



From New Labour to New Conservative: the emergence of a liberal authoritarian consensus ?

Emma Bell

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Emma Bell

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Introduction

- 1 The term 'liberal-authoritarian' is used here to evoke the schizophrenic nature of the politics adopted by the Labour Party in government since 1997 and by the Conservative Party in opposition since 2005. In an attempt to regain the political centre ground, both parties have simultaneously presented themselves as the guardians of freedom and the advocates of personal responsibility. There is nothing particularly new in such an approach. Indeed, Margaret Thatcher claimed to be advancing the cause of freedom through deregulation and the enhancement of consumer choice whilst using the power of the state to enforce personal responsibility – the paradox of what Andrew Gamble called the “free economy and the strong state”¹. Yet both Blair and Brown's New Labour and Cameron's Conservatives represent a break from Thatcherism to the extent that they have, rhetorically at least, recognised the need to heal social divisions. A less punitive rhetoric has been adopted towards the disadvantaged. Gone is the old Conservative talk of 'welfare scroungers'. Both parties have also shown themselves to be less morally prescriptive with regard to homosexuality and new family norms (even if David Cameron once opposed the repeal of section 28²). Both have also recognised the need to protect civil liberties. In order to delineate the terms of the liberal authoritarian consensus, two principal areas will be studied, firstly, the apparently liberal approach adopted towards civil liberties and secondly, the more authoritarian approach adopted with regard to crime policy.

Libertarianism – protecting civil liberties ?

- 2 In its 1997 manifesto, Labour declared its commitment to protecting civil liberties, making the European Convention on Human Rights enforceable in British courts of law. This legislative change was intended to “establish a floor, not a ceiling, for human rights”³. It was thus envisaged that, under a Labour government, human rights would be enhanced as far as possible. The Human Rights Act was duly passed in 1998, yet over a decade of legislative fury has in reality seen many of these rights circumscribed, particularly as the State's powers of surveillance and punishment have been hugely extended. I have already discussed these developments at length elsewhere⁴. Suffice to say that some aspects of this legislation have been ruled to be in breach of the European Convention on Human Rights⁵ and many others have been considered to limit basic civil liberties more generally.
- 3 In face of these developments, the Conservative Party has attempted to present itself as the defender of civil liberties against an overly authoritarian and interventionist state. It has spoken out and voted against the introduction of ID cards, the increasing reliance on CCTV camera networks to fight crime and the plans to extend the length of time terrorist suspects may be detained without trial. Some prominent Conservative figures were even key speakers at the Convention on Modern Liberty, a one-day forum on civil liberties held on 28th February this year. David Davis, for example, former contender for the party leadership and shadow Home Secretary until his resignation in June 2008, gave a keynote speech in which he congratulated civil liberties groups such as Liberty, Human Rights Watch and NO2ID on their contribution to resisting the government's authoritarian legislation. He pleaded with his party to keep his own promises in this respect:

Please abolish the ID cards the first day you get into government. Please reduce 28 days to a more civilised level as soon as you possibly can and please look at every law you pass, every law you

pass, and study it so that it gives freedom, privacy, and dignity back to the people even if it is at the price of taking power away from the government from time to time⁶.

- 4 It would appear that there is a good chance that a future Conservative government might indeed heed Davis' pleas. Although there are some members on the right of the Conservative Party who have supported authoritarian measures, notably the former shadow Home Secretary Ann Widdecombe, since David Cameron took over the party leadership in December 2005 Conservative MPs have tended to oppose such measures and to vote against the government when civil liberties have been thought to be under threat. It has not simply been a matter of voting against the Opposition. This move away from the distinctly authoritarian conservatism which is often associated with Michael Howard (as Home Secretary from 1993-1997 and then as party leader from 2003-2005) fits with the new notion of 'modern compassionate conservatism'.

