

# Liberal Values and Criminal Justice

Simon Hughes MP writes on the Liberal Democrat position in light of a Government that is 'tough on crime'.

**A**s a politician it is tricky to write about crime in the context of values and beliefs without being party-political. I'm afraid I may have to disappoint some readers, because for better or worse crime is a political issue.

Today, the media spotlight shines more brightly than ever before on the decisions of policy makers and practitioners. 'Penal populism' – that compulsion to play to the gallery which afflicts both Conservatives and Labour alike – has given us ten years of steep rises in the prison population and, in my view, a political climate in which it is more and more difficult to make the case for community penalties and rehabilitation.

This is of course a well-worn history, and in some ways the new political landscape of criminal justice has been a change for the better, increasing transparency and, on some levels, accountability. I accept the argument which has been made for national standards in the Probation Service, that public trust depends on rigour and a commitment to enforce breach proceedings. I also have some

I believe is essential: honesty. It is easy for government to play to public misconceptions about crime, especially in relation to the effectiveness of deterrence. It is however really dishonest to do so when your own research (and I have great respect for the research produced by the Home Office) tells a more complicated tale and points to more complex policy solutions.

Values of course inform our response to crime in a much more immediate sense. When we discover we have been burgled, or a friend is robbed, I would guess that a fairly universal response is anger and a desire for retribution. The criminal justice system then takes on that responsibility for retribution, and has a duty to investigate, prosecute and punish the offender. Part of that process is one of applying commonly held values of fairness and proportionality in place of those 'heat of the moment' emotions. Here my second core value: proportionality.

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sympathy with Mick Ryan's view (2003) that 'penal populism' is not a straightforwardly negative phenomenon, but rather opens up the previously hidden world of criminal justice experts to public scrutiny, and puts the onus on those experts to deliver solutions that actually work.

Nonetheless, criminal justice policy is too often made to fit the media's expectations rather than the dimensions of a particular social problem. This government's obsession with spin, combined with a perceived need to continually 'restock the shop window' with policies, has led to contradiction after contradiction. A recent example of this tendency is contained in the Anti-Social Behaviour Bill. Alongside some sensible measures, this Bill also proposes new police and local authority powers which run contrary to the spirit of the youth justice reforms of 1998. While it may be superficially populist to 'crack down' on groups of young people whose presence causes 'alarm' to some residents, dispersal of these groups under the threat of prosecution and possible imprisonment is guaranteed to fail to address the problem, which we know is a complex mixture of alienation, truancy, and lack of facilities.

Here is the first value which, in the field of crime and criminal justice as well as wider social policy,

as the sensible way to reduce crime are I believe wrong, both morally and empirically. Nevertheless, confusion reigns over the appropriate use of prison, with some claiming a rehabilitative effect and others seeing merit simply in excluding prolific offenders from their communities for a period of time. What I have tried to do over the last year is to make the argument for a clear sentencing presumption in relation to custody. There is a difference between stealing property and violently assaulting someone. Both are unacceptable, but I believe the presumption should be against the use of prison for the former and in favour of prison for the latter. Under this scheme, sentencers would still use their discretion in sentencing proportionately, and one would expect many sentences to diverge from the crude presumption. The strength of such a principle would be to make it clear to the public that the proper place of incarceration is strictly as a last resort, and to sentencers that any departure from the 'norm' should be explained in open court. Where the criminal justice system fails through inefficiency or incompetence to do justice to victims, proportionality and due process are often called into question. Several parts of the Criminal Justice Bill currently going through Parliament reduce basic safeguards of fairness in an attempt to increase the number of convictions: the changes to the rules on



*Shree Swaminarayan temple.*

admission of previous convictions, the abolition of the double jeopardy rule and the new statutory guidelines on the sentencing of murderers all go beyond what Liberal Democrats feel is acceptable in terms of reform.

These changes are closely allied to a tendency to over-centralise. Despite David Blunkett's recent pamphlet which sets out the argument for a justice system rooted in community involvement, the experience of recent years has been that the public increasingly lack confidence in the courts. I believe people feel powerless in the face of local crime problems, and that the police, courts and criminal justice agencies do not do enough to explain the scope of problems and the efforts being

powerless and makes for bad policy based on misguided targets and half-cocked government initiatives.

If criminal justice is inherently a local matter, so is the more fundamental work of tackling the causes of crime. Liberal Democrats fundamentally believe that offending behaviour is best dealt with by connecting the offender into the network of community relations, putting people into work, and into family and social relationships. That cannot be achieved without broadening the debate about crime reduction to quality of life and public services. Instead of the moralising response of the last Conservative administration, which too often pinned all of the blame for crime on the individual offender, we need to take

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taken to resolve them. That is why I tabled amendments to the *Criminal Justice Bill*, sadly rejected by the government, to require the head of the local police, probation, courts and prisons to make an annual appearance at a public meeting of the principal local authority, and to publish information for local people about their activities each year. On top of improved accountability we must have improved rates of participation – not only through Neighbourhood Watch schemes, but through bolstering the valuable role of the lay magistracy, jury service and volunteers' involvement in restorative justice.

My third core value would therefore encompass the idea that action against crime must be responsive to the needs of local people, not the whims of central government. Too much centralisation and professionalisation leaves victims feeling

the underlying causes of crime seriously. This requires a coherent range of policies embracing community regeneration, education, youth services, decent social housing, access to health and child care, and effective drug and alcohol services. This in turn calls for a government with the honesty to admit that reductions in crime will flow from such a calm, evidence-based approach. ■

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**Reference:**

Ryan, M. (2003), *Penal Policy and Political Culture in England and Wales*. Winchester: Waterside Press.