

The French Juvenile Justice System¹

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INTRODUCTION

Current French law on juvenile justice has a long story. It originated in the immediate aftermath of World War II and is still governed by an ordinance of 2 February 1945. In this paper we would like to consider especially the most recent part of this story and to examine whether and to what extent the French juvenile justice system possibly shows a trend towards becoming more repressive. Its founding principles – specialised jurisdiction, mitigated criminal responsibility due to age² and priority placed on educational rather than law enforcement measures – were indeed at the beginning of the 2000s at the heart of a virulent debate, with the ministries of Justice and the Interior on opposing sides of the issue. Although several laws, including one adopted on 9 September 2002, introduced changes that could be interpreted as a movement towards a more punitive approach to juveniles, the original principles were nevertheless officially reaffirmed.

1. GLOBAL OVERVIEW OF DELINQUENCY TRENDS IN FRANCE

The common discourse in France over the past years holds that juvenile delinquency is on the rise and that young delinquents are becoming younger and more violent. A debate has been launched on these assertions, not so much to discount the statistics themselves as to question whether or not they are sufficiently well-grounded to substantiate the policies they are presumed to legitimise. Although the limits and biases of statistical approaches are well known, there is also a limit

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²Following art. 1 of the ordinance of 2 February 1945, minors (i.e., youth under 18) are to be judged by juvenile courts, not by ordinary ones. By way of comparison, on a total population of 62 millions inhabitants, 23.8% are under the age of 20 (*INSEE Première*, n° 1001, janvier 2005).

If educational measures are supposed to be administered in priority to these minors, different ages have to be taken into account in order to determine what kind of measures will be chosen. An “educative sanction” can be taken for a minor aged 10 (see below), a sanction can be pronounced against a minor aged 13 and, on the contrary, youth between 18 and 21 can request to receive educational measures like minors.

as to how far they can be questioned. On the whole, any reservations tend to concern the extent of the evolution rather than whether it exists or not.

Several sources are now available in France. The first is a long-standing institutional source: figures from the police and judicial system (*Aspects de la délinquance . . . 2003*; Ministère de la Justice, 2003). Another more recent and as yet relatively undeveloped source is surveys on self-reported delinquency. Various forms of monitoring agencies have also come into being over recent years.

1.1. Figures from the Police and Judicial System

As summarised in a 2002 report prepared for the Senate (Commission d'enquête sur la délinquance des mineurs, 2001–2002: 163 & sq.),³ the number of offences where minors were placed under suspicion rose 20.4%⁴ from 1977 to 1992, and 79% from 1992 to 2001.⁵ A sharp rise observed from 1994 (17.7% increase over 1993 figures⁶) continued at the same rhythm over the ensuing years: 15.4% higher in 1995,⁷ 13.9 % in 1996,⁸ 7.3 % in 1997,⁹ and 11.2 % in 1998.¹⁰ After a slight drop observed in 1999 (down 0.81%¹¹), the figures rose again, but more moderately, with an increase of 2.86% in 2000 and 1% in 2001. These last figures (published in 2004) reflect a stabilisation, or even a slight decrease in the number of offences involving minors.

1.2. Self-reported Delinquency

Self-report delinquency surveys, a common methodological tool in the Anglo-American countries for a number of years now, have been used in France in a systematic and detailed manner only since the late 1990s (Bègue, 2000; Roché 2000, 2001), and as yet not at the national level. These surveys provide information on the risk factors of delinquency, profiles of the perpetrators and criminal processing of the infractions. The study conducted by Sebastian Roché in two cities points to “overactive groups” of delinquents: 5% of the 13- to 19-year-olds in one city committed between 55% to 88% of the crimes (according to the type of crime). Roché's findings also support the hypothesis of an overrepresentation of delinquency among youths of foreign origin. The study shows that school

³The most recent figures are also annexed to this report.

⁴Rising from 85,151 to 98,864.

⁵177,010 minors placed under suspicion in 2001.

⁶109,338 minors placed under suspicion.

⁷126,233 minors.

⁸143,824 minors.

⁹154,437 minors.

¹⁰171,787 minors.

¹¹170,387 minors.