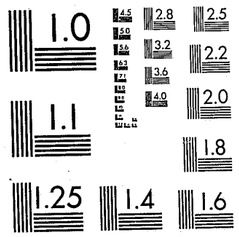

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Juvenile Delinquency in Belgium From 1971 to 1975

This document provides a review of juvenile delinquency in Belgium for the first half of the seventies.

By Marie-Ange Dechesne

Introduction

One of the objectives of the Centre d'étude de la délinquance juvenile (Center for the Study of Juvenile Delinquency) is to publish a monograph on juvenile delinquency based on judicial statistics and annual reports* from the magistrates in charge of juvenile protection. However, the potential for error in drawing conclusions from statistics has brought criticism to this type of monograph.

For instance, this study researched the extent of juvenile delinquency in Belgium for the 5 years 1971 to 1975, but could compare only jurisdictions for which data were complete for all 5 years. In addition, court statistics record minors only once even if they appeared before the court more than one time in a given year. In some jurisdictions, minors referred to public prosecutors also may be recorded only once no matter how many times they appear in a given year, while in others, minors may be counted each time.

Taking these limitations into account, the Center has published this monograph to reflect, as much as possible, general trends in juvenile delinquency in Belgium for 1971 to 1975.

Statistics for Reported Infractions From the Public Prosecutor

Introduction. Article 36 of the Law of April 8, 1965, provided for situations in which a juvenile might be reported to the public prosecutor. Article 36.2 states that minors under age 21 can be referred to the prosecutor if their health, morality, or safety are at risk because of their surroundings or their behavior. Unfortunately, the vagueness of Article 36.2 is such that children who have committed theft can be designated "at risk" just as children who are victims of abuse might be considered at risk. This vagueness makes it even more difficult to interpret statistical information.

Under Article 36.1, parents or guardians who are unable to handle their children under age 18 may register complaints with the public prosecutor. Children under age 18 may also be reported for vagrancy, begging, or commission of an infraction. Article 36.3 provides for reporting of runaways since running away is seen as a symptom of an at-risk situation. Article 36.4 provides for runaways who have committed infractions. Actions qualifying as infractions consist of crimes against persons, property, or social norms, traffic violations, and miscellaneous crimes such as the use, possession, or trafficking of drugs.

La délinquance juvénile en Belgique de 1971 à 1975, Series No. 44 (NCJ 64049), 1978. (Centre d'Étude de la Délinquance Juvénile, Avenue Jeanne 44, Brussels, Belgium) Translated from the French by Marianne Herr Paul.

*Translator's Note: The original contains extensive tabular data of violations per year by sex and age for vagrancy, begging, running away, for victims of abuse or negligence, and for those at risk, guilty of infractions, or reported via parental complaint.

With regard to traffic incidents, the juvenile judge's jurisdiction has been somewhat restricted to dealing only with minors over the legal driving age who have committed some other infraction along with the driving violation or with minors under the legal driving age.

Article 36.5 provides for reporting minors (particularly under age 14) who violate Belgium's mandatory education law. Article 91 of July 15, 1960, supplements Article 36 regarding the moral preservation of youth by prohibiting minors under 18 from entering gambling houses, racetracks, or any establishments which encourage alcohol drinking or immoral behavior. A 1973 reform allows minors over the age of 16 to go to dances and cafes.

Juveniles reported to the public prosecutor. From the figures compiled for all jurisdictions that had information for all 5 years, trends emerge for each of the categories of cases brought before the prosecutor. Categories include parental complaints, juvenile complaints of abuse or negligence by their parents, infractions, (including traffic violations and crime against property, persons, or social norms), vagrancy, begging, running away, truancy, and a miscellaneous category which includes drug offenses.

The number of juveniles referred to the prosecutor's office decreased from 68,411 in 1971 to 56,406 in 1975. This drop seems to be due primarily to the implementation of two legislative reforms. The first, effective May 9, 1972, gave the regular courts jurisdiction in cases involving minors involved in driving violations. The second is the July 9, 1973, law allowing minors aged 16 to 18 access to dance halls and cafes.

Thus, fewer juveniles were referred for moral delinquency in 1975 (708) than in 1971 (2,818); the same was true for violations of social norms (2,877 in 1971; 2,205 in 1975). This decrease may not necessarily mean that juveniles' behavior changed, but simply that what was perceived as contrary to the social norm in 1971 in some cases seemed innocuous in 1975.