Defining compassionate conservatism

- 5 It is necessary to define just what exactly is meant by this new philosophy. The idea of 'compassionate conservatism' was first developed by Iain Duncan Smith, party leader from 2001-2003, who became increasingly convinced that the Conservative Party should be more concerned by social problems⁷. Compassionate conservatism was not new. Its values had already been expounded by George W. Bush who summed up the philosophy as "help[ing] citizens build lives of their own"⁸. So, it was about helping citizens to help themselves, rather like Blair's wish to create an "active" welfare state in which people would be given a "hand up", not a "hand out"⁹. The idea was taken up by the Centre for Social Justice, a policy think tank set up by Iain Duncan Smith to investigate what it terms "social breakdown" in the UK¹⁰. For the think tank, social justice rather than "libertarian policies on family, drugs and crime" should be at the centre of the Conservatives' modernization project¹¹. Another think tank, the Policy Exchange, described as "the modernizers' favourite think tank"¹², "closest of all to the Conservative Party and its leader"¹³ has advocated the adoption of compassionate conservatism which it sums up in three broad principles of political action: freedom from state interference, decentralization of power from the state to the community and government accountability¹⁴. For David Cameron, compassionate conservatism "is based on two principles: trusting people and sharing responsibility"¹⁵.
- 6 It is thus easy to see how an apparently libertarian view of civil liberties may fit into such a philosophy. A similar theme runs through both ideas: that of protecting the individual from an overweening state. Compassionate conservatism is a libertarian philosophy in two senses: firstly, in its attempt to protect individual freedom and, secondly, in its emphasis on the social problems of the disadvantaged. This does not mean it is not a conservative philosophy – indeed, libertarianism runs strong in the Conservative tradition. But, it is also close to the tradition of the liberal left which has long regarded itself as the traditional defender of civil liberties and the champion of the poor. Yet, the philosophy is also marked by a very conservative authoritarianism which sees the primary role of the state as being the encouragement of personal responsibility, using sanctions where necessary. The tensions between libertarianism and authoritarianism are particularly evident in Cameronite crime policy.

Cameronite crime policy

- 7 As per New Labour, the Conservatives have presented tackling crime as a branch of social policy, as a way of improving the lives of the poorest and most vulnerable members of the community whose lives are often blighted by the problem. In a speech on the so-called "broken society" made in Glasgow in 2008, Cameron claimed that crime, knife crime in particular, is regarded as symptomatic of the "broken society", along with a host of other social problems such as family breakdown, welfare dependency, debt, drugs, inadequate housing and failing schools¹⁶. According to David Cameron himself, the source of all these problems is a state which denies personal responsibility and "a concept of moral choice"¹⁷. He complained:

We talk about people being ‘at risk of obesity’ instead of talking about people who eat too much and take too little exercise. We talk about people being at risk of poverty, or social exclusion: it’s as if these things – obesity, alcohol abuse, drug addiction – are purely external events like a plague or bad weather. Of course, circumstances – where you are born, your neighbourhood, your school, and the choices your parents make – have a huge impact. But social problems are often the consequence of the choices that people make.[...] Imagine if there was a government that understood, really understood, that encouraging personal and social responsibility must be the cornerstone of everything that it did and that every move it took reinforced that view”¹⁸.

- 8 Cameron’s compassion is thus limited to an awareness of social problems and an acceptance that government should be concerned about these problems. Real compassion is about enabling individuals to make their own moral choices and to take responsibility for their own lives. This is rather like Margaret Thatcher’s view that encouraging welfare dependency was unkind since it rendered the individual a “moral cripple”¹⁹. In this speech, there is a marked toughening up of the rhetoric from Cameron’s so-called “hug a hoodie” speech²⁰ of 2006 in which he attempted to soften the Party’s image on law and order by declaring that “there are connections between circumstances and behaviour” and claiming that “hoodies are often more defensive than offensive”²¹. His 2008 speech still notes the link between circumstances and behaviour but the emphasis is placed more decisively on individual responsibility.
- 9 In crime policy, because each individual is held to be responsible for his or her actions, the Conservative Party firmly believes that criminal behaviour should be severely punished. Indeed, the Party’s emphasis on deterrent sentences shows an underlying presumption of rational choice on the part of the criminal. In his “broken society” speech cited earlier, Cameron declared that “anyone convicted of knife crime should expect to go to jail”, saying that he doesn’t “believe that the government’s ‘presumption to prosecute’ is enough”. He explained, “It doesn’t send a strong enough signal. We need a ‘presumption to prison’”²². Similar thinking lies behind the Conservatives campaign to end the early release of prisoners²³, currently made possible under the Labour government’s End of Custody Licence Scheme introduced in 2007 (although in practice this only allows the release of prisoners up to 18 days before the end of their sentence). In a similar vein, the Conservatives have promised to restore “honesty in sentencing”²⁴, reversing the policy of releasing all prisoners on determinate sentences of over twelve months half-way through their sentences (this policy is not as soft as the Conservatives make it sound – it can be argued that it is actually harsher than previously on account of the fact that prisoners are now placed under surveillance until the end of their sentence. Before, this was only the case up until the two thirds point. In any case, those offenders who are considered to be a risk to the public are often sentenced to indeterminate sentences). The aim is clearly deterrent, as is the promise to improve police visibility on the streets²⁵.
- 10 Personal responsibility is also seen to lie behind the causes of crime. David Cameron and the Centre for Social Justice cite family breakdown as one of the main causes of crime. “Dysfunctional families”, chiefly characterised by parental neglect, are held to blame for problems of addiction and educational failure which can in turn lead to crime²⁶. The need to reinforce personal parental responsibility is clearly prioritised by the Conservatives, yet they do not adopt such an authoritarian approach as the New Labour administration in this respect. There has been no mention of the creation of anything similar to Labour’s coercive parenting orders. Instead, emphasis is placed on encouraging marriage and in tackling other problems which may lead to family breakdown such as educational failure, addiction and economic dependency²⁷. But there is no question of where the blame lies. Although New Labour has been blamed for exacerbating these problems through wrong-headed intervention programmes, the responsibility of individuals and communities is clearly invoked. Indeed, the causes of crime and other symptoms of social breakdown, are seen to be cultural rather than structural²⁸. For example, with regard to welfare, it is suggested that there is a “deliberate culture of worklessness in Britain” that must be tackled by the imposition of ever-tougher penalties for those who refuse to work²⁹.

