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update

Una Padel reviews recent developments in criminal justice.

Fast justice

Britain's first Community Justice Centre is to be located in Liverpool. Modelled on the Red Hook Community Court in New York, the new Centre will, according to the Home Office, offer a "one-stop crime busting centre, dispensing justice to perpetrators of low-level crime and disorder as well as anti-social behaviour." The Centre is likely to be located in a restored derelict building. As well as a courtroom the Centre will contain other services and facilities such as drug treatment, training, restorative justice and debt counselling. The aims of the pilot Community Justice Centre will be to:

- Improve the co-ordination of work aimed at tackling anti-social behaviour and the links between criminal justice and other agencies, increasing the efficiency and effectiveness of their work.
- Tailor punishments to reflect an individual's and the local community's needs, and design rehabilitation schemes to reduce re-offending and engage the perpetrator with their own community.
- Increase community participation and confidence in criminal justice.
- Provide more resolutions through reparation and restoration to cases that are relevant to the damage done to the community as well as the individual.

The development of pilot Community Justice Centres was outlined in the recent White Paper *Respect and Responsibility – taking a stand against anti-social behaviour*. More detail about the location and services to be offered will be announced by the end of the year.

No tea party

The new head of the Police Standards Unit is to be Paul Edwards, Commissioner of the Boston Police Department where he adopted a pioneering approach to neighbourhood policing. Since 1995 Boston has seen a reduction in violent crime of 34%, in homicide of 68% and in burglary of 40%. The Police Standards Unit has the task of driving up performance standards in the police service and has a key role to play in the Government's police reform agenda. Mr Edwards will take up his new post in November.

Prisoners' children 'at risk'

Every Child Matters, the Government Green Paper on children at risk published in September, specifically includes the children of prisoners as a group in need of specialist services. Action for Prisoners' Families has worked hard to ensure that the particular needs of prisoners' children are recognised and APF research was quoted in the Green Paper. APF Director Lucy Gampell said "This is a significant step forward and should provide a springboard for the development of services for children and young people with a family member in prison."

Innocent until proven guilty

The Prison Reform Trust has just launched the Remand Reform campaign with advertisements in the national newspapers and an excellent new website providing a wealth of information about remand in custody and the opportunity to sign up to the campaign.

The site can be found at www.innocentuntilproven guilty.com

No leniency on racially and religiously aggravated offences

The Attorney General's power to challenge unduly lenient sentences has been extended by the Home Secretary in relation to certain racially and religiously aggravated offences. The Attorney General has this power in relation to all indictable only offences and certain triable either way offences and these racially and religiously aggravated offences will be included from October 13th. The Attorney General, Lord Goldsmith, said "I have pushed for this extension because race and religious crimes are hate crimes, which strike at the heart of people's right to feel safe and protected by the law. A racially or religiously motivated attack is an attack on the whole community. Sentences should reflect the impact of these crimes on individuals and communities. This move sends a clear message to perpetrators that they will not get away with threatening, violent or abusive behaviour."

Crackdown

A new initiative to move drug users into treatment and away from the cycle of crime and drug addiction is being introduced in Manchester. This is the first of thirty areas identified as being worst hit by drug-related crime which will benefit from the development of comprehensive integrated services to provide support and treatment to drug using offenders from the moment they are identified as drug users until the end of their sentences and beyond. The Criminal Justice Interventions Programme will cost £46.2 million this year in the thirty areas, and a total of £447 million has been set aside to fund the package and further roll-out over the next three years. In addition to arrest referral and Drug Treatment and Testing Orders which are available across the country, the thirty areas will be piloting services such as enhanced arrest referral and low intensity DTTOs for young people. If the measures in the current Criminal Justice Bill get through they will also be involved in drug testing for young people.

'Refugee' and 'Criminal': discourses operating in tandem

Jackie King looks at how public discourse and legislation work together to criminalise asylum seekers in Australia.

This article seeks to apply mainstream criminological discourses to refugee policy, using Australia's refugee policy as a case study. Notions of security, ethnicity, race, social exclusion, and xenophobia are all well established within various criminological discourses. The use of similar discourses in both the criminological and refugee spheres has developed to justify an increasingly restrictionist Australian refugee policy.

The choice of Australia as a case study is quite straightforward. "Australia makes a particularly interesting case study of asylum seekers and refugees. Australian intakes of asylum seekers and refugees are small by international standards, yet over the past decade, Australia has rapidly developed an increasingly regulatory regime" (Pickering, 2001).

According to Weber (2002), where once refugee policy operated in the context of humanitarian law, it now exists along a continuum of deterrence and its associated criminal law overtones. She states that the criminalisation of asylum seekers could be said to occur through "Three mutually reinforcing processes: rhetorical or symbolic criminalisation, whereby asylum seekers are constructed as dangerous and criminal through public discourse; direct or literal criminalisation where asylum seekers are actually charged with criminal offences, and quasi, or procedural criminalisation where asylum seekers are treated as if they are criminals" (Weber, 2002). This paper explains these processes via: the discourse of deterrence and illegality; the criminalisation and victimisation of asylum seekers and refugees; and the use of legislative measures, particularly temporary protection and detention.

Discourses of deterrence and illegality

Australian refugee policy has become based on the notion of deterrence. Deterrence as refugee policy has rested upon a familiar and seductive language co-opted from the criminal justice system. Importantly however, the notion of deterrence excludes consideration of why a person may break seemingly legitimate laws. "In relation to crime and the criminal justice system this includes structural conditions of poverty, racism and the like. In relation to refugees it focuses solely on the pull factors and excludes the push factors. The use of deterrence effectively excludes a consideration of the conditions that produce refugees and as such

seriously undermines principles of international refugee protection" (Pickering and Lambert 2002). It thereby seriously distorts the public debate on refugees by placing it within a criminological context— future law breakers need to be deterred primarily by punishing those that have already broken the law by entering the country.