A third decrease was in the category of miscellaneous offenses (5,731 in 1971 to 4,742 in 1975), a category covering such a diversity of infractions that identification of the real causes of the decrease is difficult. For example, fewer minors were referred to the prosecutor for using drugs, but this activity constitutes only a fraction of the category. However, the number of minors referred on the basis of Article 36, Sections 1 (referred by parents), 2 (juveniles at risk), and 3 (vagrants and runaways), increased. The number of parental complaints regarding misbehavior on the part of their children rose only slightly, but the number of minors at risk, vagrants, and beggars rose significantly. Boys under age 10 reported for vagrancy or begging showed the most striking increase, from 11 in 1971 to 113 in 1975. One hypothesis (unprovable with the present data) may be that reporting became more intense over the years for boys, with other groups of juveniles being reported less.

Crimes against persons increased from 3,553 in 1971 to 4,107 in 1975, a development especially evident among females under age 12; the number in this category doubled between 1971 and 1975. Although crimes against property decreased, the number of boys under age 10 reported for this reason jumped from 952 in 1971 to 1,096 in 1975.

Perhaps the changes witnessed in very young juveniles can be explained if one analyzes the kinds of acts covered by the statistical categories; for example, children who come to blows during a school recess are lumped in the same category with young adolescents who commit a murder, even though it is obvious that these two situations are totally incomparable.

In 1975, approximately 80,000 minors (or around 2.8 percent of the total juvenile population) were referred to the prosecutor's office. Thus, the number of juveniles reported seems quite small. Even though some offenses and some of the at-risk situations are truly serious enough to warrant intervention, the great majority of minors are brought before the prosecutor for fairly mild reasons. The disposition of the cases brought to the attention of the prosecutor, especially the number of cases disposed of without any measures being taken, seems to be proof of the unalarming nature of the majority of the cases.

Disposition of cases referred to the prosecutor's office. When minors are reported to the prosecutor's office, their cases can be referred to another office for jurisdictional reasons, handled directly by the prosecutor, accompanied by a referral to the Comite de Protection de la Jeunesse (Juvenile Protection Board), or deferred to the examining magistrate or juvenile judge. In addition, cases can be deferred until the next year for deliberation, because they are brought before the prosecutor late in the year or because of prosecutor office overload.

Generally, the prosecutor's office is most inclined to defer reported cases or dispose of them without taking any measures. A total of 39,944 of the 49,164 cases treated in the office fell in the latter category. However, even if the case is so disposed of, the prosecutor's office often may continue surveillance of the youth in question through the intermediary of the police. Approximately 20 percent of juveniles are sent to court, few are deferred to the examining magistrate, and even fewer are referred to the Juvenile Protection Board.

The amount of leftover business each year varies significantly from jurisdiction to jurisdiction. Some prosecutor's offices seem overloaded; there the amount of leftover business is on the increase (from 5,116 in 1971 to 8,224 in 1975 for one office). Others have succeeded

in establishing an equilibrium between the number of cases reported and the number disposed of.

Juveniles Referred to the Court

Introduction. When minors are deferred to the juvenile court, judges may place them under observation, under protection, or into an educational course of treatment. A judge may also decide that the juvenile has profited from the experience of appearing in court. In this case he will reprimand him and commit him to the guardianship of a responsible person or put him under the supervision of the Juvenile Protection Board or one of its delegates. The ultimate aim is to reunite the juvenile with his family with the proviso that the child attend school regularly and receive adequate medical attention.

Minors also can be placed in special observational facilities, or, if they need attention for mental problems, can be institutionalized. If all measures fail and misbehavior continues, judges can make the juvenile delinquent a ward of the state until the age of 25.

Because in some cases judges accept a mere court appearance as adequate punishment for a juvenile, the court statistics do not always correspond to the statistics showing referral to the juvenile judge. In these cases, the judge remits the case sine die, sending the file back to the prosecutor; the number of such cases is quite large--62 percent in 1972.

Adjudication. Only the most serious cases are adjudicated. Before a final decision is made, the judge may order a medicopsychological investigation if the juvenile's personality profile appears incomplete in the file; while that process is taking place, provisional measures can be taken. The policy of each jurisdiction is very important in this regard. Among the possible measures delineated in Article 37, those used most often are placement in an appropriate institution and placement under supervision. The number of such measures is decreasing, perhaps because of the decreasing number of juveniles being held.

The types of minors most frequently seen in the courts are juveniles at risk and minors who have committed actions qualifying as infractions. Most females are judged as juveniles at risk and few are judged for infractions, while the reverse is true of males.

Measures taken by the courts seem to vary according to the type of juvenile: juveniles at risk and juveniles accused of vagrancy or begging or reported by their parents are often placed in some kind of institution, whereas juveniles reported for infractions are often reprimanded or placed under supervised release. This tendency may be explained by the fact that age and sex appear also to enter into the court's decisions. Judges seem to take measures more readily when the defendant is young or female (i.e., more likely to be at risk, accused of vagrancy or begging, or reported by parents) and tend to let older, male defendants return to their homes (these juveniles are more likely to have been reported for infractions).

