



## Results of IPRT's 7th Annual Conference

### *Juvenile Justice in Ireland: Critical Perspectives, Human Rights & Good Practice*

The IPRT's 7th Annual Conference – *Juvenile Justice in Ireland: Critical Perspectives, Human Rights & Good Practice* – was held on November 1st in Dublin. The conference featured presentations on various aspects of the youth justice system in Ireland, as well as some examples of the process of reform from

the UK. This issue of *Penal Reform News* will review the conference proceedings, and summarise the presentations of the plenary sessions. **Speaking notes from many of the plenary presentations are available on our website at [www.penal-reform.ie](http://www.penal-reform.ie)**

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## Youth Justice in England and Wales: Making the Best of a Bad Job

*Rob Allen, Director of Rethinking Crime and Punishment in London and a member of the Youth Justice Board for England and Wales*

Since 1997, the Labour government has overseen a major reform of the youth justice system in England and Wales. They have succeeded in halving the time between arrest and sentence for persistent young offenders, instituting a new reprimand and final warning scheme to replace police cautioning and introducing restorative justice at different stages of the process. Mr Allen recognised that there have been a number of positive outcomes from these reforms, including the fact that the number of reconvictions have been reduced and the custody levels have dropped.

However, despite these positive developments, he argued that "From a human rights perspective all is not well." Problems cited by Mr Allen included the continuing criticism from the *UN Committee on the Rights of the Child* of the low age of criminal responsibility (10), the low age threshold for custodial sentences (12) and the conditions in youth penal establishments. Said Mr. Allen, "The existing statutory principal aim of preventing offending has not deterred the government from legislating mandatory minimum sentences for juveniles convicted of possessing firearms, introducing a new indeterminate sentence of detention for public protection and setting out 15 years as the starting point for consideration

in cases of murder by under 18s. Nor did it stop the Court of Appeal last year encouraging long custodial sentences for mobile phone robbers 'irrespective of age and previous convictions'."

"Serious youth crime often reflects the violence, disruption and lack of respect, which has marked the early lives of young offenders. For others delinquency comes about through temporary attachment to a 'must have' culture that prizes the acquisition of fashion items and associated status at any price." He added, "A genuine commitment to prevention and rehabilitation for children would *precisely* take account of age, previous convictions and the range of other more complex factors that lie beneath delinquency."

Mr Allen stated that a truly reforming agenda would deal with offending by children under 14 outside the criminal justice system, phase out prison custody altogether for under 18s and provide a flexible court response to child and family problems using restorative justice and effective community based programmes. "Such an approach, properly resourced, could really get to grips with the causes of youthful bad behaviour while limiting the unnecessary stigma of a criminal record and the damaging impact of detention."



## Why the Juvenile Justice System Fails Young People

Fr. Peter McVerry SJ

Said Fr McVerry, "Young people who become involved in regular criminal activity are, in my experience, young people with major unmet needs – personal, interpersonal emotional and developmental needs, which have not been adequately met by their families, their schools, their community. Many also suffer from childhood traumatic experiences which have not been healed. The focus then, in responding to their criminal behaviour, is to provide services and opportunities for those unmet needs to be – belatedly – met."

"The criminal justice system is not the appropriate system to meet these needs. The objective of the criminal justice system is to decide on the innocence or guilt of a person in relation to specific offences and, if found guilty, to impose a suitable penalty. Young people see the Criminal Justice System as a game, with its own rules. If you win the game, the Criminal Justice System has no further role to play and you leave with your needs still unmet. Only if you lose the game (which you usually do) do the needs of the young person

come into play – along with other factors which the Criminal Justice System considers, such as the need for deterrence, the need for punishment, and the need to protect society. "

"It would be preferable if the age of criminal responsibility were raised to 15, and the social and community services were given the resources and appropriate staff to provide for the needs of young people in the community."

