

YOUTH JUSTICE, PARTICIPATION AND RADICAL MORAL COMMUNITARIANISM

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Abstract

It is disconcerting that practice in youth justice tends to be coercive and disengaging. The progressive shift has been largely confined to increases in diversion; for those children who are subject to formal youth justice sanctions the dominant approach continues to be punitive. The voices of children and young people who offend are often marginalised. In the context of a proposed radical moral communitarianism we critically discuss how such issues could be addressed. Specifically we argue that young people must be dealt with in a holistic way, in the context of an intervention strategy which fully addresses the social context of their behaviour. In this reformulated positive participatory environment, all young people should be given legitimate opportunities which will enable positive engagement, involvement and participation in a society where they have appropriate rights and responsibilities based on their aptitude and potential. Crucially these improvements should be applied to all young people under the age of 21 in an extended youth justice system.

Keywords

Youth justice; radical moral communitarianism; participation; engagement; extended youth justice system; voice and influence; child/practitioner relations.

Introduction

There are promising developments in the field of youth justice namely as a result of reduced central prescription. There appears to be the possibility that professionals will have greater freedom to develop practices that are more inclusive and child friendly - not just in terms of local initiatives though, the development of ASSETPLUS with the quadrant that requires practitioners to elicit the views of children is an important positive step here. There have been considerable reductions in detected offending; fewer young people sent to custodial institutions; and a greater focus on diversionary practices. Bateman (2014) argues that with detected offending on the decrease and in conjunction with there being far less political concern over such matters the youth crime of today is not what it was. More specifically MOJ, Home Office and Youth Justice Board (2013) statistics show that 'offending' has considerably reduced: recorded offending is down from 73,712 in 2010 to 47,019 in 2012. The Crime Survey for England and Wales does indicate that there is a genuine fall in crime more generally. The fall in detected offending is indicative of a more child friendly practice. It is important to be mindful though that such developments need to be nurtured as such successes may be *'fractured in the face of a rapid change of mood'* (Smith, 2014:62). In other words, although *'harsh responses for children who (break) the law (are) no longer de rigueur'* (Bateman, 2012:45) the pendulum could swing away from child-friendly diversionary practices and there could be a return to punitive/responsibilising governance. In this paper we argue that despite such progressive practices, work with young people who offend tends to be punitive, coercive and disengaging. The voices of children and young people who offend are often marginalised. The progressive shift has been largely confined to increases in diversion; for those children who are subject to formal youth justice sanctions the dominant approach continues to be punitive. In the context of a proposed radical moral communitarianism we critically discuss how such issues could be addressed. The important notion of participation is central to our proposals for an enhanced future youth justice informed by a radical moral communitarian perspective previously outlined in this journal by one of the authors of this article (Hopkins Burke, 2014; 2015a). We will first provide a brief resume of the notion of communitarianism, its impact on New Labour and the new youth justice system.

Communitarianism, New Labour and the radical moral alternative

The youth justice system established by the Crime and Disorder Act 1998 was introduced by a New Labour Government strongly influenced by the political philosophy of communitarianism, which had emerged in the USA during the 1980s, proposing that the individual rights, vigorously promoted by traditional liberals, need to be balanced with social responsibilities to the communities in which people live. It is this critique of the one-sided emphasis on individual human rights, promoted by liberalism, which is the key defining characteristic of mainstream communitarianism (Etzioni, 1995a, 1995b). The intention is to restore an appropriate balance between the rights of the individual and their obligations and responsibility to the community. This 'third way' emphasises the importance of civil society, which it is argued avoids the full-on atomistic egotistical individualism entailed by the Thatcherite maxim that 'there is no such thing as society' and, on the other hand, the traditional social-democratic recourse to a strong state as the tool by which to realise the aims of social justice (Giddens, 1998). The state, it is argued, has a role to play, but as a facilitator, rather than a guarantor, of a flourishing community

life. Dissenters were nevertheless to observe that subsequent New Labour implementation took a different, significantly more authoritarian course; centred more on the use of a strong state apparatus to deliver outcomes (see Driver & Martell, 1997; Jordan, 1998). It was thus New Labour *neo*-communitarian credentials that were clearly apparent in the establishment of a contemporary youth justice system epitomised by the central state control of Youth Offending Teams (YOTs) by the Youth Justice Board.

