



HAL
open science

Understand a Little More, Condemn a Little Less: The beginning of a new era for youth justice in the UK?

Emma Bell

► **To cite this version:**

Emma Bell. Understand a Little More, Condemn a Little Less: The beginning of a new era for youth justice in the UK?. Pickard, Sarah; Nativel, Corinne; Portier-Le Cocq, Fabienne. Les politiques de la jeunesse au Royaume-Uni et en France, Presses Sorbonne Nouvelle, 2012, 10.4000/books.psn.6917 . halshs-04735381

HAL Id: halshs-04735381

<https://shs.hal.science/halshs-04735381v1>

Submitted on 14 Oct 2024

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Understand a Little More, Condemn a Little Less: The beginning of a new era for youth justice in the UK?

1993 is widely acknowledged to have marked the beginning of the so-called “punitive turn” in British penal policy. In February of that year, following the murder of the toddler James Bulger by two ten-year-old boys, Prime Minister John Major outlined a tougher approach to dealing with offending behaviour, declaring in the *Mail on Sunday* that it was high time that society began to “condemn a little more and understand a little less” (Major 1993). Accordingly, just the day after Bulger’s funeral, Home Secretary Kenneth Clarke announced that a network of Secure Training Centres would be set up to detain 12 to 15-year-old persistent offenders. The Bulger killers were tried as adults in an adult court and sentenced to a minimum of eight years’ imprisonment, a sentence which Kenneth Clarke’s successor at the Home Office, Michael Howard, attempted unsuccessfully to extend. Although the idea of locking up young people¹ was nothing new, the insistence that they should be held fully responsible for their acts marked a symbolic rebuttal of a welfarist approach to young offenders which had, from the 1830s onwards, attempted to remove them from the adult penal system as far as possible and to concentrate efforts on their rehabilitation.²

After coming to power in 1997, New Labour quickly endorsed this tough new line, publishing a White Paper on juvenile offending. The document, unambiguously entitled *No More Excuses*, sought explicitly to draw a line under the “excuse culture” that had supposedly “developed within the youth justice system”, promising “root and branch reform” of the system which would “confront [offenders] with their behaviour” and help

¹ The main focus of this article will be young people who may be treated as “young offenders” in England and Wales, that is to say youths aged between ten and eighteen. It should be noted, however, that in Scotland, young people aged over sixteen are treated as adults by the legal system.

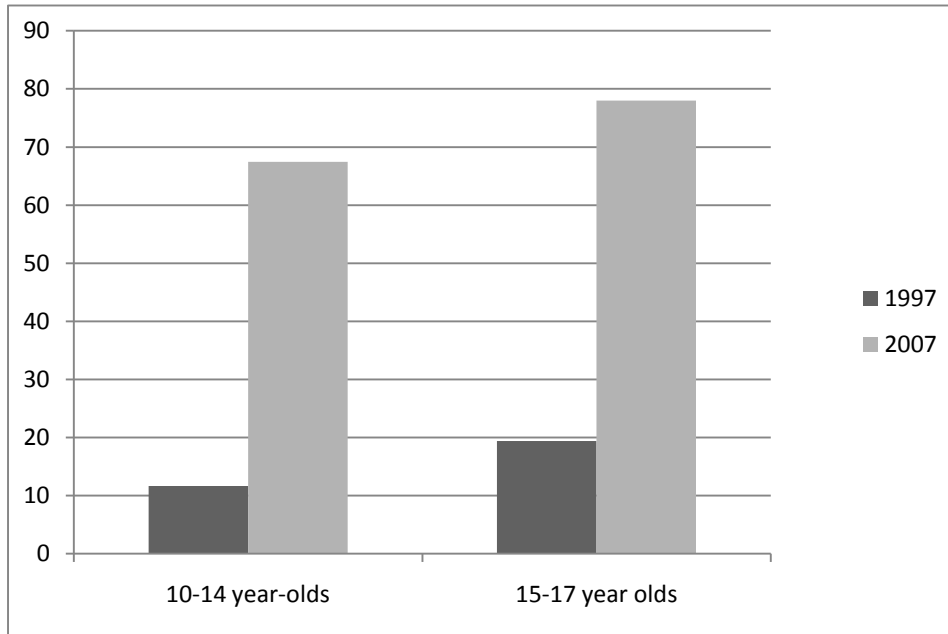
² Indeed, HMP Parkhurst, the very first prison for young offenders, was opened in 1835. Progressively, a series of separate disposals were created for young people who fell foul of the law, notably under the Criminal Justice Act of 1948. Although efforts to remove young people from the penal system altogether routinely failed, a welfarist discourse became prevalent, nicely summed up by the Labour Party report of 1964 entitled *Crime – A Challenge to Us All* which declared: *We believe that in justice to our children, and for the health and well-being of society, no child in early adolescence should have to face criminal proceedings: these children should receive the kind of treatment they need, without any stigma or any association with the penal system.*

