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CHAPTER 4

Post-Soviet Russia: Creeping Change

Today's Russian justice system retains traces of a medieval justice system which perceived a child as a miniature copy of an adult.

Pashin (Judge and scholar) 2001: 14

The penal system cannot change on its own, separately from society as a whole. Its reform is possible only as part of a wider range of measures aimed at creating a democratic state and the introduction of legal and judicial reforms.

Kalinin (Head of the prison service) 2002: 3

By the end of 1991 Russia, an independent federal state, had a new political leader and a new system of government. The changes were far greater than those which had occurred when Khrushchev or Brezhnev had assumed the leadership of the USSR. Now the political rules were changing all the time, and slots opened – at all levels – for people who previously had had no part in decision-making. Professionals, academics and activists (drawn from different strata) found themselves occupying places in a new policy-making arena. Yet, at the same time, most officials in the ministries and criminal justice system remained in their posts, surrounded by swirling, intense discussion and criticism of past and present features of the society that had evolved under Soviet rule. For the first time in decades, censorship disappeared and the media took up buried or neglected issues. A small number of voluntary non-governmental organizations emerged to argue the case for penal reform and prisoners' rights, including those of children.

When, at the beginning of the 1990s, Russian policy-makers, experts, practitioners and activists came out of their isolation, the western world of penal policy and juvenile justice was filled with voices talking different languages. The common ground shared by reformers a century earlier had evaporated. At first sight, it looked as though this was a world where all were guided by 'welfare' principles. For a start there were the International Conventions. Yet, at the same time, a more punitive approach had come

to the fore in the USA and in England and Wales, while a new approach – ‘restorative justice’ (which we discuss in this chapter) – was claiming adherents.

To the new Russian government, it seemed clear that changes should be made to their harsh system, whether for adults or children. Yuri Kalinin, the minister responsible for the prison system since the mid-1990s, speaking in 2002 before a London audience on the changes since 1991, referred to the legacy of:

the sadly notorious Stalinist GULAG ... with its labour colonies set up mainly in remote areas, with harsh climatic conditions, where major construction projects could be undertaken, minerals mined or timber felled. ... The regime under which those serving their sentences lived was so organized as to cause prisoners hardship and suffering: for this reason it was very harsh and constituted an unnecessary curtailment of a large number of the prisoners’ rights. This is why the health of many convicted prisoners deteriorated sharply while they were serving their custodial sentences, why family ties broke down, why many prisoners’ attitudes became more negative and they were drawn into the prison sub-culture. At the same time, they lost many of the useful social skills which were essential for life at liberty. ... An excessively harsh criminal system had given rise to an unjustifiably wide use of restrictive measures, which had led to convicted prisoners who did not need to be isolated from society being detained and then deprived of their liberty...

For many progressively inclined people [he continued], it became obvious that the system simply could not continue to exist in its previous form. It had to be changed fundamentally ... priorities were set for the reform of the penal system. Its normative-legal basis was to be improved, the pace of judicial and legal reform were to be accelerated and, as a result, the numbers of convicted persons in prisons and colonies were expected to decrease, as were those for persons detained in remand establishments. (Kalinin 2002: 1–2)

Kalinin was speaking of the penal system as a whole but his arguments carried even greater weight as regards young offenders. While the target of the reformers was the treatment of both adults and young people, some

emphasized, in particular, the harshness of the criminal justice system towards children. Their criticisms were directed against the high rates of detention on remand (and the appalling conditions in the remand centres), the length of time spent in remand (months, if not years), the lack of proper legal defence, the inappropriateness of the adult court system for young people, the lack of alternatives to custody, the harshness and length of sentences, and the brutal conditions in the colonies.¹

In 1997 a group of academics published a concept paper on policies aimed at reducing youth crime. The paper reflected the emphasis in the international conventions on defending the rights and interests of the child. The authors stressed the need to recognize that the young are a vulnerable group whose interests require greater safeguards, and the importance of involvement by both state and non-state institutions in combating negative aspects of the environment in which children were growing up. Funding preventive work, the authors suggested, should be seen not as an expense but as an investment in society's future. The paper proposed a whole series of measures aimed at 'the step by step creation of a complex justice system for young people' in which new legislation and specialized officials (investigators, prosecutors, judges) would focus on preventive measures and the defence of children's interests.

A wide variety of alternative measures should be used with the aim of ensuring the observance of the principle that restricting or depriving a youngster of liberty, whether before trial, during a trial or afterwards, should only be used as an extreme measure; elements of a restorative justice approach should be designed and introduced.

Government and social organizations should both participate:

however, unlike in those countries where civil society takes upon itself the important task of devising preventive measures in regard to youth crime, in Russia, because of the weakness of civil society ... the state must take responsibility for almost all these tasks. (Забрянский 1999: 7–9)

Yet sadly the state was not equal to the task.

Today, writing seventeen years after the end of Communist Party rule, the treatment of young people suspected of committing a criminal offence is only marginally better than it was in the early 1990s. Essentially the existing

system has remained in place, although its harshness has been softened and, as a result of an amnesty in 2002 and legislative amendments, the numbers of children in the remand centres and colonies did fall substantially. The changes are to be welcomed, but Russia still locks up a sizable number of its young people and for long periods.

No major discussion of the principles and practices of a youth justice system has taken place, neither at the top of the policy-making hierarchy, nor by the judges, nor in the pages of the professional journals. Nor has there been good public analysis of the way in which the present institutions work. Despite a reform-minded minister, Kalinin, despite a new criminal code and a new code of criminal procedure, very little has changed for either adults or children charged with criminal offences. Kalinin, in the late 1990s, continued to try to convince his fellow-countrymen that:

Only 12–16% of the whole prison population consists of people who are really dangerous, with a corresponding set of moral attitudes. 50–60% are apathetic. ... They are not part of the criminal world but under certain conditions they can find themselves in it. It is these people it is worth taking care of, otherwise society will only be working on behalf of its prisons. ... The prison population ought to be reduced to the minimum by using alternative sanctions... (Помните узников 1999: 10)

but it was 2002 before, in the words of the deputy-chair of the Duma committee on legislation, Aleksandr Barannikov, ‘... the President understood that our prisons are overcrowded not because there are more criminals in Russia than in other countries but because something is wrong with our legislation’ (Время МН, 12 March 2003), and Russia’s prison population dropped below that of the United States into second place in the world league table.

Why has there been such a reluctance to change the system? In this and the following chapter we describe the change and continuity in policy towards young offenders. This enables us to offer an answer.