Hopkins Burke (2014, 2015a) directs us to the work of Emile Durkheim (1933) and his observations on the *moral* component of contract and the need for a more equal division of labour in society and argues that this provides us with the theoretical basis of a radical moral communitarianism; one which challenges the orthodox articulation and its hybrid neoliberal variation (see Houdt & Schinkel, 2013; Hopkins Burke, 2015a). This alternative, progressive, formulation actively promotes the rights and responsibilities of both individuals and communities, but in the context of an equal division of labour. It is a social policy agenda which provides the basis of a genuine moral communitarianism founded on notions of appropriate contributions to society (obligations and responsibilities), suitable fair rewards (rights), and consensual interdependency with others we all recognise, identify and respect as fellow citizens and social partners, not as people of no consequence to be ignored, avoided and identified as potential legitimate crime targets. Radical moral communitarianism thus promotes a fairer, more equal world, based on mutual respect between all citizens, but with commitment to and involvement in society being a central component of a new social contract (Hopkins Burke, 2014).

Hopkins Burke (2015a) provides a full discussion of some of the closely-linked rights which it is proposed should be available to all citizens of all ages, alongside their simultaneous responsibilities, in a society organised on radical moral communitarian principles. Briefly, the proposed rights identified are 1) the provision of an adequate income on which to live at the appropriate stage of life; 2) the provision of good quality affordable accommodation/housing of an acceptable size and proper rights of tenure; 3) to be treated with fairness and respect by all agencies, institutions and individuals regardless of age, disability, ethnicity, gender and religion; 4) the provision of good quality health care; 5) the provision of high quality education and training; 6) to be protected from crime and anti-social behaviour in our communities.

The policy implications of radical moral communitarianism for young people who offend

The table below provides a summary of the additional basic rights and responsibilities to be afforded to children and young people who are clients of the contemporary youth justice system based on radical moral communitarian principles and values (Hopkins Burke, 2015b).

The first proposed policy for children and young people who offend based on radical moral communitarian principles and values is that the upper-age limit for the jurisdiction of the youth justice system should be increased to 21: a proposal which is strongly supported by evidence gathered by a well-established movement of professionals and influential charities, in particular, the Barrow Cadbury Trust (2012) and T2A (Transitions to

Adulthood). From a radical moral communitarian perspective, young people aged 21 and below should accept that they are part of this extended youth justice jurisdiction, accept its authority and behave accordingly as a part of being treated in an age appropriate fashion. This policy would be a central component of a radical moral communitarian response to youth offending.¹

Table 1: Rights and responsibilities of young people who offend in a moral communitarian society

<i>Rights</i>	<i>Responsibilities</i>
1. Young people aged 21 and below should be dealt with by the youth justice system not the adult criminal justice system	1. To accept that they are part of this extended youth justice jurisdiction, accept its authority and behave appropriately
2. The youth justice intervention should be appropriate to the level of maturity of the young person and the level of risk they pose to themselves and others	2. To accept responsibility for their actions, the need for reparation to their victims and co-operate with intervention plans
3. Punishment in the community should be pursued in all but the most exceptional cases involving very serious crimes and individuals who pose a high risk to the community where an element of punishment is considered appropriate	3. Full cooperation with community sanctions and restorative justice intervention should be expected as part of a holistic approach addressing both needs and deeds
4. A comprehensive intervention in the welfare needs of the young person at an appropriate level where a welfare deficit is detected as part of a holistic intervention	4. Full cooperation with all proposed appropriate welfare interventions should be expected where a deficit is detected as part of holistic intervention
5. Appropriate training and education opportunities provided appropriate to the needs and skills of the individual and their employment prospects	5. Full cooperation and involvement in educational opportunities
6. Proper employment opportunities provided where appropriate as part of a macro full employment strategy	6. Full cooperation with all employment opportunities provided

Second, the nature of the particular youth justice intervention should thus be appropriate to the level of maturity of the child or young person and the level of risk they pose to themselves. Maturity is one of the most prominent themes in the literature about young adults with many, if not most, considered to be youths rather than adults (T2A, 2009). Prior et al. (2011) reviewed three key strands of empirical research (neurological, psychological and criminological) and supported this view concluding that the current transition point to adulthood (18) in the criminal justice system is illogical. The Barrow Cadbury Trust (2005) recommends that ‘maturity’ be taken into account when sanctioning young adults; while, the T2A (2009:27) further advocates that ‘youthfulness’ should be a ‘mitigating factor’ when dealing with this age group. The concern is to divert young adults

