

This article examines the present debate on crime and justice, the influences upon it, and the considerations which ought to be taken into account. It reviews some of the current developments in policy and operational practice, and considers the prospects for the future.

A principled response

David Faulkner considers the policy, practice and prospects for criminal justice in modern Britain.

The debate is taking place against a social and economic background which includes

- loss of security in employment, and of stability in families and relationships;
- for those seen as society's "failures", increasing isolation and exclusion;
- an increase in crime and in the fear of crime, with serious consequences for people who have suffered from it or feel themselves to be vulnerable;
- impatience with the real but sometimes supposed failings of the criminal justice system.

All of these have contributed to an often self-centred but entirely understandable obsession with risk and personal protection, combined with hostility towards those who are perceived to be dangerous or threatening.

Prevention and support

The new Government faced a precarious situation when it took office at the beginning of May. The public had - rightly - been encouraged to expect more from its public services. But the political obsession with management and efficiency had led to an assumption that many of the issues facing the country could be dealt with simply by reorganising the relevant public services to make them more efficient and effective. The policy on health was the internal market, on education it was the local *management of schools*, on transport it was privatisation. In line with that assumption, it was supposed that improvements in the efficiency and organisation of the criminal justice process, especially if accompanied by greater severity of punishment, would provide an adequate answer to the problem of crime. That was a dangerous oversimplification, which overstated the capacity of the criminal justice process to prevent crime, encouraged the view that crime was "someone else's" problem, and distracted attention from the public's own responsibilities as citizens.

The present Government's approach is based on prevention and support for people in difficulty, through criminal justice and wider social programmes, the coercion of

those who do not comply, and the reform of the youth justice system. It emphasises personal and parental responsibility; it introduces a range of new preventive orders which will be available to the courts; and it backs them up with severe criminal sanctions. The main instrument at this stage is the Crime and Disorder Bill, now before Parliament.

Much of this approach should be enthusiastically welcomed. The Government acknowledges that problems of crime cannot be dealt with in isolation from wider social and economic issues in areas such as employment, education, health and housing. It is not obsessed with punishment for its own sake and is making a special effort to tackle the problems of social exclusion. It respects and is accessible to professional as well as public opinion, and is interested in an evidence-based approach which takes account of academic research. It is however disappointing that the Government is not doing more to control and ultimately reduce the prison population, and that it seems ready to contemplate the criminalisation of even larger numbers of children and young people and their detention in prison establishments. There is particular concern that the new preventive orders will be used in oppressive ways, and that the penal sanctions associated with them will be socially damaging and exclusionary in their effect.

These concerns should continue to be expressed during the passage of the Crime and Disorder Bill, both in Parliament and outside. But an equally important focus should be on the means of putting the Bill into effect; on the spirit in which it is implemented on the ground; and on the prospects for the longer term.

Common purpose and accountability

The problems which the Bill seeks to resolve - like many other problems in the modern world - are intractable and complex. They need multiple, co-ordinated solutions which draw on different skills from diverse backgrounds, brought together in formations which share a sense of common purpose and accountability. Despite the efforts and experience of the last 15 years, it is still hard to achieve co-operation successfully on the ground. It is especially hard in circumstances of tight financial control and shortage of resources, or in a management



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- and political - culture which has previously insisted on uniformity, competition, short-term contracts, narrowly defined and quantified performance indicators, individual rather than collective responsibility (and blame when things go wrong) and which has effectively discouraged local initiatives and the taking of risks.

Services have also come to be structured in ways which correspond to particular functions, to particular professions, and to the responsibilities of particular government departments. The structures do not necessarily match the needs of the people for whom they are provided, or the complex situations in which they have to operate. Youth offending teams and the national Youth Justice Board are an imaginative attempt to create a new, more responsive set of formations; action zones in health and education are other examples; and the review of the prison and probation services may lead to others.

No-one should under-estimate the practical difficulties involved in making the new arrangements work successfully. The leadership, composition, relationships and accountability of youth offending teams will all need careful attention, in the pilot schemes and subsequently. They need the best people for the job, not those who can most easily be spared. The teams will need successful working relationships with statutory and voluntary services; local government, including elected members; courts; local businesses; local communities, including minority ethnic groups, victims and their organisations; central government; and the National Youth Justice Board. They will also need them within the team, and with offenders and their families. Many of those relationships will involve some degree of accountability, and the teams will need suitable mechanisms to make it effective. Purchasing and funding arrangements which can provide a reasonable degree of continuity and confidence will be crucial. Programmes to support the new preventive orders must be of suitable quality, and punitive



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sanctions - which are by definition exclusionary in their effect - must only be used exceptionally and as a last resort. Teams and those who work with them must look beyond preventive orders and punitive sanctions to the more positive opportunities for personal development, self-fulfilment and service to others which are part of a healthy civil society. Restorative measures - action plans, reparation orders, family or community conferences - must not come to be used as instruments of punishment or exclusion. All the new arrangements will need not only to be monitored in terms of internal performance measures and indicators, but also evaluated for their social outcomes and consequences. The latter requires external, high quality, research, for which the Youth Justice Board must have an adequate budget. Managing complexity and diversity on this scale is a challenging and exciting prospect, but it demands skills which have not been much valued or developed in recent years.

Citizenship and civil society

Programmes for crime and criminal justice should be set in a wider context of principles and values, including those of

citizenship and civil society. As a country we are coming increasingly to realise that the world does not consist just of individuals on the one hand and the state and its institutions on the other. Questions of crime, and of social stability and social justice, are also the responsibility of civil society - those associations, networks and relationships which are neither part of the mechanisms of the state nor run for commercial profit. Civil society includes the voluntary sector, but also the less formal associations which provide opportunities for personal development, service to others, and support in times of difficulty. They are what hold communities together, and they can make all the difference to the quality of national life. Ideas of civil society and citizenship have attracted increasing attention during the last few years, for example in the debates on stakeholding and communities and on relational and restorative justice, and in the present Government's programme of constitutional reform and its concern over social exclusion.

If the Government's, and the country's, programme is to be carried successfully into effect, it should be built on a set of explicitly acknowledged principles. Some of them - accountability, loyalty, openness, procedural fairness, equality of opportunity, treatment and impact - would be those which apply to public service generally. They would resemble some of the seven principles of public life set out in the Nolan Committee's first report. Others would be more specific to crime and justice. For example

- Measures to prevent crime and reduce re-offending are the responsibility of civil society as well as the state. They should emphasise opportunities for adventure, personal development and service to others as well as punishment and social control.
- Punishment, when it is needed, should be proportionate to the harm caused, it should wherever possible be constructive and restorative rather than disabling or exclusionary, and it should involve minimum interference with the rights and responsibilities of citizenship.
- Condemnation should be focused on the offences which have been committed and the harm they have caused. Offenders, or criminals, are still entitled to their dignity and respect as people and citizens. They should, so far as possible, continue to hold their rights and discharge their responsibilities, and they should not be treated as a class apart.

Principles of this kind might eventually be engaged in legislation. It would be reassuring to think that the success of the country's programme for crime and justice would come to be measured not just by its internal performance indicators, but by the extent to which it conformed to them.

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