

The impact of penal populism on policy change criminology essay



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This paper explores the impact of penal populism on policy change, examining definitions of penal populism and managerialism and evaluating their importance as determinants of policy change. For the purpose of this paper, the focus will be on the campaign for Sarah's Law and the impact on policies relating to sex offenders that arose from the campaign.

According to Pratt (2007) the origins of penal populism lie in the work of Sir Anthony Bottoms (1995) who used the term 'populist punitiveness' (Bottoms 1995 cited in Pratt 2007: 2) to discuss one of the main influences on contemporary criminal justice and penal systems (Pratt 2007: 2). The term punitiveness refers to the public's disapproval and their harsh attitudes in response to offenders (Green 2009: 520). The notion of punitiveness suggests 'a disproportionate use of sanctions and consequently a deviation from the principle of proportionality' (Matthews 2005: 179).

In the 1980's it was conceded by senior conservative politicians that in penal matters it was the popular press rather than informed opinion that counted (Ryan 2003: 117). Populism is a political response favouring popularity rather than political considerations (Roberts et al. 2003: 3) and penal populism is a label, given to politicians who 'devise punitive penal policies' that are popular with the general public (Pratt 2007: 8). Both penal populism and populist punitiveness are used to refer to the presumption that it is the harsh attitudes of the general public that drives and justifies a harsher stance on crime and punishment policies (Green 2009: 521). Yet Roberts et al. (2003: 5) argue that the electoral advantage of a policy takes precedence over any penal effectiveness and rather than attempting to reduce crime rates, penal populism is merely politicians pursuing a set of policies to win votes. 'Crime

is socially constructed, politically-influenced and historically variable ...

Punishment, like crime, is historically and culturally contingent' (Newburn 2007: 15). However, Pratt (2007) argues that one of the limits

of penal populism is that the public's desire for punishment is not insatiable.

Penal populism is an emotional response to terrible, often rare, crimes that generate intense media attention (Roberts et al. 2003: 9). ' The entanglement of politics and media creates an environment encouraging politicians to offer quick solutions for the most serious crimes' (Roberts et al. 2003: 36). Furthermore, highly punitive policies are provoked by penal populism, reflecting a position of outrage rather than rationally considering the policy options in relation to offending (Roberts et al. 2003: 36). Penal populism is a product of social and cultural changes and the rise of penal populism reflects a ' fundamental shift in the axis of contemporary penal power brought about by these changes' (Pratt 2007: 3). Penal populism stems from the lack of faith in the government, ' the decline of deference and the growth of ontological insecurity, along with new media technologies helping to spread it' (Pratt 2007: i).

There are a number of issues that require further examination according to Matthews (2005); definition, aetiology and the ' relation between punitiveness and other dominant trends in penal policy such as managerialism, which are seen to involve different and even oppositional currents' (Matthews 2005: 178). Similar problems are encountered with the term bifurcation, viewing the penal system as ' a twin track or bifurcated system with coercive and segregative controls on the one side and inclusive

community-based controls on the other is too restrictive' (Matthews 2005: 181).

Managerialism is ' a set of techniques and practices which aim to fracture and realign relations of power within the criminal justice system in order to transform the structures and reorganize the processes' (McLaughlin 2001: 169). Managerialism focuses on the operation of the system rather than the treatment of victims and suspects and there is an emphasis on results, targets

and performance indicators. The main change in penal policy has not been towards more emotive or expressive punishments but the ' development of more administrative and impersonal styles of regulation' (Matthews 2005: 188). According to Matthews (2005: 185) new styles of managerialism have been introduced, which appear to develop alongside punitiveness, and the role they have played in shaping the criminal justice system has been widely reported.

Penal policies are developed by governments ' in line with the sentiments and aspirations of the general public rather than their own bureaucratic organizations' (Pratt 2007: i). Populist sentiments veer toward a more punitive response to crime and the expansion of the media has been critical in ' fuelling public sentiments and creating the conditions in which retribution and vengeance can more readily be expressed' (Matthews 2005: 181).

Newburn states that the politics of law and order are played out and stimulated by the media with crime becoming ' staple newspaper fodder'

(Newburn 2007: 15). The way the media highlights certain crimes and <https://assignbuster.com/the-impact-of-penal-populism-on-policy-change-criminology-essay/>

events, influences not only the general public but also politicians and policy makers who have come to rely on the media as the voice of public opinion (Green 2009 : 527).

