Developments in Juvenile Justice from a European and Global Perspective

Some Conclusions

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- Motivating factors for the Council of Europe's Recommendation R (2003) 20 on „New ways of dealing with juvenile delinquency and the role of juvenile justice“:
  - The vision of
  - Increase of crime rates,
  - particularly violent crimes
  - specific problematic groups of offenders
  - like violent offenders, young migrants or members of ethnic minorities, right-wing or xenophobic extremists, drug or alcohol addicted offenders, street kids, etc.

2. Are the Criminological Bases of Juvenile Justice and the Prioritisation of Education (Pettiness and Episodic Nature of Youth Crime) still valid?

- What has really changed?
- Quantity and/or quality of juvenile crime?
- The perception of juvenile crime?
- The tolerance towards certain forms of juvenile crime?
- i.e. the rate of reporting crimes to the police?
Development of police registered and not registered violent crimes (assault) in Bochum 1975-1998

<table>
<thead>
<tr>
<th></th>
<th>1975</th>
<th>1998</th>
<th>Changes: 1998 compared to 1975</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police registered offences</td>
<td>865</td>
<td>1,976</td>
<td>+ 128%</td>
</tr>
<tr>
<td>Non reported offences</td>
<td>6,214</td>
<td>6,772</td>
<td>+ 9%</td>
</tr>
<tr>
<td>Police registered and non reported offences</td>
<td>7,07</td>
<td>8,748</td>
<td>+ 24%</td>
</tr>
</tbody>
</table>

Ratio of reported to non reported offences: 1 : 7.2 to 1 : 3.4

What has changed?

- The structure of juvenile crime has not witnessed any substantial changes despite the increase in the number of officially recorded violent crimes.
- The most common crimes – and international comparisons confirm this – are still property related offences.
- The youngest age groups primarily commit petty offences.
- A recent study of repeat/persistent offenders in Germany (Mecklenburg-Western Pomerania) made no indication of a development in „criminal life course“ towards more serious crime.

- However, up to 5% of the males of a birth cohort develop „criminal careers“.
- Despite the fact that there is some scepticism regarding early detection, there is a need for early intervention for the – with respect to symptoms of social disorder – highly disadvantaged group of young career offenders as well as a need for effective forms of offender treatment, particularly in youth institutions or prisons which follow the empirically evidence based programmes of effective rehabilitation.
- In cases involving especially problematic juveniles the classic youth welfare and the educational juvenile justice model are appropriate means of intervention.
The „multi-factorial, development-orientated“ approach reflecting bio-psycho-social influences may be seen as an appropriate base for (early) prevention and youth justice intervention.

Measures of early psycho-social intervention in the cases of a small group of particular and intensive offenders should, however, primarily lie outside of juvenile justice policy and the repressive sanctions contained therein.

But: who are the violent or problematic few?
How can we find them at an early stage of their career?

Problems of predicting criminal careers according to data from the Philadelphia birth cohort study

<table>
<thead>
<tr>
<th>Young persons with ... risk factors. Index</th>
<th>Of them with ... later arrests (police contacts)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0</td>
</tr>
<tr>
<td>No No or very few risk factors</td>
<td>80,8%</td>
</tr>
<tr>
<td>Few or some risk factors</td>
<td>73,4%</td>
</tr>
<tr>
<td>Medium risk</td>
<td>61,1%</td>
</tr>
<tr>
<td>High risk</td>
<td>41,8%</td>
</tr>
</tbody>
</table>
First conclusion

- From a juvenile-criminological standpoint, there is no reason to stray from the well-established principles of juvenile justice policy.
- Juvenile crime is to be responded to in a collected, calm and cautious manner.
- Diversion strategies (non-prosecution with or without educational conditions), restorative justice and the prioritization of community rather than custodial sanctions have proven to be worthwhile and are superior to more repressive measures, especially imprisonment and detention.
- Therefore, it is adequate to hold on to a system of juvenile justice policy that is geared towards resocialisation and education.
- However, juvenile criminal justice does not necessarily develop on a rational basis, but rather is influenced by more or less reasonable currents in different political phases, sometimes by “moral panics”.

3. Contemporary Trends in the Reforms of Juvenile Justice Systems

- The 1960s and 1970s:
  - The debate was mainly influenced by the four D’s!
  - Diversion,
  - Decriminalization,
  - Deinstitutionalization (particularly of status offenders),
  - Due process
• The 1980s and 1990s:
• The four R’s:
• responsibility/responsibilasation („no more excuses“, including also the parents of the juvenile offender),
• restitution (reparation),
• restorative justice,
• retribution (e.g. from „community treatment“ to „community punishment“),
• The neo-liberal orientation as the „Leitmotiv“ for the 21st century?

