Poverty, ethnicity and youth justice in Europe

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A very substantial contraction in entry, treatment and custody in youth justice in England and Wales in recent years is broadly celebrated. This decline has occurred from a position of unusually high rates of entry, treatment and custody compared to other European countries.[1] Not all children however have benefitted equally from these changes. Perversely, treatment has worsened and is harsher for some groups in ways not explained by different offending rates and offender profiles.

While white and non-looked after children in England and Wales have seen a sharp decline in them entering the system and in child imprisonment, the proportion of black and minority ethnic (BME) children in the system has increased relative to white children.

Furthermore, they have experienced unwarranted and excessive intervention compared to the white group. This appears to have happened because of unnecessary and early policing contact, an increase in the proportion of arrests of black children, failings in the care system, and ways that their looked after status accelerates involvement in the youth justice system.

European youth justice systems too have been pressured by varying degrees of austerity alongside burgeoning migration. This has created a crisis of poverty among minority and migrant children and young people that make exposure to delinquency and punishment more likely, accompanied by increasingly punitive contact with the police and juvenile justice systems across European countries.

While these pressures are discussed and applied to the position of black, minority ethnic and migrant children across European welfare and youth justice systems, identifying system dysfunctions, responses and effectiveness alone are insufficient. Without paying attention to some of the causes of child and youth offending, particularly the crisis of black, minority ethnic and migrant child poverty across Europe caused by austerity, explanation will be incomplete. Disproportionately poor conditions and transitions among black, minority and migrant children greatly increase the likelihood of children and young people having contact with the police and juvenile justice systems across European countries.

The article argues that, depending on different national balances and mixes between citizenship rights, welfare and youth justice in response to delinquency, one consequence of economic crisis is that some children and young people living in Europe are doubly punished for being minority/migrant status and poor, linking ethnicity and poverty.

Political economy approach

Youth justice systems are adversely or positively changed or stymied by the historical and national influences and contexts in which they are placed and are interdependent upon. A particular national or cluster of countries' balance and mix of education, care, welfare, policing and punishment are in turn influenced by conjunctures, confluences and crises of policies and political economy.[2] European societies and their welfare and youth justice systems cluster and diverge according to social democratic, '(neo)liberal' and corporatist approaches leading to different patterns and emphasises of the relationship between citizenship, punishment and welfare.[3]

It is these sorts of approach and considerations that underly the discussion that follows.

Some peculiarities of English youth justice

To begin this review of youth justice in Europe we begin from perhaps more familiar territory, the peculiarities of the youth justice system in England and Wales, of which the most peculiar feature has been having the highest rate of youth custody in Europe.

1. Although strict comparisons are complicated by an array of factors, not least the low age of criminal responsibility in England and Wales at 10 years, although Scotland raised the age from 8 to 12 years in 2019.
2. Farrall, S., Gray, E., & Jones, P. M. (2020). The role of radical economic restructuring in truancy from school and engagement in Crime, *British Journal of Criminology, 60*(1), 118–140; Farrall, S. (2021). *Building complex temporal explanation of crime: History, institutions and agency.* Palgrave Macmillan; Webster, C. (2023). *Rich Crime, Poor Crime: Inequality and the Rule of Law.* Emerald Publishing.
3. Esping-Anderson, G. (1989). *The Three Worlds of Welfare Capitalism.* Polity Press; Webster, C. (2018). Race, Ethnicity, Class and Juvenile Justice in Europe. In B. Goldson (Ed.), *Juvenile Justice in Europe: Past, Present and Future?* Sage.