A decade of depressing statistics

From the beginning of the 1990s crime rates began to rise, rapidly. The application of the new Codes of 1996 did nothing to halt the increase in the already huge prison population, living and barely living in inhumane conditions in labour colonies across Russia. At the beginning of 1992 there were 745,000

prisoners; by 1995 929,000; numbers peaked at 1,060,000 at the beginning of 2000. Conditions worsened with appalling overcrowding in remand prisons, shortage of food, an epidemic of TB, the ending of work opportunities in the colonies, and delays in inadequate pay for prison staff. Despite claims made to the contrary, the youth crime rate rose less fast than that for adults, but it rose too, and with it the numbers sentenced to custody in the *vospitatelnye* colonies. They peaked at more than 34,000 in 1999 (see Figure 7).²

Figure 7 shows the numbers of all 14–17-year-olds identified (выявленные)³ by the police in connection with crimes for the years 1993–2005, the numbers of those who were convicted, and those who received a custodial sentence. Numbers of those identified by the police climbed between 1991 and 1995, then began to fall, only to rise sharply again in 1999 (following the financial crisis). But by the early years of the new millennium the police were identifying fewer young people in connection with crimes than they were in the early 1990s. Were there perhaps fewer young people between the age of 14 and 18 by the early 2000s, I wondered? The census data show the opposite to be the case: between 1991 and 2002 the size of the (14–17) age cohort rose from 8.3 to just over 10 million; then it began to decline – to a little over 9 million by 2006, and by 2008 to 7 million.⁴

Figure 7: Fate of 14–17-year-olds identified by police in relation to a criminal offence, Russia, 1993–2005

Source: Data from MVD statistical handbooks, 1996, 2002, 2004, 2006; Забрянский 1997.

When we look at data on *the number of crimes* committed by 14–17-year-olds, or with their participation, set against the size of the age cohort, we see the same pattern – rapid rise in the early 1990s, slowdown, upsurge in 1999, then decline until, by 2002, the 14–17 age group's crime record is lower than it was for their predecessors in the late 1980s. Whereas in the early nineties we can picture 200 teenagers committing about 5 crimes a year, ten years later an equivalent group was committing about 3 crimes a year. Today's youngsters, taken as a generation, are no more criminally inclined than were their older brothers and sisters ten years ago.⁵

Yet Figure 7 also shows us that as many are being convicted today as in the early 1990s. Conviction *rates* have gone up (in 2005 two-thirds of all those identified by the police were subsequently convicted – a high percentage in comparative terms), and they show signs of rising again. Although the increase in violent crime, referred to in chapter 1, could be a contributory factor, it could not by itself account for the trend. The percentage of those given a custodial sentence is also, in comparative terms, very high – about 25 per cent – and again we note that during the period it barely changes.

A reminder. Our focus is: how can custody become used as a measure of last resort? We are not attempting to provide answers to the much wider and more complex question: how can we reduce or prevent juvenile crime? However, we should look at the measures taken, or not taken, by the state to assist those most at risk of becoming offenders and ending up behind bars.

Support for children at risk

In every country children who grow up without parental support and, in particular, are passed from one institution to another, are more likely to become society's misfits. In Russia the old structures continue to operate although the environment, already breeding social problems before perestroika, has since changed in ways that sharply exacerbate them. Many of today's inadequate parents grew up in families that were drowning in the rise of alcoholism of the early 1980s. The stresses of the past fifteen and more years (unemployment, new forms of poverty and of social stratification, demoralization and impoverishment of budget workers, lack of institutional resources, consumer abundance for the affluent) have had a further damaging impact on the family, schools and social agencies. The opportunities for the young who can afford them are far greater than anything their parents experienced, but the numbers of those deprived and at risk show little sign of decreasing.

Although politicians claim to be concerned about Russia's children, substantive policy and funding to support those at risk has been minimal. The mid-1990s witnessed a flurry of national plans or programmes to improve the situation of Russia's children, and in 1994 the government set up an interdepartmental commission on youth affairs.⁶ However, in 2001, seven years later, Russia had between one and two million children homeless, or taken into care, and of the more than a million offences registered by the police in that year, a quarter had been committed by neglected children.

This is what happens: a youngster finds himself in difficulties over a really trivial matter, his family doesn't help him to solve them, the school takes no notice and then simply forgets about it. As a result instead of going to school he starts spending time on the streets. And what will he find there? He'll find friends with whom to commit crimes, he has absolutely no other options. If a youngster isn't studying, it means he'll be committing crimes. That's indisputable. (Judge)⁷

Yes, almost certainly so, if no effective system of social and individual support for the child exists. English experience tells the same story.

... I didn't like my foster home and I started being trouble at school – showing off and that. They kicked me out of the foster home and school at around the same time. I was put in a care home I really liked and I settled at school and was doing okay. But then the local authority said I shouldn't be their responsibility and I was moved again. ... I got into fights at school and I disrupted class. In time they excluded me. It was when I was out on the street with other excluded kids, some of them older, that I felt I'd found my family. They were good to me so when they wanted me to do crime with them of course I agreed. We did lots of burglaries and shoplifting and I forgot about school. (Jules, 17: quoted in Neustetter 2002: 89)

According to Valentina Matvienko, deputy prime minister at the time, the youth commission was working energetically in 2001 to find a mechanism for coordinating the activities of the different government agencies. 'Today the Government's main task is to ensure not only that interdepartmental commissions are set up at all levels within the government but *that these commissions actually begin to work*' (Питомцы призраков 2002: 26;

emphasis added – MM). Three years later, with little evidence that the federal authorities had managed to work together, and with new legislation devolving responsibility for social and welfare issues to the regional authorities, the commission was abolished, and the Ministry for Health and Social Welfare given the responsibility for producing a national plan for children to run from 2006 to 2010. In 2006 the Minister, Zubarov, suggested to the Duma that the number of neglected children had fallen by 157,000 over the past two years, but a report on the round table discussion that followed suggested:

Different estimates claim that from 100,000 to 4 million neglected children exist. Around 50,000 run away from home each year because of abuse by their parents, and about 20,000 don't go to school at all. And this is despite the fact that eight different government departments and around 20,000 specialist institutions are working with problem or difficult children. (Gazeta ru, 22 February 2006)

The chair of the Moscow region's KDN (Commission for Youth Affairs) suggested,

there is at present a very large number of organizations which work with youngsters and, if you were to add up their staff, the number would in all probability exceed the number of children whose interests we are defending. (Тропина 2004: 21)

We take it for granted that the government needs to apply resources and imagination to tackle both the social problems that exist and the malfunctioning of the government agencies. These are topics in themselves; all we can do here is to draw attention to certain aspects of the government/welfare system that directly relate to the likelihood of young people ending up behind bars.

