanced Social Technologies/Organization for Security and Co-operation in Europe (AST/ OSCE), 2010, p. 55. (The survey is based on interviews with 91 persons who had been in the juvenile prison, a Community Justice Centre, on probation or in No. 1 Educational Complex between 2002 and 2009.)

were admitted. During the month prior to the visit of the assessment team, 47 children were admitted, including four aged 11, 12 and 14 years brought by the police because of involvement in offences (two for theft, one for threats of violence against another child, and one for assault). There is no specific duration for placement; it is often a matter of days, but some children have stayed for months, especially those whose family is difficult to locate.<sup>65</sup> The functions of the Centre are not defined by law, but by regulations and the agreement with the police.

The role of the Centre in such cases is to prepare an assessment and provide psychosocial support to the child, parallel to the investigation of the facts carried out by the police.<sup>66</sup> When the assessment and investigation are completed, a decision on what measures to take is made by the Guardianship and Trusteeship Council and the Child Protection Unit. When the child is put under parental supervision, it is often with a requirement that the parents and child maintain contact with the Centre. In some cases, the Centre provides victim-offender mediation. The staff of 16 includes four educators, four caregivers, two social workers, a psychologist, a half-time physician, in addition to administrative and support staff. University students work as volunteers.

The assessment team is impressed with the child-friendly approach and quality of the services provided by the Centre, which in this respect should be considered a good practice. Although the assessment team has no reason to think that the operations of the Centre violate the rights of children in practice – quite the contrary – the lack of mandate and procedures for placement are nevertheless a reason for concern. Legislation should be adopted to ensure that the mandate or functions of the Centre, as well as the grounds and procedures for admitting children, are clearly defined and in harmony with international standards on the rights of children.

### 3) Detention prior to and during trial

Suspects, as indicated above, may be detained without a court order for up to 72 hours. This applies to juveniles and adults alike. At the end of this period the suspect must be indicted, or the investigation must be closed. If the court approves charges, the prosecutor may request that pretrial detention be authorized. In general, pretrial detention may only be imposed for a crime punishable by more than one year of imprisonment, or if there is sufficient reason to think that the accused may flee justice or commit another offence.<sup>67</sup>

This general rule is modified by Article 442 of the chapter on juveniles of the Code of Criminal Procedure, which provides that an accused juvenile may be detained only if charged with a crime of medium or more severe gravity. Offences of medium gravity are those punishable by more than two years of imprisonment.<sup>68</sup> Alternatives to pretrial detention include bail and, for juveniles, release under the supervision of parents or guardians.<sup>69</sup>

The initial court order approving detention is valid for two months.<sup>70</sup> This can be extended for up to six months exceptionally “due to the complexity of the case,” or up to one year if charged with a grave crime or a crime of particular gravity.<sup>71</sup> Each decision to extend pretrial detention is only valid

<sup>65</sup> The example was given of a child whose sole surviving parent was a migrant worker in Russia, who remained in the Centre for seven or eight months before family reunification.

<sup>66</sup> The Police investigate offences by children even when they are too young to be prosecuted under the Criminal Code.

<sup>67</sup> Code of Criminal Procedure, Article 135.2.

<sup>68</sup> Criminal Code, Article 19.

<sup>69</sup> Code of Criminal Procedure, Articles 134.2 and 148 (supervision also may be done by the staff of a residential facility for children.)

<sup>70</sup> Code of Criminal Procedure, Article 138.3.

<sup>71</sup> Ibid., Article 138.4.

for two months, and the reasons for it must be recorded.<sup>72</sup> The accused should ‘as a rule’ be present when the court decides on a request for pretrial detention or the extension of a pretrial detention order, and such orders may be appealed.<sup>73</sup>

### *The pretrial detention facility for juveniles*

The correctional facility for juveniles and the pretrial detention unit for juveniles are located together in Abovyan,<sup>74</sup> in a campus that also includes the women’s prison, some 20 kilometres from the capital. They are the only pretrial detention unit and correctional facility for juveniles in Armenia. The pretrial detention facility for adolescents is used only for males. The detention of female juvenile offenders is rare, but when it occurs they are detained in the women’s prison, which incorporates a unit for women in pretrial detention.

The facility was built in 1957 as a juvenile facility; the facility for women was added in 1991. The common areas of the campus are relatively attractive, with flowering plants, although much of the physical infrastructure shows its age. The staff of 145 includes a full-time psychologist, a full-time medical doctor and two nurses.

A nurse informed the assessment team that the most common medical issues were dental problems and the flu. It had been more than a year since a detainee or juvenile prisoners had been treated for an injury (self-inflicted but not serious). Detainees and prisoners are given a medical exam on admission, but are not tested for HIV unless there is a specific indication of risk (e.g., drug use, or participation in a sexual offence).

The pretrial facility has a capacity of 100 and, at the time of the visit, had a population of 78, of whom 24 were under age 18. None of the juveniles were younger than 16 years. Most were charged with theft. The second most common charge was wounding by knife, and one boy was accused of rape. The longest period of pretrial detention reported by convicted juvenile prisoners was 11 months. Detention for one year is not uncommon, according to the staff. Approximately 60 to 70 per cent of the juvenile population was taken into custody in the capital, although many juveniles are originally from the provinces.

The pretrial detention facility has been renovated recently. Some parts of the building (e.g., stairs) still show their age but, in general, the physical infrastructure is adequate. Juveniles are detained in large (16m<sup>2</sup>) cells that contain two bunk beds, two tall cupboards for storing personal belongings, a television,<sup>75</sup> a small table with two benches, cups, plates and eating utensils, and a lavatory with sink. There is a window with old curtains. The door is of solid metal. Natural lighting is adequate. The walls are bare, except for a small calendar and the regulations governing the facility. The two dormitories visited seemed fairly clean. One of the dormitories visited held three detainees, the other, four. The detainees were respectful and seemed at ease. They wear their own clothing.

Detainees have the right to two hours of ‘outdoor exercise’ every day.<sup>76</sup> This time is spent in two cells located in a patio adjacent to the building that have bars in place of a ceiling/roof. There was no equipment of any kind in the one shown to the assessment team, and there is no area for indoor exercise or recreation during bad weather. Showers are located at the end of the corridor. There is a

<sup>72</sup> Ibid., Article 139.3.

<sup>73</sup> Ibid., Articles 285, 287–288.

<sup>74</sup> On 8 September the assessment team visited both the correctional facility for juveniles and the pretrial detention unit for juveniles in Abovyan, in the company of the UNICEF Representative, the programme officer and a programme assistant.

<sup>75</sup> One of the two facilities visited was lacking its television, which had been removed for repairs.

<sup>76</sup> One hour more than adult men.

small room with a few chairs, a desk and a bookshelf that serves as a library. Most of the books are old, and in the Russian language. The detainees housed in a given cell eat there, and have no contact with detainees from other cells. They have no schooling, and participate in no organized activities other than the daily visit to the 'outdoor' cell. Apparently, they are often allowed to visit the outdoor cell more than once a day. They have the right to two visits by parents and close family members per month.

Regulations allow detention in a disciplinary cell (i.e., solitary confinement) for up to five days<sup>77</sup> and detainees are not entitled to appear in person in disciplinary hearings. These practices violate international and European standards on the rights of juvenile prisoners.<sup>78</sup> The staff informed the assessment team that they rely mainly on discussions and persuasion to resolve disciplinary issues, and it had been more than a year since a juvenile had been confined in the disciplinary cell.

The most disturbing aspect of their situation is the total lack of contact between the detainees assigned to a given cell and other detainees or prisoners. Apart from occasional visits by an attorney or parent, a juvenile detainee can spend months – and less frequently even a year – with no contact with anyone other than his cellmates. Decisions as to which detainees are assigned to the same cell are based on the 'needs of the investigation'. Recommendations by the psychologist are not taken into account.

#### 4) Diversion and restorative justice

The Criminal Code provides that an offender may be exempted from criminal liability for minor offences, or those of medium gravity, if he/she is reconciled with or compensates the victim.<sup>79</sup> It also provides that first offenders may be exempted from criminal liability for minor, first offences if "as a result of the change of the situation this person or the committed act is no longer dangerous for the society."<sup>80</sup>

Article 37 of the Code of Criminal Procedure gives prosecutors discretion to renounce prosecution in certain circumstances envisaged by articles 72, 73 and 74 of the Criminal Code, including sincere repentance; consent of the victim and the prosecutor's belief that "the accused or the suspect is capable of correction without imposing a punishment;" offences causing insubstantial damages; and when pretrial measures "seem to be sufficient in terms of having the guilt redeemed." This article applies regardless of the age of the accused. Investigators also take this decision in certain cases, subject to the approval of the prosecutor, and the police may decide not to proceed with the investigation of an offence "in the event of reconciliation of the injured party and the suspect."<sup>81</sup>

Six Community Justice Centres have been established by Project Harmony, in accordance with the National Programme for the Prevention of Crime.<sup>82</sup> The Centres have a dual purpose, both prevention and diversion. Some beneficiaries are children referred by schools for truancy or other antisocial behaviour, or children too young to be prosecuted who have been involved in criminal activity. Others

<sup>77</sup> Law on Treatment of Arrestees and Detainees, Article 35.

<sup>78</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Rule 67. See also Rule 95.3 of the European Rules for Juvenile Offenders subject to sanctions or measures.

<sup>79</sup> There are two articles to this effect. Article 72 of the Criminal Code on 'Exemption from criminal liability in case of repentance' applies to first offenders (adults or juveniles) who commit minor or medium offences, while Article 73 on 'Exemption from criminal liability in case of reconciliation with the aggrieved' applies to minor offences.

<sup>80</sup> Ibid, Article 74.

<sup>81</sup> Code of Criminal Procedure, Articles 35.1(5) and 35.3, and 36.

<sup>82</sup> The term used in English is 'community justice centre', whereas the name used in Armenian is 'community rehabilitation centre'.

are children aged 14 years or older involved in offences referred by the police. The services provided to the former part of the caseload constitute prevention; the services provided to the latter constitute diversion because the referral is made before the case is forwarded to the prosecutor.

The minimum age for referral is nine years. Upon referral, the child and his/her parent(s) must sign an agreement regarding participation. The duration of participation depends on the progress made, typically from two to five months. Services provided include victim-offender mediation, crafts (especially pottery), computer literacy, recreational activities and informal counselling. Agreement of the victim to participate in mediation is not a prerequisite for referral. The participation of the victim is sought after referral has been made, and services are provided even if the victim does not agree to participate (about one third do). Cases in which the victim is not a physical person (e.g., defacing a public monument, theft from the railroad) are also accepted. The project has a strong ethos of community responsibility in the prevention of offending and rehabilitation of juvenile offenders, and showing children at risk and offenders that important members of the community are concerned about them. Integration into the community is a key part of the approach used. The Board of the Centre visited includes a psychologist, a medical doctor, artists and writers. The head of the Juvenile Police of Vanadzor and Board members participate directly in the work of the Centre. In some cases, parents are referred to appropriate services (e.g., employment, substance abuse treatment).

The Centre visited (in Vanadzor, Lori *marz*) has handled 32 cases since it opened in 2006: fifteen cases referred for theft, five for crimes of violence,<sup>83</sup> two for damage to property, three for begging and seven for truancy. Seventeen were 14 years of age or older and fifteen were between the ages of 9 and 13. Three of the 32 have re-offended by committing thefts, and two have returned to begging.

The survey of the children's experiences<sup>84</sup> found that children have a very positive opinion of the centres. The authors of the survey conclude:

*“In the community centres the juveniles acquire self-control, self-management and communication skills; they become more communicable and find certain ways to share their problems. They become more confident and purposeful and start striving to fulfil their goals.”*

Project Harmony is committed to full financing of the currently existing six Community Justice Centres (three of which started in 2006, the other three throughout 2007–November 2008) until mid-2010, simultaneously trying to seek government funding and support for the preservation of these centres and the replication of this restorative justice model in the other provinces of Armenia. The assessment team considers it to be a good practice that should be supported by the Government of Armenia and, indeed, one that deserves to be made known in other countries of the region.

### *Non-penal disciplinary measures*

The courts have discretion to impose non-penal measures on first offenders who have committed minor or medium offences.<sup>85</sup> These ‘disciplinary measures’ – warning, parental custody, reparation of the victim, restrictions on conduct or placement in special educational facilities for juvenile offenders or ‘medical-educational’ facilities – are not considered as sentences. They may not exceed six months.<sup>86</sup> If the juvenile does not comply with the measures imposed, the order may be cancelled and a sentence may be imposed.

<sup>83</sup> Two cases of ‘bodily injury’, one of theft by threat of violence and cases of attempted sexual abuse

<sup>84</sup> See, above, footnote 64.

<sup>85</sup> Criminal Code, Article 91.

<sup>86</sup> Ibid., Article 93.

## 5) Adjudication and sentencing

### *The minimum age for adjudication*

The minimum age for the prosecution of juveniles is 14 years, for more than 20 serious offences.<sup>87</sup> Persons aged 16 years may be prosecuted for any offence recognized by the Criminal Code.<sup>88</sup> Juveniles who have reached these age limits do not have 'criminal liability' if they are "not able to understand the nature and significance of one's actions or to control one's actions" due to "retarded mental development."<sup>89</sup>

### *Specialized courts or judges*

In 2004 one judge from each trial court participated in a training course on juvenile justice and alternative sanctions co-sponsored by UNICEF, OSCE and ABA/ROLI. The Judicial School also organized an in-service training course on child rights in 2008, in cooperation with UNICEF. A course on juvenile justice has been added to the curriculum for candidate judges, and 20 judges have graduated since it was added to the curriculum. There is, however, no regulation or policy requiring that each trial court have at least one judge specially trained in child rights or juvenile justice.

