

The Control of Children's Crimes in Romania

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Abstract: *The aim of this paper is to provide a general presentation regarding the way how children's crimes control is made in a Romanian community. Starting with a general presentation of the children's in conflict with penal law, the vulnerability of the children in front of some factors that may orient them to commit offences, the Romanian legal framework and the tendency of this phenomena in the last years, I tried to address the following questions: What is used in our days in order to control the children's crimes? Which are the institutions and the actors involved in this control process? In which programs are the juvenile offenders involved and why? Do the numbers say that we really deal with an increase of this phenomenon? Can we say that Romania has a well defined strategy for controlling children's crimes? In order to find an answer to these questions I used as a research method the semi-structured interviews and a focus-group in which were involved specialists that are working directly with the juvenile offenders. Their opinions as professionals and practitioners are important for constructing the image of the Romanian strategy used in a micro-community for controlling children's crimes. According to recent research in this field I consider the debate of this issue a very important one in order to highlight the necessity to improve the actual strategies used in controlling juvenile crimes. The conclusions of this paper stress that until now Romania does not have a well defined strategy used for controlling the crimes committed by juveniles.*

Keywords: *controlling children's crimes, strategy, professionals.*

1. Introduction

The modern societies have to face juvenile delinquency. Times have changed and phenomena like violence or crimes committed by children are not rare or new.

The children's crime control is important at least from two sides: on the one hand for the reduction of criminality rate, and on the other hand a child rehabilitated today is a non-offender of tomorrow. The importance of controlling crimes committed by children is relayed also by the effects of the crime because *crime is not just a violation of law; it produces also harm on the others (...).The damages are at different levels experienced by victims, communities and even offenders* (Ness, 2002, p. 4).

The juvenile offenders don't have a cognitive maturity and can be very affected by the effects of their offences because *"Latest research has been emphasizing that fundamental changes in brain development occur much later than had been recognized – continuing long after puberty is over. Children's capacities for adolescence, as do their problem-solving skills and capacity to understand the long-term consequences, of their behaviour – these capacities are far from fully developed as puberty is reached. As a consequence, many young people today reach sexual maturity by the time they are 12 or 13, on average, yet cognitive maturity does not come until their early 20s"* (Beatty & Chalk, 2006, p. 7).

In these conditions, societies have to adapt and find efficient strategies for controlling children's crime. In terms of strategies for crime control, David Garland studied this issue, characterizing these strategies as *adaptations to the current predicament of crime control* (Garland, 1996, p. 446).

In other words, not only the societies are changing but also the paths of children in committing crimes. These paths are changes that require more attention and an adaptation of the measures used in order to control juvenile delinquency.

The vulnerability of children in front of some factors that might orient them to commit crimes should be taken into consideration when a strategy is designed. In fact, the entire intervention made on a juvenile offender has to be oriented on the reduction of risk factors. These factors are the main accelerators of juvenile delinquency and their control is required.

Although the strategies should be the same in the entire country their implementation will be influenced by the traditional and cultural aspects of each community because these are aspects that differ from one location to another.

The purpose of this paper is to point out how children's crimes control is made in Romania. The system for minors used in this country *is regulated as a subsystem of the wider adult criminal justice system, been characterized as a "softer" adult system structured around the "philosophy" of correction through rehabilitation, social reintegration and of the raising awareness and responsibility of the child regarding the effects of his/her wrongdoings* (Balahur, 2008, p. 34). This subsystem deserves attention because the fate of the child offender depends on it.

2. Research Method

The children's crime control in Romania is one of the issues that require a special attention when it's about the methodology used in order to identify the way in which is this made. The main purpose of this study was to identify the institutions, measures, practices as parts of a strategy designed for controlling children's crime. I wanted to reach my goal by giving a voice to the professionals working in the juvenile justice system in expressing their beliefs regarding their work and the practices they have to use with juvenile offender that is why my option was to use Action research as a research method.

