

Transition and Reform: Juvenile Justice in the Republic of Ireland

Mairéad Seymour

The Republic of Ireland has a population of 3.9 million of this figure 29% are under the age of 20 years and 37% are under 25 years. Despite increasing immigration, Ireland still remains a relatively homogenous country with over 90% of individuals categorised as Irish and 88% of the population classified as Roman Catholic (Central Statistics Office, 2002). In April 2005, Ireland had the lowest rate of seasonally adjusted unemployment (4.2%) in the Eurozone compared to an average of 8.9% (Eurostat, 2005). Ireland also had the second lowest rate of youth unemployment (7.9% compared to an average of 19%) in the same period.

This chapter focuses on the juvenile justice system in the Republic of Ireland. It documents the background and history to the Children Act of 2001 which is the first major change in juvenile justice legislation in almost 100 years. Trends in youth crime and crime prevention initiatives are discussed before moving on to discuss the main principles and provisions of the Children Act of 2001 including the use of custody as a measure of last resort, the increased use of community-based sanctions and the introduction of restorative justice initiatives into the system. A common theme throughout the chapter is the slow pace at which the new legislation is being implemented and the implications of these delays for young people in the criminal justice system. The chapter concludes with a reflection on the future direction of juvenile justice in the Republic of Ireland.

INTRODUCTION

The Irish juvenile justice system is in a period of transition following the replacement of the Children Act of 1908 with the Children Act of 2001 as the main legislation governing juvenile justice in the Republic of Ireland. The Children Act of 2001 represents the first major legislative reform of the system in almost 100 years. Despite this, significant delays have occurred in bringing many parts of the new Act into force and this has led to a continued reliance on the outdated legislation in many areas. While the Children Act of 1908 was seen as progressive for its day, not surprisingly, given that its foundations are rooted at the beginning of the last century, it has been severely criticised for being archaic and out of keeping with

current thinking on juvenile justice (Coghlan, 2000; O'Mahony, 2000; O'Sullivan, 1996; Quinn, 2002). Some of the most common criticisms of it relate to an overemphasis on the institutionalisation of children through detention and imprisonment with less attention being placed on community-based options. The Children Act of 1908 also restricts the way in which children in trouble before the law can be disposed of. However, even with the outdated provisions, it has been suggested that more ingenious and creative measures could be used to deal with young offenders (Burke et al., 1981). Another criticism of the Children Act of 1908 relates to the low age of criminal responsibility for children. The Republic of Ireland currently has the lowest age of criminal responsibility (7 years) in Europe. The Children Act of 2001 has made provision for it to be increased to 12 years however; the relevant part of the legislation was never enacted.¹

A plethora of committees have been convened and reports produced with significant recommendations for change to the childcare and juvenile justice system in the Republic of Ireland since the late 1960s (Kennedy Report, 1970; Task Force on Child Care Services, 1980; Whitaker Report, 1985); however, the recommendations from these combined committees, with a small number of exceptions, were collectively ignored by successive governments. The impetus for legislative change in the form of the Children Act of 2001 only began in the early 1990s with a report by the Government Select Committee (1992) entitled *Juvenile Crime – Its Causes and its Remedies*. Many of the recommendations emerging from this report formed the basis of the Children Bill (1999), which subsequently became the Children Act of 2001. Pressure from the international community about the government's approach to young people in conflict with the law was another factor driving forward change to the juvenile justice system. The Irish government ratified the UN Convention on the Rights of the Child in 1992 but was later criticised by the UN Committee who expressed concern about the treatment of children deprived of their liberty in the light of the principles of the UN Convention and other international standards² (Children's Right Alliance, 1998). Independent and non-statutory organisations, lobbying groups and members of the academic community played a role in the move for change by highlighting the inadequacies in the system. They were often lone voices because in a country the size of the Republic of Ireland, extensive media reporting of an isolated but

¹Recently proposed amendments to the Criminal Justice Bill of 2004 include a prohibition against the charging of children under 12 years with most offences (with the exception of the most serious offences, e.g., murder, manslaughter, rape or aggravated sexual assault by a child age 10 or 11 years); the abolition of any rule of law which a child aged between 7 and 14 years is *doli incapax* and; provisions to ensure that prosecutions of children under 14 years must be sanctioned by the Director of Public Prosecution.

²For example, the United Nations Standard of Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines on the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.