Armenian authorities are aware of the recommendation of the Committee on the Rights of the Child that specialized juvenile courts should be established, but none of the authorities interviewed by the assessment team considered this appropriate. The main reason given is the small number of trials of juveniles – 156 cases in 2008, according to the General Investigative Department. There also is a broad reluctance to establish specialized courts. In 2008 trial courts were separated into civil and criminal courts, but this measure was rescinded 10 months later and all trial courts again became courts of general jurisdiction. In practice, however, most judges in trial court are specialized and handle only criminal or civil cases.

In the short term, the most practical way of ensuring that juveniles accused of an offence (and children involved in criminal cases as victims or witnesses) are tried by judges having special training in child development, child rights and related matters would seem to be designating one judge in each court to handle such cases. This could be done administratively, with no need for legislative action. The same kind of measure could be taken with regard to prosecutors. In both cases, there appears to be some receptivity to taking this step.

In the longer term, the effectiveness of designated judges and prosecutors in ensuring compliance with relevant principles and standards on the rights of juvenile offenders could be evaluated through the monitoring of trials of juveniles (and eventually other criminal trials involving children). The caseload of courts also could be examined with a view to assessing whether the 'demand' for a specialized court is sufficient to warrant the creation of one in the capital, where more cases involving juveniles arise. The logical time to do this would be after sufficient time has passed to evaluate the results of further efforts to develop diversion and prevention programmes.

Chapter 2 of the Code of Criminal Procedure recognizes the rights of suspects and accused persons, including those contained in Article 40 of the Convention on the Rights of the Child. The assessment

<sup>87</sup> Ibid. Homicide (Articles 104–109), premeditated bodily injury (Articles 112–116), kidnapping (Article 131), rape and violent sexual abuse (Articles 138–139), theft (Article 177), robbery (Article 176), 'banditry' and 'extortion' (e.g., theft by violence or threat of violence) (Articles 175 and 182), illicit appropriation of a vehicle (Article 183), aggravated destruction of property (Article 185(2) and (3)), theft of firearms, ammunition or explosives (Article 238), theft of narcotics (Article 269), damaging means of public transportation or communication (Article 246), and hooliganism (Article 258).

<sup>88</sup> Ibid., Article 24.1 and 24.2; Code of Criminal Procedure, Article 35.1(9).

<sup>89</sup> Criminal Code, Article 24.3; Code of Criminal Procedure, Article 35.1(9).



team received no information indicating that there were specific, significant difficulties regarding the respect of these guarantees.

### *The right to legal assistance*

The Public Defender's Office was established in 2005. It employs 17 full-time attorneys in the capital and 20 in the provinces, of whom 13 are employed full time. In remote areas attorneys are contracted on a case-by-case basis, when needed. The salaries of staff attorneys are the same as those of prosecutors. Most of the cases handled are criminal cases. The caseload is approximately 67 cases per full-time staff attorney annually. There are no attorneys specialized in cases involving juvenile offenders (or child victims) and data on the caseload are not disaggregated by the age of clients. In practice, free legal assistance is granted to all juveniles accused of an offence, but not juvenile witnesses and victims.

### *The right to be tried without delay*

There is no limit to the duration of detention once the trial begins.<sup>90</sup> The lack of such a limit is not compatible with the recommendation made by the Committee on the Rights of the Child in 2007, to the effect that all cases involving juveniles accused of an offence should be resolved within six months.<sup>91</sup>

### *Sentencing of juvenile offenders – alternative sentences*

The most commonly used 'alternative sentence' is 'conditional punishment', the equivalent of a suspended sentence or probation. It can be imposed when a sentence of imprisonment has been assigned, but the court concludes that "the correction of the convict is possible without serving the sentence."<sup>92</sup>

The Criminal Code also provides for fines and 'public work' (community service).<sup>93</sup> Public work may not be imposed on offenders under age 16 at the time of sentencing.<sup>94</sup> Fines may only be imposed on convicted juveniles who have their own income or property.<sup>95</sup>

### *Sentencing of juvenile offenders – custodial sentences*

The maximum length of the sentences that may be imposed on juvenile offenders depends in part on the age of the offender and the gravity of the offence: the maximum sentence for 'not grave' offences is one year; for crimes of medium gravity it is three years; the maximum for the most serious category of crimes committed by persons under age 16 is seven years for a single offence, and the maximum for serious or very serious offences committed by juveniles aged 16–17 years is ten years, for a single offence.<sup>96</sup> The total sentence for juveniles convicted of multiple offences may not exceed seven years for juveniles aged 14–15 years, and ten years for those aged 16–17 years.<sup>97</sup>

<sup>90</sup> Code of Criminal Procedure, Article 138.6.

<sup>91</sup> Committee on the Rights of the Child, Children's rights in juvenile justice, General Comment No. 10, CRC/C/GC/10, 2007, para. 83.

<sup>92</sup> Criminal Code, Article 70.1.

<sup>93</sup> Ibid., Article, 49.3, 54.

<sup>94</sup> Ibid., Article 54.4.

<sup>95</sup> Ibid., Article 87.1.

<sup>96</sup> Ibid., Article 89.2(3).

<sup>97</sup> Ibid., Article 90.2 and 90.3.

In principle, another type of sentence consisting of a short period of imprisonment (from fifteen days to three months) can be imposed on juveniles aged 16–17 years, but this sentence has fallen into disuse, at least for juveniles.<sup>98</sup>

The Director of the Children's Support Centre informed the assessment team of a case which sheds some light on the way juvenile cases are treated – that of a 14-year-old boy who inflicted severe injuries with a knife on a 16-year-old boy who had been exploiting him (e.g., demanding money under threat of violence) for two years. The attack was provoked by a demand that the younger boy arrange for his sister to provide sexual favours to the older boy. The 14-year-old was prosecuted and sentenced to four years in the juvenile prison. He was not detained prior to trial, however, and on appeal his sentence was overturned and replaced by a conditional sentence of one year. He subsequently benefited from an amnesty, while his 'victim' was registered with the police for the behaviour that led to the offence. Although anecdotal cases do not substitute a careful analysis of sentencing patterns, they do provide some insight into the way courts respond to cases involving juveniles. This case suggests that at least some judges give sufficient weight to the circumstances of the offence. The fact that the accused was not detained prior to trial and that the court of appeals was prepared to overturn a sentence that it considered disproportionate, also is an indicator of sensitivity to the fundamental principles underlying international standards on juvenile justice.<sup>99</sup>

## 6) The rehabilitation of convicted juveniles

### *The juvenile correctional facility*

The correctional facility for juvenile offenders has a capacity of 100 or more (see below). At the time of the visit, the population was 18, including four or five prisoners convicted as juveniles who remained in the juvenile facility after reaching age 18. Armenian legislation allows convicted juveniles to remain in the juvenile facility until age 21, if they wish; although the staff encourage them to stay, many request to be transferred to an adult facility. None of the prisoners were younger than 16 years.

Statistics were not provided, but the staff indicated that most juveniles were sentenced for theft. The second largest group was sentenced for wounding by knife. One was serving a sentence for murder and one for rape. The longest sentence being served by a juvenile was seven years. Approximately 60 to 70 per cent of the prisoners were convicted of offences committed in the capital, although many of them are originally from the provinces.

The juvenile correctional facility is a two-storey building in bad need of repair. In principle, renovation was scheduled to begin before the end of 2009. All prisoners sleep in a small part of an enormous room on the second floor. They have small individual cabinets for their personal belongings. They wear uniforms (simple dark pants, shirts and caps) and are no longer required to shave their heads.

The ground floor includes a television room, classrooms and workrooms for vocational education/crafts. All students are required to attend school. The national curriculum is followed. Remedial education is not offered, as such, although teachers reportedly make an effort to help those whose reading skills are particularly weak.<sup>100</sup> There are two classes, one covering grades seven to nine, and the other, grades ten and eleven. Some new computers have arrived recently, but have not yet been installed. The textbooks in use are up to date and in good condition, and include a textbook

<sup>98</sup> Ibid., Article 57. Such sentences, known confusingly as 'arrest', may only be imposed on convicted persons who were not detained before trial.

<sup>99</sup> The recommendations of the Reception and Crisis Intervention Centre no doubt helped ensure this outcome.

<sup>100</sup> The psychologist informed the assessment team that a high percentage of the juvenile prisoners are illiterate.



on human rights. Vocational training includes 'radio' and mechanics; crafts include art, pottery and textile sculptures. Some graduates have been admitted to the university.

The students have considerable freedom of movement within the building and surrounding area. They have the right to one three-day visit quarterly, in addition to the four-hour monthly visit. There are two small apartments for prisoners and visiting parents.

Regulations allow detention in a disciplinary cell (i.e., solitary confinement) for up to 10 days.<sup>101</sup> Prisoners accused of a disciplinary infraction may make a statement in writing, according to the relevant regulations. Punishments imposed by the Director of the facility must be in written form and may be appealed to the authorities that perform supervision and oversight of the sentence. The staff informed the team that they rely mainly on discussions and persuasion to resolve disciplinary issues, and confinement in the disciplinary cell is rare. Solitary confinement of juveniles is classified as cruel, inhuman or degrading by international standards on the rights of juvenile prisoners.<sup>102</sup>

The functions of the psychologist include helping prisoners and detainees deal with stress and fear, helping resolve conflicts among them and providing group therapy. She has seven years experience in the facility. The confidentiality of the patient-therapist relationship is respected. In her opinion, the services provided to sentenced juveniles have little impact in reducing re-offending. Concretely, she believes that it may reduce the risk of offending for violent offenders from 'complete' families, but not the risk of repeat involvement in property crimes by children from broken families.

Interviews with juvenile prisoners carried out as part of the recent survey tend to confirm the absence of ill-treatment in this facility, but also the weak (if not non-existent) rehabilitative impact of confinement in it:

*"The respondents have mentioned that the objective of Abovyan penitentiary is to correct the juveniles. But they were also certain that the environment – the locked doors, the atmosphere of distrust, did not contribute to correction, but the opposite – made juveniles more nervous, aggressive and evil."*<sup>103</sup>

### *Conditional early release (parole)*

Prisoners may be released before serving their full sentence, if a court determines that serving the remainder of the sentence is not 'necessary' to achieve 'correction'.<sup>104</sup> The portion of the sentence that must be served before a convicted juvenile is eligible for early release is one quarter for minor and medium crimes, one third for serious crimes and one half for exceptionally serious crimes.<sup>105</sup>

Early release must be approved by three different bodies. First, the prison administration must recommend that an eligible prisoner be considered for early release. This recommendation is based primarily on their conduct as prisoners, and a very high percentage of juvenile prisoners reportedly are recommended. The Committee on Early Conditional Release must then decide whether to forward the recommendation to the competent court. The Committee, established in 2006, is chaired by a representative of the Police of RA, and includes representatives of other government entities (including the Human Rights Defender) and civil society. The final decision is made by the competent court.

<sup>101</sup> Law on Treatment of Arrestees and Detainees, Article 35.

<sup>102</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Rule 67.

<sup>103</sup> Juvenile Justice in Armenia: Perspective of Children in Conflict With the Law, p. 11.

<sup>104</sup> Criminal Code, Article 76.

<sup>105</sup> Ibid., Article 94.

The role played by the Committee is controversial. The administration of the juvenile prison is very concerned that a high percentage of cases recommended by them for early release are not transmitted by the Committee to the court. Some of the prosecutors interviewed criticized the Committee as arbitrary and unnecessary. The Prison Monitoring Group also has criticized the Committee, in particular the lack of stated reasons for decisions which, in effect, deprive the prisoner of guidance and incentives to good conduct. However, the head of the Committee informed the assessment team that half of the recommendations received are forwarded to the court, after careful consideration.<sup>106</sup> Normally, cases of juveniles serving their first sentence are forwarded to the court. He also indicated that the Committee was established to prevent corruption, a problem that is generally recognized as widespread. He also stated that a representative of the Committee meets with the prisoner and that the decision by the Committee not to endorse the recommendation of the prison authorities can be appealed.

### *Post-release support*

Arrangements to support juveniles after their release from custody are almost inexistent.

Within its 'Children in Especially Difficult Circumstances' programme, World Vision Armenia has established a number of community-based centres in 2004–2008 whose primary purpose was to support these children. Since 2008, these centres are under the community authorities. Currently they work mainly with children with special educational needs, as well as with children in difficult circumstances.

A representative of the correctional system stated that almost one third of juveniles in custody have no families to return to, or do not want to return to their families. There is clearly an urgent need to develop a policy and services for this small group. Although there are no data on juvenile offenders who re-offend as adults, anecdotal evidence suggests that the percentage is high, and the establishment of effective programmes of post-release assistance is essential to reduce the rate of re-offending.

## **7) Younger children involved in criminal activity**

No law expressly and specifically regulates the treatment of children under the minimum age for prosecution who become involved in criminal activity (i.e., any child under age 14 involved in any offence recognized by the Criminal Code and those aged 14–15 years who participate in listed offences).<sup>107</sup> In practice, they are assimilated to children who commit 'antisocial behaviour'. One article of the Law on Education refers to the treatment of such children.<sup>108</sup>

Article 32 of the 1996 Law on the Rights of the Child provides in part, "The child shall be sent to a special correctional institution only by court on the recommendation of bodies of local self-government." It appears, however, that this provision of the Law does not apply to any existing institution.

The practice seems to be that a small number of children involved in crime while too young to be prosecuted are sent to the school for children with deviant behaviour, known as 'Special

<sup>106</sup> Data concerning the last three years were provided.