England and Wales saw a downward trend of children in youth custody from a peak of over 3,000 in 2003 to an average of 440 in 2023, the lowest number on record. Nevertheless, this remarkable progress has been patchy in not benefitting all children equally. Despite black children experiencing the largest decrease in custody of any ethnicity over the last two years, they remain overrepresented in custody. Accounting for 26 per cent of the youth custody population compared with 6 per cent of the 10 to 17 population. Moreover, while the custody population overall has decreased over the last ten years, this fall has been greater for white children than minority children, which have increased as a proportion of children in youth custody. This has left white children making up less than half of the youth custody population for the first time since records began.[4]

Key is that just as over half of all children in youth custody have care experience, so over half of all children in youth custody had ethnic minority backgrounds compared to 25 per cent in 2008. There is considerable if a somewhat complex crossover between these groups. The Laming Review estimated that 44 per cent of all children in custody who had experienced care came from an ethnic minority background.[5] Katie Hunter in this journal in 2022 persuasively explains how this reduction of the absolute numbers has perversely affected an increasing disproportionate representation of black and minority ethnic (BME) children and looked after children, intensifying their vulnerability and disadvantage.[6] It appears that BME looked after children are particularly exposed to failings in the care system, where they are disproportionately represented as well as among youth justice cohorts, and are more likely to be criminalised within care placements that accelerate them through the youth justice system. In other words, BME looked after children experience compounded disadvantage in both systems of care and justice, welfare and punishment.

Instability in the care system, including an English obsession with privatisation, can impact upon children's behaviour, leading to the use of police intervention (calling the police) as a method of discipline in some children's homes and ultimately, to criminalisation. Instability also involves wider issues with both the availability and quality of provision to the point that the care system may be described as on the point of collapse.[7] This crisis of the privatisation of children's care has resulted from profit-making corporations having come to own 83 per cent of children's residential care paid by local authorities, exacerbated by the impacts of austerity. Because companies provided accommodation where land and property is cheapest, children are sometimes moved hundreds of miles, routinely ripping children from their roots, severing belonging and trust, and they are once more cut adrift.[8]

Austerity alongside burgeoning migration. This has created a crisis of poverty among minority and migrant children and young people.

Leaving aside for the moment these ways that a crisis in the child welfare system indirectly feeds entry to the youth justice system, BME children and young people have experienced unwarranted and excessive intervention directly by the criminal justice system for many years. For example, looking at robbery offences in England and Wales, racist stereotyping distorted the criminalisation of BME children and young people — especially black and mixed ethnic young males — particularly in respect of robbery charges, leading to youth custody. Black and ethnically mixed young males are ten times more likely than white young males to be arrested for robbery. Although robbery arrest rates for black and mixed ethnic males are high, outcomes pertaining to trials, convictions and sentences appear to be like the white group. Therefore, disproportionality in child and youth imprisonment for the offence of robbery can be traced primarily to disproportionate arrest rates.[9]

Similarly, although the imposition of custodial sentences in respect of children and young people convicted of drug offences has been relatively low,

4. Youth Justice Board (2024). *Youth Justice Statistics 2022/2023*. Ministry of Justice.
5. Hunter, K. (2022, April 12). Exploring ethnicity, care experience and justice systems involvement. *ADR UK*. https://www.adruk.org/news-publications/news-blogs/exploring-ethnicity-care-experience-and-justice-systems-involvement/
6. Hunter, K. (2022). 'Out of place': The criminalisation of Black and minority ethnic looked after children in England and Wales. *Prison Service Journal, 258,* 13 – 18.
7. Tickle, L. (2024, October 18). Meet Becky, aged 14, suicidal, alone and unwanted. Victim of a cruel, uncaring state. *The Observer.*
8. Monbiot, G. (2024, May 18). How can a child in care cost £281,000 a year? Ask the wealth funds that have councils over a barrel, *The Guardian*.
9. Uhrig, N. (2016). *Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales.* Ministry of Justice.

there has been a striking disproportionality in penal detention for BME young people convicted of such offences. This too can be traced back to a combination of disproportionate arrest and disproportionate custodial sentencing at the Crown Court.[10]

If this known different, disproportionate and discriminatory treatment of BME children and young people in England and Wales, is replicated in the rest of Europe, the implications are profound for Europe's claims to uphold human rights and disallow discrimination. The European Union's adoption of rules for justice-involved juveniles based on human rights and the unanimous endorsement of the United Nations Convention on the Rights of the Child (UNCRC) in every country of Europe, censures the illegitimate and unnecessarily harsh treatment and punishment of children.