First, there are too many different departments or agencies with poorly defined responsibilities. In some cases their functions overlap.

A study of the relevant departmental statutes revealed that the tasks of the criminal inspectorate and the police department responsible for youth overlap, their functions are unclear and are not demarcated.

Unsurprisingly, in practice, as the research showed, individual files contain documents which have been duplicated. (Бланков 2003: 68)

Today's system of working with young offenders, in the judgment of the experts, is ineffective because different institutions duplicate each others' work, and some of them do not have the qualified staff or the material and technical resources to carry out the tasks that are assigned to them. In the first instance this refers to the police inspectorate for youth, and to educational institutions. The former is doing the work of the criminal investigators and the KDN, the latter in their turn finish work that the police inspectors do not have the time or resources with which to cope. (Summary by interviewers: Interview project)⁸

At the same time officials in one department are often not aware of data and activities of other departments. The sociologists report:

One receives the impression that the representatives of the various departments in the MVD and the Ministry of Justice have a very fragmented picture of crime as a whole, limited to their district or their own work: 'we don't know what is being done, for example, by the police there or somewhere else'. (Staff member, SIZO)... The difficulties mount up: families cannot cope on their own with so many socio-economic problems, the schools are being restructured and refuse to be responsible for *vospitaniye*, the police inspectors are swamped with work, as are the handful of social workers and, as a result, 'because everyone has their own problems', the children are left uncared for. 'It's as the proverb says: when there are seven nannies no one looks after the children', commented one of the experts (Defence lawyer). More than that, the child isn't even wanted by these 'seven nannies' because their own problems come before the need to care for children.

The professionals emphasize that until the child 'has been ejected from society no one takes up his case. All are occupied with their own problems, while he, as it were, is thrown into the gutter' (Governor of colony). The consequence of the child's being unwanted by his family or school, and then neither the inspectorate nor the KDN's having the capacity [to deal with his case] is that:

the youngster finds himself outside the sphere of influence of both state institutions, and social structures and family. As a rule, he will again fall in with a criminal set and again commit crime. (Defence lawyer)

Moreover there is no independent external check of the work of a department or institution. Monitoring remains the prerogative of the higher levels within the same institution or ministry.

Ministries, departments, and other executive structures of the government which are called upon to solve these problems, are themselves responsible for exercising 'control' over their own work, including 'control' over the observance of children's rights in the children's institutions which their sub-departments administer. (ЖИЛКИНА 2005: 15)

Without serious attention to these problems, the pool of deprived and potential law-breakers will of course not shrink. This goes without saying. However, our focus is on the need for an effective system of welfare agencies (both government and non-governmental) that responds to deviant behaviour when it occurs, and thus offers an alternative to using the criminal justice system. Unfortunately, the only legislative attempt to change the system for treating young children outside the courts has been punitive rather than preventive and accentuates the problem.

A law of 1999, 'The basic principles of the system of preventive work with neglected children and young offenders', amended cosmetically in 2003 after criticisms from a Council of Europe team,⁹ did little more than provide institutional regulation of a quite repressive nature for a social problem. Under this law children under the age of criminal responsibility, who commit a non-serious, socially dangerous act, can be held by the police for up to three hours before, by a court order, being sent to the now renamed Temporary Holding Centre (TsVSNP); at night-time, weekends or holidays the police do not require the court order. Children can be held in the centres, which are under the MVD, for up to maximum of 45 days. The centres are for offenders only (not for abandoned children), a first place of detention, before some of them will move on to the secure special schools. Some move up the ladder of detention – from TsVSNP to a secure school to a colony (ГОЛОВИЗНИНА 2005). Although we lack a detailed analysis of this group compared with others who are spared detention,

evidence suggests that even short-term detention increases the likelihood of recidivism. Approximately half of those who spend time in the secure schools or technical schools go on to commit a crime (Альтернативный доклад). It is difficult to see how such institutions differ from a penal institution, except in name. Not all who work in such institutions find the present situation praiseworthy.

[We need to] improve and increase the number of rehabilitation centres. Prison never improves anyone. There should be restraints on freedom, but not in the way we do it. You can do it in a special school, but the groups must be of small size. No one is insured against committing a crime. The law includes reference to institutions of an open type, but there's only three in all of Russia. There you could work with speech therapists and so on. (Deputy director, VTsSNP)

In deciding on educational measures, whether for an under-age offender or an older child, the judge notifies the KDN, which should then step in and take responsibility. This is logical in that the KDN is in theory responsible for coordinating the preventive work of the different government agencies, and for working together with the court to decide on the most appropriate measures to assist the child and safeguard his or her interests. A Supreme Court plenum in 2000 recommended that a KDN representative should be present at court hearings, and that the court should hold the KDN responsible for implementing 'individual rulings' (*chastniye opredeleniya*) and should check on their implementation. However, both judges and KDN members recognize that this does not happen, and the KDN, now renamed the Commission for Affairs of Youth and the Defence of [their] Rights, remains an institution with little authority and almost no staff.

The Commission is a social organization, nominally chaired by the head of the local government administration who is responsible for a huge number of things. The only work-horse is the administrative secretary, who is unable to cope with all the paperwork, to type things up, to see that reports are there, and so on. This only happens if the secretary is really committed, and such people are becoming fewer and fewer. (Police inspector, member of KDN)

The sociologists report:

Our analysis suggests that the KDN's activity at present comes down to that of keeping control by 'accounting', and this is reflected in all the KDN's procedures. The KDN's main activity takes place within the framework of its regular meetings. Procedurally the format of the commission's meetings continues to replicate the old Soviet procedure for meetings, when the KDN exercised functions similar to those of the courts. The composition of the commission, unchanged since Soviet times, both has a stabilizing effect upon the work of the KDN, and reproduces old ways of responding to youngsters and to their parents.

Both previously and today the KDN has at its disposal certain tools/means of influencing the youngster: reprimand, severe reprimand, fine, transfer of the case to court for a decision to be taken on whether the youngster should be placed in a Holding Centre, a special school or technical school.

As a result, as the members of KDN whom we interviewed themselves recognized, the KDN, as an institution which is required to aid and to defend the rights of young people, in practice can only exercise these functions to a very limited extent. A police inspector, who has served on the district KDN for twenty years, summed up its work tools as follows: 'The commission's basic tools are envelopes and summonses which parents respond to or not, as they wish. If only the commission had some means of offering material support. There are report forms for the commission to fill up when they have given out some humanitarian aid. But the commission is not able to provide any aid at all: it has no money, bandages, vitamins. Even when at a meeting we see that the child does not have enough to eat, we can't give him any help at all.'