them “to take more personal responsibility for their actions” (Home Office 1997). Thirteen years on, more British young people than ever before are finding themselves caught up in the criminal justice system. Although the number of young offenders sentenced to custody in England and Wales has dropped slightly over the past two years (Youth Justice Board 2010), between 1997-2007 the number of 10-14 year olds imprisoned in England and Wales increased by 295% (House of Commons, written answers 26 February 2010, cited by the Prison Reform Trust 2010: 29; see Figure 1). In addition, the number of juveniles given a community sentence has more than doubled since 1998, rising from 34 to 68 per cent (Ministry of Justice 2010a : 33). Many more young people are finding themselves criminalised via a whole raft of new measures aimed at combating antisocial behaviour (Morgan 2009). In addition, a series of “moral panics” (Cohen 1972) over knife crime, gang culture, binge drinking and other forms of problem behaviour have contributed to the demonisation of children and teenagers. Britain’s young people are regularly described by the media and politicians alike as “feral”, “wild” and “out-of-control”³.

Figure 1. : Number of juveniles sentences to custody 1997-2007 (thousands)⁴

³ Similar trends are evident in other European countries such as France, but the case of Britain remains extreme. British youth holds EU records with regard to binge drinking and rates of teenage pregnancy, for example. British people are more likely to fear and demonise young people than citizens of other European nations. See Pickard (2009), Bell (2009) and Gibson-Morgan (this volume).

⁴ Compiled from House of Commons written answers, 26 February 2010, column n° 800.



Yet, David Cameron, when leader of the Opposition, appeared to offer a new approach, turning John Major’s maxim on its head in his infamous “Hug a Hoodie” speech in which he called for a greater understanding of young offenders and of the social circumstances in which problem behaviour arises (Cameron 2006a). The present chapter deals with the first six months of the Conservative/Liberal Democrat coalition government that came to power in May 2010 and seeks to determine whether or not the early signs suggest that it is capable of marking a break from the punitive trends of the last two decades with regard to youth justice.

Moving away from authoritarianism

At first sight, it would appear that a less authoritarian approach is being adopted towards youth justice. The coalition’s programme for government explicitly rejects the authoritarianism which came to characterise the British state during 13 years of New Labour government from 1997-2010 (HM Government 2010). Consequently, the coalition has committed itself to protecting civil liberties, including those of children, via measures such as the outlawing of the finger-printing of children at school without parental

permission (*ibid.*)⁵. With regard to crime control, emphasis is to be placed on early intervention measures in an attempt to refocus the criminal justice system on prevention rather than repression. It is hoped that the Cabinet Committee on Social Justice formed in July 2010 will “tackle the issues that put many young offenders into the criminal justice system in the first place” (Blunt 2010). The declared aim is to avoid the unnecessary criminalisation of children and young people. Shortly after taking up the post of Home Secretary, Conservative MP Theresa May criticised Anti-Social Behaviour Orders (ASBOs)⁶ and expressed a desire to see more use of sanctions which are “rehabilitating and restorative rather than criminalising and coercive” (May 2010a). Court-based measures are to be used as a last resort only and it is suggested that greater use ought to be made of restorative justice, with the majority of young people responsible for low-level offending being dealt with within the community rather than in court (Blunt 2010; Liberal Democrat Party 2009). Indeed, the Justice Green Paper released in December 2010 asserted that secure detention “should be used sparingly as a last resort” for children and young people on account of the fact that it disrupts their education, separates them from their families and fails to deliver “good outcomes” for them (Ministry of Justice 2010b : 70). It would seem that young people are to be considered once again as valuable resources rather than problems, encouraged to play a greater role in society⁷.

The adoption of a less punitive attitude to young offending may be seen to fit with the image of “compassionate” or “caring” conservatism via which the party has sought to shed its “nasty party” image⁸. Tackling the causes of youth crime together with other social problems in an attempt to mend the “broken society” is a means for the party to move towards a post-Thatcherite social policy which places emphasis on the importance of

⁵ Fingerprints are regularly taken from British schoolchildren for the purposes of registration, the borrowing of library books and cashless catering.

⁶ ASBOs were created by the Crime and Disorder Act 1998. They may be handed down to children as young as ten who are thought to have acted in an anti-social manner, that is to say, “in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself”. Breach of an order demanding that a person refrain from engaging in antisocial behaviour may result in a sentence of imprisonment.

⁷ It is hoped, for example, that they will become involved in their communities as members of the proposed National Citizen Service. The scheme proposes involving young people in a series of activities, including outdoor education and community service, over a 7 to 8-week period. The first pilot schemes are due to be rolled out in mid-2011.