<sup>107</sup> Children under age 16 have 'criminal liability' only for the offences listed in Article 24.2 of the Criminal Code. (See above, section 5.)

<sup>108</sup> Law on Education, Article 3 (see below).

School No. 1', while most are 'registered' by the Juvenile Police.<sup>109</sup> Only children who have reached age 11 are registered. In principle registration lasts for one year, and involves monitoring school attendance and one or two visits to the child's home per month. Some of those registered by the police are referred to the Community Justice Centres, which operate in six cities, where they have access to services that the police are unable to provide (see above). No data are available on the number of children who commit crime while too young to be prosecuted, on the number of children placed in the special school, nor on the number of children 'registered'.<sup>110</sup>

Many of the authorities interviewed pointed out that the substantive criteria and procedures for placement in the special school are vague. The assessment team was informed that the Minister of Education recently adopted an 'instruction' indicating that the Guardianship and Trusteeship Council may place children in the school, if its decision is confirmed by the Child Protection Unit. An official of the Ministry of Education subsequently informed UNICEF that the consent of the child's parents or guardian is required for admission. It is not clear whether the child has a right to be heard before placement, as required by Article 12.2 of the Convention on the Rights of the Child, or what safeguards, if any, ensure that the consent of parents or guardians is informed and freely given.

The small number of children placed there because of involvement in offences gives no reason to presume that the 'last resort' or 'best interests' principles are not respected, and the policies followed by this school are clearly designed to respect the rights of children. Nevertheless, the law should be amended to indicate clearly the role and objectives of the school as well as the reasons why children may be placed there. The procedures for placement also should be clarified and brought into compliance with the Convention on the Rights of the Child.

The effectiveness of 'registration' of young children involved in offending by the Juvenile Police is unknown. Several sources interviewed expressed doubts about the value of registration, but its impact on children and their families has not been evaluated. Although registration does not involve deprivation of liberty, it may lead to stigmatization of registered children. While the assessment team is not in a position to form an opinion on the gravity of this problem, it is clear that all possible efforts should be made to reduce the risk of stigmatization.<sup>111</sup>

Referral of young children involved in offences to the Community Justice Centres is a good practice that deserves to be consolidated and could serve as a model for other countries in the region.

The Ministry of Labour and Social Issues also supports some community-based projects as part of a 'de-institutionalization' programme designed to help children in 'boarding schools' or 'special schools' return to their families and community. The assessment team met with the head of an NGO called Aravot, which implements a project of this kind. Although the objective is de-institutionalization, most of the children assisted by this particular project have a record of offending and antisocial behaviour. The NGO has an interdisciplinary staff of 12, and handles about 50 cases per year. Each child is treated as an individual, and the emphasis is on helping the child and his/her family. As a rule assistance is provided for a period of one year.

Although this particular project has not been evaluated, to our knowledge, the Director seemed very competent and committed. The assessment team believes that community-based groups of this

<sup>109</sup> The school might be considered 'semi-open' since some students participate in activities in community-based centres. They also have the right to visit their families.

<sup>110</sup> The total number of children 'registered' is known, but many are registered because of 'antisocial behaviour' or risk.

<sup>111</sup> See, generally, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), Rule No. 8.

kind have the potential to play a useful role in secondary prevention, diversion and even alternative sentences.

### *‘Special schools’ for children with deviant behaviour*

Special schools<sup>112</sup> are part of the efforts made by the State to assist children at risk of offending; some of the students are children who became involved in offending (especially theft) while too young to be prosecuted, and placement in special schools is a recognized, though seldom used, alternative ‘disciplinary measure’ for juvenile offenders.

The legislative basis for the only two special schools existing in Armenia is very slim: one sentence in the Law on Education.<sup>113</sup> These schools are governed mainly by internal regulations based on a model regulation adopted by the Ministry of Education and Science in 2002. Despite the above-mentioned linkages with juvenile justice policy, both are designed primarily for children involved in ‘antisocial behaviour’, principally street children (i.e., ‘vagrants’ and ‘beggars’ under Armenian legislation), and those under the age of compulsory education (17 years) who have abandoned school. Despite these common purposes, the two schools are very different. One has made impressive advances in the policies applied and methodologies used; in the other, conditions are substandard.

### *Special School No. 1 in Vardashen*

This school is located in a very large three-storey building built during the 1970s and transformed. Initially it was a closed school for boys with ‘deviant behaviour’. In 1996, when the Law on the Rights of the Child was adopted, it was decided to convert it into an open facility. The capacity is approximately 100 students; at the time of the visit there were 31 girls and 50 boys. Students should be aged 12–19 years, according to the regulations, but in practice younger students are sometimes admitted to prevent the separation of siblings.<sup>114</sup> Most students are from the capital, but originally from the provinces. Most are street children, but some are victims of child abuse placed in the school as a protective measure. There are also some students who have been involved in criminal activity – generally theft – while too young to be prosecuted. The school has 70 permanent staff (of which only 25 are technical staff). The 2009 budget was approximately AMD 1 million (or roughly US\$ 2,500) per student.

Assistance in reforms of the school was provided by Médecins Sans Frontières (Doctors without Borders) from 1997 to 2004 and, subsequently, by World Vision. Since 2004 the school is cooperating with World Vision, and it is envisaged to develop a ‘resource centre’ to share among other schools and community-based programmes their experience and methodology of work with children with antisocial behaviour. The students are also participating in the development of materials.

The school offers academic classes as prescribed by the national curriculum, vocational training (hair styling, sewing, pottery and auto mechanics), cultural courses and activities (music, art therapy, song, dance and circus) as well as sport (football). The largest class has 14 students. Staff and students both receive psychological counselling. In the early years, many staff were dismissed because of students’ complaints of mistreatment. Dormitory rooms are clean and pleasant and house up to five students.

<sup>112</sup> On 10 September the assessment team visited the two ‘special schools’ located in suburbs of the capital: Special School No. 1 in Vardashen and Special School No. 18 in Nubarashen.

<sup>113</sup> Law on Education, Article 3, which contains the following definition: “Special education – system of education for persons with special educational needs and for children with antisocial behaviour, which can be based on one or several curricula and implemented in special or common educational institutions.”

<sup>114</sup> There was one eight-year-old at the time of the visit.

The methodology applied includes multidisciplinary teams and the development of individual plans for each student. The aim is to establish a relationship of trust with the students, and return them to their families as soon as the student and his/her family are ready. Parents are expected to participate in the development of the student's individual plan. An effort is made to improve parenting skills through parents' groups led by a staff psychologist, provided parents have no serious psychological problems. At the same time the school prepares the students for independent life. In 2009, of the five students who graduated from the school, four entered the university.

Permission to leave the school is required, but students are not punished if they leave without permission. In the words of the Director, "If they leave without permission it's because they have a problem, and we try to help them with it." In the beginning many students escaped, but escapes are no longer a problem. If students are interested in a vocational or cultural programme not offered by the school, the school tries to find an appropriate programme in the community. The views of children are taken into account in deciding where they should go after release.<sup>115</sup>

The staff conduct behaviour follow-up for a period of six months with the students who return home. In their experience, the chances of success are better when children enter the school at the age of 13 or 14 years. The Director considers that another kind of programme is needed for older children who are not interested in attending school. The Ministry of Education and Science plans to establish a monitoring group composed of representatives of civil society to oversee the functioning of the school.

Some observers interviewed expressed concern about the mixture of students placed for very different reasons, e.g., underage offenders and victims of abuse.

### *Special School No. 18 in Nubarashen*

This school is a closed facility established in 1963. It has a capacity of 160 and, at the time of the assessment mission, had a population of 73, including 14 girls, aged 8–17 years. The professional staff of 34 includes two psychologists, two social workers, two nurses and a medical doctor.

The school aims to return children to their families, according to the Director, who has discretion to determine when to release a child. During the first eight months of 2009, five children were returned to their parents, one to another relative, and one to an orphanage. The school follows up released children for one year.

The school offers academic classes prescribed by the national curriculum, sports (football, boxing, karate and tennis) and theatre. Individual and group therapy is provided, on a voluntary basis.

No children have been sent to the school by the regular channel – a decision by the local Guardianship and Trusteeship Council confirmed by the local Child Protection Unit. The Director believes strongly that parents unable to care for their children have the right to place them in the school; he is preparing a new internal regulation to that effect.

One offender placed by judicial decision left the school in 2009, and another left in 2008. The Director does not want convicted offenders in the school because they are a 'bad influence' on the other students.

<sup>115</sup> The Director mentioned, for example, that the Ministry of Education wanted to return two students to an orphanage, but they didn't want to go there and were still in the school.

The budget of Special School No. 18 is AMD 48 million, not quite half that of Special School No. 1. The material conditions of the school are quite poor, the diet is inferior,<sup>116</sup> and the clothing of the children seemed to be in poorer condition than that of students of Special School No. 1. There have been three directors during the last five years. The heads of the relevant services of the Ministry of Education and Science and the Ministry of Labour and Social Issues believe that the school should be closed; the Police of RA consider it should remain open but 'reprofiled'. World Vision, who has worked with this school as well as Special School No. 1, supports the idea of closing this institution.

To conclude, it is unacceptable that such major differences between two residential facilities for children have been tolerated for so long. Either policy concerning their role and necessary capacity should be reviewed without further delay – and legislation adopted in line with international standards to define their aims, the rights and status of students and their families as well as criteria for admission and return to parents – or they should be closed.

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<sup>116</sup> Judging by the lunches being served the day of the visit.

## PART III. UNICEF's Support to Juvenile Justice Reform

### *The situation analysis*

In 2001 UNICEF hired an international consultant to prepare a situation analysis on juvenile offending and juvenile justice. The focus of the situation analysis was very broad, including issues such as drug use, trafficking of children and street children. The analysis of trends in offending was overbroad, focusing largely on crime in general, including that committed by adults. One conclusion, regarding an 'explosion of petty theft', is not confirmed by official data and presumably is based on the impressions of authorities interviewed. This less than rigorous approach to data represents a lost opportunity to educate the authorities on the importance of basing policies regarding prevention, rehabilitation and law enforcement on reliable and objective data on offending by juveniles.

Many of the recommendations made were relevant and valid: coordination should be improved amongst concerned actors at the national level; training in child rights should be provided; NGOs should be given a larger role; separate juvenile courts (or juvenile/family courts) should be established; a two-month limit should be set for pretrial detention of accused juveniles; placement in special schools should be limited to 12 months; and decisions to remove children from their homes should be subject to judicial review. Some progress has been made in implementing a few of the more general recommendations, in particular training in child rights and giving NGOs a larger role in certain aspects of juvenile justice.

The idea that Commissions on Minors should play an important role in juvenile justice was endorsed by the situation analysis. The government, as indicated above, opted to reduce the role of the Commissions (transformed into Guardianship and Trusteeship Councils) and assign preventive and other community-based functions related to juvenile offenders to the municipal Child Protection Units and, to some extent, the Community Justice Centres. The course of action chosen by the authorities was appropriate, in the opinion of the assessment team.

The situation analysis did not lead to the adoption of a UNICEF programme to support juvenile justice reform, but rather to some limited mainstreaming of juvenile justice concerns into its Child Protection Programme. Consequently, a detailed assessment of UNICEF's role in supporting juvenile justice would be premature.

### *Activities supported as part of the Child Protection Programme*

Some of the activities supported by UNICEF's Child Protection Programme can be seen as related to the prevention of offending through assistance to children at risk. Community-based services for street children operated by the municipal government of the capital are the most important example. UNICEF was instrumental in the establishment of such services, which have proved to be sustainable and are widely viewed as successful. Unfortunately, the impact of this project on offending has not been documented.

Support to training in child rights included activities directed to police officers, judges and staff of the correctional facility for juveniles. In 2003, for example, more than 100 judges throughout the country participated in activities related to international standards on juvenile justice and the pertinent provisions of the new Criminal Code. Professional guidelines and codes of conduct dealing indirectly with juvenile justice also have been developed and incorporated into training curricula for police and social workers.

Advocacy by UNICEF helped to ensure that the National Plan of Action for the Protection of the Rights of the Child 2004–2015 includes a substantial set of relevant objectives regarding juvenile



justice. UNICEF also participated in the process of drafting the Criminal Code adopted in 2003 (see Part I on 'Law reform'), although the assessment team was unable to discover any information about the positions supported by UNICEF or the influence it had in the drafting process. In 2007, UNICEF supported the work of a team of national experts and one international expert who developed a 'concept' on probation, designed to facilitate community-based rehabilitation of offenders. Thus far no probation service has been established.

UNICEF also supported the collection of data on juvenile justice, in the framework of the TransMONEE project. Data management remains weak, however, and little or no data are published regularly.

### *Conclusion*

UNICEF's approach to juvenile justice during the time between the situation analysis and the assessment mission (2001–2009) was not strategic, in the sense that it was not based on a clearly identified set of long- and medium-term objectives, assessment of risks and opportunities, identification of a comprehensive set of activities and agreement as to the roles of diverse counterparts etc.

At least one of the activities supported – probation – did not produce the expected results (at least, not thus far). No programme is ever 100 per cent successful and this failure does not seem particularly significant. The training undertaken has undoubtedly contributed to some of the major accomplishments described elsewhere, such as the decreasing number of juveniles serving custodial sentences, the Community Justice Centres, and others. Other activities supported by UNICEF, such as the preparation of a new Criminal Code, have helped bring law and practice into greater conformity with the relevant international standards, although the information available does not allow identifying the extent of UNICEF's contribution in this area.