Members of the public and parents, who have had first-hand experience of the KDN, are even more critical.

All they do there is to frighten and intimidate [children]: 'you'll be sent there and your mother...' That's the sum total of their work with a child. What can you expect from a child after that? (NGO worker)

Others feel even more strongly:

The KDN ought be abolished. It was set up with other kinds of rules, with other aims in mind. Today society is different, life is different, children are different. It should be reviewed in its entirety. Its methods have long ceased to work. They only frighten, nothing more. (Social worker)

There has been no attempt on the part of the federal authorities to restructure the KDN: to turn it into an active, well-funded organization, with a clear remit, and the authority to act. The outdated law of 1967 still operates. In most places, its members view their participation in what is essentially a disciplinary committee with few powers as an extra burden. Yet in some places, active individuals have persuaded the regional authorities to adopt new statutes or rulings on the KDN.

Today's reformers are well aware that the welfare and educational systems need attention. They believe, as do most who work with delinquent children, that society and the state are to blame for youth crime. In this they share common ground with their predecessors of a century ago, with their Soviet colleagues of the 1920s and 1960s, and with many social democrats of today. Unlike their colleagues in the 1920s (and maybe some in the 1960s), they do not believe that society can ever abolish crime. They think that society and government can reduce it (by reducing homelessness, the numbers of abandoned and neglected children, and by providing job opportunities, etc.) and they believe a punitive system will only increase crime by isolating and turning children into criminals. State and society ought to take responsibility for their children. Here they are straight welfarists of the most usual kind.

In principle it is unjust, it is unjust when a youngster has to answer in court for committing some crime or other, that is already unjust. Therefore, it seems to me, the highest aim as regards justice is to create a society in which a youngster cannot commit a crime, where he won't have any motives for doing so. ... While we often talk, at meetings of the commission, when reviewing a case and deciding to penalize a youngster and his parents, we try to be as just as possible towards the youngster, but more often than not we recognize that he's a hostage ... a victim. ... That, if you like, is the most frightening aspect of what is happening

today. Therefore, of course, justice is, and has to be, defending the rights of the child in any situation. (Member of KDN)

Among the most active of those arguing for new legislation on the KDN are L. Tropina, chair of the KDN of Moscow region, now with a new regional statute, designed with support from Gromov, the governor; V. Chernobrovkin, chair of the KDN of the Saratov region, and Boris Altshuler, leader of the NGO The Rights of the Child. Saratov, Perm and Nizhninovgorod have all adopted new regional statutes and, at the time of writing, Moscow city has decided it should too. Chernobrovkin receives requests for advice and information from KDN representatives in other regions. A commission under Tropina has drafted a new law.¹⁰ It would give the KDN responsibility for a new professional social work service. While the social workers would work with the courts, attaching them to the KDN would, it is argued, give them ready access to all the social services and municipal agencies. A much stronger emphasis on using non-judicial methods to deal with law-breaking youngsters, including that of mediation, is advocated.

With its focus on punishment, the traditional system of criminal court procedure relates to criminals as 'people who should be removed from society'. Restorative justice recognizes the offender must be given the opportunity to make good the damage or harm done and to regain his place in society both in the eyes of society and in his own eyes. If such an opportunity is not given him, he pays for it, but so will a series of victims, and society itself. (Чернобровкин 2005: 12)

It is both encouraging and depressing to read of the experiments and attempts at local level to create workable new structures. Encouraging because it indicates the awareness at local level of the need for new thinking. Depressing because, despite the suggestions and calls to the federal authorities for legislative action that would encourage the emergence of authoritative local bodies, the federal authorities appear singularly deaf or simply uninterested. The relationship between action at federal level and local or regional initiatives is, however, not as simple as this suggests. We shall come back to it in the final chapter.

Neither a professional social work service nor a probation service for young people has been introduced. The only new institution, which only

exists in 18 regions, is an ombudsman for children or a commissioner for the rights of children.¹¹ In rare cases, energetic individuals at local level have persuaded regional authorities to set up a committee for children's rights. NGOs, frequently with only volunteer support, and minimal if any assistance from local authorities, try to help the most needy and destitute children. Instead of receiving help from professional social workers, young law-breakers are destined for a criminal justice system, designed with adults in mind.

Crime and the criminal justice system

The political leadership was influenced by Russia's position as a member of the international community and by concerns expressed by international bodies. To meet its obligations under the UN Conventions, and to gain membership of the Council of Europe, Russia needed to make changes to its existing Codes and its institutions. It set up a Ministry of Justice to take responsibility for the prison system, away from the MVD, but there was no real discussion of the rationale for such a move, and what it was intended to achieve. (Nor, ten years later, was the British government's decision to observe Council of Europe requirements and to create a new Ministry of Justice, which would run the prison service, accompanied by a discussion of the reasons for the Council of Europe's position.)

The new Criminal Code of 1996 included articles that reflected a new philosophy: the rights of the individual were paramount, and both it and the new Code of Criminal Procedure contained sections on young offenders that sounded quite progressive. But, in practice, because the Codes are primarily directed at adult behaviour, they did little to mitigate the harshness of the system. Theft (which everywhere accounts for the majority of youth crime) remained a serious crime. And that means it continued to carry severe sanctions. The Codes of the mid-1990s were recognized to be unduly harsh, even for adults, but not until 2002 did the new President react. A working group was set up to prepare proposals for the Duma. By this time it was hard for the political leadership not to pay attention. With Russia's accession to the Council of Europe in 1996 and subsequent signing in 1998 of the Convention on Human Rights, and the Convention for the Prevention of Torture, the issue of the overcrowded prisons, inhumane treatment and harsh sentencing for adults and children was continually raised by UN and Council of Europe delegations. In December 2003 the Duma passed

a comprehensive packet of legislative amendments to the Codes. Those most relevant for young people were the reclassification of less serious acts of 'hooliganism' as 'administrative offences' (and hence excluded from the criminal code), the laws on drug possession were softened (although retightened in 2005), and a number of crimes were reclassified as 'average' rather than 'serious', which, in its turn, had consequences for sentencing.

Legislation, conceived with adults in mind, can have unforeseen and damaging consequences for children. Legislators may favour harsh treatment for organized crime but there is a qualitative difference between the operations of a group of adult criminals and an often spontaneous action by a group of kids. We draw from the interview materials.