¹ For those that consider this to be potentially problematic in terms of compliance with United Nations Convention on the Rights of the Child (UNCRC) which requires a distinct system of justice for children this is not the case, radical moral communitarianism is a worldview or ideology similar to liberalism or socialism. A distinctive youth justice would exist but be informed by the values of that worldview.

away from the criminal justice system, thereby avoiding a criminal record and the subsequent stigmatisation, and allowing them to 'learn from their mistakes' (T2A, 2009:25). This would seem a valid approach as the evidence shows that the peak ages for offending are between the ages of 19 and 24 (Von Hirsch & Ashworth, 2005). Irrespective of the merits of the arguments about extending age range if the peak age of criminal responsibility is older than 18, one might equally argue that younger children should be separated from more criminogenic older offenders. Undoubtedly, introducing a scheme where those passing sentence are required to consider the maturity of a young adult could provide benefits for individuals and improve their future prospects. Where the young adult has offended for the first time and has committed minor crime then this would seem a suitable and fair option, but it can be argued that for those people stuck in the 'revolving door' cycle the issue of maturity, whilst it should be seen as a mitigating factor, cannot be the only consideration. It should also be borne in mind that, as Prior et al. (2011) note, maturity is an elusive notion and not a 'wholly objective, measureable concept' by any means. This could create difficulties when attempting to determine how mature or immature an individual may be and leaves individuals subject to discretionary subjective opinion. This approach is nevertheless used in Germany which offers an interesting international comparison. In Germany the judge takes into account the personality of the individual and maturity level. Thus, a decision is made to either prosecute a young adult (in Germany 18–21) through adult or juvenile law. We should also note that Germany has a 'lower crime rate, a lower incarceration rate, and lower reoffending rates than the UK' (T2A, 2009:25). Removing discretion and subjective interpretation would point to all young people aged 18–21 being treated as juveniles and logically in the extended youth justice system. Maturity criteria should be fully established and codified at the outset to reduce discretion and subjective interpretation.

The third policy proposal based on radical moral communitarian principles and values is that punishment in the community should be pursued in all but the most exceptional cases involving very serious crimes. Children and young people would be expected to fully cooperate with all community sanctions and restorative justice interventions. The most effective community supervision programmes have been shown to reduce offending 15 per cent more than a prison sentence and, while there is still a lack of clear information (the Home Affairs Select Committee in 1998 had found 'the absence of rigorous assessment astonishing' (T2A, 2009:32), there is an increasing amount of evidence as to the effectiveness of community penalties. Moreover, they are considerably cheaper. In 2013-14 the cost per place per year in a secure children's home is £209,000; in a secure training centre it is £187,000 and in an under-18 young offender institution £60,000 while the cost of the most frequently used community sentences range between £2,000 and £4,000 (Hansard, 2013).² In short, custody costs about twelve times more than a community sentence. The use and experience of custody is itself problematic, and it is argued that short sentences cause particularly difficult disruption to the lives of children and young adults. Reoffending rates are high, making the supposed rehabilitative purpose of custody seem ineffective, despite the huge costs (Cavadino & Dignan, 2007). Statistical evidence emphasises this with reconviction rates at 67.9%. Incarceration moreover

² Direct comparisons are nevertheless problematic because on average custodial sentences (currently 112 days) are shorter than community sentences.

damages individuals and removes children and young people from having a 'normal life' (T2A, 2009), appreciably affects their chances of getting a job, and is regarded as a 'counterproductive tool' (Barrow Cadbury Trust, 2005). Organisations promoting reform for young adults advocate greater use of community orders because they can divert young adults from the harmful effects of custody and provide other benefits such as keeping them closer to their families (Howard League, 2012). Research into community order schemes, used predominantly with young adults aged 18-24, is very limited, with results ambiguous (Make Justice Work, 2011), but one thing is certain, community sanctions are significantly cheaper. The use of custody can result in a 'revolving door' cycle affecting young adults who continuously go in and out of the justice system. There is a clear need for a specialist service for dealing with young adults when they leave custody, but currently the only one available is the adult probation service, which provides nowhere near the intensive support offered by Youth offending Teams for the younger age group. Young adults are invariably 'left out on their own' and require 'more attention than they currently get' (Make Justice Work, 2011:44). However, despite greater efforts being made to help those on probation, there are still many young adults failing and reoffending due to lack of support that could be provided by an enhanced youth justice system incorporating this age group.