Action research is an interactive inquiry process that balances problem solving actions implemented in a collaborative context with data-driven collaborative analysis or research to understand underlying causes enabling predictors about personal and organizational change (Reason & Bradbury, 2001). My option for Action research is motivated also by the fact that I wanted to have a personal contact with professionals working in the system in order to obtain an accurate perception about what is done in Romania for controlling juvenile delinquency.

My contact with some of the professionals involved in this study was relatively easy established because I did previous voluntary work in the institutions where they are working. The contact with the other professionals was made by following the official steps: first I made an application for the manager of each institution in which I was requiring the permission to make interviews with some of the professionals working there, second I expect an approval from the manager and third the manager mediated the relation with his subordinates and introduced me and my reason for been there to them.

The objectives of this study were: the identification of the practices and programs used for children in conflict with penal law, the new paths in children's delinquency, the roles and partnerships of the institutions responsible in children's crime control and most important if the Romanian juvenile justice has a strategy design for controlling juvenile delinquency.

The process of collecting data was reached by combining qualitative research methods (namely interviews, focus group and participatory observation) with analysis of the documents provided by the professionals interviewed.

It worth mention that this study is part of a larger research made for the doctoral thesis "*Controlling children's crimes and violence through micro-communitarian strategies. Compared analysis Romania-Spain*".

In order to reach the objective above mentioned I used a combination between four methods, namely: *documentation - which is a distinct customer rating method and a process that takes place throughout the period of handling the case* (World Vision Organization Manual for good practices in social care, Iași, 2003, p. 10), *interview technique - which is essentially and should only be conducted flexibly and intelligently according to concrete circumstances and persons* (Iluș, 1997, p. 92), *focus group technique - which is a planned discussion organized to obtain perceptions about a narrower area of interest, held in a permissive environment, the discussion is relaxed and often enjoyable for the participants who share their ideas and perceptions; group members influence each other, responding to ideas and comments* (Kreuger, 1994, pp. 55-56) and *participatory observation - which means to study the inside of a community, by participating in a longer period of time to work them without a default scheme by category or specific hypotheses, it will be developed during the investigation or at the end, aiming towards more complex descriptions and explanations and full* (Iluș, 1997, p. 77).

My purpose was to obtain as much information as possible regarding the control of children's crimes in Romania and the interviews were not enough for that. However, the interviews completed by participatory observation and analysis of documents provided by professionals can be considered a good method of obtaining more complete data.

The documentation was used in order to relay the Romanian legal framework used in the case of juvenile offenders and the institutions involved in the process of children's crime control.

The interviews were semi-structured and have behind a guide of interview which I designed and tested before starting the research. I constructed the guide of interview with the intention of exploring the following subjects: the programs applied to juvenile offenders, programs for preventing juvenile delinquency, partners of the programs and the role they have, the new paths/tendencies in juvenile delinquency, changes appeared in the last three years that improved the system of children's crime control and new perspective of system's development. The interviews were completed by the *participatory observation* which was using an observation guide. This method was used during the interviews and intended to explore the following: what institution has the main responsibility for controlling children's crimes; what practices are the best for juvenile offenders; what are the main factors that influence in a negative way the process of children's crime control; what should be changed for having an efficient juvenile justice system.

The focus - group intended to explore the following areas: best practices for the rehabilitation of juvenile offenders; new paths noticed in the last two years in the delinquent behaviour of the child; measures needed for a more efficient

juvenile justice system; institutions involved/that should be involved in controlling children's crimes and the way how the partnership should work in order to obtain better results and a uniform intervention.

The sample for this study was formed by sixteen professionals divided in two categories: eight interviews' participants (two probation officers, a psychologist, a social worker and an educator working in a penitentiary, two police officers working in the field of preventing juvenile delinquency and a social worker from a rehabilitative centre) and eight focus group's participants (three social workers coming from penitentiary and rehabilitative centre; two police officers working in different police services; two probation officers also coming from different probation services and a judge working in the juvenile court).