⁸ The term was coined by Theresa May, former Conservative Party Chairperson and now Home Secretary, in a speech to the Conservative Party Conference, Bournemouth, October 2002.

society and mutual concern for others. For the Liberal Democrat Party, a desire to avoid the unnecessary criminalisation of young people fits with its traditional commitment to civil liberties and rejection of state authoritarianism. Yet, rather than representing a decisive break from New Labour policy in this respect, there is much evidence to suggest that the practical outcome of coalition policy will amount to a considerable degree of continuity. The real differences between the old and new approaches may reveal themselves to be those of presentation rather than substance. In order to illustrate this point, it is first necessary to briefly discuss New Labour's "tough and tender" approach.

New Labour's "tough and tender" approach

Firstly, it should be remembered that, despite New Labour's reputation for authoritarianism, it did combine a tough "no more excuses approach" with a preventative approach which also sought to ultimately avoid the criminalisation of children and young people. Alongside distinctly punitive measures such as the abolition of the ancient principle of *doli incapax*⁹ and the creation of a range of tough new penalties for young people, backed up by the threat of imprisonment (Anti-Social Behaviour Orders, Intensive Supervision and Surveillance Programmes¹⁰ and, most recently, the Youth Rehabilitation Order¹¹), the previous administration sought to tackle the causes of offending behaviour via a range of social interventions. Early intervention programmes such as *Sure Start* and *Youth Inclusion Programmes* were set up to provide educational and social services to children living in deprived areas who were considered to be most at risk of becoming involved in crime and antisocial behaviour, whilst the newly-created Youth Justice Board was charged with developing a holistic approach to offending behaviour which would bring together social and criminal justice services to develop a joint strategy to prevent crime and keep young people out of prison. The Board is assisted by Youth Offending Teams (YOTs)

⁹ This common law principle held that children between the ages of ten and fourteen were presumed to be 'incapable of evil' unless prosecutors could prove that they were fully aware that their actions were 'seriously wrong'.

¹⁰ Intensive Supervision and Surveillance Programmes were introduced following the Crime and Disorder Act 1998. They place young offenders aged between 10 and 17 under surveillance and oblige them to attend educational and/or treatment programmes. Breach of the conditions of the programme may lead to imprisonment.

¹¹ *Infra*.

composed of representatives of local authorities, social workers, probation officers, police officers, health and education workers and members of voluntary organisations. The teams intervene at each stage of the youth criminal justice process to prevent offending, monitor youths on community penalties and aid their rehabilitation on release from custody. The aim was clearly to develop a multi-agency approach based on early intervention.

Even penal measures such as the Detention and Training Order (DTO) aimed at dangerous young recidivists aged between twelve and seventeen contain a welfarist element. Half of the DTO sentence (which may run from anywhere between four and twenty-four months) is served in prison, whilst the other half must be served in the community where the young person is required to attend various rehabilitation programmes. Yet, in practice, this welfarist approach has been undermined by the emphasis placed on the responsabilisation of young offenders and, in some cases, welfare has actually encouraged the increased criminalisation of young people: for example, it has been suggested that some judges have been more willing to impose sentences which specifically aim to rehabilitate the offender (Hazell *et al.* 2002). In addition, welfarist interventions have brought young people to the attention of criminal justice services at a very early age, particularly as information is freely shared between social work and criminal justice agencies. Disadvantaged young people are thus increasingly likely to be placed under state surveillance before they have even committed any crime. Attempts to divert youths from prison have tended to founder as welfarist interventions have come to be backed up by the threat of formal punishment. For example, the new Youth Rehabilitation Order (YRO), introduced in November 2009 following the *Criminal Justice and Immigration Act 2008*, serves as a community sentence and aims to combine punishment with rehabilitation by obliging young people subjected to it to accept any number of eighteen different conditions, many of which may involve participation in programmes which seek to address social problems such as drug and alcohol abuse. Yet, breach of the order may lead to a custodial sentence being imposed.

From hugging to mugging hoodies?

Underpinning welfarist measures with punishment is justified by the fact that young offenders are regarded as being fully responsible beings: if they fail to accept offers of help and assistance, it is considered that they deserve to be punished. Despite the adoption of slightly less punitive rhetoric, the coalition has not departed significantly from this approach. Whilst David Cameron has insisted that society as a whole (but not the State) is responsible for crime in the sense that it fails to “encourage and reward good behaviour”, he in no way moves away from the Conservative idea¹² that people, whatever their age, are ultimately responsible for their own actions (Cameron 2006b). This view is reflected in the idea that the causes of crime are cultural, rather than structural. For example, the Conservative Party’s Social Justice Policy Group sees the main cause of youth crime as lying in broken, dysfunctional and/or fatherless families (Duncan Smith 2007). Crispin Blunt, Parliamentary Under-Secretary of State for Prisons and Youth Justice, recently referred to the “cycle of offending” whereby crime is passed down from generation to generation (Blunt 2010). Families are consequently to be “challenged” to tackle this cycle of crime.