The fourth policy proposal based on radical moral communitarian principles and values is that there should be a comprehensive intervention regarding the welfare needs of the child or young person, at an appropriate level for the individual, with again full cooperation expected for such interventions. Appropriate accommodation and income needs are part of the generic moral communitarian intervention welfare strategies, but a significant issue for many young people who offend, including young adults, is problematic involvement in drugs and alcohol. It is proposed that these issues should be addressed where at all possible through a welfare – indeed medical - not criminal justice intervention where at all possible. Drug and alcohol use are considered a significant causation factor for criminal behaviour among children and young adults, while the misuse of illegal and legal substances is arguably more detrimental for those in these age groups than others (Devitt et al., 2009). These individuals have greater demographic variables when compared to other age groups, including, in the case of young adults, homelessness (T2A, 2009), and in the higher age range they are more likely to be persistent users (Devitt et al., 2009). Many young adults are still in a difficult stage of transition between childhood and fully formed adult status, with many not having 'finished school, not been in any employment, usually have been excluded and previously been in youth offending' with 'acquisitive offending' linked closely to a drug and alcohol fuelled lifestyle (see Parker, 1996). Statistical evidence suggests that drug and alcohol use is significantly more common among children and young people who offend (Devitt, 2011).

The Barrow Cadbury Trust (2005) suggests that NOMS (National Offender Management Service), the National Treatment Agency and the Department of Health should all work together with the drug rehabilitation teams in prison to 'find the best way of working with young adults with drug problems in the CJS'. Although this is a sensible recommendation, there is a drug and alcohol community order already in place which magistrates are free to use. This would perhaps provide a better starting point than attempting to bring in a multi-agency approach, which may be more difficult to achieve, and YOTs have

considerable experience in dealing with such cases with the younger (under 18) cohort. It would again be eminently sensible for YOTs to have responsibility for this older age group.

The fifth policy proposal based on radical moral communitarian principles and values is that children and in particular young people who offend should be provided with suitable training and education opportunities appropriate to the needs and skills of the individual and their employment prospects. Again, the young person's full cooperation with the educational and training opportunities provided is required. The words 'suitable' and 'appropriate' are nevertheless central to this strategy and closely linked to employment opportunities available in a moral communitarian society and a re-structured inclusive labour market. Central to this strategy is the recognition that not all worthwhile employment requires an expertise in differential calculus, nor is it necessary or sensible to keep all young people in education until they have mastered this. Education and training needs to be appropriate to the young person, their potential and aptitude, while recognising a potential problematic initiative that could exclude many able, but disadvantaged and excluded, children and young people from good quality educational opportunities they might master with the appropriate input in their lives.

The sixth policy proposal based on radical moral communitarian principles and values is that proper employment opportunities should be provided where appropriate, as part of a macro full employment strategy to be pursued as part of a restructured economy in a moral communitarian society with full cooperation expected from the young people. Access to employment is seen as one of the most important ways of deterring young adults from crime, through providing them with a stable job and lifestyle (T2A, 2009). Fifty per cent of young men are unemployed before being sentenced to prison, so it is clear that half of this age group is affected by this problem (Howard League, 2012). Moreover, following conviction they must disclose this to employers when seeking work which can have an extremely negative impact on their job seeking chances (see Parker, 1996). The Barrow Cadbury Trust (2005) has made a number of recommendations about improving standards and increasing the ability of young adults to gain employment. These include multi-agency responses and more learning programmes for young adults in custody, allowing them to gain better qualifications whilst in prison. The most interesting recommendation is to make it a legal requirement that young adults under 23 years of age do not have to disclose their convictions to employers, unless it is for a violent or sexual offence. Depending on the sentence imposed, this proposal might actually require circumstances in which it is not currently required for a child. It could be more politically acceptable to apply this recommendation to those aged 21 and under, especially if these young people were to come under the jurisdiction of the youth justice system until that age.