It's a well-known fact, they don't act on their own, it's rare when they act on their own. And our judges, qualified or unqualified, classify it as a group crime rather than as robbery with violence. But there's a qualitative difference between a group of adults, who have planned something, and then carried it out, and [kids] who, in principle, can't act on their own, they have to have the support of a group. And not because they are members of a gang but simply because they always go around together. Psychologically that's simply part of being an adolescent. (Member of Memorial society)

Our criminal code, there's no doubt about it, is unjust, particularly as regards youngsters. ... As a psychologist I consider that punishment must be related to the individual. We have Article 158 – theft – and sentences which range from suspended to 3 years, but they hand out 4 years. Why, because it's for more than one offence, or the youngster committed the crime as a member of a group, he didn't actually do anything, the only reason he's involved is because he was in that group. (Psychologist, SIZO)

There is a difference between an adult and a child stealing a car.

So he was convicted for stealing a car. When you talk to him, he says 'I love driving a car' but he's got no opportunities to drive. 'I saw the car, and I wanted to try it out.' 'But how did you open the door, and how did you start the engine? You're only 14.' 'But I know how to start cars.

I help the men in the garages. I've repaired a carburetor, I can adjust the clutch.' In other words, he's got an education, but a garage education from the men who work there, not one from a school. And he's scared to go to school, because of his past experience, maybe it'll be the same all over again. Here they praise him and say 'my word, but you've got clever fingers!' And those kind words, which suggest he has got talent embolden him. He begins to think that he's already a professional. And so – during a moment when he's slightly drunk, and he sees the car, he says to the other kids 'I could easily start up the engine and take you all for a drive. I've got the skills, and you haven't.' So he opens the door and goes off for a spin. The idea of stealing the car never came into his head, he just wanted to take his friends for a drive and impress them. (Court social worker)

However, while a more child-oriented approach to the definition of crime where children are concerned, and the reclassification of certain actions as administrative offences will help to keep unprotected and minor offenders out of the criminal justice system, its contribution towards reforming the treatment of young offenders will, *on its own*, be very limited.

As a signatory to the United Nations Convention of the Rights of the Child, the Russian Federation reports to the Committee on the Rights of the Child at five-yearly intervals. These reports cover a wide range of issues affecting children. We focus on those that involve young law-breakers. The Committee's key concerns have been police brutality, the absence of youth courts, high rates of detention on remand and custodial sentences, and conditions while in detention.

In 1999 the Committee, while welcoming progress in some directions since 1993, noted that:

The area of juvenile justice is a matter of persistent and serious concern to the Committee, in particular regarding the insufficient implementation by the State party of the Committee's 1993 recommendation on the need to set up a system of juvenile justice, including the adoption of a law on juvenile justice and the establishment of juvenile courts.

The Committee expresses its concern over reports of police brutality and torture committed against detained juveniles during the investigation of their alleged acts, and its concern over the extended periods of pre-trial detention of juvenile detainees at the discretion of the

Procurator. The Committee is also seriously concerned at the treatment of juvenile offenders living in educational colonies, places of pre-trial detention or in special educational establishments, and at the poor conditions of detention and in prisons in general.¹²

In 2005 the UN Committee, while welcoming the amendments to the Criminal Procedure Code in July 2002 ‘which ... had resulted in a reduction in the number of minors brought before the criminal justice system and the number of minors sentenced to deprivation of liberty’¹³ and the appearance of several regional ombudsmen for children’s rights, was ‘concerned that persons under 18 allegedly continue to be subjected to torture and cruel treatment, in many cases when in police custody or during the pre-trial stage of legal proceedings’, and that there had been no move forward on a juvenile justice system.

We look first at the police. Given that the police are the first point of contact for young offenders, their powers and their practices are of critical importance. Their actions can determine the future fate of young children to a very great degree. The issue of police brutality during the arrest and questioning of suspects, including children, deserves a separate treatment of its own, as does the role of the police in monitoring the behaviour of those on the police record. Here we simply draw attention to the fact that police brutality is serious, and possibly a worsening problem. The evidence comes not just from the children themselves, and their parents, but also in a survey carried out in towns from the first aid ambulance teams (48 per cent of whom) and the staff of accident and emergency centres (62 per cent of whom) put drunks and teenagers as the most frequent victims of police brutality. Despite presentation of the evidence to the Procurator General, the procuracy remains unwilling to prosecute in the great majority of cases, and the President’s administration gives no evidence of being troubled by the Procuracy’s monopoly on overseeing the legality of its own and the police activities (Альтернативный доклад 2005: 38–41).

While brutality is one issue, the tasks set before the police, and the shortage of resources is another. All criticize the police for not engaging in any preventive or rehabilitative work.

There’s no preventive work, it’s all eye-wash on the part of the police, you understand? We don’t see any inspectors, we don’t see them in the

precinct, we don't see them when the kids are being held, we don't see them. (Defence lawyer)

The inspectors themselves stress the tasks set them from above.

We are meant to be doing preventive work. But they tell us 'the best kind of prevention is to solve a crime'. And to solve a crime you've got to spend not just one day, not even just two on it. It can take us a week. (Senior police inspector)

... at present they constantly demand that we solve crime, solve crimes. No one asks us to do any preventive work ... of course they require some kind of a report on prevention – how many neglected children we've detained, how many protocols we've drawn up, but no one demands to know the results of preventive activities. (Police inspector)

Because the whole system has recently become more and more bureaucratic and formal, they [new inspectors] have understood that what is most important is to present indicators: how many were charged, how many parents held responsible for administrative offences, how many children were sent somewhere or other... (Police inspector)

In 2000 the Supreme Court at last turned its attention to the question of youth courts. It recommended that courts of general jurisdiction appoint a specialized judge to deal with cases involving young offenders, and referred to the need for such judges to have not only a legal training but some psychological, pedagogic and sociological background. It emphasized the requirement for judges to pay particular attention to international norms and standards when dealing with young people, both regarding preventive measures and ensuring that the interests of the child were pursued (Ruling No. 7, 14 February 2000). But only in individual cases has this been realized. The majority of courts do not have the capacity to release one judge to concentrate on youth affairs, and the judges have neither appropriate training nor time to devote to a careful analysis of a case. They 'approach the court hearing very simplistically, aware that a guilty verdict will satisfy the procurator, and that a suspended sentence will satisfy the convicted, his legal representative, and defence lawyer' (Воронова 2005: 23).

Although there are judges who consider the present system quite inadequate for young people – ‘... it is we, we, adults who don’t care, who are raising a generation which will present us with crimes, and new crimes. We need a caring attitude towards everything – it’s our future, ours and yours’ (Judge) – there has been no pressure for reform from within the judges’ community. In the eyes of police, of KDN and FSIN¹⁴ (Prison Service) representatives, judges are too often poorly trained, indifferent or conservative in their response to young offenders.