This focus on the cultural drivers of criminality and other social problems reflects considerable continuity of approach with previous Conservative governments and indeed with New Labour. Since crime is considered to be almost exclusively the problem of an “underclass”¹³ characterised by family breakdown, worklessness and dependence on state benefits, crime prevention measures are focused on problem families living in deprived areas. The Blair government introduced Parenting Orders¹⁴ for parents of children who

¹² This notion has been prevalent throughout the history of the Conservative Party, but assumed a new resonance under the Thatcher governments of 1979-1990. It is perhaps well summed-up by the oft-quoted remark made by Margaret Thatcher in an interview given to the popular magazine *Woman’s Own* in October 1987: “[People] are casting their problems on society and who is society? There is no such thing! There are individual men and women and there are families and no government can do anything except through people and people look to themselves first”.

¹³ Use of the term “underclass” was popularised in Britain in the 1990s by the right-wing sociologist, Charles Murray (Murray 1990). He defined it as “a growing population of working-aged, healthy people who live in a different world from other Britons, who are raising their children to live in it, and whose values are now contaminating the life of entire neighbourhoods”. The Conservative Policy think tank, the Centre for Social Justice, warned of the need to address social problems to halt the development of “an ever-growing underclass” (Social Justice Policy Group 2006 : 13).

¹⁴ Parenting Orders, introduced in England and Wales by the Crime and Disorder Act 1998, require parents of troublesome young people to attend parenting classes. Failure to comply with an order can lead to criminal prosecution.

behave in an antisocial manner, whilst the Brown government extended the use of Family Intervention Projects¹⁵. Although both these measures provide a range of much-needed welfare services for families in trouble, they also aim to force problem families to face up to their responsibilities. There are currently no plans to scrap these New Labour initiatives. Indeed, the 2010 Justice Green Paper recommends that their use be extended (Ministry of Justice 2010b : 67-8). Focus will continue to be on responsabilising youths and their parents. This cross-party commitment to ensuring that young people are to be regarded as fully responsible for their actions is starkly illustrated by the absence of any proposals to reduce the age of criminal responsibility in England which, at age 10, is currently one of the lowest in the world¹⁶. Despite emphasis on prevention and rehabilitation, there are actually few signs that the trend towards the increased criminalisation of young people will be reversed.

Much was made in the press of Theresa May's denunciation of ASBOs in July 2010. However, her criticism was not directed at the tendency of these sanctions to needlessly criminalise young people. Instead, it focused on the need to involve local communities more closely in the fight against antisocial behaviour and on the fact that so many ASBOs are breached¹⁷. What she actually advocated is the introduction of more effective sanctions which will ensure that people do not "get away with" antisocial behaviour. She spoke out in favour of "simpler sanctions, which are easier to obtain and enforce" (May 2010a). There are actually very few sanctions which are easier to obtain than an ASBO: although the order must be handed out by a magistrates' court, it may be sought not only by police officers but also by local authorities, registered social landlords or housing authorities. The standard of proof required is extremely low and the broad definition of antisocial behaviour makes it an easily-applicable penalty for an extraordinarily wide range of behaviours. Even whilst an application for an ASBO is being processed, an interim ASBO may be imposed

¹⁵ Family Intervention Projects were first introduced in England and Wales in 2006. They involve social and criminal justice services working together with deprived families to tackle the causes of their antisocial behaviour.

¹⁶ The age of criminal responsibility is the same in Wales and Northern Ireland. Scotland's extremely low age of criminal responsibility – eight – was raised to twelve in 2010. In France, children as young as seven may be held criminally responsible for their acts provided the prosecution is satisfied that they understand the difference between right and wrong. However, criminal sanctions cannot be handed down to children under the age of thirteen.

¹⁷ The overall ASBO breach rate in England and Wales for adults and juveniles combined is estimated at fifty-four per cent (House of Commons 2009 : 14).

which attracts the same sanctions for breach (i.e. a possible prison sentence). In addition to the ASBO, the police may independently apply a number of other out-of-court penalties such as dispersal orders and penalty notices for disorders. Young people and children are disproportionately affected by all of these measures¹⁸. Consequently, it is hard to see how the promise to create new sanctions which will be even easier to obtain and enforce might reverse current punitive trends.