What have been the guidelines of recent juvenile justice reforms?
• Europe:
• Earlier Recommendations of the Council of Europe emphasising education, re-socialisation, minimum intervention, priority of alternatives to pre-trial detention and youth imprisonment,
• which are in line with the CoE Recommendation (20) of 2003.
• Particularly middle and eastern european countries:
• Leaving the repressive soviet approach, establishing youth courts and developing a more moderate sanctions system (often influenced by Austrian and German law), problems of implementation.
• Asia and Africa:
  • Holding on indigenous traditions and combining them with justice and welfare, but also neo-liberal ideas.
• Latin America:
  • Childrens' Rights Convention, weakening the traditional welfare model and establishing a „balanced justice model“ (similar to continental european laws).

4. Typology of Juvenile Justice Systems and Ages of Criminal Responsibility in Comparison
• Welfare model
• Justice model
• Restorative justice
• Combinations of welfare and justice including minimum intervention and elements of restorative justice
• Neo-correctionalist orientations (see Jim Dignan’s typology)
The new „mix“ – a little bit of everything?
or: convergence of juvenile justice systems and policies?

- The Council of Europe's Recommendation 2003 (20) contents a mixture of welfare, justice, restorative justice, minimum interventionalist and neo-liberal philosophies,
- a warehouse of juvenile justice policies?
- Even if we may recognise some common sense of european philosophy, this didn't have too much impact on harmonising the age of criminal responsibility.

<table>
<thead>
<tr>
<th>Country</th>
<th>Age of Criminal responsibility</th>
<th>Age, at which offender is/can be tried under adult criminal law</th>
<th>Legal majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>14</td>
<td>18/21</td>
<td>18</td>
</tr>
<tr>
<td>Belgium</td>
<td>16**/18</td>
<td>16/18</td>
<td>18</td>
</tr>
<tr>
<td>Belarus</td>
<td>14***/16</td>
<td>14/16</td>
<td>18</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>14</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Croatia</td>
<td>14/16*</td>
<td>18/21</td>
<td>18</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>15</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Denmark</td>
<td>15</td>
<td>15/18</td>
<td>18</td>
</tr>
<tr>
<td>England/Wales</td>
<td>10/12/15*</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Estonia</td>
<td>14</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Finland****</td>
<td>15</td>
<td>15/18</td>
<td>18</td>
</tr>
<tr>
<td>France</td>
<td>10*****/13</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Germany</td>
<td>14</td>
<td>18/21</td>
<td>18</td>
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<tr>
<td>Greece</td>
<td>13</td>
<td>18/21</td>
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<tr>
<td>Hungary</td>
<td>14</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Ireland</td>
<td>7/15*</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Italy</td>
<td>14</td>
<td>18/21</td>
<td>18</td>
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<td>Latvia</td>
<td>14</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Lithuania</td>
<td>14***/16</td>
<td>14/16</td>
<td>18</td>
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<td>Macedonia</td>
<td>14***/16</td>
<td>14/16</td>
<td>18</td>
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<td>Moldova</td>
<td>14***/16</td>
<td>14/16</td>
<td>18</td>
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<tr>
<td>Netherlands</td>
<td>12</td>
<td>18/21</td>
<td>18</td>
</tr>
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<td>Norway****</td>
<td>15</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Poland</td>
<td>13*****</td>
<td>15/17/18</td>
<td>18</td>
</tr>
<tr>
<td>Portugal</td>
<td>12*****16</td>
<td>16/21</td>
<td>18</td>
</tr>
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<td>Romania</td>
<td>16/18</td>
<td>16/18/21</td>
<td>18</td>
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<td>Russia</td>
<td>14***/16</td>
<td>14/16</td>
<td>18</td>
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<td>Scotland</td>
<td>8/16</td>
<td>16/21</td>
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<td>Slovakia</td>
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<td>Spain</td>
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<td>18/21</td>
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<td>Sweden****</td>
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<tr>
<td>Switzerland</td>
<td>7/15*</td>
<td>15/18</td>
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<td>Turkey</td>
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<td>18</td>
</tr>
<tr>
<td>Ukraine</td>
<td>14***/16</td>
<td>14/16</td>
<td>18</td>
</tr>
<tr>
<td>Former Yougoslavia</td>
<td>14/16*</td>
<td>18/21</td>
<td>18</td>
</tr>
</tbody>
</table>
certain majority concerning juvenile detention (youth imprisonment etc.)