According to Weber (2002) illegal entry is "Not a new phenomenon but is said to cycle through periods of toleration and prohibition, which parallels the cycles of normalisation and criminalisation observed within the criminal law". Pickering uses the criminological discourse of deviance to describe the representations of on-shore asylum seekers in Australia. She says that "The seductive and material power of language in the representation of deviance can be seen in the binary logic deployed in relation to asylum seekers and refugees; bogus/genuine; refugees/boat people; law abiding/criminal; legal/illegal; good/evil" (Pickering 2001).

As well as the discourse of deviance, newspapers and politicians use the vocabulary of war in relation to asylum seekers and refugees, a practice that is also familiar in criminological discourses and impugns the legitimacy of refugees and asylum seekers, portraying them as taking advantage of the Australian community and abusing the system. The notion of war allows for only one legitimate side and one winner at the end of the battle.

Criminals and victims

The overall impact of migration on the crime rate and internal security of receiving countries tends to be misjudged and overestimated. The Government and media represents on-shore asylum seekers as exploiters of Australia's generosity, and implicates them in a series of illegal activities, including the idea that the individuals themselves have engaged in serious criminal offences. They also criminalise asylum seekers through association with people smuggling rackets (Pickering and Lambert, 2002).

Refugees released into the community can suffer victimisation and discrimination that is directly related to their identity as refugees. The rhetorical criminalisation of refugees by Government and the media lay the foundations for increased levels of racist violence and hate crime. Asylum seekers and refugees may also experience exploitation by organised traffickers supplying bonded labour and sex workers (Weber, 2002). In the Australian case, incidences of victimisation of refugees increased

greatly in the aftermath of the 11 September bombings in the US, with many reports of racially motivated attacks on Arab and/or Muslim people in Australia (Poynting, 2000).

Detention and 'protection'

In Australia, detention for all unauthorised arrivals is mandatory until the determination process is resolved. According to the Australian government, the detention regime is necessary for the maintenance of immigration control, particularly to uphold the universal visa requirement. In reality however, detention is a means to an end — deterrence.

The notion of detention is also a familiar one in criminology. The practice of detention allows for the criminalisation of asylum seekers by placing them straight into a penal environment, with prison-like rules and conditions. "Detention is a policy decision and a strategic and administrative practice, which is unambiguously about containment, separation and punishment" (McMaster, 2002).

Detainees have been conflated with criminals and terrorists, so that the use of detention has acquired a military and defence rationale. Stories of riots and protests within detention centres and actions of self-harm, including hunger strikes, the sewing together of lips and suicide attempts, have become almost daily news, emphasising the criminal-like behaviour of the detainees. However, pro-asylum groups have characterised the treatment in detention centres as torture. According to the Australian Catholic Social Justice Council, "At certain stages in their processing, asylum seekers in detention are not allowed contact with their families...Unlike those convicted of a criminal offence, asylum seekers do not know for how long they will be detained. In some immigration detention centres, observations and musters involve waking asylum seekers at night, or shining torches on them while they are sleeping" (Tazreiter, 2003). This has been re-affirmed by the Australian Human Rights and Equal Opportunities Commission and by the International Committee of the Convention Against Torture. Australia has been severely criticised internationally for the practice of its mandatory detention policy.

Once found to be genuine refugees and released from detention, refugees who arrive illegally in Australia are granted temporary protection visas (TPVs). Introduced in October 1999, the TPV changes the focus on the documentary validity of entry to Australia as the determinant of the visa an individual may be granted once found to be a refugee. The TPV grants three years temporary status, during which time no family reunion or access to other significant resettlement programme is available. A TPV means an individual has no automatic right of return upon leaving Australia and no eligibility for Medicare. On the other hand, those who arrive with valid travel documents and then apply for refugee status are granted permanent residency if their claim is successful.

One of the most obvious processes of criminalisation of refugees is that the use of temporary protection visas and successive reductions in levels of material support to refugees, lead inevitably to crimes of survival such as theft and prostitution. Possible longer term effects are that children bought up in these conditions of marginalisation are likely to get involved in criminality, violence, dishonesty and drug use. The criminalisation process is thus complete (Weber, 2002).

Conclusion

The discourse which criminalises refugees and subsequent legislative measures have produced a hegemonic representation of refugees as criminals; a situation which appears to require forceful action by the Australian government, on behalf of the Australian community, to defend Australia's shores and way of life. Beginning with the introduction of TPVs, the period between October 1999 and September 2001 saw a new range of legislative measures put in place, which further criminalised asylum seekers who arrived by boat. This increased restrictionism further treats asylum seekers as 'the other', people who should be excluded from due processes and who have no access to the rights guaranteed under international conventions. This exclusion has the effect of further criminalising such applications, both in substance and in form.

In recent years, discourses of criminality have been increasingly used to explain and justify Australia's refugee policy. The co-opting of traditionally criminological discourses into the refugee sphere does not bode well for the plight of refugees and asylum seekers, and suggests that criminologists are morally justified in becoming involved. Their task is to offer the analytical tools to unpick the myth and rhetoric, and to promote reflection on the societal direction that seems to accept demonisation of the incomer while at the same time talking up the prospects for global interchange. Australia is not the only case where these forces are in play: does it foreshadow the future for other countries? That is a question for international criminology to address.

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