Usually, if a judge changes or revises his decision, he does it of his own accord or at the request of the public prosecutor rather than at the request of the juvenile, his mother, father, or guardian.

Ten Years of Judiciary Protection of Youth

Insufficient means. Since its establishment in 1965, the Judiciary Protection of Juveniles institution has suffered from a lack of funds and personnel. Although low in resources, the institution is charged not only with protecting youth, but also with taking care of civil right matters relating to minors, such as adoption or child custody decisions in divorce cases. Given that juvenile issues deserve a great deal of attention, the Juvenile Protection Board seems to be protecting society from youth, rather than protecting youth from society. For example, under the label of "protective measures" taken in the exclusive interest of the child, coercive and punitive measures such as pretrial detention can be applied to juveniles.

Also, the Board is supposed to be the supervising entity when a judge orders supervised release. However, juveniles placed under the Board's care are seldom monitored or observed because of the Board's shortage of personnel, a situation which renders the judge's order one of paper rather than one of action. Thus, if the juvenile is a recidivist, the magistrate is compelled by the case history to commit the juvenile to an institution rather than to risk placing him under undependable Board supervision.

The Law of 1965 provided for placement in appropriate establishments or placement with trusted persons. However, in 1975, 416 males and 121 females were being detained in prisons, a number almost unchanged from that of 1969. In 1975, only 22 percent of minors were placed with a trusted person because the judge often noted that the "trusted person" was located in a familial atmosphere otherwise conducive to delinquency. State juvenile institutions were, according to magistrates, plagued with endemic overcrowding. Overall, the shortage of space forced magistrates to place children without any selectivity. In fact, many of the so-called appropriate institutions were so inappropriate as to force children to escape or run away.

Finally, Article 74 of the 1965 Law required juvenile judges to visit each minor they place in an institution twice a year to see if the prescribed treatment was working. In reality, neither judges nor delegates have the time or opportunity to make these visits.

International Summaries

Is it just a lack of resources? The primary goal of the 1965 law was to protect the best interests of the child; from thence the notion of the juvenile at risk arose to form the basis for all of the law's interventional measures. Unfortunately, the parliamentary documents never fully defined the notion of at risk. While children exposed to parental negligence may be tagged at risk, who decides what constitutes sufficient liberty for a growing child, and what portends abuse of authority? The lack of precise definitions has forced many responsible juridical persons to resort to their own social norms as points of reference, but such wide definitional leeway is perhaps too capricious for the decision at stake.

Also at stake are the rights of juveniles and their parents as they face the extensive powers of the judicial authorities. In common law, individuals are guaranteed rights to a judicial process and a defense counsel--for juveniles, such guarantees are not clearly evident. The number of juveniles who have their day in court is quite small; many juvenile cases are disposed of without any measures taken at the prosecutor's office and many others are remitted sine die at the juvenile court.

More important, the minor can be detained for several months before a final disposition is made, a situation in which a lawyer cannot intervene. Granted, preventive detention serves the dual purpose of educating and protecting the youths--but the fact remains that liberty has been taken away.

Yet another disparity exists in that the court and the prosecutor can appeal a decision at any time, while parents, guardians, and minors themselves must wait for 1 year after the decision has been made to appeal it and can only renew that appeal after yet another year.

Finally, lawyers' very superficial roles are evident in that juveniles' files are available to them only just before the trial--after important decisions have been made and when the juvenile in question may have already spent several months in preventive detention.

Current legislation does not distinguish between minors who have committed some infraction and juveniles at risk. The former should be placed in the penal context of the law, wherein some punishment suitable for youth could eventually be ordained. The latter need to be protected through civil and social avenues. A judge's training prepares him to apply laws, not to analyze the behavior of a minor according to the tenets of social science to discover whether or not the juvenile is really suffering from maladjustment.

Conclusions

To continue to believe that the law of April 8, 1965, is a remarkable law and that its failure is due only to a lack of financial resources and personnel would be to refuse to take notice of the gaps and errors inherent in the law from its very conception.

From 1971 to 1975, the number of juveniles referred to the prosecutor's office decreased not because their behavior changed but because the law changed--namely, the traffic violation and the moral preservation reforms.

All statistics recorded for juvenile delinquents must at all times be compared to the statistics for the entire juvenile population of Belgium, so that a correct sense of proportion can be maintained. In addition, closer attention should be paid to juveniles' case dispositions as well as to the variables affecting judges' decisions such as age, sex, and type of infraction.

In the future, representative samples of juveniles' files should be studied in order to construct a more accurate picture of what juvenile delinquency is. If statistics are carefully managed, and if the components making up the data are broken down completely, studies such as this can be worthwhile. Furthermore, if the law of April 8, 1965, is to be reformed, an in-depth scientific study is required.

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