"Our society, and the drafters of the *Criminal Justice Act 2001*, see the parents of these children as the *problem*. My philosophy is that we should see the parents as the *solution*. Very few parents are deliberately uncaring towards their children. Some have personal problems with which they are not coping very well. Some need professional help for their children. Some need support of varying kinds – but are not getting it. If we provide the support which the parents of these children need, then we would do much to reduce the level of juvenile crime."

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## Children's Rights in the Justice System

Dr Ursula Kilkelly, Faculty of Law, University College Cork

Dr Kilkelly considered the extent to which the *Children Act 2001* meets the general standards as set out in the UN *Convention on the Rights of the Child*, with specific reference to the child in the justice process. Said Dr Kilkelly, "There is little doubt that the *Children Act* has the *potential* to transform the treatment of children in the criminal justice system. Whether that can be realised depends on resources, political will, and a real commitment to implementing its provisions and principles in line with international human rights standards."

The presentation provided a detailed analysis of various parts of the *Act*, including the role of diversion programmes and the Children Court, comparing the content of the *Act* against current implementation and examining these structures within a broader human rights context. Dr Kilkelly noted that, "While the *Act* establishes the Children Court as the body with responsibility for the trial of children, and makes some provision for this court to sit at a different time from other

courts, no other consideration is given to what sort of body the Children Court should be. No consideration was given, it appears, to establishing a specialist post of Children Court judge – someone who would be specially trained and experienced in the area of juvenile justice – or indeed to having a mixed bench combining the district court judge with lay magistrates with special expertise in the area – people to whom the young person before the court may relate and who understands their background in social terms."

While acknowledging the potential of the *Children Act* to result in broad and progressive reform in Irish juvenile justice policy and practice, she concluded by raising questions about the political commitment to the full implementation and resourcing of it. "Two years after it was adopted, significant parts of the *Act* are not yet in force, including the sections relating to community sanctions that have the most potential to ensure that children break the cycle of offending."

# Promoting the Rights of Children in Custody

*Dr Linda Moore, Northern Ireland Human Rights Commission*

Dr Moore reviewed the findings of *In Our Care: Promoting the Rights of Children in Custody*, the Northern Ireland Human Rights Commission's investigation into the care of children in juvenile justice centres. Published in March 2002, *In Our Care* is based upon an analysis of relevant legislation pertaining to young people, a review of documentation and international human rights standards, interviews children and staff in several juvenile justice centres, and meeting with key people involved in the operation of the juvenile justice system including probation officers.

According to the report, "Most children entering custody present challenging behaviour. The responsibilities of management and staff are many and complex. These children are in the care of the state and there is an onus on all of society to contribute constructively to their well-being and reintegration. Human rights provide a framework for transforming the care of children in the youth justice system."

As a result of the Commission's investigation, the report makes a series of findings and recommendations on both juvenile justice legislation and the conditions of confinement within detention facilities. Among the key findings are that:

- International standards state that children should be detained only as a measure of last resort and for the shortest period of time.
- There is an over-representation of children from care backgrounds in custody especially on remand, yet these children are not any more likely to receive custodial sentences than other young people.
- Children's rights in assessment and planning can only be achieved if sufficient resources are there to meet the needs identified and the investigation found that this was not the case in relation to education, health care and rehabilitation.
- International standards emphasise the need to prevent offending, divert young people from the formal court system and undertake rehabilitative work in the community. Children deprived of their liberty have a right to be guaranteed the benefit of meaningful activities and programmes aimed at developing their potential as members of society.

*In Our Care: Promoting the Rights of Children in Custody* is available online from the Northern Ireland Human Rights Commission's website at [www.nihrc.org/documents/pubs/inr/inourcare.doc](http://www.nihrc.org/documents/pubs/inr/inourcare.doc)

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## The Role of the Media in Juvenile Justice

*Dr Paul O'Mahony, Trinity College Dublin*

Dr Paul O'Mahony explored the influence of media on public interpretation and understanding of crime and on the construction of the societal response to it. He argued that the media plays an important role in creating "moral panics" and generating unrealistic fears of crime, in distorting the reality of crime by selective and sensationalised reporting and in potentially creating or amplifying anti-social behaviours by glamourising them for young people.