What can be said with certainty is that no investments made by UNICEF were wasted; and no support was given to activities that were counterproductive, poorly conceived or based on a misunderstanding of the relevant international standards. The activities supported during this period have given UNICEF credibility with relevant partners who look forward to closer cooperation with the organization. In short, they have put UNICEF in a good position to develop and implement, in cooperation with government, non-governmental and international partners, a strategically based programme on juvenile justice.



## PART IV. Conclusions and Recommendations

The conclusions of the assessment team are presented in two parts: the first concerns the important advances that have been made in bringing juvenile justice into compliance with international standards, and the second concerns the no less important challenges that remain to be faced.

### POSITIVE DEVELOPMENTS

#### *1. Prevention*

A National Programme for the Prevention of Crime was adopted, and contains activities specifically related to juveniles. Significant progress has been made in implementing the components concerning juveniles. The Community Justice Centres established under this Programme provide secondary prevention to children aged 9–16 years referred by schools as well as tertiary prevention (prevention of re-offending). The results have been positive.

The Child Protection Units, the Children's Support Centre and some de-institutionalization projects supported by the Ministry of Labour and Social Issues also provide valuable assistance to some children at risk of offending or re-offending and their families, although this is not their primary aim.

The Juvenile Police are aware of and committed to child rights, and support and participate in some valuable preventive activities.

#### *2. Police and investigative custody*

The legal requirement that an attorney be present when juvenile suspects are interrogated or involved in any pretrial proceedings may not be waived, and is generally respected. Courts sometimes exclude evidence obtained from juveniles through interrogations that do not comply with this requirement.

The right of the Police Monitoring Group to visit police detention centres has helped prevent abuse of juveniles detained there and detect abuse committed in police stations.

#### *3. Diversion*

Six Community Justice Centres provide community-based, restorative justice for children accused of minor offences diverted by the police. There is some evidence that the services provided are effective in preventing re-offending.

#### *4. Detention of accused juveniles*

Once a juvenile is accused of an offence, only a court may order detention. Those accused of minor offences may not be detained, and pretrial detention orders are only valid for two months (but can be renewed – see below).

Physical conditions in the pretrial detention facility have greatly improved.

#### *5. Legal assistance*

Juvenile suspects have the right to legal assistance as from the moment of detention, and accused juveniles from the moment charges are filed. This right appears to be generally respected. There is a Public Defender's Office which, although it does not have attorneys specialized in cases involving children, does provide services to accused juveniles before and during trial, free of charge.

## 6. Adjudication

The minimum age for adjudication ('age of criminal liability') complies with the recommendation of the Committee on the Rights of the Child.

Accused juveniles must be represented by an attorney, and have the right to free legal assistance.

## 7. Sentencing

The maximum sentences that can be imposed on juveniles of different ages for different kinds of offences are within the range common throughout the region (10 years for the most serious offences committed by older juveniles).<sup>117</sup>

The number of juveniles given custodial sentences from 2005 to 2008 varied between 29 in 2007 to 56 in 2008. This represents from 16 to 31 per cent of the juveniles convicted annually. The number of juveniles given sentences of five years or more during those years varied from four juveniles in 2006 to two juveniles in 2008.

The most commonly used 'alternative sentence' is the conditional sentence.

## 8. Juvenile correctional facility

Convicted juveniles attend school within the facility and participate in vocational training and cultural activities. Cooperation between the administration and NGOs enriches the programmes available. Juveniles have considerable freedom of movement within the building and surrounding grounds, and participate in sports. The services of a psychologist and social worker are available. Disciplinary problems are usually resolved by discussion and a warning.

## 9. Younger children involved in criminal behaviour

A wide range of alternatives, including supervision by the Juvenile Police and referral to the Community Justice Centres, are used to respond to children who get involved in criminal activity before age 14. Some are placed in Special school No. 1, which (unlike Special school No. 18 described below in the section on 'Challenges') provides positive support in a semi-open residential setting. Others are placed temporarily in the Children's Support Centre, which also offers a broad range of relevant services and follows child-friendly policies.

## 10. Law reform

The Law on the Rights of the Child contains two articles on juvenile justice. The Code of Criminal Procedure and the Criminal Code adopted in 1998 and 2003, respectively, made important changes to the law concerning juvenile offenders. Some additional improvements were made in amendments to the Code of Criminal Procedure in 2001 and 2006, and still others are under consideration at this writing.

## 11. Training

Training in child rights has been institutionalized in the Police Academy. Annual in-service training is obligatory for both judges and prosecutors, and issues concerning juvenile justice have been incorporated into such training. Prison staff also have participated in *ad hoc* training in child rights.

<sup>117</sup> There is no international standard on the acceptable length of custodial sentences for juvenile offenders.

## 12. Coordination

An interministerial National Commission for Child Protection has been established, and one of its functions is to promote cooperation between the competent authorities and civil society with regard to the prevention of offending by juveniles.

## 13. Accountability

A Human Rights Defender's Office has been established. The Prison Monitoring Group and the Police Monitoring Group have access to all places where juveniles may be deprived of liberty, except police stations and special educational facilities.

## 14. Data and research

Detailed data are recorded by the Police of RA, the Judicial Department, the Penitentiary Department and the General Prosecutor's Office.

# CHALLENGES

## 1. Prevention

The effectiveness of the Community Justice Centres has not been evaluated, and the government has not made a commitment to financing them when international funding ends in 2010.

The Child Protection Units are still in the process of developing their work methods, and their resources are modest, especially given their very broad mandate.

The role and continued existence of the 'special schools' has been under debate for years. Legal criteria and procedures for placement are ill-defined, and children are placed in one of the schools through channels that are obscure.

Although the National Programme for the Prevention of Crime contains elements on offending by juveniles, these elements do not represent a comprehensive approach to the prevention of offending by children based on research on causation and on the effectiveness of existing activities.

## 2. Police and investigative custody

The physical abuse of juvenile suspects by the police has not been eliminated, as confirmed by recent information concerning the use of techniques, including electric shock, obtained from the Police Monitoring Group during the assessment mission.

The detention of children for 72 hours is not compatible with the General Comment of the Committee on the Rights of the Child, which in 2007 stated that this should not exceed 24 hours.<sup>118</sup> Keeping child suspects in police custody for 72 hours without a court order increases the risk of abuse.

## 3. Diversion

Legislative basis for diversion seems adequate. The main issue is the tentative existence of the Community Justice Centres, designed to reduce the risk of re-offending, which provide services to juveniles diverted by the police.

<sup>118</sup> Every child arrested and deprived of his/her liberty should be brought before a competent authority to examine the legality of (the continuation of) this deprivation of liberty within 24 hours. See Committee on the Rights of the Child, General Comment No. 10, CRC/C/GC/10, para. 83.

#### *4. Detention of accused juveniles*

The legislation concerning the detention of accused juveniles does not clearly identify the factors that may justify deprivation of liberty, nor the principle that deprivation of liberty may only be ordered as a 'last resort'.

The maximum length of detention before and during trial (i.e., detention as a 'preventive measure') exceeds the six months recommended by the Committee on the Rights of the Child.<sup>119</sup> Juvenile detainees experience much greater restriction on liberty than juvenile prisoners and have no access to educational or recreational activities.

Disciplinary sanctions do not comply with international standards (although practice seems more consistent with them than regulations). In particular, the legislation authorizes solitary confinement for up to five days.

#### *5. Legal assistance*

There are no public defenders specialized in defending accused juveniles (nor in litigating criminal or civil cases involving children), and the staff of the Public Defender's Office have no training in child development, child psychology, interviewing children and the rights of the child. The mandate of the Public Defender does not extend to child victims and witnesses.

#### *6. Adjudication*

There is no limit to the length of trials involving juvenile offenders. The legislation does not require that trials of juvenile defendants be held in closed court, and in practice they are often open to the public.

No judges are especially selected, designated and trained to handle trials involving accused juveniles (or child victims), and no courts have courtrooms, waiting rooms or entrances designed to be child friendly.

#### *7. Sentencing*

Sentences of community service are rarely used, and forms of community service that would help juvenile offenders obtain useful work experience do not exist.

#### *8. Juvenile correctional facility*

There is no clear policy or understanding of how to approach the essential task of any juvenile correctional facility, i.e., assisting offenders to overcome or manage the problems that led to offending and, if unsolved, will lead to re-offending. (This is in contrast to the situation in non-correctional facilities such as the Children's Support Centre and Vardashen Special School No. 1, which do apply specific approaches to the prevention of offending and re-offending.)

A psychologist with a caseload of some 250 persons – like the psychologist in the Abovyan penitentiary institution – cannot be expected to contribute significantly to the rehabilitation of offenders. Disciplinary sanctions used in this facility are not compatible with international norms (although practice seems more consistent with them than regulations). In particular, legislation allows the use of solitary confinement as a disciplinary measure, which the United Nations Rules on

<sup>119</sup> "The Committee, conscious of the practice of adjourning court hearings, often more than once, urges the States parties to introduce the legal provisions necessary to ensure that the court/juvenile judge or other competent body makes a final decision on the charges not later than six months after they have been presented." Ibid.

the Protection of Children Deprived of their Liberty considers a form of “cruel, inhuman or degrading treatment.”<sup>120</sup>

### *9. ‘Special schools’*

The domestic legal basis for placing children in ‘special schools’ is vague, both in terms of substantive criteria and in terms of procedures. Since children are not allowed to leave at will, placement there constitutes a deprivation of liberty (Havana Rules), which should only be allowed by judicial decision and periodically reviewed, based on the ‘last resort’ principle and the determination of the child’s ‘best interests’. In Armenia, there are no express legal requirements on informed consent for placement, on procedures for taking the views of children into account and the weight to be given to their views, on how the primary responsibility of parents for raising children should be taken into account in placement decisions, nor on the right to appeal involuntary placement to a court. In addition, conditions in the closed Special School No. 18 are substandard, and the policies followed – in particularly regarding admission – do not meet international standards on the rights of children.

### *10. Law reform*

Existing legislation contains a number of provisions that are incompatible with international standards, such as those authorizing solitary confinement, allowing police to detain juvenile suspects for up to 72 hours without a court order, and tolerating pretrial detention of accused juveniles for as long as a year. No less important are critical gaps in existing legislation, such as the absence of references to the ‘last resort’ and ‘best interests’ principles, and the lack of clear standards in the legislation concerning special schools.

### *11. Training*

The effectiveness of training in child rights has not been evaluated and, in general, the content and aims of training components concerning the rights of the child do not seem to have been based on a clear understanding of the needs of the target populations.

### *12. Accountability*

The safeguards designed to prevent physical abuse of juvenile suspects, detainees and prisoners appear to be more effective with regard to pretrial detainees and convicted juvenile prisoners than with suspects in police custody. Reported cases of abuse are not investigated with all due rigor. The Human Rights Defender does not pay sufficient attention to issues concerning juvenile justice.

### *13. Coordination*

In practice there is no systematic coordination between the different state bodies involved in juvenile justice, nor between them and civil society.

### *14. Data and research*

There is no lack of information about the social background of offenders, but no research has been carried out on the causation of offending, on the impact (positive or negative) of different sanctions on juvenile offenders, on recidivism or on the effectiveness of different methods or approaches to prevention and rehabilitation.

<sup>120</sup> “All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.” United Nations Rules on the Protection of Children Deprived of their Liberty, Rule 63.

## RECOMMENDATIONS

### *1. Prevention*

An assessment should be made of the effectiveness of existing institutions and programmes for the prevention of offending and re-offending. The assessment should have both short-term and longer-term objectives. The short-term objectives should aim to generate the information needed to revise the existing approach to prevention, as set forth in the National Programme for the Prevention of Crime, and to take decisions that need to be made in the near future regarding, for example, the consolidation of the Community Justice Centres, the Legal Socialization Project and the special schools (see below). The longer-term objective should aim to establish a base-line that can be used to evaluate the effectiveness of prevention policies in years to come.

A prevention policy or strategy must address the needs of different categories of children: those who become involved in criminal behaviour while too young to be treated as offenders (i.e., under the age of 'criminal liability') and those who show signs of a risk of involvement in criminal activity, but who have not yet been identified as suspects or accused of crimes. It is particularly important to develop effective methods for identifying children at risk during early adolescence and childhood, because research indicates they are more likely to become serious, violent offenders during adolescence, and to continue offending after becoming adults. It also is important to develop more accurate tools that take into account the linkages between different social factors associated with higher risk, as well as 'protective factors', which can help target preventive activities. For children and adolescents who are at risk but have not yet become involved in criminal activity and for those who have but are too young to be prosecuted as offenders, prevention should, whenever possible, be voluntary, involve the child's family as well as the child himself/herself, and provide assistance without removing the child from his/her environment (community, home and school).

#### *Ibis. The 'special schools'*

Legislation should be adopted explaining the purposes of the special school(s) and the criteria and procedures for placement of different categories of students. To the extent placement is voluntary, procedures must be clarified to ensure that the consent of parents or guardians is informed, and to guarantee that children concerned are able to express their own views freely and effectively.<sup>121</sup> The weight to be given to the views of parents and children should be defined, and the criteria for admission and aims of treatment should be specified in terms of the best interests of the child and the principle that parents have primary responsibility for raising children.<sup>122</sup> Linkages should be strengthened with community-based programmes that provide assistance to families in crisis and support for the social reintegration of children.

### *2. Police and investigative custody*

The law should limit to 24 hours the authority of the police to detain without a court order, in compliance with the recommendation of the Committee on the Rights of the Child.<sup>123</sup> This does not necessarily mean that the period for determining whether to charge a suspect with an offence must be reduced. Although the two issues are linked at present in Armenian law, the issue of whether there are compelling grounds for detaining a juvenile suspect for more than 24 hours while a crime

<sup>121</sup> See Convention on the Rights of the Child, Articles 9.1 and 12.2.

