Between Reconciliation and Rejection: contemporary penal dilemmas through the eyes of children

In their interviews with children, Richard Sparks, Evi Girling and Marion Smith revealed some commonly held notions about punishment.

In our recent research, we have sought to introduce two small but important shifts of perspective into discussions of the place of punishment in contemporary culture and politics. The first was to try to explore the issue of penal 'culture' afresh by looking at it from the perspective of conversation. The second was to take as our particular focus the conversations of a special group of people, namely those who were not yet ten years old.

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We have discussed our reasons for pursuing this line of inquiry on the levels of theory, method and policy at some length elsewhere (see, for example, Smith et al., 2000; Sparks et al., 2001). Here, we will sketch the bones of those arguments before giving some illustrations of the sorts of things the children said and what we made of them analytically. It matters very much, of course, that the people saying these things are children. Nevertheless, the dilemmas and disagreements that arise in the children's conversations are not, we suggest, theirs alone. Rather they echo (or perhaps prefigure?) a host of difficulties with which we adults also struggle. In other words, we think that talking with children about punishment is instructive not just for the window it provides onto the social world of childhood nor even for what it discloses about children's observations on the perplexities of adult behaviour but also for what we can thereby discover about punishment as a social practice.

Punishment and conversation

In contemporary western societies, punishment is a massive generator of moral conflict and political controversy. It seems unnecessary to labour this point here. Examples, whether in the latest promise or policy invention of politicians, the latest thundering newspaper editorial or simply almost any evening's television schedules, fall abundantly and continuously to hand.

Yet, for all the discussion that these controversies provoke, surprisingly little detailed examination exists of how penal questions actually figure in the everyday consciousness or conversations of people in the ordinary settings of their lives. If we want to know more about how penal values are communicated and socially shared then one important research strategy will be to try to capture them in vivo through one of the most general and basic of human activities, namely talking. One influential attempt to come to terms with the position of punishment in contemporary culture is Garland's (1990) account of penal "sensibilities". Garland uses this term to denote the ways in which historically specific "feelings, sensibilities, behavioural proprieties and values" have a "determinative capacity" in shaping our basic dispositions towards what we take to be tolerable, plausible or otherwise in responding to breaches of social and legal rules or expectations. Garland and other analysts have provided numerous discussions of the ways in which the circulation and contestation of penal discourses have served to locate, shift or reproduce the social meanings of punishment. We wanted to extend such a perspective by, as it were, drawing the gaze of the sociology of punishment down to the level of ordinary speech. Or, as Conley and O'Barr (1998) put it: "a full appreciation of law and its power depends on a thorough understanding of everyday linguistic practice".

We also took the view that it was timely in this context to reconsider the special position of children and childhood. One useful way of thinking about transmission and change in societal sensibilities towards punishment is to explore how children relate to the world of adult authority, rule making and rule breaking in respect of criminal justice, school and familial disciplines. How do the practices and justifications that characterize the penal realm look from the vantage point of children as they stand on the threshold of assuming the burdens of legal responsibility and the entitlements and obligations of citizens? Lest this sound an esoteric interest, it is...
also clearly the case that many of our most pressing contemporary policy debates in criminal justice, child-care and education revolve in one way or another around claims to be able to communicate effectively with children. In this respect discovering something about how children themselves construe penal problems is also an intensely practical concern with quite wide-ranging implications (consider, for example, the numerous current moves in the field of restorative justice or the advent of citizenship education in schools).

We therefore initiated a series of conversations with about 160 eight and nine year olds in three schools. We spoke to the children in both mixed and single gender groups of four and made very detailed transcriptions of everything that was said (for further detail on methodological and ethical considerations see Sparks et al., 2001). We tried a variety of conversational cues and stimuli. Of these one that especially engaged the children’s attention and participation was a scenario in which they awoke one day to find that the adults had all disappeared. What difficult situations might arise, and how would troublesome people be dealt with in their world?

Rejection
One obvious, immediate and appealing way of dealing with people who cause you problems is to ‘get rid of them’, and this was the starting point for many of our groups. ‘Getting rid’ can mean physically restraining, confining or even eliminating. Such solutions have the attraction of seeming simplicity. They can also be pleasurable and exciting – they affirm quite strongly that you are in charge. Many groups very quickly cottoned on to the realization that the people doing the punishing were the ones exercising power. We were also struck by how often the children drew on historical references (of what ‘the Egyptians’ or ‘the Romans’ or ‘the Tudors’ had done) to flesh out this image of untrammeled domination. Consider the following disconcerting example:

Tim: Tie them to a post.
Ken: Like in the olden days.
Becky: Tie them to a post and chuck a load of tomatoes at them.
Tim: No tie them to the post and set fire to the bottom of the post [one child laughs].
Becky: No that’s killing them.
Ken: Killing them, but that would be a good punishment if they did it.

Reconciliation
A connecting thread throughout many of these conversations is the idea of ‘teaching a lesson’. Teaching lessons is fundamentally what children take punishment to be about. However, ‘lesson’ is a complex word and can carry a varied freight of meanings (see Smith et al., 2000). At one end it means nasty medicine, a deterrent shock, something you would not want to repeat. At other points, it means something very didactic and school-like – you literally ‘teach’ someone their lessons and check whether they have learned them by giving homework and tests. You can put someone in the ‘naughty corner’ and ‘see’ whether they are ready to come out. Sometimes too the children want to go further than this. On occasion ‘the lesson’ becomes a matter of talking, reasoning, persuading, of encouraging the other person to grasp the effect of their actions on others and to change inwardly. Thus:

Sally: The more, the more educated people could erm go and try and help the person who had like been taken into the corner and try and help them somehow.

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even though they are like nasty people, I would still like to try
and help them as much as possible...so that he would like become
more better and then when he’s done that, he might learn a lesson
and then he might erm, that person might start to become like us
and try and help other people.

Sally struggles valiantly to articulate a difficult thought about
what it would be to deal with an offender with whom you had,
or might develop, a relationship. Her conclusion could hardly
be more different from those occasions when the conversation
becomes dominated by the thrill of violent rejection.

Lessons

In a short paper, using only a couple of examples, we can merely
scratch the surface of what is a rich, varied and contradictory
body of material. The polarities evident in the children’s talk,
we suggest, are indicative of some endemic tensions in the realm
of punishment and its uses in political culture. Considering these
through the prism of conversation helps us to observe them close-
up and in the process of formation. The abiding tension between
rejection and reconciliation sits deep within our language and
the ‘vocabularies of penal motive’ (Melossi, 1993) that it
contains. The discourse of rejection is ‘marked’ by signals of
distancing, generalising and anonymising. The will towards
reconciliation, conversely, uses markers of affiliation and
identification. The tension recalls one suggested long ago by
David Hume and taken up more recently by the feminist
philosopher Annette Baier (1994) between justice as “a cold,
jealous virtue” and sympathy as the capacity of one’s psyche to
“reverberate to another’s fate”.

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Trevor Grove’s new book, ‘The Magistrate’s Tale’, is published
by Bloomsbury (£14.99), as is his earlier ‘The Jurymen’s Tale’
(£7.99)