3. Results and discussions

The discussion regarding the results obtained in this study should start with a general presentation of the legal framework used in the case of juvenile offenders and the institutions involved in the process of children's crime control. According to the document analysis made, I can relay the following:

The Romanian legal framework used for juvenile offenders

In Romania, the age of criminal responsibility is fourteen. The legal regime of the juvenile aged 14-18 years old is regulated by the Penal Code. According to article 99 from the Romanian Penal Code there are some limitations of criminal responsibility because the children aged between 14 and 16 years old are criminally responsible – can be trialed, charged and sentenced unless they had discernment in the moment of committing the crime. The children aged 16-18 years old are fully criminal responsibility for their actions.

The Romanian Penal Code stipulates in the article 100 that *against juvenile who is criminally responsible can be taken an educational measure or a punishment*. According to the article 101 from the Penal Code, *the educational measures which can be applied to the minors who have committed an offence are:*

- a. warnings;
- b. the supervised freedom;
- c. custody in a re-education center;
- d. hospitalization in a medical institute.

The article 103 par. 3 stipulates that the warnings and supervised freedom can be accompanied by:

- a. unpaid work for community in a public institution fixed by the court (between 50-200 hours, max 3 hours/day after school, in weekends and during holidays);
- b. to attend school/a program for professional education, medical treatment etc.
- c. curfews as not going in established locations, not entering in contact with established persons can also be imposed.

After the year 2000, Romanian juvenile justice system, *joined the reform of the child welfare system and of the justice system as a different approach on juvenile justice. It consisted in a multidimensional strategy aiming at: avoiding or limiting juveniles' contact with the formal system of criminal law; limiting and keeping under a strict control the custody of juvenile offenders; deprivation of liberty only as a "last resort measure" and for the shortest time possible; providing rehabilitative measures aiming at the social reintegration of the juvenile offenders; strengthening the role of the family and school in juvenile delinquency prevention etc* (Balahur, 2010, p. 194).

The decisions regarding the measures applied to juvenile offenders are taken by the judges from the juvenile courts. In their decisions, *the court will take into consideration the personal circumstances (primary offender, health, moral and intellectual development, the support of the family etc) of the offender and also the nature of offence and of its social dangerousness* (Balahur, 2008, p. 41).

An instrument of risk used by the court for evaluating the situation of the juvenile offender is the *Pre-sentence Report* made by the probation officer. This report is made obligatory for the juvenile offenders and has a main role in pointed out the situation of minor regarding social, educational aspects and also risk factors that might determinate the minor's recidivism. In adopting a decision judges should also take into consideration the Pre-sentence Report. The competence for minor's surveillance in the community belongs to the Probation services. It worth mention that if the juvenile offender fails to respect the conditions imposed by the court or commit another offence, the court will remove the probation and give him custodial measures (custody in a rehabilitation centre or penitentiary for minors and youth).

Romanian has ratified some international documents that were used in developing the legal framework applied to minors in conflict with penal law: UN Convention on the Rights of the Child, Beijing, Tokyo and Riyadh Rules and

European Commission Recommendation such as R (2003) 20 and R (87) 20. These instruments had a main role in designing, development and implementation of the practices used in the Romanian juvenile justice system.

Institutions and actors involved in children's crime control

In Romania the control of juvenile criminality is complex process of which responsibility is placed on some institutions and professionals mentioned in the international and national legislative documents.

The Romanian legislation was adapted to art. 40 from the UN Convention on the Rights of the Child, through law no. 304 regarding judicial organization, which stipulate that trial of cases involving minors, will be made by specialized courts, in front of which judges are appointed according to law (art. 41).

The juvenile courts are the main Romanian institutions involved in children's crime control that have a crucial role in deciding the fate of the child in conflict with penal law. Although some of the children are committing offences which generate their contact with juvenile courts, they are still *fragile creatures of God who need to be safeguarded and reformed* (Aries, 1996).