As described above, between 2008 and 2017 there was 75 per cent reduction in the numbers in juvenile custody in England and Wales and a 66 per cent reduction in Scotland. Similar significant reductions in Northern Ireland, Greece, Belgium, Spain, Netherlands, Norway and Denmark, can be contrasted with significant increases in Italy, Ireland and Sweden. The key though overall is the prevalence and mix of child welfare protectionist versus punitive models of juvenile justice, and the relationship between welfare spending and rates of imprisonment. Muncie notes that the cluster of social democratic Scandinavian countries have kept youth imprisonment to an absolute minimum with custody populations in single figures or tens (Finland more but a reduction of 90 per cent since 1960), in stark contrast with neoliberal country clusters worldwide.[11]

BME looked after children experience compounded disadvantage in both systems of care and justice, welfare and punishment.

Austerity: crisis of child poverty in Europe and the UK

In the UK, 500,000 additional children have been pushed into absolute poverty. Twenty-two per cent of the UK population are in poverty amounting to 14.5 million people of which 4.3 million are children. There has been a big rise in destitution with more than a million households (including 550,000 children) experiencing destitution in 2019, a rise of 35 per cent since 2017, with further increases during the pandemic.[12] According to the Resolution Foundation the main reasons for the scale and distribution of these social and cost of living crises are the lack of support for low-income families and the third major fall in real wages over a decade, amounting to a £11,500 wage loss for the average worker projected between 2008 and 2027.

In 2022, in the EU,[13] a quarter of children were at risk of poverty or social exclusion, ranging from Romania (41.5 per cent) to Denmark (13.8 per cent). Children generally, were at a higher risk of poverty or social exclusion compared with adults in 18 out of the 27 EU Member States. Across the EU — and especially the Nordic countries of Finland, Sweden, Denmark and Norway — the poverty rates among the children of foreign-born parents are twice that of the children of native-born parents, at 40 per cent. As for young people, despite recent reductions, in 2018 official youth unemployment still stood at 43 per cent in Greece, 36 per cent in Spain and 33 per cent in Italy.

Causes: poverty effects on child and youth offending

The British Birth Cohort Studies (BCS conducted 1946-2000), alongside cohort studies in Norway, Sweden, Netherlands and New Zealand found that children who grow up in persistent poverty encounter difficulties and troubles doing well in school, enjoying good health and realising their full potential later in life.[14] They face a higher risk of becoming unemployed, underemployed and poor as adults. The implications for welfare, care and education systems are that early

10. See footnote 10: Uhrig (2016).
11. Muncie, J. (2021). *Youth & Crime* (5th edition). Sage.
12. These and the following data are from: Resolution Foundation (2022, March 24). Lack of support for low-income families will see 1.3 million people pushed into absolute poverty next year. https://www.resolutionfoundation.org/press-releases/33284/; https://www.jrf.org.uk/data/overall-uk-poverty-rates; https://www.jrf.org.uk/report/uk-poverty-2022; For discussion of the crime implications see Webster, C. (2023). *Rich Crime, Poor Crime: Inequality and the Rule of Law.* Emerald Publishing.
13. Eurostat (2022). Children in poverty or social exclusion. https://ec.europa.eu/eurostat/web/products-eurostat-news/-/ddn-20221027-2
14. See my UK and EU reviews of survey and whole population cohort study findings in respect of child and youth poverty predicting delinquency and youth crime in Webster (2018) and (2023) (footnotes 2 and 3).

childhood preventative interventions, childcare and support for parents are likely to ameliorate disadvantage.