Said Dr O'Mahony, "The various media are obsessed with finding their own unique voice but they almost all talk about the same thing in much the same way. Topics like drug abuse or juvenile crime regularly come under the spotlight and generate huge coverage and intense commentary, but then just as suddenly drop from sight. The media, with talk radio at the forefront, can now exercise an immense, almost instantaneous influence on public opinion. Periods of intense media interest can be provoked by a single dramatic event or crime or more frequently by the coincidence of two or three similar events or crimes. The Irish media are centred in Dublin, the one and only large city, and tend to focus on its

problems. With respect to crime, this means that the whole country is very familiar with the situation in the most crime-ridden areas and tends to take this situation to be the norm – despite the fact that in some areas the crime rates are one sixth or less of the Dublin rates."

He concluded that the Irish media have had a negative influence on the development of effective criminal justice policy, and have inhibited progressive developments in juvenile justice. "The tragedy is that it is the pattern, in Ireland, for the real work of legislative and practical reform of the criminal justice system either to be neglected in favour of the latest attention-grabbing, but essentially ephemeral, media-driven crisis or to be disrupted by token actions designed primarily to deflect the immediate political pressures exerted by or through the media. The long needed and much vaunted reform of juvenile justice legislation embodied in the *Children Act 2001* is, in my view, already in tatters. The many thousands of community and grass roots workers, who for a short while felt empowered by the system to develop a new, more positive and hopeful preventative



approach, have been left bereft of resources, political support and even a meaningful organisational and legislative framework. The raising of the age of criminal responsibility to 12 from 7 has not happened and in fact most people within the various systems dealing with children have no clear idea about the current position of this vital reform, which should have been the major catalyst for change. But apart from the issue of delayed and inadequate implementation and resource starvation, the supposedly new juvenile justice system has been derailed by the familiar resort to the 'Spike Island solution'. Within months of the passing of the Act it was already effectively undermined by the government decision, made in response to the moral panic following the killing of two gardai by joy-riders, to turn part of St Patrick's

Institution into a prison for 14 and 15 year olds in total contradiction to the explicit policy of the *Children Act*. The closure of Shanganagh Open Prison at the end of 2002 was, in the context of the aspirations of the *Children Act*, an act of sheer vandalism that further signalled the government's lack of commitment to genuine reform of the juvenile justice system. These are, of course, fundamentally political errors and failures which we should not directly blame on the media. However, we can ask why our politicians almost ritually overreact to transient, media-fuelled crises at huge cost to long-term consistency and rational policy-making, and why the media, who play such an important part in encouraging this process, let them get away with it."

## Join the IPRT

The Irish Penal Reform Trust is a human rights based advocacy organisation which campaigns for the creation of a more rational and humane prison system, which would include the increase of community sanctions and the national implementation of Restorative Justice Programmes.

### Join us!

IPRT members receive a one-year subscription to Penal Reform News, reduced rates for IPRT events and can vote at our Annual General Meeting.

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## Conference Workshops

Following the plenary session, the IPRT conference hosted three smaller workshops addressing various issues related to youth justice.

Maria Corbett, Policy Officer with the Children's Rights Alliance, hosted a discussion on *The Impact of Government Policy on the Rights of the Child* examining national and international laws as they affect children's rights in Ireland.

Marina O'Brien, Addiction Counsellor for Young People with the North Western Health Board in Sligo, spoke on *Young People & Alcohol/Drug Use: A Model of Good Practice* in which she explored issues of alcohol and drug use among young people and effective models of support interventions.

Members of the Juvenile Justice Alliance also hosted a workshop entitled *Advocating for Change* which facilitated a wide ranging discussion of barriers and opportunities for promoting reform on youth justice policy in Ireland.