

Preface

In 2000 several European academics decided it was time to launch a European Society of Criminology. From the start the new Society encouraged the creation of working groups on specialized topics. One of the first such working groups was focused on “juvenile justice,” launched by the first author of this book. The idea for this book emerged from concerns about recent developments in juvenile justice in our own countries, developments that were leading toward an evermore punitive, but not necessarily more effective, system in juvenile justice.

To our surprise numerous Society members specializing in the field of Juvenile Delinquency and Youth Justice shared these sentiments and joined the working group. In addition, some American and Canadian experts became ESC members and were interested in joining the working group, adding an international dimension to our undertaking. The working group was guided by several key questions. How have different states developed their juvenile justice system in the last 25 years, and if one compares countries, to what extent are these developments similar or different? To be more precise: to what degree has the Welfare system that had existed for most of the 20th century changed into a Just Desert and more punitive system in these countries? The present book tries to answer these questions for a great number of European and two North American countries in a comparative perspective, including 19 national reports on juvenile justice and legal reforms in these countries. This book is the first comprehensive review of juvenile justice published since Klein’s (1984) review of juvenile justice in eight western countries.

A second objective is to analyze a number of fundamental juvenile justice issues and include answers to the question what might be done about this seemingly inevitable trend and what should be done. We also touch on the issue of whether there are perhaps other, more effective ways to prevent and reduce juvenile crime? This will be the specific focus of a second publication.

We were very fortunate in finding a great number of outstanding experts in the field prepared to write a chapter on trends in juvenile justice in their own country. We are grateful to each of them for their contributions to this work. We are also indebted to the members of the Working group for their dedication, their patience and their goodwill to respond to our specific requirements.

In addition, we wish to express our great appreciation to this year’s President of the European Society of Criminology, Professor Hans-Jürgen Kerner who shares our enthusiasm for our undertaking and has written the Foreword to the book.

Special mention should also be addressed to those of our English-speaking experts who had offered to correct the English of all authors whose mother tongue is not English – Julian Roberts, David O’Mahoney, and Mairead Seymour. Lindsey Green and Andrea Burch, both graduate students in Criminology and Criminal Justice at the University of Missouri-St. Louis also provided considerable help

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in proofreading and editing chapters. Considering the fact that the book includes 14 contributions – out of 20 – of non-English authors, this was by no means a light task and we owe them many thanks!

Finally, we hope that this book, which has collected information on juvenile justice systems in so many nations, will find its way to an international public of academics, policymakers and practitioners, and may open the eyes of many to different solutions for similar problems.

Josine Junger-Tas
Scott H. Decker

Foreword

Modern societies seem to look at young people in a rather ambivalent manner. The last decades of the twentieth century provided us with a couple of telling examples from several countries.

On the one hand, children and juveniles are viewed as needing care and protection. If they become delinquent, educational measures are seen to be the appropriate if not pivotal answer to the problems they are causing or may suffer from. This is the prevailing attitude among the general population in the majority of countries in the developed part of the world, so long as the offences committed by youngsters do not rise steeply in numbers and remain petty or moderate in their quality.

On the other hand, more serious crimes cause public concern, and may even spark outrage when considered to be despicable; even more when attributable to youth with a history of repeat offending. Then the notion of the “young delinquent deserving understanding, education and treatment” suddenly is replaced in the public and often even in the professional discourse by the notion of the “young repeat offender” or the “early chronic criminal” or the “young super predator” or similar connoted terms.

Even in nations where the legitimacy of a legally set strict lower age of criminal responsibility is held strongly, there may be pressure to get rid of those limits. By doing so, present-day judicial systems reintroduce age-old concepts in a superficially modern manner. The most striking example is the late medieval legal exception to the rule that children had to be considered not guilty by reason of immaturity (*doli incapax*). Simply put, this exception meant that a young boy or girl could be tried, formally convicted and eventually sentenced in regular criminal court, if his or her status as a minor at the time of committing the criminal act could be legally “substituted” by the heinous circumstances of the offence and/or the morally depraved character of the offender. In a sense, the characteristics of the act were substituted for the status of the juvenile.