Yet, Ken Clarke's¹⁹ Green Paper, released in December 2010, was heralded by many professionals as representing a significant u-turn on the so-called "prison works" philosophy which has spread right across the criminal justice system over the past two decades. The director of the Prison Reform Trust's campaign to reduce the number of children and young people held in secure detention welcomed the report as an "important change in direction for the youth justice system" (cited by Puffett 2010). Indeed, the Green Paper regards recent reductions in the number of young people sentenced to custody as a sign of progress (Ministry of Justice 2010b : 67) and clearly recommends that greater use be made of out-of-court penalties such as restorative justice (*ibid.* : 68-9). Other apparently progressive recommendations include restricting the use of remand for young people²⁰ and granting the police, judges and youth justice professionals more discretion in dealing with youth crime so that young offenders are not so easily subjected to "uptariffing"²¹ (*ibid.* : 70-72). The Green Paper certainly marks a change in the "No More Excuses" rhetoric promoted by previous New Labour governments and indeed by the last Conservative government. However, whilst it would be patently wrong to assert that the Conservative approach on youth crime has moved from that of "hug a Hoodie" to "mug a Hoodie", as

¹⁸ 41 per cent of all ASBOs issued between 2000 and 2007 were against children under eighteen (House of Commons 2009 : 8).

¹⁹ Kenneth Clarke was appointed to the posts of Lord Chancellor and Secretary of State for Justice following the General Election of May 2010. As Minister of Justice, he is responsible for the judiciary, the courts, prisons and probation.

²⁰ There are plans to amend the Bail Act 1976 to remove the option of remand for young offenders who are unlikely to receive a custodial sentence. In addition, the financial burden for remanding young people in custody is to be placed on local authorities, which may prove to be a deterrent to using it. Finally, seventeen year-olds are now to be subject to the same remand legislation as those aged under seventeen, ensuring compliance with the United Nations Convention on the Rights of the Child which regards all those aged under eighteen as "children".

²¹ "Uptariffing" occurs when offenders given a lesser disposal are moved up the sentencing scale to receive a more punitive disposal.

one tabloid paper suggested (Walters 2009), there is evidence to suggest that it may not be as progressive as it would seem.

“Competent authoritarianism” / “tough liberalism”

Despite Kenneth Clarke’s concerns about the rising prison population and his recognition that prison can be a damaging “ineffectual approach that fails to turn criminals into law-abiding citizens” (Clarke 2010), it is highly questionable whether the proposed reforms will succeed in diverting young offenders from custody. Whilst there appears to be a consensus that punishment in the community is likely to be more effective in terms of reducing recidivism for both juvenile and adult offenders, rigorous enforcement (supported in the Green Paper and promised by the Liberal Democrat manifesto) may mean that these penalties serve as back-doors rather than as alternatives to prison. Indeed, the Green Paper highlights the need to ensure that community penalties are “robustly enforced” to “secure and maintain confidence from both sentencers and the public” (Ministry of Justice 2010b : 70). Such a commitment would appear to contradict that of ending “the current system of automatic escalation” in sentencing (*ibid.* : 69) if ensuring that the conditions of out-of-court sentences are respected means toughening up sanctions for breach. This sort of tough enforcement is indeed promised with respect to the Detention and Training Order. The sentence is to be retained and even rendered more punitive since offenders who breach the supervision requirement of their order are to be returned to custody even after the DTO has expired (*ibid.* : 71).

The coalition’s youth justice policy may be said to represent a new “third way” approach to criminal justice which breaks with some of New Labour’s most authoritarian measures whilst continuing to ensure “toughness”. Indeed, even before coming to power, the Conservatives declared that they intend to pursue “competent authoritarianism”, capable of combining rehabilitative and preventative measures with repression (Conservative Party 2008), whilst the Liberal Democrat Party declared itself to be an advocate of “tough liberalism” characterised by more stringently-enforced community sentencing (Oaten 2004). Yet, it is the simultaneous adoption of “tough” and “tender”

measures which may ultimately condemn Coalition policy to following the same trajectory as its New Labour predecessors.

In addition, the continued desire on the part of the coalition to ensure that the criminal justice system secures the support of victims of crime and the public in general may mean that it finds itself constantly pulled in a more punitive direction, despite its best intentions. Given that crime is currently such a contentious issue, rated amongst the nation's top three concerns after the state of the economy and immigration (IPSOS/MORI 2010), it is unlikely that the coalition will want to take the political gamble of appearing to be soft on crime. Indeed, it is likely that penal policy in general will remain highly populist in nature, demonstrating yet further continuity with New Labour. The coalition's plans to improve police accountability by allowing the public to elect the heads of local police authorities and to "hold the police to account for their performance" is likely to lead to the increased politicisation of the crime issue (HM Government 2010). Government plans to extend the use of restorative justice schemes (which enable the members of local communities to bring offenders to account for their actions and to participate in determining sentence) may also encourage this trend. Such schemes can prove to be less exclusionary than court-based justice, notably because knowledge of an offender's circumstances tends to mitigate punitive sentiments. However, experience so far has shown that the coercive nature of such schemes has drawn many young offenders into the criminal justice system who would previously have escaped formal measures altogether (Muncie 2006 : 779). Just as with other community penalties, restorative justice will only prove to be an effective means of decriminalising young people and diverting them from custody when it is used as a genuine alternative to more formal criminal justice procedures. If not, restorative justice schemes may simply prove to be another means of fuelling communities' punitive sentiments towards those who offend against their norms.

