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Sistemas de Justicia Juvenil en Europa:

Situación actual, tendencias de modelos aplicables y buenas prácticas

Juvenile Justice Systems in Europe:

Current situation, trends in applicable models and good practices



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valencia2008@oijj.org · www.oijj.org



ERNST MORITZ ARNDT
UNIVERSITÄT GREIFSWALD



Author

José Luis de la Cuesta Arzamendi

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Conclusions*

1. Research and get to know the reality better

Juvenile delinquency is very striking and causes social concern.

It would be advisable to promote and develop criminological researches and enough studies that allow limiting adequately its extension and importance, avoiding especially, based on exceptional events or facts – which in no way reflect the reality of most of the offending acts committed by minors and youth – that important changes of direction and urgent and not very thought-out reforms are proposed.

2. Shared basis and common criteria

In spite of the existing differences, thorough research of the different compared systems highlights the existence of enough shared basis and common criteria that should be reinforced.

This seems especially important in Europe where some community organisms already highlight the establishment of a shared re-education and reintegration project for minor offenders.

3. Intervention Methods

As far as intervention methods go, multiple reasons advise giving priority to all kinds of versatile preventive approaches as well as opening deviation ways at all intervention levels with minor offenders that allow resolving the conflicts caused as far as possible, avoiding judicial intervention.

This way, mechanisms like mediation and other repairing or restorative methods are widely presented as answers that have been assessed as very adequate for various offences committed by minors. That is why they need to be promoted and developed.

4. The matter of the age

A matter which causes a lot of public debates is the determination of the minimum age to impose sanctions or measures as a result of having committed an offence. Facing the constant temptation of lowering the established age, we should remind you that the international texts and institutions state that minimum age should not be too low and should always be determined by law. This way, and following what has been approved by the XVII International Congress on Criminal Law held in Beijing in 2004, the answers to (even serious) offences committed by minors of 14 years old,

* J.L.de la Cuesta Arzamendi. Catedrático de Derecho Penal. Director del Instituto Vasco de Criminología. Presidente de la Asociación Internacional de Derecho Penal

should be given through the social services that should be able to apply, when necessary, appropriate detention measures under strict judicial control. As far as youth between 18 and 21 go, systems should be established that allow imposing sanctions and measures for minors when it is clearly necessary for their development and individual circumstances.

5. Answers

As far as sanctions go, the answers to offences committed by minors should be wide, varied and constantly subjected to assessment in order to improve them and if necessary, correct the faults or insufficiencies that have been observed.

Priority should be given to the sanctions and measures that can have an educational impact as well as reinforce answers to the offence committed by a minor within the restorative justice framework.

It is important to guarantee the participation of minors and youth in the processes of imposing and carrying out sanctions and measures and to take, as far as possible, the rights and responsibilities of parents and guardians into consideration. Their participation in the procedures and in the execution of the sanctions or measures has to be reinforced, except when it is not in the minor's best interest.

6. Sanctions and measures

Imposing and applying sanctions or measures, adapted to the circumstances of each case, without unnecessary delays and limited by the seriousness of the committed offences (principle of proportionality), should be based on the minor's best interest and according to their age, dealing with their physical and mental welfare, development, skills and personal circumstances (principle of individualisation), defined through the necessary psychological, psychiatric and social reports.

7. Selection and personal training

Those who work with minors and youth develop an important public service which deserves to be adequately recognised.

An appropriate selection, special training and working conditions are essential in order to guarantee multidisciplinary teams characterised by the quality of the attention and care that is necessary in the hard task of responding to the different needs of the minors and offering them positive behaviour models.

8. Minors deprived of their liberty

Because of the high vulnerability of minors deprived of their liberty, it is necessary to intensify the efforts of ensuring the protection of their physical and mental integrity and their welfare.

The essential content of the intervention with minor offenders deprived of their liberty, the educational and training programmes have to be adapted to

the age, gender, social and cultural characteristics, the development level and type of offence. They have to be consistent with the professional standards based on research and inspired on the best practices. On the other hand, special attention should be given to the needs of minors who have suffered physical, psychological or sexual abuse. From its very beginning, the detention structures and the services and agencies that supervise and assist the released minors and youth will work together in order to obtain their social reintegration.

9. International recommendations

We have to highlight the work of the international institutions for the adequate formulation and development of minimum intervention basis and criteria on minor offenders.

Even when people often insist on their condition as mere recommendations without any compulsory effective scope, we should remind you the criteria of a lot of constitutional courts who consider that the lack of respect for the internationally recommended principles and postulates by the internal legislations, could indicate the violation of the constitutional parameters on the minor's rights and guarantees.

10. Legislation - reality

Finally the research highlights the great distances between the parameters fixed by the rules and the reality of the application of laws in quite a lot of countries.

The authorities should provide the institutions for minors with enough resources, means and staff to extend the best practices in order to guarantee that the interventions have a really significant influence in the minors' lives. The lack of resources should never justify the lack of respect for the minor's rights.