If poverty is a structural cause of these difficulties making it more likely children will struggle on every score, those born into disadvantage are not necessarily destined to fail, as other contingencies — especially parents, school and place — come into play. In other words, although the BCS identified specific ways a child who had endured a tough childhood, or any childhood at all, might prosper and thrive as an adult, disadvantage at birth, does on average, have a profound effect on the way that the rest of life plays out, deeply influencing all the years that follow. In addition, migrant and minority children and young people are particularly vulnerable to the stresses, anxieties and insecurities brought by impoverishment and therefore are most at risk of offending, discrimination and criminalisation — coming to the attention of police and juvenile justice officials.[15]

According to Hay and Forrest, the chances of being a persistent young offender increases by 45 per cent for those experiencing poverty at age 9, and by 80 per cent for those experiencing enduring poverty throughout the first decade of life.[16] Hay and colleagues argue that the effects of poverty on juvenile crime are apparently most evident in respect of serious rather than lower-level offending.[17] And, that this relationship holds between and within countries.

Direct poverty effects on juvenile crime and criminalisation in Europe can be illustrated by a cohort study by Hällsten and colleagues,[18] which followed two cohorts of children in Stockholm — one native Swedes and the other children of immigrants — up to their thirties. The study explained the differences in recorded crime between the groups according to parental poverty and neighbourhood segregation (itself an expression of economic disadvantage) rather than by culture or significant differences in rates of crime between immigrants and natives. The study concluded that although parental poverty and neighbourhood segregation go some way to explaining differences in recorded crime between native and the children of immigrants, they also argued that selection processes in the juvenile justice system, or outright discrimination (selective criminalisation), may also explain such variations.

In Europe generally, legal citizenship status can make a huge difference in a person's economic and social status and in their rights when associated with a crime (paradoxically as well, citizens are sent to prison whereas foreigners are deported). This is compounded when the significance of the ameliorative or detrimental effects on income poverty of national immigration and welfare policy towards migrant and minority children and the unemployed are considered.

Finally, it is worth remembering that the vast majority of the 800,000 imprisoned across Europe are impoverished young men, often with histories of childhood poverty and youth unemployment.

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Differences and racialization among European youth justice systems

The discussion thus far is reflected in European juvenile justice systems that are marked by different and shifting balances of citizenship rights, welfare and justice between clusters of countries, with different sorts of immigration, political and economic systems.

European youth justice systems in some ways reflect these shifting balances and mixes of rights, welfare and justice, and varying national political and economic contexts. Juvenile justice in several countries became more repressive. For example, the Netherlands limited penal capacity with rehabilitation and reparation in the tolerant 1970s then increased prison populations from the mid-1980s onwards. In 2002 Dutch City Councils gave the police new powers to stop, search and criminalize poor and black neighbourhoods, targeting Moroccan youth. Between 1995 and 2001 youth custodial places more than doubled and

15. See footnote 3: Webster (2018).
16. Hay, C., & Forrest, W. (2009). The implications of family poverty for a pattern of persistent offending. In J. Savage (Ed.), *The Development of Persistent Criminality.* Oxford University Press.
17. Hay, C., Fortson, E. N., Hollist, D. R., Altheimer, I., & Schaible, L. M. (2007). Compounded risk: The implications for delinquency of coming from a poor family that lives in a poor community, *Journal of Youth and Adolescence, 36*(5), 593–605.
18. Hällsten, M., Szulkin, R., & Sarnecki, J. (2013). Crime as a price of inequality? The gap in registered crime between childhood immigrants, children of immigrants and children of native Swedes, *British Journal of Criminology, 53(*3), 456–81.

intervention effectively lowered the age of penal responsibility from 12 to 10 years old.[19]

In France, since the 1980s, there has been greater convergence of French and English crime prevention approaches, which in the 1990s took zero tolerance police led approaches that marginalised migrant children, particularly from Africa, Asia and Eastern Europe. Since the return to power of the right in 2002, expanded police powers, custodial sentences for public order offences, lowering the age at which young people can be imprisoned and new benefit sanctions for parents of children who offend, extended punitive state power towards children and young people. Followed in 2007 by a weakening or dismantling of welfare and educational rationales for juvenile justice. Belgium was similarly fuelled by a fear of youth crime and places as disparate as Spain, Sweden and Denmark took punitive turns.[20]