A review of the main Romanian institutions involved in children's crime control should include the following:

- a. *Police services* – have the responsibility of investigating and catching the juvenile offenders and also in preventing juvenile delinquency through the programs they implement;
- b. *Probation services* – have the main role in applying a non-custodial measures imposed by the courts;
- c. *Rehabilitative centers* – have main role in psychosocial recovery of the juvenile offenders that are serving a custodial educational measure;
- d. *Penitentiaries for minors and youth* – have a role in psychosocial recovery and reintegration of the juvenile that are serving a custodial measure;
- e. *Drug centers* – have a main role in recovery of those juvenile offenders that have an addiction to drugs or other forbidden substances;

These institutions are trying to control the juvenile delinquency through their actions/attributes but many times there is a real need for a partnership with other institutions and actors. Other institutions that are many times involved as partners are: General Direction of Social Assistance and Child Protection present in every county; School Inspectorate; Hall from each county, Mental Health Centre (only for the minors with mental health problems), NGOs and foundations.

The effectiveness of children's crime control is not depending only of these institutions there are also other actors that should be involved but many times they don't want or don't know how to involve. One of the probation officers interviewed telling that the first cause of juvenile delinquency is *"lack of parents' involvement"*. Although there are children in conflict with penal law who have *"parents who are interested, make efforts, make him responsible, make a program for their child, tell their child at what time should be home, never to meet with some persons, all this for avoiding the commission of another offence"* (probation officer's opinion). Family can be one of the most important resources used in rehabilitation of the child offender because it can offer support, supervision and pro-social models.

From my point of view, the identification of the strategy used in a Romanian community for controlling children's crimes is a complex process that requires a big capacity of correlating the data.

According to the analysis of data collected for this study there are some observations/results that should be pointed out:

- a. The children's vulnerability in front of some factors may orient them to commit offences. The professionals interviewed were saying that *"Majority motivate their offences through the influence of the company they have, but what we observe as professionals is the family environment because many of them there are unsupervised by their parents", "many of the children are watching TV programs which are not for their age and because of them they become aggressive", "school dropout is the second cause of becoming juvenile offender because the children don't have a constructive way for spending their free time.* The main factors invoked by the professionals were: *lack of family involvement, company influence, the school dropout and even the TV programs.*
- b. The contact of delinquent minor with the custodial measures and environment where they are applied is sustained by all the professionals working in the system. The professionals working in institutions like probation services try to make a good intervention for obtaining the rehabilitation of the juvenile offender because they consider penitentiaries and rehabilitative centres are *"schools of criminals"*. Some of the children who end in rehabilitative centres or penitentiaries become irretrievable.
- c. The closed environments like penitentiaries and rehabilitative centres are leaving deep marks on the development of the child because he *"should adapt to this environment and for handle it the minor becomes*

- more and more aggressive. And when he will come into community, he won't adapt again and the risk for committing new offences is increased" (opinion of a psychologist working in a penitentiary);
- d. The professionals are trying to design and implement an individual intervention according to the legislative provisions but many times the collaboration with other institutions and professionals is fundamental for this intervention and "to no end I'm trying to make the child understand that he should adapt a pro-social behaviour and to avoid involving in crimes if his family and police officers from the community where he lives do not supervise him or involve in this process" (opinion of a probation officer).
 - e. In Romania there is no difference between professionals that are working with juvenile or adult offenders because there are no legislative measures applied in order to make a category of workers that will be specialized to work only with the minors in conflict with penal law. A probation officer said: "we have to make activities as juvenile offender' surveillance, Pre-sentence Report for a minor or major person, to work in a program with a minor, all in the same day. It is difficult because you don't have continuity in your activity and you might become confused".
 - f. The partnerships between the institutions involved in children' crime control are many time "working only on the paper" because there are situations in which "the proximity police should go at juvenile offender' home and discuss with his family about its supervision and the necessity of their involvement or even to go only for check out if the child did not committed other offences, but when I talk with the proximity police he tells me "what we can do?"" (opinion of a probation officer).

4. Conclusions

The control of children's crimes in a Romanian community is made under a not well defined strategy because the professionals working in this domain are having a partnership "only on the paper" and many times they do not collaborate properly for obtaining a successful rehabilitation of the juvenile offenders. An efficient process of controlling children's crimes should be based on a real collaboration between professionals working in the institutions of the juvenile justice system because in this way there will be a uniform intervention on the delinquent child.

There is a real need for a new legislation or an improving of the one implemented now for underlying clear strategies and directions of actions in the field of juvenile delinquency.

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