We have a procurator who deals with youth cases, specializes in them, we’ve got a judge who specializes in youth cases, only takes youth cases, and yet we don’t have a [youth] system. The way they approach cases, as do the youth police, is one and the same. They simply do not understand the word ‘child’. For them he’s a criminal. They ought to write the word ‘child’ in large letters on the walls of their offices to remind them that they are dealing with a child. But they simply do not and cannot think in that way because they are working within a system, which is already formed. We need a new system, a principally new – a juvenile system. (Deputy chair, KDN)

You attend court, and it’s an absolute farce. Sometimes it makes you wish you weren’t there. The judges are so incompetent, unprofessional. They ask such naïve, stupid questions. You find yourself thinking ‘Oh God, what are you asking that for?’ ... They are concerned that everything has been properly written down, including the key points. And nothing else, it seems to me, bothers them. What will now happen to the child? Who will work with the youngster? That doesn’t concern them! For them what is most important is that the case went smoothly, that there won’t be a protest or an appeal. I consider that their aim is simply that – to ensure a clean case. (Head of police department for youth)

We come back to judges’ attitudes when we look at sentencing policy. Here we are more concerned with the structure of the system – the absence of courts for young people – while recognizing that the ability of judges to respond to new institutions will be crucial for their effectiveness.

Juvenile courts

If in the 1960s reformers drew their inspiration from the 1920s, today it is the late-Tsarist period that attracts them – not the colonies and the idea that punishment should have no place – but the setting up of juvenile courts and the introduction of probation or social workers. The focus on human rights that found expression in international conventions has provided a lexicon and an international authority to quote. While also used by the government, the conventions provide the reformers with a language in which they can press their demands for a humane treatment of children but, at the same time, they have encouraged the tendency to seek a judicial solution.

Although there are differences between them, all share the ideas that:

First of all, because of their immaturity youngsters are not able to comprehend, sufficiently, their actions and to be responsible for them, and, second, youngsters are susceptible to influence and can be re-educated in such a way that in future they will not have the motivation to commit offences. This means that juvenile justice replaces the value system of court procedures with one where the young offender becomes more important than the offence itself. (ЖИЛКИНА 2005: 17)

Here we see a classic statement, one that would be clear to reformers of a century ago. The editors of a collection, 'The Movement for Juvenile Justice in Russia' (Движение 2003), although themselves advocates of a restorative justice approach, devote most of the articles to the difference between 'a criminal justice system' and 'a juvenile justice system in which judges still play a key role':

When we speak of juvenile justice, we have in mind not criminal but a specific 'children's justice'. The latter includes, as does the everyday system, judges and courts authorized by the state, who use their judicial powers to resolve legal conflicts and respond to criminal events. However the essence of juvenile justice lies in its subordinating the functions of judicial power to the resolving of tasks which previously courts did not address ... the tasks of socializing young people and ensuring for them a future as law-abiding members of society. (Движение 2003: 104)

A minority of reformers believe these principles would be best realized through a reformed judicial system with a juvenile court and specialized justice officials, including investigators and procurators, and children's advocates. Most emphasize the importance of a more comprehensive approach. The preface to the new journal *Questions of Juvenile Justice*, brought out by the NGO NAN, explains to its readers that 'We do not view juvenile justice exclusively as specialized court procedures, we recognize and perceive juvenile justice as a legal basis for designing social policy in relation to young people in the Russian Federation.' NAN, under its energetic leader, Oleg Zykov, originally focused its work on narcotics and youth, but has moved on to spearhead a campaign to introduce a comprehensive juvenile justice system. It has been active in prompting and contributing to draft legislation. While the introduction of juvenile courts forms the basis, NAN representatives include:

the aggregate of state institutions, local self-government institutions, state and municipal institutions, officials, non-governmental non-commercial organizations, which carry out activities, in accordance with the law, aimed at realizing and guaranteeing the rights, freedoms, and legal interests of the child. (Article 2 of a draft law, 'Basic Principles of a System of Juvenile Justice')

The draft continues:

Within the framework of a juvenile justice system, programmes, projects and measures of a social, pedagogical, juridical, psychological and medical character, aimed at preventive measures and rehabilitating the child (juvenile), are undertaken.¹⁵

In the words of Maksudov, the supportive, but critical, leader of The Centre for Legal and Judicial Reforms:

The ideology of the activists of the NAN foundation and many experiments view the link 'juvenile judge – social worker – rehabilitation programmes' as the most important technological knot in juvenile justice. This link constitutes the main thrust (in the sense of its being visible and having results) of the lobbying efforts of activists working together with the NAN foundation to introduce legislation. (2003: 1)

Pressure from the human rights community finally resulted in a draft law to introduce juvenile courts into the court system. This passed its first reading in the Duma in February 2002. However, with the receipt of a discouraging letter from the President two months later, and again in 2004, neither it nor drafts of legislation on accompanying elements of a juvenile justice system made any further progress (Альтернативный доклад). In its reply in 2005 to the UN Committee, when asked to list its priorities regarding children's rights, the Russian government listed a series of educational and social issues but excluded any mention of the justice system. It merely noted that a draft law on youth courts would in due course move up the legislative agenda, and that some experiments in restorative justice were under way.

The Committee was not satisfied. It urged the Russian Federation, 'as a matter of priority', to expedite its work on reforms of the system of juvenile justice. This should include the introduction of juvenile courts, the development of an effective system of alternative sentences to include community service; restorative justice; and the provision of ongoing training for judges and law enforcement officials.¹⁶ There the matter rested until, suddenly, in the spring of 2006, the President's administration suggested it was time to move forward. In March a round table on 'The Establishment of Juvenile Justice in Russia: Experiments, Problems and the Future', was held in the Duma, chaired by Ekaterina Lakhova, of the Duma Committee on Women's Affairs. She suggested:

... we have addressed this problem more than once: we discussed it during the previous session of the Duma, and during this session there was an enlarged meeting of the Committee, we held parliamentary hearings. ... Bearing in mind that during recent years evidence from experiments has accumulated, that sufficient experience has been gained in the Rostov region, where juvenile technologies have been gradually introduced and have yielded results, we very much would want to set up a system of juvenile justice. And we would very much welcome real understanding on the part of the executive, the legislature and courts – the three branches of power, as stated in the Constitution – that this is the only mechanism which can help to defend a child.