Media images, including prolonged campaigns by the tabloid press and reality TV series, contribute directly to the development of an intricate mixture of feelings in the general public that may produce a very punitive attitude set among large segments of the population. The situation may get even worse when crime policy is governed more by shortsighted political considerations than by emotionally distant and empirically sound legislative projects. Penal populism may emerge as the ultimate outcome of such media and political pressures. In the field of juvenile justice such penal populism is *the* ultimate impediment to sound, rational, humane and therefore effective prevention and intervention policies.

All states in the world do not have yet juvenile offender laws and juvenile justice systems operating separately from the adult criminal justice system. But the global trend certainly has been moving in that direction. States with a well-established

juvenile justice system vary considerably on a number of important structural characteristics. The age limit of criminal responsibility that distinguishes between the legal categories of children and juveniles shows a modal age range around 12–14 years. However, even in Europe with its rather high cultural homogeneity the whole range spans from 7 (e.g., Scotland) to 18 (e.g., Belgium) years of age. In most European countries the upper age limit for the jurisdiction of the juvenile court or youth court is 17.

There is considerable variation across the European continent. Germany has a very interesting solution: On the one hand young people called “juveniles” (14 to less than 18 years of age) are always tried before the youth courts and given juvenile educational measures, directives or, in more serious cases, the penalty of youth imprisonment. On the other hand young people called “adolescents” (18 to less than 21 years of age) are also always tried before the youth courts. But those courts are then expected to evaluate the particularities of the offences under consideration, and the state of personality of the indicted young defendants. Depending on the results of such considerations the youth courts eventually handle the adolescent defendants either like adults or like juveniles, and to administer the appropriate substantial law, either with the sanctions provided by the rather flexible Youth Court Act or with the adult penalties as provided by the Penal Code.

As far as the basic juvenile justice philosophy is concerned, some European states follow a deliberate welfare model, whereas others prefer a strict justice or due process model. Many states mingle elements of both philosophies into one act or law, while other states have bifurcated systems where above all very young offenders can be handled either way or both ways in a consecutive manner. Courts may be entrusted with the function of so-called children courts or family courts, and the power to administer educational measures if sufficient, and criminal penalties if necessary.

However diverse the legal solutions and the practical implementations might be in detail, the worldwide ground wave of dealing with young offenders is basically *not* diverse at all. It is, on the opposite, clearly and decisively guided by a set of principles, guidelines and international standards which are intelligible, morally sound, and backed up by a mounting number of empirical evidence. This is aptly dealt with in the concluding chapter of this book. So I need not deal with the issue here.

Josine Junger-Tas, the author of the concluding chapter, deserves special thanks in a couple of respects. She has been always on the forefront of modern juvenile justice in Europe and elsewhere, in terms of scholarly research, service in justice policy positions, academic teaching, and international collaboration and cooperation. Also this book is a genuine fruit of those capabilities and enduring efforts. Josine has been the founder and the energetic facilitator of the European Society of Criminology’s Division of Juvenile Justice. This division is, not the least due to her stamina and creative communication skills, the most prominent

and productive Division of the ESC, also constantly being present at the ESC website. Scott Decker, her co-editor, joined the Division early on. He is an internationally renowned specialist on youth gang research. He is, in addition, one of those American scholars who are genuinely interested in the world outside the realm of the USA, and therefore contributes remarkably to the mutual understanding of scholars across countries and continents, and to the improvement of our knowledge of how juvenile delinquency and crime should and can be dealt with in an equally enlightened, scientifically based, humane, efficient, and effective manner.

Josine and Scott deserve our congratulations for their successful endeavor to instigate, direct, and edit this thought-provoking collection of papers on international modern juvenile justice. The authors providing country reports deserve our thanks for having delivered their drafts in due course of time, for abiding by the rules as discussed and agreed upon during repeated meetings at ESC conferences or other European or International Congresses. I participated in many of them. The cordiality there was always comforting. The intellectual climate was always stimulating. My reading of the final collection published in this volume led me to the conclusion that much of this personal atmosphere fertilized the writing.

I wish this volume a large readership all over the world. It should serve as a means for reading in classes on comparative and international juvenile justice. It should instigate further research, and serve as a blueprint for good policy and practice in states considering an overhaul of their perhaps outdated laws or their all-too-old legal, viz., law enforcement and juvenile court systems.

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