* only for road offences

** only for serious offences

*** only mitigation of sentencing without a separate juvenile justice act

**** no criminal responsibility "strictu sensu", but application of the Juvenile (Welfare) Law

***** only educational sanctions (including closed residential care) and measures

5. The Recommendation of the European Council on "New ways of dealing with juvenile delinquency and the role of juvenile justice" (1)
   • Principal aims of juvenile justice and associated measures for tackling juvenile delinquency should be
   • to prevent offending and re-offending;
   • to (re)socialise and (re)integrate offenders and
   • to address the needs and interests of the victims (No. 1).
   • The juvenile justice system should be seen as one component in a broader community-based strategy for preventing juvenile delinquency, that takes account of the wider family, school, neighbourhood and peer group context within which offending occurs (No. 2).
The CoE Recommendation (2003) 20  (2)

• Resources should in particular be targeted towards addressing serious, violent, persistent and drug- and alcohol-related offending (No. 3).
• More appropriate and effective measures to prevent offending and re-offending by young members of ethnic minorities, groups of juveniles, young women, and those under the age of criminal responsibility also need to be developed (No. 4).
• Interventions with juvenile offenders should be as much as possible be based on scientific evidence on what works with whom and under what circumstances (No. 5).

New Responses (1)

• Expanses of the range of suitable alternatives to formal prosecution should continue (No. 7, respecting the principle of proportionality and the best interests of the juvenile).
• To address serious, violent and persistent juvenile offending, member states should develop a broader spectrum of innovative and more effective (but still proportional) community sanctions and measures.
• ... They should also involve the offender‘s parents ... (unless this is considered counter-productive) and, where possible and appropriate, deliver mediation, restoration and reparation to the victim (No. 8).
New Responses (2)

• Parents ... should be encouraged to become aware of and accept their responsibilities in relation to the offending behaviour of young children. ... They should be required, where appropriate, to attend counselling or parent training courses ... (No. 10).

• Culpability should better reflect the age and maturity of the offender, and be more in step with the offender’s stage of development, with criminal measures being progressively applied as individual responsibility increases (No. 9).

• Reflecting the extended transition to adulthood, it should be possible for young adults under the age of 21 to be treated in a way comparable to juveniles and to be subject to the same interventions ...
Key words of the CoE Recommendation

• Prevention and (re)integration
• evidence based interventions
• priority to diversion and alternative sanctions
• „flexibilisation“ of age limits (⇒ young adults)
• preparation of release and aftercare
• good implementation
• partnerships of agencies
• monitoring and evaluation
• dissemination of „good practices“

6. Outlook

• Juvenile justice policy has come under pressure due to the developments in juvenile crime and changes in public attitudes to juvenile crime in the 1990s.
• A system of criminal justice geared towards special prevention and education is dragged into a conflict of justification and supportive argumentation in the light of violent, possibly xenophobic and right-wing offenders, especially under the conditions of a partly media-fuelled debate about the need for tougher punishments.
• However, the developments of juvenile crime in Europe are by no means grounds for a U-turn in juvenile criminal justice.
Outlook (2)

• Juvenile crime remains predominantly episodic and petty.
• On the other hand, it cannot be denied that a small number of no more than 5% of registered male juveniles (especially those who come to the attention of the police very early, and who are burdened by phenomena of disintegration) can slip into persistent criminal careers.
• However, in regard of these young people a moderate, community based juvenile justice policy in many cases is both sufficient and more efficient than an orientation towards repressive sanctions, especially the imposition of long-term deprivation of liberty.

Outlook (3)

• Abandoning the idea of education or – in less dramatic terms – of special prevention as the “Leitmotif” of juvenile justice policy would result in an unjustified intensification of sanctioning and would threaten the autonomy of juvenile justice from adult criminal justice as a whole.
• Juvenile justice should be and remain more than merely alleviated adult criminal justice.
• The recommendations of the European Council regarding new ways of dealing with juvenile offending offer a helpful orientation for an independent juvenile justice system.
Outlook (4)

- Furthermore, they correspond to a far-reaching European and global consensus for the preservation of a rational juvenile justice and social policy system, even in difficult times, with the principle aim of integrating young offenders, and not their marginalisation and social exclusion.
- This goal is supported by constructive measures such as mediation, restorative justice and educational support to improve social skills.
- As the German Franz von Liszt stated in the early 20th century:
  - The best crime policy is a good social policy!

Thank you!