We do not need to discuss with you how court reform is progressing. It is a very complex, difficult process, and now we are talking of defending

the rights of children, and there is little enthusiasm for introducing juvenile courts on the basis of courts of general jurisdiction.¹⁷

The origins of the Rostov experiment lay in a UNESCO-supported project, which, in 1999, was launched in Moscow, St Petersburg, Saratov and Rostov. The project, drawing on French experience, introduced social workers as court aides: they were to assist judges specializing in youth cases by working with the offenders before and after trial. Despite the project showing positive results – fewer children held in remand, fewer sentenced to custody, and less recidivism – only in Rostov, with support from Voronova, the chair of the regional court, did it take hold. By 2008 all 61 district courts had a specialized juvenile judge; 15 of these are assisted by a social worker; three districts have a ‘model’ juvenile court, based on Montreal practices. Judges make use of ‘individual rulings’, which specify the particular programme to be followed by the youngster, and include reporting back to the court. The emphasis shifts from one of punishing or repression to education and rehabilitation (Воронова 2005; <www.juvenilejustice.ru>). The use of custody has fallen, and so has recidivism (to below Russian averages). Following the positive comments made at the Duma round table, others began to follow the Rostov example.¹⁸

Yet it is interesting to enquire why it did not flourish in the other original sites, and why some initiatives have faded. In Saratov the judges were less than supportive:

The lawyers with whom we discussed the idea, when we started, said, well, but, nowhere is something about ‘social’ written down or registered in a document, so who are you, actually you aren’t anyone, and we cannot even give you a name. ... That’s the inadequacy of our legislation. Because if the legislation had included reference to juvenile specialists or juvenile justice in the court system, then they would be there in the courts, but they are not. And there’s still no law. We are running a little in front of the steam engine, but someone must always be running ahead of the engine in order to introduce a good idea. (Court social worker)

In St Petersburg, despite support from some individual district court judges, the project faded from a lack of interest on the part of the city government’s departments for children and for social services.

Unwilling to fund extra and dedicated social workers, they chose instead to devote resources to an unimaginative and ineffective 'work' programme for young offenders, whose organizing enterprise benefited while the children did not (Головизнина 2007). In Krasnoyarsk and in Vladimir, despite discussions in the spring of 2007 on measures to establish juvenile courts (<www.juvenilejustice.ru>), the topic seems to have fallen off the agenda. In April 2007 the commissioner for children's rights in Moscow, Aleksei Golovan, announced that agreement had been reached with three Moscow district court that, as of June, they would be working out 'juvenile technologies' (Новые известия, 19 April 2007) yet the initiative was successfully blocked by Egorova, chair of Moscow city court.

In 2006 the round table was followed by further meetings, organized by either Duma committees or ministries, to discuss the proposals and projects that had been ignored for the past four years. Both the Supreme Court and the Procuracy suddenly discovered that they were in favour of the introduction of a juvenile justice system. Lakhova suggested that the law on juvenile courts might pass during the present session. Something had persuaded the political leadership that it was time to move forward. However, nothing happened.

Oleg Zykov of NAN, and now a member of the Public Chamber (*Obshchestvennaya Palata*) and the Inter-ministerial Government Commission on Juvenile Affairs and Defence of their Rights, has been tireless in keeping the issue of juvenile justice, and in particular the courts, before the federal authorities. In the spring of 2008 letters from the Government Commission, headed by the new Minister for the Interior, R.G. Nurgaliyev, to both B.V. Gryzlov, chair of the Duma, and V.M. Lebedev, chair of the Supreme Court, reminded them of their undertakings to hasten the introduction of the appropriate legislation on juvenile courts, and referred positively to the regional experiments. These letters were not answered. A letter from the Public Chamber to President Putin, urging progress on the legislation, also went unanswered. In the summer of 2008 NAN, with support from Canadian colleagues and CIDA (Canadian government funding) organized the First All-Russian Conference on Juvenile Justice in the prestigious President's Hotel in Moscow.

However, V.N. Pfligin, chair of the Duma Committee on Constitutional Legislation and State Structure, is said to have stated that he sees no chance of the legislation passing a second reading without support from the

President's administration. Many consider that L.I. Brycheva, assistant to the President, and head of the State-legal Administration of the President, is responsible for blocking its progress. In 2007, in conversation, she agreed that the law on juvenile courts should be passed. However, again, nothing happened. While President Medvedev, upon taking up office, has emphasized the need for court and legal reform, his appointment of Brycheva to the chair of the new working group on court and legal reform is seen as a setback for court reform, including juvenile justice reform. If there is no progress on court reform in general, there is no scope for introducing juvenile courts. The working group had not met by the end of the year (2008).

Originally an opponent of juvenile courts, and possibly still so, the Supreme Court has prevaricated. Lebedev is said to have recently criticized the Rostov experiment but, more significantly, a meeting of the Presidium of the Council of Judges of the RF on 26 December 2007 supported the introduction of (specialized) administrative courts but referred to the 'development of juvenile justice' in the most general terms with no reference to juvenile courts. Yet in early 2009 the Court issued a memo, drawn up by its department for the analysis and summary of court practice in August 2008, which reported favourably on the number of different experiments or models introduced at regional level, including those with a juvenile court. If among those who influence policy, the Duma is no longer relevant, the Supreme Court surely can carry some weight. The Procuracy too, should not be underestimated. With Putin's accession to the presidency, it regained attention and prestige. There is no evidence it wishes to see any changes to the present system of charging and trying young people, and its leadership is particularly hostile to any mention of restorative justice.

We have dealt with the interplay of actors at federal level in a little detail because it brings out aspects of policy-making that, at least in this field, are relevant. We return to this in our Conclusion.

Restorative justice

By the early 1990s a new approach to youth crime was gaining adherents in a number of countries. Studies from the 1970s onwards had begun to suggest that 'juvenile crime in general represents normal behaviour'. In other words, that the great majority of youth engage in what is called 'crime' and most grow out of it; a very small proportion engages in serious and

persistent offending. Further, 'official criminal law-based interventions' seem to target particular groups – marginal and deprived boys – and have the effect of further marginalizing them. Writing about Germany, Albrecht commented:

These research findings suggest that formal interventions do not make a difference with respect to exiting from criminal lifestyles, but, on the contrary, formal interventions add to juvenile offenders' difficulties in adjusting to societal demands. (2004: 465–7)

The use of informal sanctions by family, school, community, it began to be argued, should be used wherever possible. These, which used to play a greater role in socializing young people, or rather in correcting deviant behaviour, itself part of growing up, should be brought back in. Simultaneously, maybe partly linked with the view of the offender as a culpable individual accountable for his actions, the harm caused to either an individual or to the community began to receive more attention. The rights of the victim – to an apology, to restoration of the damage done – acquired a new importance. If we compare the discourse at any international gathering of scholars and practitioners, discussing juvenile justice today, with that of thirty years ago, a concern with the victim stands out as a new and key component.¹⁹