Central to a radical moral communitarian intervention in the lives of children and young people, which seeks to provide an appropriate balance between their rights and responsibilities, is clearly the issue of their willing involvement and participation in this process at all stages. As we will now proceed to discuss, without willing cooperation and participation even the best intervention is almost certain to fail. In short, gaining a willingness to change will be a crucial part of children and young people accepting and being prepared to address their responsibilities.

Voice and influence in the Youth Justice System

In the youth justice field to an extent children's voices have been promoted as opportunities to influence service design and delivery have been created (Creaney, 2014a; Creaney & Smith, 2014). However, the participatory rights of such children involved in youth justice processes – particularly those who are imprisoned – 'lag considerably behind children's rights generally' (Little, 2014:18). For example, it took thirteen years for the Children Act 1989 to be considered applicable to children in juvenile custodial facilities (Little, 2014). It was reported recently that children, detained in secure custodial institutions, were being kept in solitary confinement for disproportionate lengths of time (Crook, 2015). Such sanctions were being used not as a last resort for safeguarding or protective purposes but solely as a form of punishment. Disconcertingly it appeared the prison officers were silencing young people's voices and sending out a message that is they who are the ones with the power and control (the 'decision makers') not the young people. In practice then such imbalances of power need to be reduced and professionals need to see the world through the eyes of the child and in turn tailor services to such needs and abilities, understanding that offending is 'only one element of a much wider and more complex identity' (Drakeford, 2010:8). Rather than professionals defining the problems and controlling the solutions children should be encouraged to self-express and be autonomous.

Although the support provided by Youth Offending Teams can be beneficial for the child and their family, not least by providing opportunities to have their often complex individual needs addressed by specialist service professionals, the 'challenge is finding the right balance between making available interventions that draw on a range of skills from a number of specialisms and disciplines while at the same time avoiding the involvement of an unnecessary large number of people in face to face work with a young person' (Ibbotson, 2013:22). The multi-agency set up of Youth Offending Services then may be criticised for drawing young people into contact with 'too many' adult professionals each with differing agendas, creating, at times, confusion and conflicting messages for young people and their families. Importantly then, in accordance with the emphasis on the promotion of participatory rights children should be provided with opportunities to set the agenda where their level of input is determined by how comfortable they feel contributing not by organisational priorities (Creaney, 2015). Indeed any work proposed should be built on developing strengths and enhancing resilience 'drawing out the talent, the capacity and the resources that people may have and creating a space where good things may happen' (Gilligan, 2006:41). Creating such a space may be difficult with time constraints, and bureaucratic aspects/procedural requirements severely restricting the ability of the practitioner to be sufficiently bespoke and responsive to address the needs of the child/youth requirements. As has reportedly been the case in children's services in youth justice there appears to be 'an over dependence on process which diminishes professional judgement and creates a mind-set which seeks pre-formulated solutions to complex and uncertain situations' (Munro, 2011:63 paragraph 4.47).

Solutions should not be contrived, unrealistic, artificial and done to children but decided with them (Jones & Creaney, in press). Rather than centring attention on addressing issues that are deemed to be individual/pathological deficits and essentially seek to

correct the 'faulty', individual work with young people who offend should draw on youth work ideals. It should set out to enhance self-esteem, promote a 'positive life attitude' and be 'future orientated', optimistic and goal focused, after all, although youth justice has 'a duty to give effect to the orders of the court [it] can achieve none of its purposes without the offender's attendance and participation' (Canton, 2011:123). It is imperative, in accordance with the participatory rights of children that practitioners tap into the varying competences of children and communicate appropriately to gather their thoughts and feelings, understanding such things as cognitive and emotional abilities. One way to increase the likelihood of young people participating in the supervisory process is to work towards developing a positive working relationship (Creaney, 2014b; 2015).

