

Trends in International Juvenile Justice: What Conclusions Can be Drawn?

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INTRODUCTION

Treatment of children, who are victims of the conditions in which they are living and children who have violated the law, is a reflection of a society's culture and value system. This treatment is a society's vision of children and youth and its views on how to socialize and educate children. In the last decades of the 20th century this vision has undergone drastic change, which led to considerable modifications of juvenile justice legislation both in North America and in Europe.

The main trend in juvenile justice in a number of countries has been more repressive, but not necessarily more effective. It is essentially this aspect that worries most of those who are working in the field. The question is what national and local authorities might do to reverse this trend, and in particular whether there exists in the western world other more effective and more humane ways to prevent juvenile delinquency and to deal with young offenders. In order to answer this question two reports are prepared. The first question, which is the subject of the present publication, presents an overview of the juvenile justice systems and legislation in 17 European countries and two North American ones: Canada and the United States. The reader will note that there are large differences among these countries in the way they have organized their juvenile justice systems. This is not only true with respect to formal organization but also in terms of the conception of what such a system should be, what policies are used to reach this goal and how to approach young people. Moreover, the differences are not random, but they are clustered among countries which are geographically close to each other.

Writing about juveniles,¹ delinquency and the juvenile justice system I use the definitions of the Council of Europe, defining a *juvenile* as someone who is criminally responsible but has not reached criminal majority. In this respect it should be observed that age limits clearly vary across countries. *Delinquency* refers to acts which are dealt with under criminal law, although some countries do include antisocial or deviant behaviour in their juvenile penal law. The *juvenile justice system* is a formal system that is part of a wide approach to delinquency, including the police, the pros-

¹The words juveniles, young people and children are all included in this definition

ecutor system, the probation system, and youth institutions, but also agencies such as health, education, and social welfare (Council of Europe (Rec. 2000, 20).

This chapter first looks briefly at why and how a separate juvenile justice system came into being and what the general trend of that system actually is. In that respect I also examine whether we need a juvenile justice system at all: maybe one criminal justice system dealing with juveniles and adults alike is to be preferred. This section is followed by the most recent law reforms which have been adopted in the countries represented in this book. A puzzling question in this respect is what might have caused the reforms and some hypotheses on that subject are presented. Finally, we try to draw some preliminary conclusions on the basis of the 19 different juvenile justice systems presented in this book. The conclusions point to important issues at stake, which will be extensively treated in a second publication.

The aim of the latter report is to examine these issues and to come up with a number of answers which might assist authorities to improve their juvenile justice system, and to assemble a number of realistic, preferably tested innovations in juvenile justice procedures and interventions.

1. A SEPARATE JUVENILE JUSTICE SYSTEM

The community's responsibility for deprived and delinquent children emerged in the 16th and 17th centuries. People slowly recognized that a situation in which children were the victims of economic and social misfortunes was not acceptable and that therefore more attention had to be given to the conditions in which children were raised. Though by present standards juveniles were punished in a barbaric way, including physical punishments such as flogging and branding, documents from that period indicate that some courts took account of the offender's age and meted out more lenient punishment to young people than to adults (Penders, 1980).

In the 18th and 19th centuries corporal punishment was increasingly seen as morally wrong and as an ineffective educational measure. Much higher expectations were placed on psychological interventions and on the education of children in Christian norms and values and on training in discipline and useful labour in an institution. It was the time when reformatories were created all over the western world (Rothman, 1971; Leonard, 1995). As a consequence of the size of the institutions, the emphasis on discipline, the many punishments – using violence and isolation – the central rehabilitative aim disappeared in favour of the dominant goal to preserve law and order within the institution. Despite the intentions of reformers, the institutions degenerated into youth prisons, characterized by constant overcrowding, large dormitories, strict work schedules, rigid discipline and punishment, and very little real education.

Different reform movements were active in the second half of the 19th century. In the United States, the Chicago progressive reformers, believed that in order to