<sup>122</sup> Ibid., Articles 3.1, 12.2 and 18.2.

<sup>123</sup> Committee on the Rights of the Child, General Comment No. 10, CRC/C/GC/10, para.83. (In 2003, the Committee of Ministers of the Council of Europe recommended to member states that juveniles should not be detained in police custody for longer than 48 hours. Rec (2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice, para. 15.)

is being investigated is inherently different from the issue of whether there is sufficient evidence to charge him/her with an offence, and a court could consider these two issues separately, in different proceedings.

Although the practice is to assign cases involving juveniles to senior investigators, the possibility of designating certain investigators to become specialized in criminal cases involving juveniles should be considered, at least in districts where the number of cases is sufficiently high.

### *3. Diversion*

The work of the Community Justice Centres should be evaluated and, if the results are positive, long-term funding should be guaranteed and the network of centres should be expanded gradually. Data on the effectiveness of the Centres should be compiled and, in due course, should be analysed with a view to identifying the kind of cases in which diversion is most likely to be effective and whether the advantages of diversion are being fully exploited.

### *4. Detention of accused juveniles before and during trial*

The law should be changed to limit to six months the amount of time that juveniles may be detained before and during trial, in order to comply with the recommendation of the Committee on the Rights of the Child.<sup>124</sup>

The right of juveniles in detention to continue their education and to participate in sports and recreational activities should be respected. Although there may be valid reasons for preventing contact between certain detainees, participation in educational and recreational activities could be done by organizing groups of detainees for these purposes in such a way that individuals who must be kept separate are in different groups.

The assessment team also believes that consideration should be given, in due course, to transferring the juvenile pretrial detention unit to the building used for juveniles serving sentences, which is much larger than necessary for the small population of convicted prisoners and is pending renovation. This would facilitate the participation of detainees in educational, cultural and recreational activities and, given the large size of the building, could be done while housing convicted and unconvicted juveniles in separate units. The principle that accused persons should be separated from convicted persons is intended for those who benefit from the presumption of innocence, and should not be implemented to the disadvantage of unconvicted detainees.

### *5. Specialized courts and procedures*

Although the Committee on the Rights of the Child has recommended that Armenia establish juvenile courts, it also recognizes that, where the establishment of juvenile courts is not immediately feasible for practical reasons, the State should appoint specialized judges for dealing with cases involving accused juveniles.<sup>125</sup> The assessment team believes that designating specific judges to handle cases involving juvenile offenders in all courts that hear such cases and other cases involving crimes against children on a regular basis is the most feasible and adequate solution for Armenia in the short term. In the longer term, the need for a specialized children's court should be reassessed by evaluating the way specialized judges carry out their duties, and calculating the number and geographic distribution of juvenile cases and other cases, which it might be appropriate to include in the jurisdiction of a specialized court (e.g., cases involving child victims, or possibly cases involving child support or parental custody).

<sup>124</sup> Committee on the Rights of the Child, General Comment No. 10, CRC/C/GC/10, para. 83.

<sup>125</sup> Ibid., para. 93.



The experience of some other countries indicates that the way courts handle cases involving juvenile offenders depends on the specialization of prosecutors as well as the specialization of judges. The assessment team believes that the designation of prosecutors especially selected and trained to handle cases involving juveniles on a regular basis would also help ensure proper application of the law and principles concerning the rights of children.

The new Code of Criminal Procedure, now being amended, should be made wholly compliant with the rights of children and internationally recognized principles regarding juvenile justice. For example, the law should provide that the privacy of accused juveniles be respected by closing proceedings to the public.<sup>126</sup>

## 6. Sentencing

Sources interviewed by the assessment team believe that some convicted juveniles receive custodial sentences that are too harsh in the circumstances, or receive custodial sentences when an alternative sentence would be more appropriate. In any society different persons will have different views on the appropriateness of sentences meted out by the courts, but the assessment team has not seen data or other information that clearly indicate a pattern of failure to respect and apply the 'last resort', 'shortest appropriate period of time' and 'best interests' principles in the sentencing of convicted juveniles.

The assessment team nevertheless recommends that data should be collected and analysed on the impact (positive and negative) of custodial and alternative sentences on convicted juveniles in order to enable judges, prosecutors and other authorities to review their practice and policies in the light of information on the demonstrated results of different kinds of sentences on different kinds of offenders.

The assessment team also recommends that the possibility of developing programmes for community service be considered.

## 7. Juvenile correctional facility

Renovation of the physical infrastructure should be done urgently.

A clearer approach to the rehabilitation of offenders is needed, and the process of developing one should begin. This process should have three components: improving data collection and analysis (e.g., on repeat offending, on the personal background and psychological profiles of offenders); exchanging experiences between correctional and non-correctional facilities (such as Vardashen Special School No. 1 and the FAR Children's Support Centre); and developing technical capacity (e.g., tools for psychosocial evaluation of prisoners' conditions, knowledge of relevant skills and methodologies etc.).

## 8. Law reform

The draft Code of Criminal Procedure will soon be made available for comment. It is important to scrutinize it closely for compliance with international standards and with a view to introducing provisions designed to solve existing difficulties or shortcomings in a way that is adapted to Armenian realities. Some of the most important changes, in the opinion of the assessment team, include the following: requiring a court order to keep juveniles in police custody beyond 24 hours; limiting the length of pretrial detention to six months; expressly recognizing the 'last resort' principle in legislation regarding the detention of juveniles before trial; removing any reference to

<sup>126</sup> "The Committee recommends that all States parties introduce the rule that court and other hearings of a child in conflict with the law be conducted behind closed doors." Ibid., para. 66.



the idea that all juveniles in pretrial detention should be kept in isolation; prohibiting the use of solitary confinement as a disciplinary measure for juvenile detainees or prisoners; and clarifying the substantive and procedural criteria concerning the placement of children in special schools and other residential facilities, such as the Children's Support Centre.

Many of the existing legal provisions that are incompatible with international standards concerning juvenile justice apply to juveniles and adults alike. This reveals a weakness of basing a system of juvenile justice mainly on legislation applicable to both juveniles and adults, such as the Criminal Code, the Code of Criminal Procedure and the Criminal Executive Code. Although it is relatively easy to add to such codes sections, chapters or provisions that meet international standards, general provisions not designed to meet the special needs and characteristics of juveniles sometimes – perhaps often – contravene international standards. Framework laws specifically on juvenile justice tend to be more effective as the basis for a juvenile justice system that is compatible with international standards, and more effective in setting up a genuine system, that is, a coherent system that covers all aspects of juvenile justice, from prevention to reintegration into the community. For this reason, the assessment team recommends that consideration be given to the development of such a law at the appropriate time.

### *9. Training*

A considerable amount of training in child rights and juvenile justice has taken place in recent years, and knowledgeable and competent trainers exist. In most sectors, however, training has not been incorporated permanently into curricula and its impact has not been evaluated. In some, in particular the judiciary and prosecutors, the need for further training depends to some extent on other reforms; if specialized judges and prosecutors are designated, they should receive special training. In this particular area, the assessment team recommends that trained observers monitor the effectiveness of the designation of judges (and ideally prosecutors) one year after their appointment.

Training programmes need to be developed in various sectors, such as the prevention of offending and re-offending (rehabilitation of offenders); the psychology of offenders and the skills needed to do criminological research; and the treatment of children who are victims of crimes or witnesses to crimes. This topic should be part of the training because the victims of many crimes committed by juveniles are children or adolescents.

Methods for evaluating the usefulness of training, and if possible the impact it has had on the way professionals perform their jobs, should be developed and applied. Different tools could be used for this purpose, including self-reporting and surveys of key informants, including children.

The content of training programmes should be updated on an ongoing basis, reflect changes in the law and incorporate the most recent data and research carried out in Armenia.

### *10. Accountability*

The Human Rights Defender should establish a unit specialized in child rights, which should devote attention to the treatment of juvenile suspects, detainees and prisoners.

### *11. Coordination*

A body is needed that develops, coordinates and oversees all aspects of juvenile justice, from prevention to reinsertion after release. In addition to the relevant ministries, it should include bodies that are not part of the executive (e.g., the Human Rights Defender, the judiciary, possibly one or more commissions of the National Assembly) and representatives of civil society. International organizations also could be invited to participate, as observers.

The authorities responsible for investigating violations of the rights of juvenile suspects, accused, detainees and prisoners should investigate diligently all reported cases of abuse, and impose or seek administrative or penal sanctions that will help break the culture of impunity, which still persists in some sectors. Achieving this is in essence a question of political will that does not require new programmes or legislation.

### *12. Data and research*

The most relevant indicators concerning juvenile justice should be identified, and the corresponding data should be published annually. This would help ensure the reliability of data, facilitate analysis by decisions makers in all branches of government (the executive, legislature and courts), ensure transparency and encourage academia and civil society to participate more actively in the development of a better juvenile justice system, more effective and adapted to the changing needs of Armenian society. Such indicators might include, for example, data on offences attributed to children too young to be prosecuted; data on re-offending, whether as a juvenile or after reaching adulthood; and data on pretrial detention.

The planned survey of the experiences and views of adolescents regarding juvenile justice, carried out with the support of OSCE and UNICEF, will certainly contribute useful information. The Convention on the Rights of the Child provides that the views and experiences of children should be taken into account in all matters that concern them, and this is as valid for juvenile justice as for other areas of national life.

The scarcity of research on the causes of offending and the impact of different programmes and measures on offenders is striking. Data on the age, sex and social background of offenders, and on certain circumstances regarding the commission of the offence (e.g., commission in a group or under the influence of alcohol) continue to be compiled, using indicators developed before independence. The social factors that are associated with a higher risk of offending are well documented, but there is little or no research on specific causal or protective mechanisms at work. Reliable empirical information is needed to resolve many policy questions. Although the number of juvenile offenders is small, if the development of more effective approaches prevents a number of them from continuing to commit increasingly frequent and serious crimes throughout adolescence and adulthood, the modest investments needed for research of this kind would be money well spent.

### *13. UNICEF*

UNICEF can and should play a supportive role in the implementation of most of the preceding recommendations. Advocacy will be necessary in most of these areas, mainly advocacy for the establishment of a national juvenile justice coordination mechanism, for law reform, for the designation of specialized judges and prosecutors, for improvements in data collection, for the strengthening of the office of the ombudsman, for more rigorous investigations of violent treatment of juvenile suspects, for the evaluation of training, and so on.

Technical assistance also may be needed to support the implementation of some of these recommendations, such as law reform, the strengthening of research capacity or the development of a national plan, policy or strategy on juvenile justice. Similarly, in some areas facilitating exchanges of experiences with other countries will be very useful. Examples would include specialized child rights units in ombuds offices, the development of a more comprehensive system of data management and the designation of specialized judges and prosecutors.

While Armenia can learn from the experience of other countries, it also has much to teach.

## Annex 1. Data collection and analysis

One of the aims of this assessment is to ascertain whether the information corresponding to global and regional indicators exists; identify problems or difficulties concerning the use or definition of such indicators; and explore the availability of other indicators of particular relevance. The assessment reveals that data corresponding to most of UNODC and TransMONEE indicators are available, despite a significant number of problems regarding the definitions or relevance of the indicators, as presently defined. Data on some important indicators, such as the average duration of pretrial detention, contacts with families, diversion and aftercare, are not compiled at present. This gap should be remedied in order to facilitate monitoring of the relevant national and international standards. The indicators and corresponding observations of the assessment team are as follows:

### 1) National data collection system and international and regional indicators

#### *(a) Crimes committed by juvenile offenders*

The TransMONEE matrix defines this indicator as the “number of crimes committed by persons aged 14–17,” disaggregated by the kind of crime, i.e., violent, property or other.<sup>127</sup>

The Ministry of Justice compiles data on ‘offenders identified’, which are disaggregated by age, sex, offence and place.<sup>128</sup> The age cohorts used for juveniles are 14–15 and 16–17 years. Data are disaggregated for 10 offences – voluntary homicide, attempted homicide, serious corporal harm, theft, robbery, burglary, ‘fraud’, hooliganism, ‘drug addiction’<sup>129</sup> and possession of illegal weapons – and ‘other’. To our knowledge this information is not published on a regular basis, but data for some years (2004–2005) have been provided to UNICEF.

The Police also compile data on offending by juveniles that are disaggregated by age cohort (14–15 or 16–17 years) and sex.<sup>130</sup> The data also are disaggregated by whether the suspected offender was enrolled in school or not, whether the offence was committed under the influence of drugs or alcohol, and whether the offences were committed jointly with one or more adults. However, to our knowledge such data are not published.

Armenia’s second report to the Committee on the Rights of the Child contains data on the number of ‘minors convicted’ for the decade following independence (see section ‘(i) Convictions’ below). The table containing these data also holds data on the ‘number of offences committed by minors’. No definition of this indicator is provided. The figures are much larger, especially for the years 1997–2000 (e.g., 610 offences committed by 39 juveniles convicted in 2000), suggesting that these data probably refer to the number of reported offences, rather than the number of convictions (for multiple offences).

#### *(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 considered to be in danger by virtue of their behaviour or the environment in which they live.” The

<sup>127</sup> The UNODC-UNICEF Manual does not include this indicator. (See United Nations, *Manual for the Measurement of Juvenile Justice Indicators*, Office on Drugs and Crime (UNODC) and UNICEF, New York, 2007.)