Child/practitioner relations

Perhaps unsurprisingly if a positive child/practitioner relationship is formed young people who have offended tend to feel they are provided with more – not fewer - opportunities to participative and shape the agenda (See Phillips, 2013 for an elaborative, insightful analysis of the characteristics of 'effective' child/worker relationships). What young people value and see somewhat of a prerequisite for active meaningful engagement is 'legitimacy' – that is treated fairly, and respected whereby professionals demonstrate a sense of moral and psychological commitment. Rex (1999) discovered that individuals are more likely to engage in processes of change and restrain from problematic/criminal behaviour if they feel how they are being treated or dealt with generally is legitimate. Similarly practitioners see the development of a non-offender identity and in tandem a belief that the child can change/adapt their behaviour/lifestyle, as important when forming a relationship with a child. The worker/young person relationship is more important perhaps than has been previously thought to desistance from crime. Indeed, it is 'the way' (that is relationships, approaches and techniques) that a scheme of work is implemented that determines whether it will be more or less 'effective' (Phillips, 2013).

Largely since the late 1980s and into the 1990s there has been a growth in political and academic interest to discover 'what works' in conjunction with the emergence of evidence-based policy making. Since the 'what works' movement resulted in 'a neglect of case management skills and a lack of recognition of the need for skilled supervision' (Raynor & Maguire, 2006:28) there has been something of a revival in appreciation of the importance of positive working relationships between worker and client. Rather than ceasing 'to be a defining characteristic of [youth justice] work' (Burnett & McNeill 2005:122), it is considered once again to be a practitioner's 'main instrument' (Davies, 1969:121) and has become a central component of the work of Youth Offending Teams. The 'what works' paradigm placed a disproportionate emphasis on the establishment of 'effective' programme design - with cognitive behaviour therapy deemed to be the 'gold standard' – over 'effective' young person-worker relationships (Creaney, 2014b). Although rehabilitation has recently been reinvigorated through the 'what works' movement and associated accredited programmes, these approaches have been critiqued for being excessively prescriptive and narrow in focus, and for paying insufficient regard to the practitioner-offender relationship as well as to the wider social contexts of desistance from crime (Phillips, 2013). In other words, engaging and participatory relationships were marginalised. Desistance researchers on the other hand look beyond 'effective

programmes' and deficit-led practices, shifting the focus towards understanding processes of change (that is, why and how it is that some people stop offending: 'what works?' for them). Within this paradigm, positive strength based practices are encouraged whereby the child and young person is treated as an individual where differences (that is abilities, ethnicity and cultural experiences) are valued, and practice is at 'an appropriate level for the client's speaking and listening abilities ... working with different thinking and learning styles' (Cherry, 2005:3-4). If interventions are to become more positively based, in accordance with the literature on desistance (Creaney, 2015) young people need to be provided with opportunities to take part in activities with other individuals who have not necessarily been subject to court orders/subject to statutory requirements. In other words socialise with 'non-offenders'. This could help to promote/facilitate 'turning points' and help young people to develop/create a new identity, one with the 'offender status' removed. Essentially there needs to be a commitment to removing the offending label, understanding that such a status can severely prevent successful transition to a crime free life. It can also damage a child's self-esteem and impact negatively on other areas of their life.

Concluding thoughts: still waiting for youth justice

In this paper we discussed briefly the notion of communitarianism, principally its impact on New Labour and the 'new' youth justice system. We then discussed how the removal of youth justice support for young people who offend when they reach the age of 18 is rather arbitrary. Indeed given the relatively high level of investment in working with young people and the levels of expertise developed this does suggest a poor use of resources. Extending the upper age limit to 21 thus seems to be eminently sensible and cost effective. It is thus proposed that this new expanded youth justice system should intercede incrementally in the lives of children and young people who have offended in accordance with a realistic assessment of the level of risk they pose for reoffending. It is nevertheless important to remember that only 3–4 per cent of young people who offend are persistent in their offending behaviour (Hopkins Burke, 2011) and thus in need of a more rigorous intervention in an appropriate setting. The system should thus be underpinned by an awareness of the dangers of 'net widening' and the incorporation of a large, relatively non-problematic group of children and young people, tangentially involved in 'offending', into a spiral of increased surveillance and intervention.

As we discussed in the second half of the paper contemporary youth justice practice has been described as coercive and offender focused. The progressive shift has been largely confined to increases in diversion; for those children who are subject to formal youth justice sanctions the dominant approach continues to be punitive. The nettle must be grasped and a previously over-eager youth justice system, professionals and politicians must accept that increased intervention in the lives of young people, 'for their own good', is often far from their best interests. Significantly, young people must be dealt with in a holistic way, in the context of an intervention strategy which fully addresses the social context of their behaviour – not fixated by the idea of quick fix solutions driven by neo-liberal correctionalism and responsabilisation (Creaney, 2015; Haines & Case, 2015).