Rolling forward the frontiers of society...

- 11 Again, as per New Labour, the Conservatives claim that the state alone cannot tackle these problems. Cameron has declared that he aims not to roll back the frontiers of the state but rather “to roll forward the frontiers of society”³⁰. This means giving communities, private and voluntary organisations greater responsibility for change. This is why “society” is so important for David Cameron – as he declared, “There is such a thing as society; it’s just not the same as the state”³¹. In the fight against crime, for example, every member of society should get involved: “politicians, police, parents, neighbours and businesses”³². So, it is not just individuals who are responsabilised. David Cameron has called for what he describes as a “responsibility revolution” involving individuals, professionals, neighbourhoods, communities and businesses³³. As we have suggested earlier, assuming responsibility is presented as being akin to freedom. Individuals are given the freedom to take control of their lives; professionals are given the freedom “to fulfill their vocation”; communities are given “the power to shape their destinies”; and businesses are given fresh incentives and lassitude to develop new socially responsible policies. Yet, off-loading responsibility for crime and social breakdown on individuals and communities does not mean that state authoritarianism is less present.
- 12 Indeed, involving communities in the fight against crime can actually reinforce rather than counter state authoritarianism when they both share morally prescriptive points of view. Just like Blair’s New Labour, Cameron’s Conservatives would appear to advocate communitarianism, as advanced by the American Amitai Etzioni who believes that “stable” societies, in other words, societies founded on the same, widely accepted moral code, are the ultimate barrier to social breakdown of which crime is a symptom³⁴. For Oliver Letwin, a key Conservative Party “moderniser” and a Cameron loyalist³⁵, “the neighbourly society” is the ultimate weapon against crime and disorder³⁶. Such a society is characterised by
- Strong and supportive relationships within families, between neighbours and throughout the wider community... [It] is self-sustaining because its responsible, adult members provide their young with a proper start in life and, thereby, a cycle of responsibility which sustains the neighbourly society from generation to generation.³⁷
- 13 Crime, as the ultimate symbol of irresponsibility, is represented as the very antithesis of such a community: indeed, Letwin speaks of the struggle between crime and community, “two opposing forces”³⁸. It is assumed here that the community shares a uniform view of what ‘responsible’ or ‘criminal’ behaviour is. Consequently, the delinquent or the merely ‘irresponsible’ are set against and excluded from their community. Rather than reinforcing cohesive, diverse communities, social division is encouraged as those who do not sign up to the prevailing norms (or, as Blair said, those who do not “play by the rule”³⁹) are cast out. In this fight between those responsible for social disorder and the wider community, those who are, as Letwin puts it, placed “in the front line against fear are often those least able to stand up to the thugs”⁴⁰. Consequently, the police, the representatives of the State, need to be called in to defend the community. They are called upon to tackle not just criminal behaviour *per se* but also general disorder. In doing so, they are asked to work *within* the community and to be accountable *to* it. With this aim in mind, David Cameron has announced the Conservative’s intention to restructure and decentralise the police force. He aims to promote “real local accountability to give local communities control over local policing” via the encouragement of “neighbourhood policing”⁴¹. He approvingly cites the experience of William Bratton, the former police chief of New York, who advocated what he called “community policing” whereby a visible police presence in local communities worked in partnership with the communities themselves to tackle disorderly behaviour. This has become known as a “zero tolerance” approach to “problem” behaviour, which aims to nip more serious crime in the bud⁴².