<sup>128</sup> This last criterion differentiates between the capital and the rest of Armenia; it is not known whether it refers to the residence of the offender or to the place where the offence reportedly took place.

<sup>129</sup> Drug addiction is not punishable anymore since 26 May 2008.

<sup>130</sup> The assessment team was provided with such data covering 2009.

General Investigative Department of the Police of RA provided the assessment team with unpublished data for the years 2004–2009 concerning, *inter alia*, ‘arrested’ juveniles held in police custody. The numbers range from a low of 37 in 2005 to a high of 58 in 2007 and 2008.

### *(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)” at any specific date.<sup>131</sup>

The assessment team was unable to locate any published data on this indicator.

### *(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.

The assessment team was unable to locate any published data on this indicator.

### *(e) Duration of pretrial detention*

The assessment team was unable to locate any published data on this indicator.

### *(f) Child deaths in detention*

The assessment team was unable to locate any published data on this indicator.

### *(g) Separation from adults*

The UNODC-UNICEF Manual describes this indicator as “the percentage of children in detention not wholly separated from” adult prisoners. The TransMONEE project does not include this indicator.

In principle, juveniles in police custody are not detained in police stations, but transferred to the police detention facility, where they are kept for up to 72 hours in separate cells from adults. The cells have solid steel doors, which prevents communication between prisoners in different cells. The number of juveniles confined in this facility is known, but it is difficult to say with certainty how many of them are kept completely separated from adults, in practice. (Unless more than one juvenile is confined in this facility, complete separation from adults would mean solitary confinement.)

Male prisoners in the juvenile correctional facility and the pretrial detention facility for juveniles have no contact with prisoners and detainees convicted or detained for crimes committed as adults. However, the juvenile correctional facility invariably contains a number of young adults serving sentences for offences committed as juveniles; in this sense, no convicted juvenile prisoners are kept ‘wholly separate from adult prisoners’. It is likely that the same situation exists in the juvenile pretrial facility. The number of juveniles deprived of liberty in these facilities is known, but strict application of the UNODC-UNICEF criteria to them would give results that are of limited relevance for the evaluation of compliance with international standards.

### *(h) Contact with parents and family*

The UNODC-UNICEF Manual describes 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.”

Data on this indicator are not available.

*(i) Convictions*

Armenia's second report to the Committee on the Rights of the Child contains data on the number of 'minors convicted' for the years 1989–2000, with a gap for 1991–1994.<sup>132</sup> These data are not disaggregated by any criteria. The source cited is the Department for the Enforcement of Criminal Penalties.

Data on the 'number of convicted' for the years 1997–2005, disaggregated to show the number of convicted aged 14–17 years, are also found in the UNICEF publication *Children in conflict with the law in Armenia*. The source cited is the Ministry of Justice. There are large discrepancies between the figures contained in the two documents, for the years covered by both (see hereafter).

Years	Police of RA	Ministry of Justice
1997	86	424
1998	41	284
1999	50	331
2000	39	262

*(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.

These data are not published regularly. The UNICEF publication *Children in conflict with the law in Armenia* contains data on this indicator (25.5 per cent) for a single year (2005). The source cited is the Ministry of Justice. The data are disaggregated by offence (nine specific offences and 'other') and the length of the sentence imposed (less than one year; 1–2 years; 2–3 years; 3–5 years; and 5–10 years).

*(k) Alternative sentences*

The TransMONEE matrix requests information on the kinds 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.

The language used in this definition is misleading because some of these dispositions (e.g., pre-sentence diversion, postponement of sentencing) obviously are not sentences.

Published data for 2005 indicate only that 5.7 per cent of convicted juveniles received suspended sentences and 68.3 per cent were sentenced to 'other punitive measures'.<sup>133</sup>

*(l) 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

<sup>132</sup> Committee on the Rights of the Child, Second periodic report of Armenia, CRC/C/93/Add.6, Table 25. (The period 1991–1994 corresponds to the war with Azerbaijan).

<sup>133</sup> *Children in conflict with the law in Armenia*, p. 6.

number of children diverted before reaching a formal hearing.” This is somewhat contradictory,<sup>134</sup> and the Manual recognizes that what constitutes diversion “will need to be identified in the local context.”

The assessment team was unable to locate any published data on this indicator.

### *(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.

Post-release support is provided on an *ad hoc* basis, primarily by NGOs. No data are available on the number of juvenile offenders benefiting.

## **2) Other relevant data and information**

### *Recidivism*

The assessment team is unaware of any data on recidivism (repeat offending) by juvenile offenders.

### *Ethnicity*

Published data are not disaggregated by ethnicity.

### *Juveniles prosecuted*

The Police of RA provided the assessment team with unpublished data on “cases [of accused juveniles] sent to court,” and the Ministry of Justice provided UNICEF with unpublished data on juveniles prosecuted. The data include the following:

Years	Police of RA	Ministry of Justice
2004	167	222
2005	146	192
2006	149	168
2007	149	179
2008	156	178

The explanation for these discrepancies is unknown.

### *Begging and vagrancy*

The Police compile data on “children identified as beggars and vagrants.” The data show a decrease in the number of such children from 170 in 1997 to 46 in 2005.<sup>135</sup> The data are disaggregated by sex, district in which they were identified, and age cohort (below 14 years, 14–15 years; and 16–17 years).

<sup>134</sup> Hearings often occur before trial begins, which means that diversion before any hearing takes place would be only part of ‘pre-sentence diversion’. And 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. In addition, diversion can consist of a mere warning, without entry into a programme.

<sup>135</sup> *Children in conflict with the law in Armenia*, pp. 9–10.

## Annex 2. List of persons interviewed

### Public officials

N. Arustamyan, Deputy Minister, Ministry of Justice

A. Sargsyan, Head, Division of Social, Psychological and Legal Activities, Penitentiary Department

G. Hovakimyan, Senior specialist, Division of Social, Psychological and Legal Activities

A. Jamalyan, Deputy Head, Abovyan Penitentiary Institution

R. Martirosyan, Head, Division of Social, Psychological and Legal Activities, Abovyan Penitentiary Institution

L. Gavukchyan, Psychologist, Abovyan Penitentiary Institution

L. Sargsyan, Director, Vardashen Special School No. 1

Ts. Gevorgyan, Director, Nubarashen Special School No. 18

S. Barseghyan, Head, Child Protection Unit, Yerevan Mayor's Office,

L. Gevorgyan, Secretary, Guardianship and Trusteeship Council, Vanadzor Mayor's Office

L. Ghazaryan, Head, Department of Family, Women and Children's Issues, Ministry of Labour and Social Issues

A. Muradyan, Chief Specialist, Ministry of Education and Science

K. Soudjian, Head, Human Rights Department, Ministry of Foreign Affairs

G. Sargsyan, Director, Prosecutor's School

A. Vardanyan, Director, Judicial School

A. Hayrapetyan, Director, Law School, Ministry of Justice

H. Hunanyan, Deputy Head of the Police, Head of the Commission on Early Release

T. Petrosyan, Deputy Head, General Investigative Department of the Police of RA

N. Duryan, Deputy Head, Third (Juveniles') Department of Police

M. Poghosyan, Head, Yerevan detention centre

A. Stepanyan, Senior Prosecutor

H. Sargsyan, Senior Prosecutor

A. Marukhyan, Senior Prosecutor

M. Mnatsakanyan, Head, Standing Committee on Protection of Human Rights and Public Affairs, Parliament

R. Sahakyan, Head, Chamber of Advocates

M. Ghazanchyan, Head, Public Defender's Office

T. Davtyan, Civil Legal Department, Ombudsman's Office

L. Danielyan, Judge, Court of Cassation

V. Hovnayan, Judge, Court of General Jurisdiction, Lori

N. Hovakimyan, Judge, Court of General Jurisdiction, Lori

K. Poladyan, Head, Statistical Unit, Judicial Department



## Civil society

A. Danielyan, Head, Group of Public Observers Conducting Public Monitoring of Penitentiary Institutions and Bodies of the Ministry of Justice of the Republic of Armenia

T. Khalapyan, Member, Group of Public Observers Conducting Public Monitoring of Penitentiary Institutions and Bodies of the Ministry of Justice of the Republic of Armenia; Director, 'Trtu' NGO

M. Shahverdyan, Director, 'Aravot' NGO

A. Ishkhanyan, Armenian Helsinki Committee

M. Antonyan, Director, FAR Children's Support Centre

A. Grigoryan, Attorney

## UNICEF

L. Moshiri, Representative

H. Khemchyan, Child Protection Officer

## Other international agencies and organizations

S. Najmetdinova, Human Rights Officer, OSCE

I. Yerosyan, Senior Human Rights Assistant, OSCE

M. Martirosyan, Country Director, Project Harmony

E. Sargsyan, Coordinator, Vanadzor Community Justice Centre

H. Hakobyan, Senior Staff Attorney, ABA/ROLI

K. Peterson, Criminal Law Liaison, ABA/ROLI

I. Saghoyan, Country Director, Save the Children

A. Gevorgyan, Programme Manager, Save the Children

K. Mikhailidi, Operations Manager, Area Development Programme, World Vision

A. Grigoryan, Coordinator, Child Protection Programmes, World Vision

## Annex 3. List of documents consulted

### Legislation

Law on the Rights of the Child, 1996

Code of Criminal Procedure, 1998

Criminal Code, 2003

Criminal Executive Code [Penitentiary Code], 2004

Resolution of the Prime Minister of the Republic of Armenia 'On establishing a National Commission for Child Protection, approving the bylaws and composition of the Commission', 28 October 2005

Joint Directive of the Ministry of Regional Governance and Ministry of Labour and Social Issues 'On approving sample charters of child protection departments of *marz* authorities (Yerevan municipality) of the Republic of Armenia and Annex', 17 November 2005

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The Status of Juveniles in the Juvenile Colony, UNICEF/National Centre for Democracy and Human Rights, Yerevan, 1998

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NGO Report [to the Committee on the Rights of the Child] Armenia, undated [2002]

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Partnership with Government at Nubarashen Special School, World Vision Armenia, undated

Reducing child abuse in Nubarashen Special School, World Vision Armenia, undated

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Juvenile Justice in Armenia: Perspective of Children in Conflict with the Law, Advanced Social Technologies/Organization for Security and Co-operation in Europe (AST/OSCE), 2010, unpublished

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Commission of the European Communities, Annex to: European Neighbourhood Policy (ENP), Country Report Armenia, COM(2005) 72 final, Section 1.1

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## **ANNEX 4.**

### **JUVENILE JUSTICE IN ARMENIA: PERSPECTIVE OF CHILDREN IN CONFLICT WITH THE LAW (AST/OSCE)**

## **JUVENILE JUSTICE IN ARMENIA: PERSPECTIVE OF CHILDREN IN CONFLICT WITH THE LAW (AST/OSCE)**

**The study was implemented by the Advanced Social Technologies NGO in 2009  
with the support of the OSCE Office in Yerevan.**

**The views, findings, interpretations and conclusions expressed herein do not  
necessarily reflect the views of the OSCE or the OSCE Office in Yerevan.**

## INTRODUCTION

### Project Background and Objectives

As part of its democratic reforms, Armenia has committed itself to setting up a proper legal framework as well as the mechanisms necessary for the effective functioning of a juvenile justice system that has the child's best interests in mind. Among other provisions, international conventions and guidelines call for child-centered orientation and respect for the views of the child.

Although over the past decade international organizations and local NGOs have commissioned several independent assessments of the juvenile justice system, the perspectives of young offenders have not yet been looked at. Thus, assessing the opinions of children in conflict with the law who are in Armenia's juvenile justice system was deemed necessary.

The project was aimed at discovering what the children thought about the how effective the prevention of delinquent behavior, correction and rehabilitation of young offenders is as well as how well respected child rights are at all stages of the process.

By looking at various institutions with children with behavioral problems and children in conflict with the law, the study sought to understand the views of the juveniles on several important issues such as their treatment in these institutions, the protection of their rights, the effectiveness of various sanctions imposed on juveniles and the perceived impact of those sanctions on their future life, and their concerns and needs in terms of successful rehabilitation.

### Research Methodology

Considering the timeline of criminal justice reforms in Armenia, the target group for the study was defined as young people who were under the age of 18 and were in conflict with the law between the beginning of 2002 and autumn 2009.

The research questions called for qualitative methods of data collection and analysis. Depending on the specific subgroup of respondents, In-Depth Interviews and/or Focus Groups were deemed suitable and effective. In some cases both methods were utilized, each compensating for the limitations of the other – i.e. the group dynamic of focus groups and the confidentiality of personal in-depth interviews that could help to overcome any potential reluctance to speak about sensitive issues.

The study covered a total of 91 juveniles through 48 in-depth interviews and 10 focus groups in Yerevan and several provinces (*marzes*) of Armenia. The respondents represented the following six groups of juveniles:

1. Juveniles serving sentences in Abovyan penitentiary (15 male juveniles, 1 female juvenile<sup>1</sup>)
2. Juveniles released from Abovyan penitentiary (12 male juveniles, 1 female juvenile)
3. Juveniles on probation or serving alternative sentences (13 male juveniles)
4. Beneficiaries of Community Justice Centers (15 boys, 4 girls)
5. Children in No. 1 Educational Complex (Special School) for children with behavioral difficulties, including the ones that appeared there not because of anti-social behavior, but because of the social conditions of the family<sup>2</sup> (12 boys, 9 girls)
6. Convicts serving sentences in adult penitentiaries who served sentences in Abovyan penitentiary as juveniles (8 male convicts, 1 female convict)

Research instruments – the questionnaire for in-depth interviews and the guideline for focus groups – were prepared in close consultation with OSCE Yerevan Office and UNICEF and were based on the discussion guide and model questionnaire prepared by UNICEF, which was used for a similar study in Azerbaijan.