In the paper we discussed how the youth justice system in the context of a radical moral communitarian framework should be part of a rebalanced economy where all mentally

and physically 'able' citizens are economically active. In this reformulated positive environment, all young people should be given legitimate opportunities which will enable positive engagement, involvement and participation in a society where they have appropriate rights and responsibilities based on their aptitude and potential (Hopkins Burke & Creaney, 2014). For too many young people who have come to the attention of the youth justice system, their experience of (often multiple) factors of social exclusion and their paucity of legitimate life chances has made involvement in criminality as a long term career option a rational choice. The task for a radical moral communitarian society is to make such choices far less rational and central to such an intervention is to hear the voices of the young people and to gain their participation in a system they consider legitimate.

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References

- Barrow Cadbury Trust (2005) *Lost in Transition: A Report of the Barrow Cadbury Commission on the Young Adults and the Criminal Justice System*. London: Barrow Cadbury.
- Barrow Cadbury Trust (2012) *Why Prioritise Young Adults? Four Key Messages for Police and Crime Commissioners*. London: Barrow Cadbury.
- Bateman, T. (2012) Who pulled the plug? Towards an explanation of the fall in child imprisonment, *Youth Justice*, 12(1):36-52.
- Bateman, T. (2014) Where has all the youth crime gone?, *Children and Society*, 28(5):416-424.
- Blagg, H. and Smith, D. (1989) *Crime, Penal Policy and Social Work*. Harlow, Longman.
- Burnett, R. and McNeill, F. (2005) The place of the officer-offender relationship in assisting offenders to desist from crime. *Probation Journal* 52(3):221–242.
- Canton, R. (2011) *Probation: Working with offenders*. Abingdon: Routledge
- Cavadino, M. and Dignan, J. (2007) *The Penal System: An Introduction* (4th edition). London: Sage.
- Cherry, S. (2005) *Transforming Behaviour: Pro-Social Modelling in Practice*. Cullompton. Willan.
- Creaney, S. (2015) Sill working with “involuntary clients” in youth justice, *British Journal of Community Justice*, 13(1).
- Creaney, S. (2014a) The benefits of participation for young offenders, *Safer Communities*, 13(3):126–132.
- Creaney, S. (2014b) The position of relationship based practice in youth justice, *Safer Communities*, 13(3):120–125.
- Creaney, S. and Smith, R. (2014) Youth justice back at the crossroads, *Safer Communities*, 3(2):83-87.
- Crook, F. (2015) *Solitary confinement*. Howard League Blog, available at: http://www.howardleague.org/francescrookblog/solitary_confinement/. Accessed 20 July 2015.
- Davies, M. (1969) *Probationers in their Social Environment*. Home Office Research Unit Report 2. London: HMSO.
- Devitt, K., Knighton, L. and Lowe, K. (2009) *Young Adults Today*. Brighton: Young People in Focus.
- Devitt, K. (2011) *Substance Misuse and Young Adults in the Criminal Justice System*. Brighton: Young People in Focus.
- Drakeford, M. (2010) Devolution and youth justice in Wales, *Criminology and Criminal Justice*, 10(2):137–54.
- Driver, S. and Martell, L. (1997) New Labour’s Communitarianisms, *Critical Social Policy*, 52:27–46.
- Durkheim, E. (1933, originally 1893) *The Division of Labour in Society*. Glencoe, IL: Free Press.
- Etzioni, A. (1993) *The Spirit of Community: The Reinvention of American Society*. New York: Touchstone.
- Etzioni, A. (ed.) (1995a) *New Communitarian Thinking: Persons, Virtues, Institutions and Communities*. Charlottesville, VA: University of Virginia Press.
- Etzioni, A. (1995b) *The Parenting Deficit*. London: Demos.