... and rolling forward the frontiers of the State

- 14 Such an approach may actually be described as the precise opposite of a libertarian agenda, with agents of the state becoming ever more proactive and interventionist, involved in controlling the sort of behaviour that is seen as a prelude to criminal behaviour rather than simply criminal behaviour itself. In addition, experience in the UK has shown that involving communities in zero tolerance policing can actually be harmful to community cohesion and thus ineffective in the fight against crime⁴³. Yet involving the community in such crime fighting strategies enables the state to legitimate authoritarianism. Who can possibly criticise tough policing strategies that are apparently sanctioned and even encouraged by the local communities themselves? Indeed, in the quest to guarantee the local accountability of police forces, there is an increasing need to satisfy their customers, namely the victims and potential victims of crime. In such a context, there is a possibility that the police will then look to the State to implement ‘populist’ policies and to extend their powers in such a way that they can better respond to ‘customer’ demands. Creeping state authoritarianism may thus be hidden behind an apparently liberal approach to the crime problem.
- 15 This is not to suggest that this is necessarily a deliberate strategy. However, the authoritarian undertones inherent in such a policy approach are consistent with a more general sway towards authoritarianism evident in other areas of Conservative crime and social policy. Although there has been renewed focus on the need to reduce prison overcrowding and to concentrate greater efforts on the rehabilitation of offenders, the former being seen as a precondition for the latter⁴⁴, this policy is seen as part of an overall strategy to toughen up punishment and make it more effective. The Conservatives have termed such an approach “competent authoritarianism”, as opposed to the “incompetent authoritarianism” that they claim has characterised New Labour’s approach to the problem of insecurity⁴⁵. “Incompetent authoritarianism”, it is explained, has meant the simultaneous rise in the number of new criminal offences created and in violent crime, as well as the rise in the prison population in the absence of prison places and adequate rehabilitation efforts⁴⁶.
- 16 It is implied that the Conservatives, on the other hand, believe in “competent authoritarianism”, authoritarianism that presumably effectively cuts crime and recidivism rates. Consequently, the Conservatives have promised that, should they be elected to power, they will end early release, build more prison places and introduce automatic prison sentences for those convicted of knife crime. There are plans to extend police powers. It is proposed that police will be able to stop and question suspects without needing to make a written record⁴⁷. The situations in which the police have to obtain permission for surveillance operations under the Regulation of Investigatory Powers Act 2000 will be limited⁴⁸. Magistrates will also be given more powers, enabling them to give custodial sentences of up to twelve months, instead of just six as is currently the case⁴⁹. Chris Grayling, the Shadow Home Secretary, who declared, “It’s time we spent a bit more time worrying about the wrongs in our society, and a bit less about the rights of those who are disrupting it”, has proposed that even tougher action be taken to fight anti-social behaviour, recommending the introduction of “grounding orders” for “young troublemakers”⁵⁰. These would enable the police to circumvent the procedure necessary to have an ASBO imposed and immediately ‘ground’ a young person at home for up to a month, except during school hours⁵¹. Further tough measures were announced at the 2009 Conservative Party Conference. Chris Grayling promised to crack down on “preachers of hate”, arresting those who organise extremist meetings, whilst Dominic Grieve, the shadow Justice Secretary, declared that he would limit suspected criminals’ right to privacy, giving police the powers to reveal their identities⁵².

Challenging “incompetent liberalism”

- 17 Out of the same concern to place more emphasis on responsibilities rather than on rights, the Conservatives have promised to abolish the Human Rights Act. It would appear they regard it as an example of what we might call “incompetent liberalism”. It is “incompetent” in the sense that it has not succeeded in protecting our civil liberties by preventing the government

from eroding the right to trial by jury or from extending the period of pre-trial detention⁵³. In addition, Nick Herbert, when he was Shadow Secretary of State for Justice, declared that the Act had been “a poor advertisement for rights”, unleashing a “culture of grievance”⁵⁴. David Cameron has accused the Act of making the fight against crime harder by protecting the human rights of criminals. He cites as an example Article 8 protecting the right to respect for privacy and family life which has prevented the police from publishing ‘wanted’ posters featuring photographs of foreign ex-prisoners ‘on the run’⁵⁵. Consequently, he has proposed the creation of a new Bill of Rights which “should spell out the fundamental duties and responsibilities of people living in this country both as citizens and foreign nationals”⁵⁶.