Overall, the 2000s saw youth custody increase in Greece, while decreasing in Scotland, Germany and England and Wales, while there was a consistently low rate in Denmark, Norway, Sweden, and Finland.[21]

Juvenile justice systems across Europe through austerity have tended to more punitive approaches, especially towards minority and immigrant children and young people, particularly towards Roma and traveller children and young people across the entire EU.[22] Different styles of youth justice have been described as repressive in Slovakia and Hungary, welfarist Belgium, exclusionary Germany, assimilationist France, and multicultural Netherlands, which cluster around different approaches to immigrant incorporation (ranging from unrestricted birth right citizenship — 'jus soli' — to detailed restrictions and high barriers),[23] involving different degrees of political and economic opportunity and integration.

Of course, these characterisations shift, and the shares and sources of immigrants vary between countries, but the easier the process of legal integration of parents and children in the host society (residency and naturalization), the less the criminalisation process. Conversely, the harder the process of legal inclusion, the higher the numbers of criminalised foreigners. The relationship between the inclusiveness of immigration policies and the criminal involvement of aliens suggests that the more restrictive the policy, the greater the criminalisation of foreigners.

Theorising the racialization of juvenile crime and justice in Europe

Unlike the US, European countries are different according to historical (colonial) experiences of immigration (UK, France and the Netherlands) and those never experiencing immigration in their recent historical past (Southern Europe) and who are less predisposed and benign towards immigration. It is the latter more socially and culturally conservative countries, with an established social stratification, integrating migrants — at best — at the bottom, which are more likely to marginalise and criminalise first- and second-generation migrants.

> Migrant and minority children and young people are particularly vulnerable to the stresses, anxieties and insecurities brought by impoverishment.

The EU, marked by some attempts to ease the legal status of migrants reducing their criminalisation, is likely to lead to a reduction of migrants' participation in criminal enterprises and therefore, and reduced formal social control on migrants. We might say that exclusionary, assimilationist and pluralist states roughly correspond to political economic regimes that cluster as varieties of welfare capitalism.[24] In which, systems can serve to perpetuate or deepen inequality whilst others have a mitigating effect.

The nature, extent and distribution of vulnerability and disadvantage in Europe is that low income is endemic amongst young people and young adults across Europe but appears to be higher in 'post-communist' and 'Mediterranean' (south European) welfare systems.[25]

19. Muncie, J. (2021), Youth & Crime (5th edition). Sage.
20. See footnote 19: Muncie (2021).
21. Caution is required here because of different counting rules.
22. See footnote 19: Muncie (2021).
23. Only thirty countries grant citizenship by unrestricted jus soli, including the US but no EU countries. Almost all European, African, Asian, and Oceanic countries grant their citizenship through the principle of jus sanguinis, meaning "right of blood," whereby children inherit citizenship through their parents but not their birthplace. For a discussion see footnote 3: Webster (2018).
24. Esping–Anderson, G. (1990). *The Three Worlds of Welfare Capitalism.* Polity Press.
25. Fahmy, E. (2014). The Complex Nature of Youth Poverty and Deprivation in Europe. In L. Antonucci, M. Hamilton, & S. Roberts (Eds.). *Young People and Social Policy in Europe: Dealing with Risk, Inequality and Precarity in Times of Crisis.* Palgrave.

Next, we examine the interplay between the state, the family, schooling and labour market opportunities in shaping young people's transitions into adulthood.

Antonucci employs the concept of 'welfare mixes' to show how Greece, Spain and the UK each reveal that the distribution of social risks (and ultimately the likelihood of criminalisation) is linked to the changing shape in the balance between family, state (and we might add 'criminal justice') and labour market as key sources of welfare support.[26] Principally, this has included the substantial retrenchment of the welfare state and a corresponding increasing reliance on family as a source of welfare. Again, for migrant and minority children and young people the deleterious effects of such processes are amplified.