The government will also have to render any plans to steer criminal justice policy in a less punitive direction palatable to the Conservative backbench. Indeed, the Green Paper received a very mixed reaction from Conservative MPs, with some of them disputing Kenneth Clarke's conviction that too many people are currently being sent to prison (Hansard 2010).

Penal policy in economic crisis

Regardless of whether the new coalition government is really committed to developing more progressive policies with regard to youth crime, its policy may ultimately be dictated by more practical financial concerns. In the context of massive spending cuts, it has become essential for politicians to find more cost-effective solutions to the crime problem. The 2010 Justice Green Paper asserted that prison is an “expensive option” when it comes to dealing with youth offending (Ministry of Justice 2010b : 70). The search is on for more cost-effective solutions to the problem. This may pull policy in two contradictory directions. For example, plans to build a new 360-bed young offenders institution were scrapped in May 2010 as part of the Ministry of Justice’s cost-cutting drive (Ministry of Justice 2010c). However, budget cuts are also likely to negatively affect essential crime-prevention services which aim to keep people out of prison in the first place. For example, the ring-fence preventing cuts to the government grant for the support services provided under the Youth Crime Action plan was recently lifted (Watson 2010) and the government announced in October 2010 that the Youth Justice Board is to be axed as part of its quango cull (BBC 2010). It is unclear whether the necessary funding will be available to make the so-called “rehabilitation revolution” a reality or to render early intervention an effective means of diverting young people from custody. Yet, given that the impact of the recent budget is likely to hit the poor hardest (Browne 2010), early intervention and support services will be all the more necessary. The government’s solution is to contract out early intervention and rehabilitation services to the private and voluntary sectors that will be paid according to results. Yet, experience so far suggests that the spread of a performance-based culture can negatively affect the quality of such services. The contracting-out of prisons and probation services is a case in point where quantifiable objectives have in some cases replaced qualitative ones (Bryans 2000).

The ideological context

Perhaps even more important in influencing the future direction of youth justice policy in the United Kingdom is the ideological context in which it is developed. In the context of

the neoliberal transformation of the State from guarantor of economic and social security to facilitator of market solutions (Leys 2003), the promotion of individual responsibility for crime and other social problems is likely to remain paramount, ensuring that young people themselves and their parents are ultimately to be held to account for their actions. Indeed, the concept of the “Big Society” is underpinned by the notion that individuals and communities must take responsibility for social problems, thus absolving the State itself of responsibility for the social chaos that may result from its own neoliberal policies. Yet, paradoxically, the State is likely to continue to intervene in an authoritarian way to regulate the crime problem, as crime, like immigration, increasingly comes to represent one of the few “popular” issues which can be invoked by contemporary politicians to appeal to the public at large across class lines (Bell 2011). The unpopularity of massive spending cuts is likely to render politicians ever-more vulnerable to penal populism.

Furthermore, the corrosive effects of neoliberal morality which tends to foster a culture of “egotistic individualism” (Reiner 2007 : 18) is likely to encourage demands for harsher punishments and to undermine any attempts by the coalition to develop reintegrative restorative justice policies. Indeed, government appeals to involve the community in finding solutions to social problems are in stark contradiction to the values of individualism fêted by neoliberal political economies. It is to be feared that communities may unite to exclude rather than to include those who do not live up to dominant norms, as was the case under successive New Labour governments.

In addition, the dominance of neoliberalism has meant that managerialist logic has increasingly come to permeate criminal justice services as all other public services. This is likely to undermine the welfarist ideology which may encourage a greater understanding of the underlying social problems that lead young people to engage in criminality in the first place. The failure of the multi-agency approach to youth offending embodied by Youth Offending Teams is a case in point.

Furthermore, given the close relationship that the coalition government continues to share with the private sector (it was noted above that the role of the private sector is actually to be extended in the delivery of criminal justice services), it is unlikely that there will be any attempt to challenge the trend towards the criminalisation of the merely bothersome activities of young people and other vulnerable people who are seen to threaten

economic interests by causing potential clients to flee from commercial centres. Thus, it may be expected that young people and children will continue to find themselves the targets of civil and penal measures which seek to remove them from such areas²², thus exacerbating their exclusion from mainstream society.