Traditionally the criminal justice system has been little interested in the victim, its focus being the offence and, as regards the young, the offender. Retributive responses focus on the offence, inflict punishment on the perpetrator, and tend to ignore the victim. Rehabilitation focuses on the offender, provides treatment, but also tends to ignore the victim. (If the treatment is solitary confinement reading the Bible or a spell in a boot-camp, the difference between rehabilitation and retribution may be difficult to maintain.) In contrast, restorative justice (itself a broad term covering as many different applications or practices as does 'rehabilitation' or welfare) starts from the premise that the response to crime 'should be neither to punish nor to rehabilitate the offender but to set the conditions for repairing as much as possible the harm caused' (Walgrave 2004: 553; Weitekamp 2001). This is the most significant development in thinking about the response to crime since the 'welfare' approach of a century ago. Its radicalism lies in its questioning the political philosophy that

underlies the use of a criminal justice system. Under a criminal justice system (including welfare variants), the state takes over the conflict between two parties, 'manages' it for them, with the purpose of protecting the public by denouncing and punishing (or 'helping') the offender, and keeps the victim out of the proceedings, except as a witness. Restorative justice sees 'conflict' as something to be resolved by the parties themselves, offender and victim, maybe with community involvement or an impartial mediator. The aim is to persuade the offender to recognize what s/he has done, pay for the damage done and be reintegrated into society. The 'state' loses its role. Debate revolves round whether restorative justice can complement criminal justice or whether its principles are too different to be accommodated; whether it can be employed for both lesser and more serious offences.

The restorative justice approach laid the groundwork for a wide variety of experimental projects, often under the heading of mediation. For some of its advocates, recognition by the offender of the wrong caused, apology and reparation, and reintegration into the community are critical. Advanced most cogently by John Braithwaite, an Australian criminologist, and introduced in a variety of forms in Australia and New Zealand, mediation practices are now used in many countries. Walgrave offers a good overview. Although victim-offender mediation and other restorative justice approaches at present, in any of our societies, only occupy a minor role in the treatment of young offenders, in almost all they play some part, and more of a part than they did twenty years ago. In Russia the Centre for Legal and Judicial Reforms has introduced psychologists and justice officials, in several cities, to mediation techniques – bringing offender and victim together to repair the damage done. Its members do not consider that the core of juvenile justice should necessarily be legal procedures, rather 'a means which is oriented towards the resocialization of the youngster' (Движение 2003: 106). According to the Centre's experts in 2006:

More than 300 restorative justice programmes aimed at helping the victims, getting youngsters away from a life of crime, overcoming the risks associated with living a homeless street life, resolving conflicts. Local groups in Moscow, Dzerzhinsk, Tiumen, Urai, Novgorod Veliki, Perm, Lysby, and Petrozavodsk are working together with courts, juvenile commissions, and social services.

By 2008 the list included Kazan, Vologograd, Tomsk, Dagestan and Samara.

But many of these groups are very small, consisting of one or two groups operating at district level within a city, and the Centre recognizes that:

The broader circle of experts, consultants and academics who design criminal policy in Russia are insufficiently informed of the ideas, the technology of restorative justice, the Centre's materials and of the results of the work of the local groups. The basic idea (together with the idea of restorative justice) which we need to get across to that community is the idea of a partnership between society and the state. Without such an idea being accepted as one of the principles of our work it is impossible for restorative justice to move forward in Russia. (Максудов 2004: 3)

As a strategy aimed at using non-judicial means to deal with offences, restorative justice has met with a lukewarm and sometimes hostile reaction from judges and in particular from prosecutors, who may agree to its being used for administrative offences but not for anything more.

... behind the initiatives of the Centre for Legal and Judicial Reforms the leadership of the Procuracy General sees 'an initiative' of the criminal community, aiming at avoiding punishment. This interpretation was voiced on 12 May [2004], at a round table focusing on joint activities of the procuracy and social organizations, by a procuracy official who had prepared a letter for the signature of Deputy General Procurator, Zvyagintsev. (Максудов 2004: 1)

In the document, prepared at the initiative of the given department, and sent to all the procuracy offices throughout Russia under the signature of the Deputy General Procurator of the Russian federation, A.G. Zvyagintsev, the argument is advanced that participation by public [social] organizations infringes Article 118 of the Constitution of the Russian Federation because justice in Russia is carried out by courts. This ignores Clause 4, Article 15 of the Constitution of Russia which states that the norms of international law, reflected in documents, signed in the name of the Russian Federation, are part of the legal system of Russia (Convention on the Rights of the Child and others). The document also ignores the fact that social organizations, working with young offenders

in the framework of either the Centre's projects or those of partner organizations of the Centre in the localities do not involve themselves in the work of the police, procuracy or courts, do not influence evidence, do not decide the sentence. But representatives of the given department for juvenile cases are not interested in discovering what is that the Centre actually does and the work it carries out... (Максудов 2004: 3)

It is indicative of the degree of cynicism of the Russian government that, at a time when restorative justice was receiving not only no support but positive discouragement from the procuracy, the government's official response to the UN Committee on the Rights of the Child was to cite, as an example of its progressive views, the introduction of restorative justice in some regions. In 2007, with juvenile justice back on the legislative agenda, the Ministry of Economic Development set up a working group under its Department for the Strategy of Social-economic Reforms to promote the idea and practice of restorative justice. The group included lawyers who favour restorative justice, NGO representatives and officials. One of its tasks was the preparation of a draft of a model law on mediation services, supporting the work of the justices of the peace (*Вестник восстановительной юстиции* 2006). But as the President's administration cooled towards any legislative change regarding juvenile justice, the initiative died a quiet death.

While the Centre emphasizes the importance of juvenile courts and a new role for a juvenile judge, their leaders emphasize:

The narrow departmental character of the work done by the criminal justice institutions. In their activities judges, procurators, and police do not focus on following the standards for observing human rights, but on departmental indicators for solving crimes and convicting those who have fallen into the hands of the court system.

And they are concerned that:

Many of today's changes in legislation and the practice of implementing the changes take place in a context of etatism. According to this paradigm, only the state has a complete monopoly on the response to criminal offences. Today we observe the beginnings of a process of reproducing, albeit in a softer variant, the type of etatism that prevailed in the Soviet

state. In such a variant, different kinds of prohibitions are placed upon attempts by society to take upon itself some of the functions of the state, and to carry out humanitarian tasks and [the observation] of human rights standards in criminal justice. (Максудов 2004: 2)

We come back to this in our Conclusion. Next we look at sentencing, custody and its consequences.