- 18 This proposal is similar to that of the New Labour government which has recently proposed the introduction of a “Bill of Rights and Responsibilities” which would match new social and economic rights such as the right to free healthcare and equality, with responsibilities such as the duty to obey the law, to vote and to serve on juries⁵⁷. These attempts to counter the universality of human rights with an increased emphasis on conditionality is a classic example of the tension between libertarianism and authoritarianism inherent in a range of contemporary social and crime policies. A liberal-authoritarian *consensus* can indeed be detected. The emphasis on the need to match rights and responsibilities is not the only part of this consensus. Contrary to what either party may pretend, continuity between New Labour and the New Conservatives can also be detected in the adoption of tough sentencing policies, zero tolerance strategies, and in the extension of police powers, as well as in a more libertarian preoccupation with tackling the social causes of crime through the development of a new social contract between the state and local communities.

Conclusion: From libertarianism to authoritarianism

- 19 Yet how far such apparently contradictory policies can work in harmony is a matter of debate. I have argued elsewhere that New Labour’s attempts to reconcile these two approaches has largely failed, libertarianism constantly being undermined by the pull towards authoritarianism, just as a drive for social justice has been undermined by the Party’s concurrent commitment to market freedom. There is a distinct possibility that this trend will be continued under David Cameron’s ‘new’ Conservatives. Firstly, it is questionable to what extent the Party has managed to shed the baggage of the past. Cameron himself spent his formative political years under the tutelage of the right wing of the Conservative Party, beginning his political career working for the Conservative Research Department from 1988-1992, briefing John Major during the 1992 election campaign, and then briefly working for the Treasury before joining Michael Howard at the Home Office at a time when the latter was attempting to formulate a crime policy that it was thought would easily ‘out-tough’ Labour on the question of law and order. Cameron helped to draft Howard’s infamous “prison works” speech delivered at the 1993 Party Conference. He has admitted that he agreed with Howard’s message, even though he was more libertarian on issues of personal lifestyle choice and disagreed with Howard’s crackdown on rave⁵⁸.
- 20 It seems Cameron has been constantly torn between libertarianism and authoritarianism. It is hard to predict how he might behave when in government. His first boss, Robin Harris, the former director of the Conservative Research Department has described him as being totally opportunistic⁵⁹. If he is right, it might be expected that Cameron could easily be carried off in either an authoritarian or a libertarian direction, depending on which way the political wind is blowing. In the context of a severe recession which is unlikely to be behind us by the next General Election, Cameron’s more libertarian desire to tackle the causes of crime may be undermined by the need to cut public spending – indeed the Party has already reneged on its original promise to match Labour’s ambitious public spending plans⁶⁰. In addition, it has been claimed that the recession is already sending crime figures soaring, which may lead to an authoritarian rather than a social response⁶¹.
- 21 Finally, it remains to be seen how far the party modernisers will be able to influence and control the right of the party. Although there is a distinct strand of liberalism running through conservative tradition (represented by a desire to protect the individual from an over-powerful

state) and a tradition of compassion (the concern for the poor encapsulated in the notion of one-nation Toryism), the tradition of authoritarianism remains strong. The party is unlikely to renounce its claim to be *the* party of law and order. If a new consensus can be said to be emerging, perhaps, despite the libertarian rhetoric, it is one that is more likely to be marked by authoritarianism than by liberalism.

22 29 The Conservative Party, *Repair: Plan for social reform*, p. 22. Available at http://www.conservatives.com/Policy/Where_we_stand/Crime_and_Justice.aspx (consulted on 24th September).

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À propos de l’auteur

Emma Bell

Maître de Conférences à l'Université de Savoie

Droits d’auteur

Observatoire de la société britannique

Résumé

This paper will analyse the way in which recent Conservative policy, like New Labour policy before it, is being pulled in two directions at once – towards both authoritarianism and libertarianism. Analysing policy on crime and civil liberties, it will be argued that authoritarianism is once again likely to win out over libertarianism.

Entrées d’index

Keywords : civil liberties, crime policy, New Labour, Conservative Party, David Cameron, liberalism, authoritarianism, Human Rights Act