- Giddens, A. (1998) *The Third Way: The Renewal of Social Democracy*. Cambridge: Polity Press.
- Gilligan, R. (2006) Creating a warm place where children can blossom, *Social Policy Journal of New Zealand*. Available at: <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/journals-and-magazines/social-policy-journal/spj28/28-creating-a-warm-place-where-children-can-blossom-p36-45.html>
- Haines, K. R. and Case, S. P. (2015) *Positive Youth Justice: Children First, Offenders Second*. Bristol: Policy Press.
- Hansard HC (2013) 27 June, c368W
- Hopkins Burke, R. D. (2011) *Young People, Crime and Justice*. Oxon: Routledge.
- Hopkins Burke, R. D. (2014) The Case for a Radical Moral Communitarianism, *British Journal of Community Justice*, 12(3):5–18.
- Hopkins Burke, R. D. (2015a) Theorising the Radical Moral Communitarian Agenda, *British Journal of Community Justice*, 13(1):7-24.
- Hopkins Burke, R.D. (2015b) Re-considering Youth Justice in the Context of Radical Moral Communitarianism, *Howard League What is Justice? Working Papers* 16/2015.
- Hopkins-Burke, R. D. and Creaney, S. (2014) A “new” response to anti-social behaviour: early reflections on the Anti-Social Behaviour, Crime and Policing Act 2014, *Safer Communities*, 13(4):161-170.
- Houdt, J.F. van and Schinkel, W. (2013) A Genealogy of Neoliberal Communitarianism, *Theoretical Criminology*, 17, 493–515.
- Howard League (2012) *Mentors Won't Repair Damage Caused by Short Jail Sentences* (news release). London: Howard League for Penal Reform. Available at: <http://www.howardleague.org/mentors-wont-repair-damage/>. Accessed January 2015.
- Ibbetson, K. (2013) *Serious case review executive summary services provided for Child F June 2004 – January 2012*. London: Tower Hamlets Safeguarding Children Board.
- Jones, G. and Creaney, S. (in press) Insensitive for insincerity - pre-sentence restorative justice: in whose interests?, *Safer Communities* (in press)
- Jordan, B. (1998) New Labour, New Community?, *Imprints*, 3(2): 113–31.
- Little, R. (2014) *Participation and practice: youth justice ECAN Bulletin*. Howard League. Available at: https://d19ylpo4aovc7m.cloudfront.net/fileadmin/howard_league/user/pdf/Research/ECAN/ECAN_bulletin_24_-_November.pdf
- Make Justice Work (2011) *Community or Custody? A National Enquiry*. London: Make Justice Work.
- Ministry of Justice, Home Office and Youth Justice Board (2013) *Youth Justice Statistics 2011/12*. London: Ministry of Justice.
- Munro, E. (2011) *The Munro Review of Child Protection: Final Report. A child centred system*. London: Crown Copyright
- Parker, H. J. (1996) Methadone Maintenance and Crime Reduction on Merseyside, *Crime Detection and Prevention Series*. London: Police Research Group.
- Phillips, J. (2013). Understanding Probation Practitioners in England and Wales, in I. Durnescu and F. McNeill (eds.) *Understanding Penal Practice*. London: Routledge.
- Prior, D., Farrow, K., Hughes, N., Kelly, G., Manders, G., White, S. and Wilkinson, B. (2011) *Maturity, young adults and criminal justice: A literature review*. Birmingham: University of Birmingham.

- Raynor, P. and Maguire, M. (2006) End-to-end or end in tears? Prospects for the effectiveness of the National Offender Management Model, in M. Hough, R. Allen and U. Padel (eds.) *Reshaping probation and prisons: The new offender management framework*. Bristol: The Policy Press.
- Rex, S. (1999) Desistance from Offending: Experiences of Probation, *Howard Journal of Criminal Justice*, 36(4):366-383.
- Smith, R. (2014) *Youth justice: Ideas, policy and practice*. Abingdon: Routledge.
- Straw, J. and Michael, A. (1996) *Tackling Youth Crime: Reforming Youth Justice*. London: Labour Party.
- T2A (2009) *Young Adult Manifesto*. London: Barrow Cadbury.
- Von Hirsch, A. and Ashworth, A. (2005) *Proportionate Sentencing: Exploring the Principles*. Oxford: Oxford University Press.

Further reading

- Almond, T. (2012), "Asset: an assessment tool that safeguards or stigmatises young offenders?", *Probation Journal*, 59(2):138-50.
- T2A (2012) *Pathways from Crime: Ten Steps to a More Effective Approach for Young Adults in the Criminal Justice Process*. London: Barrow Cadbury.