Conclusion

At the time of writing, six months after the election of the coalition government, all the signs suggest that the punitiveness which has characterised youth justice policy for almost two decades will not be reversed. On the contrary, there is likely to be much continuity with New Labour policy. Although senior figures from both the Conservatives and the Liberal Democrat Party have made noisy criticisms of their authoritarian inheritance, neither party has entirely turned its back on that same inheritance. Instead, the coalition promises to combine a tough approach with a more progressive one across the criminal justice system. As Theresa May declared at the 2010 Conservative Party Conference, the coalition is committed to creating a system “that really does punish criminals, but also cuts the disgraceful rates of reoffending” (May 2010b). Consequently, alternatives to custody are to be promoted but simultaneously rendered more rigorous; custody is to continue to be used for the worst offenders but opportunities for rehabilitation are to be enhanced. Such a tough and tender approach, described by the Conservatives as “competent authoritarianism” and by the Liberal Democrat Party as “tough liberalism” has much in common with New Labour’s third-way commitment to get tough on crime *and* its causes. The difficulties of reconciling these two approaches were starkly illustrated under the last government, particularly with regard to youth justice, where punitiveness was actually extended through welfare. It is unlikely that the coalition will avoid falling into the same trap.

²² A key example of such policies in action is in the city of Liverpool where young people are banned from engaging in activities such as skateboarding which may deter shoppers and tourists from visiting the city centre. See Coleman (2004 : 301-2).

Bibliography

Audit Scotland, 2008, *Managing Increasing Prisoner Numbers in Scotland*, http://www.audit-scotland.gov.uk/docs/central/2008/nr_080508_prisoner_numbers_comparisons.pdf, date accessed 5 November 2010.

BBC, 2010, “Quango List Shows 192 to be Axed”, 14 October.

Bell, Emma, 2011, *Criminal Justice and Neoliberalism*, Basingstoke and New York, Palgrave Macmillan.

Bell, Emma, 2009, ““Large, unpleasant thugs”? Criminal Responsibility and Young People in France and Britain”, *Revue Française de Civilisation Britannique*, vol. XV, n° 3.

Berman, Gavin, 2009, *Prison Population Statistics*, House of Commons Library, <http://www.parliament.uk/commons/lib/research/briefings/snsg-04334.pdf>, date accessed 15/03/2010.

Blunt, Crispin, 2010, speech to National Association for the Care and Resettlement of Offenders, 22 July.

Browne, James, 2010, *Personal Taxes and Distributional Impact of Budget Measures* (London: Institute for Fiscal Studies). Available at: http://www.ifs.org.uk/budgets/budget_june2010/browne.pdf, date accessed 5/11/2010.

Bryans, Shane, 2000, “The managerialisation of prisons - efficiency without a purpose?”, *Criminal Justice Matters*, 40(1), 7-8.

Cameron, David, 2006a, “Thugs – Beyond Redemption?”, speech to the Centre for Social Justice, 10 July.

Cameron, David, 2006b, “I want to see real change in the youth justice system”, speech delivered at the Annual Convention of the Youth Justice Board, Cardiff, 2 November.

Conservative Party, 2008, *Prisons with a Purpose: Our Sentencing and Rehabilitation Revolution to Break the Cycle of Crime*, Policy Green Paper, n°4, London/ Conservative Party.

Clarke, Kenneth, 2010, speech to Centre for Crime and Justice Studies, 30 June.

Cohen, Stanley, 1972, *Folk Devils and Moral Panics*, London, Routledge.

Coleman, Roy, 2004, “Reclaiming the Streets: Closed Circuit Television, Neoliberalism and the Mystification of Social Divisions in Liverpool, UK”, *Surveillance & Society* 2(2/3),

[http://www.surveillance-and-society.org/articles2\(2\)/liverpool.pdf](http://www.surveillance-and-society.org/articles2(2)/liverpool.pdf), date accessed 5/10/2010.

Duncan Smith, Iain, 2007, *Being tough on the causes of crime: Tackling family breakdown to prevent youth crime*, London: Conservative Party Social Justice Policy Group.

Eades, Chris, Grimshaw, Roger, Silvestri, Arianna, Solomon, Enver, 2007, “*Knife Crime*”: *A review of evidence and policy*, London, Centre for Crime and Justice Studies.

Hansard (2010), House of Commons Debate, 7 December, columns 169-186.

Hazell, Neal, Hagell, Ann, Liddle, Mark, Archer, Debbie, Grimshaw, Roger, King, Jackie, 2002, *Detention and Training: Assessment of the Detention and Training Order and its impact on the secure estate across England and Wales*, London, Youth Justice Board.

Haydon, Deena and Scraton, Phil, 2000, “‘Condemn a Little More, Understand a Little Less’: The Political Context and Rights’ Implications of the Domestic and European Rulings in the Venables-Thompson Case”, *Journal of Law and Society*, vol. 27, n° 3: p. 416-448.

HM Government, 2010, *The Coalition: Our Programme for Government*.