Except in No. 1 Special School, where the staff psychologist was present during the focus groups, all other focus groups and in-depth interviews were conducted without observers being present.

## Report Structure

This report summarizes the main findings of the study and answers the main research questions from the perspective of all relevant groups of surveyed juveniles. Thus, for example, when discussing Abovyan penitentiary, the views of all respondents who have ever served sentences there are accounted for.

The first two chapters of the report (*Chapter 1. Community Justice Centers* and *Chapter 2. Special school for children with behavioral difficulties*) discuss how juveniles spent their time in each of the institutions, how they communicated with their peers and staff members and how they were treated by them, whether or not their rights were protected, and what the juveniles thought about how effective the institutions were.

*Chapter 3. Relations with Police* and *Chapter 4. Justice* focus on the views of juveniles in regard to their encounters with police, as well as experiences in detention prior to and during trial.

*Chapter 5. Abovyan penitentiary* summarizes the experience of juveniles in that institution, while *Chapter 6. Probation and alternative service* reflects the opinions of juveniles on probation and serving alternative sentences.

Feelings about the past and future as well as the positive and negative experiences of juveniles released from Abovyan penitentiary are discussed in *Chapter 7. Rehabilitation and reintegration*. *Chapter 8. Suggestions* details the changes that the respondents would like to see in various young offender's institutions as well as in the overall juvenile justice system.

The concluding section of the report (*Conclusions and recommendations*) draws attention to the major issues raised by the results of the study and suggests priority actions to address those.

<sup>1</sup> At the time of the interviews (November 2009) one female juvenile (age 17) was serving a sentence in Abovyan penitentiary for women.

<sup>2</sup> The project initially planned to cover No. 18 Special School as well; however, as per recommendations of the Ministry of Education, the study was conducted only in No. 1 Special School.



## CHAPTER 1: COMMUNITY JUSTICE CENTERS

### Daily Life in Community Justice Centers

Community Justice Centers are facilities open to the public and the daily life of beneficiaries there was not very different from that of their peers. They simply attended these centers in addition to their main activities and benefited from the centers' services.

The juveniles attended the centers 1-2 times per week for 1-2 hours. They mostly took part in football, athletics, chess, boxing, karate (and other martial arts), computer classes, wood carving and painting groups. Beneficiaries attended general secondary schools, did their homework, and spent their free time talking or playing with friends, watching TV, listening to music, playing computer games, or surfing various websites.

### Communication and Treatment in the Community Justice Centers

Among all the institutions dealing with juveniles in conflict with the law, the Community Justice Centers received the most positive assessment from young offenders – the juvenile beneficiaries of the centers stated that staff members were sociable, considered their views, and liked to joke. They were kind, polite, supportive and responsible. The respondents also appreciated that the centers' staff members were respectful, honest and caring, and were doing their best to motivate the juveniles.

### The Effectiveness of the Community Justice Centers

The juveniles were mostly referred to the programme by the police. In some cases teachers, school directors or relatives advised juveniles to get involved in the programme.

The respondents referred to several of the Community Justice Centers' objectives. The most mentioned was correction of behavior or putting the juveniles on the "right path". Some respondents talked about the educational objectives and the objective of organizing the free time of the juveniles. According to one of the respondents, the programme also aimed to reduce the gap between the juveniles and the police as well as create a positive image of the police among juveniles.

In the centers the juveniles mainly benefited from the educational programmes (computer, pottery and other groups), psychological therapy and other advisory services, and participated in different fun events (hiking, etc.)

Respondents shared that they have acquired some self-management skills while attending the center. *"I have learnt to control my emotions; I am not "explosive" any more. The explanatory work, the examples ... were useful".*

Some said that they have become more self-confident, more communicative; they have found inner peace and ways of sharing their feelings. *"[I have found] balance of mind. I have tried to commit suicide before". "The important thing is that I have written a letter to my father saying that I regret what I did". "[We learn] to communicate with everyone. I used to communicate very little before, but now I have started to communicate more".*

They learned certain behavioral models and values through different examples; they tried to understand what was right and wrong. *"[We learn] how to behave in different situations, whom to trust, how to value the efforts of our parents".* Some have changed their approach towards their

environment and people. *"My attitude towards people has improved. Now I am trying to trust people". "I have started to understand more things. I have got closer to my mother".* Some found motivation for study and for making future plans. *"I have new desires for study and work". "I attend school more willingly. The attitude of many people towards me has changed for the better."*

The juveniles liked attending the center. Many of them even told that they would like to spend more time there. They mentioned that they liked the warm attitude of the staff and that the staff motivated them and were honest and caring. The respondents also appreciated finding someone to talk to and turn to for advice. *"It was good that I could find answers to the questions I had".*

## CHAPTER 2: SPECIAL SCHOOLS FOR CHILDREN WITH BEHAVIORAL DIFFICULTIES

### Daily Life in Special Schools for Children With Behavioral Difficulties

The juveniles usually spent their day attending classes and doing homework. Besides school, many of the juveniles attended singing, dancing or circus groups, or computer classes. Some studied crafts – shoe-making, needlework, auto-mechanics, hairdressing, pottery. Some played football.

In general they spent their free time playing computer, sports or other games, watching TV, and listening to music. Some liked reading. Some juveniles mentioned they could not find anything to do and were bored.

### Communication and Treatment in Special Schools for Children With Behavioral Difficulties

Many of the juveniles attending the special school had friends there with whom they spent their free time and shared thoughts and problems. Many others, however, did not have friends at the school.

In general the respondents spoke positively about the school staff, mentioning that they were caring and kind and ready to help. The juveniles communicated relatively frequently with their class teacher and therapist; some communicated more with the teachers of the extracurricular groups they attended.

### The Effectiveness of Special Schools for Children With Behavioral Difficulties

Respondents mainly stated that the reasons they had ended up in the special school were lack of achievement at general secondary school and anti-social behavior. Some said they just came to be close to their brother or sister who was attending the special school. Many respondents mentioned that they came to the school willingly but there were others who said they did not want to come.

According to the respondents, the objective of the special school is to educate juveniles. But there were other opinions as well, such as: *"If a child has problems with the family, they support him/her – they provide temporary accommodation until the problem is solved"; "If they were not brought here, then one would become a beggar and the other a criminal",* etc.

Some respondents said that once they had come to the special (boarding) school they started to study better; others said they had become closer to their relatives in the school. However, there were others who complained that they missed their free life and their relatives.

The things the juveniles enjoyed most about attending the special school were the various extracurricular groups and the school staff. Some respondents mentioned things they did not like such as small rooms, not being allowed to go home, and having a curfew in the evening.

### **Protection of Rights in Special Schools for Children With Behavioral Difficulties**

Among their perceived rights, respondents mentioned the rights to sleep, eat, bath, play, study, make friends, love, respect, etc. They rarely mentioned universal human rights or rights of vulnerable groups. The juveniles commented on such rights in the following ways: *"[We have a right] to live in a warm place, to see our parents, to visit a doctor", or "to express our thoughts, to study"*.

The juveniles had the same approach to having other rights, saying that they would like to have the rights not to study, to watch TV as long as they wish at any time during the day, etc.

The respondents mostly said that for the protection of their rights or solving of other problems they approach their parents, the school director, the social worker, the therapist, or they try to solve them themselves.

## **CHAPTER 3: RELATIONS WITH POLICE**

The respondents were generally quite hesitant to talk about the police; many of them refused to answer the majority of such questions. Nevertheless, the picture that is outlined based on the opinions that were voiced shows that there are numerous issues related to the police system.

Many of the respondents came into contact with the police for the first time at the age of 13-16. For many, first relations with the police were the reason for many further meetings because, according to the respondents, after that they were then frequently called to the police station as suspects of various other cases. Consequently, some respondents expressed fear of the police and recalled the negative attitude of police officers towards them. A common opinion is that some police officers are not objective and work according to the principle of "for the stronger, the weaker is always guilty".

The majority of respondents mentioned that they had been beaten at police stations. Some of them noted that police officers usually beat juveniles to make them admit (or take responsibility for) the crime or name persons who had participated in it (theft, fighting, etc.). Respondents who said they had not been subjected to violence explained it by the fact that they had confessed their guilt immediately. When speaking about other manifestations of violence by the police, the respondents mentioned cases of threats, keeping juveniles hungry for several days, making them undress, and humiliation. *"They beat me terribly. They kept me hungry for 7-8 hours. They beat me in such a way that I would lose consciousness. Then they put water on me to bring me round and beat me again"*.

Respondents thought that police officers should be honest, responsible, conscientious, fair, humane, should not break the laws and should not resort to violence or insults. Nevertheless, many of the respondents said they had never met such police officers and they did not believe they could ever meet one. *"I don't think there can be a good policeman. They may act like good people in other circumstances but when they put on their police uniform, it's over [ – they can't be good]"*.

## **CHAPTER 4: JUSTICE**

The juveniles had mainly been arrested at home or at school. Some were caught by the police at the crime scene and some handed themselves in at the police station.

Most respondents had been kept in police custody for 2-3 days, but there were some who had been detained in police custody for 5 or 6 days, and others who were held for up to 15 days. Some respondents complained that they had not been afforded the opportunity to call home while being in police custody for a lengthy period.

The period of detention prior to trial was generally 2-7 months. Respondents met with officers investigating the cases 1-6 times during pre-trial detention. Generally, the impressions of the respondents from these meetings were not positive. Cases of officers using violence, threats, or deception to coerce a signature were not uncommon. *"He showed me a paper in the police station and said that I should sign it in order to go home. But actually it was a document for keeping me in the pre-trial detention facility for 3 days; later he said that he had tricked me".*

Some juveniles mentioned that they were not informed about their rights during the pre-trial period and had no idea about their rights: they were questioned in the absence of a public defender (or defence attorney); they were treated disrespectfully; they were threatened and deceived. One of the juveniles told us, *"A person came and said he was my lawyer. He gave me a blank piece of paper to sign and I signed it".*

Although a teacher was usually present during questioning at the police station, the majority of juveniles were alone with investigating officers during pre-trial detention.

The majority of respondents used the services of public defenders. The juveniles usually met with a public defender once or twice. In general, they complained about the standard of the defenders, saying that the public defenders did not care about them and were incompetent on the job. Some respondents never even saw their public defender. *"I had a public defender. He came and sat next to me. When they started to beat me, he ran away shouting. Later we hired a private lawyer".* Some respondents believed that their public defender used to inform the investigating officer about things they told, thus allowing the investigator to use their own words against them.

Those respondents who used the services of private defence attorneys met them relatively more often (about 2-3 times) and were generally satisfied with them. In fact, respondents often turned to private defence attorneys because they were dissatisfied with the work of the public defenders. Those who were unable to hire a lawyer generally said that if they had had enough money they would have declined the services of the public defender and would have hired a defence attorney.

Respondents relayed that they were often troubled in the court room; some of them cried. The feelings of their parents, particularly mothers', were especially hard for them to face. Some of the juveniles suffered from feelings of loneliness and defenselessness, some felt shame or fear, and others were overwhelmed with a sense of injustice. They said that these feelings could have been mitigated by the presence of a caring and professional lawyer.

Opinions regarding the attitude and approach of judges were mixed. Some juveniles expressed positive opinions, saying that the judge was compassionate and fair. Tough criticism was also voiced, however. And some even mentioned corruption and partiality. One of the respondents stated: *"The prosecutor's office dominates. The judge has to follow their orders. There might be some exceptions, but they mostly just follow orders. Otherwise the judge wouldn't be able to keep his position for very long".* Nevertheless, the majority of respondents considered their verdict fair. Some believed that the sentence could have been fairer and the sanctions milder, while others still refused to admit that they were guilty.

The opinion that a juvenile should never be imprisoned was widespread among respondents. They thought that juveniles should receive a conditional sentence, be fined or pardoned. “I would not imprison a juvenile at all – especially for theft. They should be made to work to pay back the money to the state or the plaintiff”.

## CHAPTER 5: ABOVYAN PENITENTIARY

### Daily Life in Abovyan Penitentiary

Respondents who had spent time in Abovyan penitentiary (since the beginning of 2002) said that their days in the institution were mostly monotonous. The juveniles woke up early in the morning, had breakfast, cleaned the premises and then went to school or craft classes. The boys were mainly engaged in carpentry and pottery and the girls in weaving and needlework. Most were then free after lunch and spent their time according to their interests – watching TV, playing table tennis or football, listening to music. Some played checkers or chess, some read or wrote poems. They went to bed at 11p.m.

According to the respondents, occasional visits of unexpected guests, like students or researchers, brought some interest to their monotonous days.

The memories of the juveniles about days spent in the penitentiary were mostly sad. Some recalled their first day in pre-trial detention. Those who had spent that day in the old pre-trial detention facility recalled the adverse conditions there – the cold, the damp, and the darkness. Some remembered how they had spent their birthday lonely and sad. Many recalled the visits of parents and their despair.

The respondents noted that it was almost impossible to have any good memories of Abovyan penitentiary because the prison did not allow that to be a possibility. Respondents mentioned how a person feels abandoned and lonely while imprisoned and isolated from relatives. Some refused to remember anything at all. The few positive memories that respondents did have were connected with their involvement in carpentry, pottery and painting groups. Some also recalled their or their friends' school graduation event, sports events they had participated in, and exhibitions of works they had created in the crafts groups (some of them also received prizes for that).

### Communication and Treatment in Abovyan Penitentiary

Most respondents believe it is difficult to have friends in a penitentiary institution, and very few of them said they had friends while at Abovyan. They said it was hard to trust people and be honest with them in the institution.

