

Punishing the young poor

Frances Crook considers state punishment of young people

Professor Vincenzo Ruggiero (2010) quotes Aristotle as saying that societies cannot flourish as a whole when some members are doing extremely badly. It was in March this year that the Secretary General of the OECD pointed out that inequality has increased by seven times since 1987 and the large income gains of the top one per cent of populations have added fuel to protest movements from London to New York, from Tel Aviv to Santiago and from Plaza del Sol to Tahrir Square (Gurría, 2012). He asserted that soaring inequality is leading to dysfunctional social structures and that the social compact is unravelling.

The policing and punishment of this inequality and consequent unrest have been vicious. The young and poor have always been key targets for harassment by the police and intrusive intervention by the agencies of criminal justice. The riots of August 2011 triggered excessive punishments that brought into sharp relief the nature and purpose of the penal system as a force for control of the poor, as analysis data for those arrested shows (Home Office, 2011).

The Howard League has led the way for almost 150 years in analysing the role of the penal system and how it might be reformed to serve local communities, protect the vulnerable and reduce crime. Our research and programme experience leads the charity to work for abolition of the prison system as it is constructed and for a redrawing of the response to crime.

Legal representation

In 2002, we started to take legal action to challenge the penal system and subsequently introduced legal representation of children and

young adults in custody to our work. In four and a half years of legal representation, our lawyers have helped 211 young people as clients and 1,937 young people and 373 professionals working with young people who have called our free confidential legal telephone helpline. We have thus built considerable knowledge of the lives and needs of young people in the penal system. We concur with the findings of the Edinburgh study (McAra and McVie, 2007) which concluded that the deeper a child penetrates the penal system, the less likely he or she is to desist from offending.

Our lawyers dealt with the immediate effects of the 2011 riots when children phoned from Cookham Wood jail asking for help after being told to go about in pairs in order to protect themselves from being beaten up. We could hear screaming in the background. This prison has had a disastrous history as an unsafe environment for children. Alex Kelly, who was only 15 years old when he was sentenced to 10 months' imprisonment for burglary and theft, took his own life in the jail in January 2012, the second young teenage prisoner to die by his own hand in a fortnight. Yet Cookham Wood is to be doubled in size to incarcerate even more children.

Riot-related activity

The influx of young people remanded and sentenced owing to riot-related activity impacted on the young people already in custody as they were moved out to far-flung jails to create space. There are no local authority-run secure units for children in the south-east, so younger children were sent hundreds of miles from London.

Published figures show that, as at 1 February 2012, 2,710 people had appeared before the courts in relation to the disturbances (Ministry of Justice, 2012). Of these, 720 (27 per cent) were between 10 and 17 years of age. Of these 720 young people, 484 had been sentenced, with 176 (36 per cent) receiving immediate custody. In contrast, during 2010 as a whole, 5 per cent of juveniles appearing before the courts received an immediate custodial sentence.

Details of the educational background of 386 young people involved in the disturbances were analysed in October 2011 by the Youth Justice Board (YJB) and the Department of Education and placed on their websites. Although these details have now been removed, they were reported by the BBC (2011). Sixty-six per cent of these young people were classified as having some form of special educational need and over a third were identified as having at least one fixed-period exclusion from school during 2009. The data also showed that 42 per cent of the young people were in receipt of free school meals and that 64 per cent of 10 to 17 year-olds lived in one of the 20 per cent most deprived areas of the country.

My interest is not so much in what led to people getting involved in the disturbances but how the state responded and how the use of excessive and over-excited force flouted international law and common decency.

A last resort

Article 37 of the United Nations Convention on the Rights of the Child (United Nations (UN), 2008) says that arrest and imprisonment should be a last resort and for the shortest possible time. It is my contention that the Detention and Training Order, invented by New Labour as a new custodial sentence for children, contravenes this by insisting on a minimum time spent in prison. The UN report on the UK said that the number of children in custody was too high and the best interest of the child was not a primary consideration in juvenile justice.

In March 2012, the Commissioner for Human Rights at the Council of Europe wrote to the UK government expressing concern about the treatment of children in trouble with the law, specifically criticising the ease with which children were remanded to jail and the conditions they experienced, particularly the use of painful restraint. Ashfield prison, a privately run prison for boys aged 15 to 17, used solitary confinement 377 times last year and force was used on children 150 times a month (HMCIP, 2011).

The privatisation of punishment of children has added a new element to the penal system. It is now profitable to incarcerate poor children. Serco runs Ashfield and Hassockfield, the secure training centre where Adam Rickwood took his own life, the youngest child at 14 years to die in custody in living memory. G4S runs Rainsbrook, another secure training centre where Gareth Myatt died as a result of being physically restrained.

Scale of intimidation

This is the sharp end of the way that the state punishes poverty but the scale of intimidation of poor young people is huge. In 2011, the Howard League for Penal Reform published research to show that more than 250,000 children are arrested by the police every year, including more than 22,000 aged between 10 and 13 years (Howard League and Skins, 2011). It showed that the practice of holding young children overnight in police cells is prevalent across the country, with at least 53,000 boys and girls aged below 16 held overnight in two years. These are often children abandoned to their fate by parents who will not, or cannot, come and fetch them. The majority are either released with no further action or given a simple reprimand for a minor transgression – the sort of activities that Oxbridge undergraduates are known to have indulged in before they enter government.

The police and crime commissioners to be elected in



November 2012 may introduce a populist element to the policing and criminalisation of the young. It will be tempting for candidates to promise that they will clear the streets of nuisance children as an electoral ploy. And, as more police services are outsourced to the big security companies, accountability is reduced because they are not subject to scrutiny by the Independent Police Complaints Commission.

We have individualised and commercialised the punishment of poor children by making it a profitable industry and by concentrating entirely on the individual out of context. Looking back at the analysis put forward by

Angel Gurria of the OECD (2012), this country needs to look at inequality and poverty as the main trigger for most anti-social behaviour at an individual level. We need to act before the profit motive is so deeply embedded that it creates an additional layer of motive that makes it impossible for the state to change. We have punished the poor for being poor, and young, for too long. Perhaps we should now focus on the systems that create the poor in order to reduce inequality and so reduce crime. ■

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