Home Office, 1997, *No More Excuses: A new approach to tackling youth crime in England and Wales*, Cm 3809, London, Home Office.

House of Commons, 2009, *Anti-social Behaviour Order Statistics*, <http://www.parliament.uk/commons/lib/research/briefings/snsg-03112.pdf>, date accessed 15/03/2010.

House of Commons Home Affairs Committee, 2009, *Knife Crime*, HC 112-I, London, HMSO.

IPSOS/MORI, 2010, “April Issues Index: The Economy remains the top issue as the election draws near”, 21 April, <http://www.ipsos-mori.com/researchpublications/researcharchive/poll.aspx?oItemId=2595>, date accessed 26/05/2010.

Leys, Colin, 2003, *Market-Driven Politics: Neoliberal Democracy and the Public Interest*, London and New York, Verso.

Liberal Democrat Party, 2010, *Cutting Crime: A Policy Briefing*, London, Liberal Democrat Party.

Liberal Democrat Party, 2009, "Labour has criminalised a generation with a million children convicted in a decade". Available at: <http://www.libdems.org.uk/news>, date accessed 20 July 2010.

Major, John, 1993, interview with the *Mail on Sunday*, 21 February.

May, Theresa, 2010a, "Moving Beyond the ASBO", speech delivered 28 July.

May, Theresa, 2010b, "A Plan to fight Crime", speech delivered 5 October.

Ministry of Justice, 2010a, *Sentencing Statistics England and Wales 2008*, <http://www.justice.gov.uk/publications/docs/sentencing-stats-2008.pdf>, date accessed 20/01/2011.

Ministry of Justice, 2010b, *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*, Cm7972, London, HMSO.

Ministry of Justice, 2010c, "New juvenile prison build stopped", press release, 28 May.

Morgan, Rod, 2009, "First-time youth offender entrants: more smoke and mirrors", *Criminal Justice Matters*: 76(1), p. 10-12.

Muncie, John, 2006, "Governing Young People: Coherence and contradiction in contemporary youth justice", *Critical Social Policy*, 26, p. 770-793.

Murray, Charles, 1990, *The Emerging British Underclass*, Choice in Welfare n° 2, London, Institute of Economic Affairs.

Oaten, Mark, 2004, "Why the time is right for 'tough liberalism'", *The Observer*, 19 September.

Pickard, Sarah, 2009, *Les phénomènes sociaux en Grande-Bretagne aujourd'hui*, Paris, Ellipses.

Prison Reform Trust, 2010, *Bromley Briefings Prison Factfile*, <http://www.prisonreformtrust.org.uk/Portals/0/Documents/FactfileDec10small.pdf>, date accessed, 20/01/2011.

Puffett, Neil, 2010, "Sentencing green paper signals 'change of direction' for youth justice system", *Children & Young People Now*, 7 December. Available at <http://www.cypnow.co.uk/news/1045579/Sentencing-green-paper-signals-change-direction-youth-justice-system/>, date accessed 8/12/2010.

Rayner, Gordon, 2010, "Edlington Attacks: Battle rages over 'Broken Britain'", *The Daily Telegraph*, 22 January.

Reiner, Robert, 2007, *Law and Order: An Honest Citizen's Guide to Crime and Control*, Cambridge and Malden, Polity Press.

Social Justice Policy Group, 2006, *Breakdown Britain: Interim report on the state of the nation*, London, Social Justice Policy Group.

Walters, Simon, 2009, "Mug a Hoodie: Tories promise they will put 100,000 in jail to clear Britain's streets of thugs", *The Daily Mail*, 4 October.

Watson, Ross, 2010, "Councils urged to maintain grants", *Children & Young People Now*, 15 June.

Youth Justice Board, 2010, <http://www.yjb.gov.uk/en-gb/yjs/Custody/Custodyfigures/>, date accessed 5 November 2010.

Understand a Little More, Condemn a Little Less: The beginning of a new era for youth justice in the UK?

Summary

Since approximately 1993, youth justice policy in the UK has been characterised by a significant degree of punitiveness, symbolised most dramatically by the number of children and young people sentenced to custody. Whilst New Labour sought to introduce a new 'third way' approach to criminal justice, combining punitive and welfarist measures, in practice it only succeeded in exacerbating punitive trends. Rather than acting as alternatives to traditional penal sanctions, welfarist measures came to form an additional layer of the punitive apparatus of the state.

This chapter seeks to determine to what extent the Conservative/Liberal Democrat coalition government may succeed in reversing punitive trends with regard to youth justice. Despite adopting less punitive rhetoric, it is argued that coalition policy in this respect is likely to demonstrate a considerable degree of continuity with that of the recent past. Any departure from the status quo will indeed be extremely difficult given the economic crisis and the ideological context in which policy is developed.

Key Words

youth justice – coalition government – United Kingdom – punitiveness – New Labour