Child and youth transitions across European countries continue to emphasise the hold that not being in education, employment or training (NEET) has over young people 'living and surviving out of sight of systems which record all recognised forms of economic and educational participation' (p.5).[27] This remains too, a major recruiting ground for youth offending. Neoliberal regimes having by far the highest NEET levels in both 15-19 and 20-24 age groups and Social Democratic regimes have by far the lowest.[28] The upshot is that despite important differences between countries, young people's transitions across Europe have become more extended, non-linear, fragmented and precarious.

Maestripieri and Sabatinelli show how increased work precariousness across European cities, together with scant welfare protection, has had particularly severe effects on young people who face situations of acute instability that serve to compound their social vulnerability, especially as young people are usually not entitled to welfare benefits.[29] The cumulative effect of such processes compounds insecurities and vulnerabilities and, as ever, it is the poorest and most disadvantaged children and young people — including many minority ethnic young people — who suffer most.

Conclusion and discussion

We end with a sense of commonalities rather than radical departures across Europe, albeit with England and Wales having been something of an outlier in its punitive approach to juvenile and youth justice, only relatively recently relinquishing this approach and its attitudes to child imprisonment. This and other changes have not however been wholly applied to benefit all children and young people equally, so we have been left with BME children not only trailing behind progress made towards entry, treatment and youth custody for white children, but in some ways their comparative treatment has worsened.

English exceptionalism in these and other respects discussed above has diverged from, but also converged with other European juvenile systems, at different times. The situation regarding looked after children and early police intervention are particularly troubling, especially for BME and migrant children, in providing conduits to the youth justice system in England and Wales. Failings in the care system in England and Wales are particularly serious and demand immediate overhaul away from treating the care of children as a for-profit business.

Child poverty caused by austerity particularly impacts on BME children in England and Wales, and migrant children and children with foreign born parents in Europe. This crisis of poverty among minority and migrant children and young people is more likely to expose them to delinquency, punishment and custody, accompanied by increasingly punitive contact with the police and juvenile justice systems across European countries. These disproportionately poor conditions and transitions among black, minority and migrant children explains their disproportionate entry to the juvenile justice system through early and unnecessary, unwarranted and excessive police intervention and arrest. Their treatment by juvenile justice and the courts appears to be unequal and unfair and this requires remedying despite some significant progress in some respects in the last few years.

Across Europe, juvenile custody has seen very significant reductions in many countries. This progress now needs to be extended to other aspects of youth justice, but particularly preventative work and early years intervention and support of children and their parents. Earlier child experiences, particularly of persistent poverty, strongly predict troubled lives later, including delinquency.

The key overall is the prevalence, balance and mix of child welfare protectionist versus punitive models of juvenile justice, and the relationship between welfare spending and rates of imprisonment. Paying attention to some of the causes of child and youth offending rather than limiting the discussion and policies to consequences and outcomes in youth justice seems essential.

26. Antonucci, L., & Hamilton, M. (2014). Youth Transitions, Precarity and Inequality and the Future of Social Policy in Europe. In L. Antonucci, M. Hamilton, & S. Roberts (Eds.), Young People and Social Policy in Europe: *Dealing with Risk, Inequality and Precarity in Times of Crisis.* Palgrave.
27. Fergusson, R. (2016). *Young people, welfare and crime: Governing non-participation.* Policy Press.
28. Pemberton, S. (2015). *Harmful societies: Understanding social harm.* Policy Press.
29. Maestripieri, L., & Sabatinelli, S. (2014). Labour Market Risks and Sources of Welfare among European Youth in Times of Crisis. In L. Antonucci, M. Hamilton, & S. Roberts (Eds.), *Young people and Social Policy in Europe: Dealing with Risk, Inequality and Precarity in Times of Crisis.* Palgrave.