

Секція 1
Права людини: історико-теоретичний аспект

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Juvenile offenders' rights in the USA, Great Britain, Canada, and Ukraine

The purpose of our work is to research and compare how juvenile offenders' rights are enforced in the United States, Great Britain, Canada, and Ukraine. In our opinion, presenting the international experience related to the treatment of those under the age of majority could be helpful for our country's penitentiary institutions, as Ukraine has clearly outlined the Euro-Atlantic vector of development and its own willingness to move in this direction.

As it is known, the Universal Declaration of Human Rights states that childhood is entitled to special care and assistance [1, article 25].

In addition to that, the Convention on the Rights of the Child, entry into force 2 September 1990, contains the following paragraph: "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits..." [2, Article 37, c)]

The particular attention should be paid to the fragment "every child deprived of liberty shall be separated from adults", as the incidents of adult and juvenile inmates being together occasionally take place in the US prisons, according to the latest statistics presented by "The Economist", March 2015. According to "The Economist", the state of Connecticut used to be the leader among the states incarcerating minors and adults the same way. However, the state authorities have become aware of the seriousness of the problem and tried to remove or at least to decrease it. As a result, "the state cut the number of young people it locks up by more than 75% between 1997 and 2011, by raising the age at which offenders can be tried as juveniles and by arresting fewer youngsters for minor offences. Instead of expelling or arresting rowdy pupils, several school districts now offer mental-health treatment. Connecticut has saved millions of dollars, and juvenile crime there continues to drop." [3, Mar 28th 2015]

Due its focus, "The Economist" has paid its basic attention to the economic benefits of such an approach. However, what about the psychological and humanistic component of the matter? Does it really work, or is it always effective? Elaine Arnall, Susannah Eagle, along with the other authors of the monograph "Persistent Young Offenders. A retrospective study", the UK, have conversed to a number of British

minors who had committed crimes, normally more than one, and been sentenced for that. Many of them shared their, rather negative, impressions of the talks with the policemen who supervised over them. The girls and boys, who were questioned, often admitted that the way how they were tried to retrain of offending isn't very valid. It could be valid in case if they "wanted to hear", instead, they didn't usually want to hear "the crap". [4, p. 81-82] Thus, warnings turned into community services, then, community services were followed by custodial sentences.

Describing the origins of juvenile offending, the monograph authors particularly rely on the youngsters' feeling dissatisfied with their school time who, among other things, complained about being bored during playtime at school. As one of interviewees said, "I just always had to sit in the headmistress' office."

[4, p. 41-42]

Considering the last two sources, "The Economist" article, the US, and "Persistent Young Offenders. A retrospective study" monograph, the UK, we might suggest that in addition to the accurate legislative basis and effective police supervision, psychological assistance should play significant role for the resocialization of young offenders.

Returning to the matter of adult and juvenile inmates being together, we have traced how it gets in Canada. The cases of persons aged 12 to 17 are tried before the Youth Court there. Unlike the US, where youngsters may be kept in custody along with adult prisoners, "the youth justice system must be separate from the adult system" in Canada, as it is set out in *Youth Criminal Justice Act (YCJA)* [5].

Unlike the US, Great Britain, or Canada, in Ukraine there are no specific courts which would try the cases of juvenile offenders, so far. Proceedings order of juvenile cases has been formulated in 432 Article of Criminal Procedure Code of Ukraine, namely, in 36 Chapter "The characteristics of juvenile proceeding".

The records of criminal cases contain numerous data "concerning with the age characteristics of minors influencing on their motivation, such as lack of life experience, imitating propensity, environmental influences, especially ones from the side of adults, wish for being independent and free of parents' care" [6], and so on. Taking all that into account, we have to suppose here the importance of psychological assistance within penitentiary institutions as a significant constituent of their activity, in order to resocialize young offenders and prevent further violation of the law. Discussing on the matter of youth criminality, everyone should admit that human rights are inherent in minors, as far as they are inherent in all the people "regardless of their nation, location, language, religion, ethnic origin or any other status" [7].

We would like to remind that Ukraine signed the International agreement, November 29 1985, under which it is obliged to enforce The Standard Minimum Rules of the UN pertaining to the administration of justice for minors, The Beijing Rules. Considering both difference and similarity of the approaches of overmentioned countries and Ukraine, we should admit the necessity of cooperation and search of the common ways to resocialize the juvenile offenders and persistently promote the realization of their rights.

References

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