In general, the respondents spoke positively about the penitentiary staff. It was mentioned that staff were considerate and caring even though they were strict due to the nature of their work. Nevertheless, juveniles were reluctant to build relationships with the staff or communicate with them more. They said that communication with staff *“was not well-accepted by the other convicts”*.

The overwhelming majority of juveniles rarely met with the psychologist of the penitentiary institution at their own initiative. Many of them mentioned that they did not need that. Nevertheless, sometimes the psychologist visited the juveniles and talked with them. Many who had such conversations with the psychologist mentioned that those conversations helped them to feel better and escape the monotonous daily life of the institution for some time. Girls communicated with the psychologist more frequently than the boys. The fact that the psychologist was a woman probably contributed to that. Some boys mentioned that they would probably have been more willing to meet a male psychologist.

The meetings with the social worker in the Abovyan penitentiary were also infrequent. The social worker mainly provided support to juveniles by writing applications for conditional pre-term release, additional visits, etc.

### **Effectiveness of Abovyan Penitentiary**

The majority of respondents were sentenced to imprisonment for committing theft, robbery, knifing or causing bodily harm.

Some of the respondents had served two sentences in a juvenile penitentiary. According to the respondents, the fact that earning money by legal means is sometimes harder contributes to repeated crimes. Some of them, having failed to find a job after release, turned to other means of getting money. One respondent commented: *"We all think about how to stop living such a life after release, but it never turns out that way. That's because of a lack of money and the possibility of getting money the easy way"*.

Respondents considered that the objective of Abovyan penitentiary is to correct juveniles. But they were also certain that the environment – the locked doors, the atmosphere of distrust – did not contribute to correction but engendered the opposite – it made juveniles more tense, aggressive and evil. Some thought that a penitentiary institution could never correct a person since that person can only change by his or her own decision – if there is no such intention then nothing will help correct them.

The majority of respondents were in the penitentiary for 1-3 years. They said that during the time they spent in the institution they became more wary and cautious – they trusted hardly no-one and avoided friendly relations. The years spent in the penitentiary institution made them irritable and aggressive. Some mentioned that they carry the stigma of being a criminal because they had spent time in the penitentiary. This was an obstacle for them when trying to adapting back to 'normal' life and reintegrate into society. *"The labels of 'convict' and 'criminal' are stuck on me. Tomorrow my child is going to learn that his father is a criminal, and no one can prove otherwise. Everyone will remember just this"*.

Despite the fact that many respondents were unable to mention any one thing in the penitentiary institution that would contribute to their correction, they did stress that the pottery, carpentry and other such activities helped the time to pass faster.

### **Protection of Rights in Abovyan Penitentiary**

Respondents mentioned that they were aware of their rights while in the penitentiary. Among these rights they mentioned the right to receive visits and make phone calls to relatives, the right to receive parcels, and the right to use the library. In general, the juveniles exercised those rights. Some of them mentioned that they also had the right to use the hotline but did not use it.

Respondents stated that they experienced no real difficulties concerning the protection of their rights while in the penitentiary institution. If they ever had such issues, some would approach the staff of the institution while others preferred to approach no-one.

Almost half the juveniles who are currently serving sentences in Abovyan have applied for conditional pre-term release. Some of them said they have received a positive reply. Those who have not applied said the reason was that they were not yet eligible (considering the time they had served and the length of their sentence).

## CHAPTER 6: PROBATION AND ALTERNATIVE SERVICE

### Daily Life of Juveniles on Probation or Serving Alternative Sentences

The majority of juveniles on probation or serving alternative sentences did not go back to high school and were involved in crafts, sports or music. Many others, however, were working or studying in colleges or higher education institutions. Some were unemployed and mostly spent their days watching TV, listening to music, playing football, tennis, cards, and walking with friends.

### Communication and Treatment of Juveniles on Probation or Serving Alternative Sentences

Respondents mostly gave positive feedback about the staff of the regional divisions of Criminal Executive Department (CED) that work with juveniles on probation or serving alternative sentences, mentioning that they were kind, polite, and respectful and did not treat the juveniles as criminals.

### The Effectiveness of Probation and Alternative Service

The respondents were mainly put on probation or sentenced to alternative service for theft, knifing, hooliganism or reckless driving.

While juveniles who served sentences in Abovyan penitentiary were sure that the objective of imprisonment was to *“correct criminals”*, juveniles on probation or serving alternative sentences interpreted their sanctions in quite different ways. Many of them mentioned that probation and alternative service were ways to control the juveniles. *“They control us to make sure we do not fight, and behave well”*. Others mentioned objectives such as correction, punishment, and making juveniles regret what they did.

Respondents believed that probation and alternative service helped correct juveniles by making them more careful, keeping them away from hasty and thoughtless actions, and making them understand that they should be responsible for their actions.

Some of the juveniles who were on probation at the time of the interview had also served sentences in Abovyan. When they compared time in the institution with their time on probation/alternative service, most considered the latter more helpful; they thought that the deprivation of liberty had negatively affected their mental state, whereas they were able to avoid many negative emotions in freedom. Hence, the key positive aspect of probation/alternative service, according to the respondents, was the chance to avoid or be released from penitentiary so that they could see their friends and relatives. One of the respondents mentioned that he felt like he had been given a second chance.

On the other hand, juveniles on probation or serving alternative sentences resented the fact that they had to visit the police station or CED offices once or twice a week to leave a signature.<sup>3</sup> One of the juveniles complained that his probation period was too long and impeded the fulfillment of some of his goals. *“They have sentenced me to 5 year’s probation. It would be better if we had the chance to finish probation earlier and had the right to enter a military institution to study”*.

<sup>3</sup> The frequency of visits is set at the prerogative of the CED staff but must be at least once a month.



## Protection of the Rights of Juveniles on Probation and Serving Alternative Sentences

Among their rights, some respondents mentioned the right to receive legal advice and the right to have the presence of a teacher or parent during meetings with the police. Some juveniles said they were not aware of their rights. *“They don’t have the right to beat juveniles. I know this now, but I didn’t know it before”.*

While speaking about the possibility of having other rights, one respondent said he would like to have the right to go home after the sessions in the court trial. As for the terms of probation and alternative service, some respondents mentioned that they would like to have the chance to change their place of residence.

## CHAPTER 7: REHABILITATION AND REINTEGRATION

Many respondents said that if they could change something in their past they would like to be born again and live without facing so many difficulties, such as poverty and being orphaned. Some said they would not commit the offense for which they had been sentenced.

Many respondents had goals and dreams. Some intended to go to the army, some wanted to continue their studies, and some were looking for a job. The juveniles said that a lack of financial resources and their personality traits (such as a difficult character and impatience) were hindering the achievement of their goals. Respondents noted that having a gracious and trustworthy friend or parent, job and money, legal awareness and motivation to study well would help them to avoid re-offending in the future. They shared that they needed support in finding a job and continuing their studies.

The respondents who served sentences in Abovyan penitentiary were unaware of any institution that could help them in the process of reintegration. The absence of such a support system is perhaps the reason why so few respondents have managed to successfully reintegrate into society.

One of the respondents considered the fact that he had entered a higher education institution to be his success. He said the director of the penitentiary institution had contributed to that by giving him the opportunity to participate in admission exams while in penitentiary service.

Another respondent considered his success to be finding a job with support from one of his relatives. However, he mentioned that he had concealed the fact that he had served a sentence in Abovyan since if they had known about that they would not have hired him.

Others were looking for employment but could find none. They were mostly engaged in household activities and agriculture. According to the respondents, the main obstacle to finding a job was their previous conviction. For some, penitentiary service was an obstacle to receiving education and acquiring a profession. Some mentioned that penitentiary service has put a stamp of “convicted” on them and so people are afraid to hire them and distrust them. *“I’m not able to hang out with many people - neighbors, school friends. I think that they ignore me, especially the girls. I’m not yet trying to build relations with others – first, I need to show my good sides. I can’t say that I can do that alone, without someone’s support, but there is no-one I can approach”.*

The juveniles advise their peers to be more balanced, to act thoughtfully, to avoid illegal actions, to try to settle conflicts through negotiation rather than fighting in order to avoid problems with the law. The respondents advised those who are currently in Abovyan penitentiary to be careful and conscientious, to avoid feelings of bitterness, and not to think that life is over since it will continue outside.

## CHAPTER 8: Juveniles' Suggestions

In terms of possible reforms in *Abovyan penitentiary*, respondents proposed providing more opportunities for juveniles to meet with their relatives. Some mentioned that it would be good if convicted juveniles had the chance to go home, visit their school, and meet friends for some time. Someone suggested that juveniles be allowed to attend ordinary secondary schools during their penitentiary service. *"I would like to have more days for visits. I would like them to let us go home at least for one week per month - we would go to school, see our friends, etc. in order not to lose ties with society". "I would like to attend a regular school. Outside. My school. To attend classes and then come back to the penitentiary".*

Respondents also stated that they would like to have the chance to develop professional skills while serving their sentences. Female juveniles said that they would like to attend the pottery group. The juveniles mentioned that it would be easier to find a job after release if they could acquire job skills while in the penitentiary institution. The issue of planting a garden at the penitentiary was also raised.

*In the special school for children with behavioral difficulties*, many respondents mentioned that more opportunities to visit home and spend more time outside of the school should be created. Some said that the studying and living conditions of the school could be improved – they wanted to see additional extracurricular groups, improvement of the canteen, and more TVs. They also wished that the teachers and the director trusted the children and treated them better.

The beneficiaries of the *Community Justice Centers* wished that their records could be removed from the police register after their time at the center. Some mentioned that it would be good to have students visiting frequently, have the chance to communicate with different people, and have more varied entertainment.

To improve the *probation and alternative service*, respondents proposed reducing the frequency of mandatory visits to the police and CED. One respondent said things could be improved by requiring them to go in just once a month (instead of once a week) and by making the maximum duration of probation one year. Someone also suggested that limitations be more lax if juveniles display appropriate behavior.

*In terms of general reforms in the juvenile justice system*, respondents recommended that corruption in the system be eliminated and that the police, prosecutor's office and courts be reformed so that the rule of law and justice is strengthened, violence against juveniles is prevented, and their rights are protected.

## CONCLUSIONS AND RECOMMENDATIONS

Based on the opinions of the respondents, it may be concluded that among services dealing with the prevention and correction of delinquent behavior among juveniles the Community Justice Centers are the most effective in terms of the re-education of the juveniles and their reintegration into society.

Although respondents generally did not complain about the conditions in Abovyan penitentiary, they mentioned that imprisonment did not contribute to the rehabilitation of an individual. Indeed, experiences from the special school for children with behavioral difficulties show that the negative impact of imprisonment is avoided. Moreover, it contributes to the return of juveniles to the educational process and decreases the likelihood of criminal and anti-social behavior by offering them various extracurricular activities and entertainment. Nevertheless, these closed institutions limit the

communication of juveniles with their peers outside the institution and limit the opportunities for them to acquire skills for life outside the institution. The Community Centers are the most effective in these terms. The children there not only have the chance to manage their time, but also acquire certain skills useful for becoming a full member of society.

In the Community Centers the juveniles learn self-control, self-management and communication skills, they become more communicative and find ways of sharing their problems. They become more confident and determined and start striving to realize their goals. In Community Centers juveniles learn certain behavioral models and values, they try to understand the things they can do and things they can't. The work of the centers stimulates a positive attitude towards the environment and people, making the beneficiaries treat their environment more responsibly and thoughtfully. In these centers some juveniles are motivated to continue education and implement other future plans.

Considering the kind of challenges voiced by the respondents, we believe that certain measures are necessary to improve the juvenile justice system. In particular:

- It is necessary to embark on the expansion of Community Centers. The existence of such centers is an important pre-condition for integrating juveniles with anti-social behavior into society and creating conditions for their normal future life. The centers can help reduce the number of cases of juvenile imprisonment and prevent the negative consequences of imprisonment, such as stigmatization, loss of social capital during imprisonment and loss of some life skills.
- Urgent measures are needed to prevent the physical and psychological abuse of juveniles in police custody, including humiliating insults, psychological pressure and threats, as well as to increase the competency and impartiality of police staff.
- The reform of the Public Defender's Office is urgent and vital, otherwise the legal protection of juveniles is purely dependent on financial capability. The development of this institution will secure the legal protection of juveniles regardless of their social characteristics and family income. Measures are necessary to increase the competency, conscientiousness and impartiality of the public defenders.
- The development of mechanisms that protect child rights in the juvenile justice system is important. Measures are needed to increase the level of rights awareness of the juveniles during investigation and trial, to protect their rights, and to prevent cases of rights violation.
- It is necessary to build upon the positive aspects of the juvenile penitentiary institutions. In particular measures should be taken to enhance the craft groups, involving as many juveniles in them as possible and improving their conditions and resources.
- Responses in this study suggest that probation and alternative service are often regarded as having a solely controlling function. To increase the effectiveness of probation and alternative service it is deemed necessary to help juveniles better understand the objectives of non-custodial sentences. In addition, to assist rehabilitation, juveniles should be encouraged to participate in educational, arts and sports groups and psychological counseling and employment advice should be offered.
- Measures to assist the reintegration of juveniles after release from penitentiary are required. Rehabilitation services could provide necessary information and advice to released juveniles, support them in finding jobs or continuing their education, and assist them in other matters. The existence of such centers is important not only for the rehabilitation and reintegration of juveniles but also for the reduction of repeated crimes – the results of the survey indicate that juveniles re-offend mainly due to difficulties encountered in post-release and other reintegration obstacles.