Within the criminal justice system there is an abundance of experts that are not only able to influence policy making but also to mediate the demands of the public (Matthews 2005: 189). However, Pratt (2007: i) argues that there has been less reliance on academic expertise and penal populism has been allowed by governments to impact on policy development. The public have been able to articulate their views and also influence how penal policy is developed, moreover, the public's hostility towards paedophiles and acts of vigilantism are often taken as an indication of intrinsic public punitiveness (Matthews 2005: 188). The media then encourage and stimulate public concern, in their search for a scapegoat on whom to focus their attention, resulting in a further increase in the sale of newspapers, also an increase in viewing figures (Matthews 2005: 188).

Penal populism has not only set new policy agendas it has also radically redefined official opinions on crime and punishment (Pratt 2007: 28). It is in the development of policy on sex offenders that it has had most influence (Pratt 2007), with 'close parallels in the media and political rhetoric concerning the risk posed by paedophiles' (Newburn and Jones 2005: 73). According to Matthews (2005: 194), much has been made of the campaigns and legislation that have been passed to address the issue of paedophiles.

Sara Payne's daughter was abducted and murdered in 2000 by Roy Whiting, she called on the then Home Secretary to change the law regarding paedophiles. Campaigning for Sarah's Law to allow restricted public access to the sex offenders register (BBC 2008), partially inspired by Megan's Law, introduced in New Jersey after the rape and murder of Megan Kanka in 1994. With the support of the News of the World, Sara Payne and the Sarah's Law campaign fought for parents to have the right to know if there was a child sex offender living in their area (Ryan 2003: 127). It also called for high risk paedophiles to be included in sex offender orders, those that previously did not fall within the 'sex offender registration requirements; for the right of victims to know why this or that sentence has been passed; and to be informed of the release date of those who had abused them' (Ryan 2003: 127).

There was criticism from some police forces and child care agencies fearing vigilante attacks (BBC 2008), moreover, in 2000 on the Paulsgrove estate in Portsmouth suspected paedophiles and their families were victims of vigilante attacks and a paediatrician was forced to leave her home and neighbourhood after her house was attacked (Ryan 2003: 127). This was prompted by the News of the World publishing the names and pictures of convicted paedophiles on the back of the Sara Payne campaign (Ryan 2003: 127). The public's response to this moral panic was, according to Ryan (2003) instructive and there was widespread condemnation of the violence, even the News of the World argued that it was counter-productive (Ryan 2003: 127).

‘ Hard cases make bad law, and spectacular cases make knee-jerk policy’
(Walker 2002: v).

Including those mentioned previously and others, such as the introduction of Multi Agency Protection Panels and preventing offenders from contacting victims (For Sarah 2009), there have since been 15 pieces of legislation introduced as a direct result of Sara Payne’s work (Moorhead 2009); the News of The World claim 14 of those are as a result of their campaign (For Sarah 2009). Furthermore, Sarah’s Law pilot schemes, allowing controlled access to information about paedophiles, are now being extended (Topping 2009).

Politicians are aware of the depth of public feeling and they use ‘ rhetoric and symbolism to imply support for stronger measures regarding notification, at the same time as bowing to the professional judgement and influence of criminal justice practitioners’ (Jones and Newburn 2002: 196). Criminal laws and penal measures that are named after victims, such as Megan’s Law and the campaign for Sarah’s Law, use the ‘ plight of the victim to legitimate more extensive controls and new punitive measures’ (Hoyle and Zedner 2007: 473). Pratt (2007) questions the effects on criminal justice policy when policy is driven by popular public anxiety, the refutation of evidence based policy is questionably less concerned with proven effectiveness than with what the public want.

Penal populism has enabled new policy agendas to be created, redefined official opinions on crime and punishment and Pratt (2007) states that it is in the development of policy on sex offenders that it has been most influential.

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The public, politicians and policy makers are influenced by events that the media highlight, with the politics of law and order frequently being played out and stimulated in the media. Despite the abundance of experts able to influence policy making, there has been less reliance on the expertise of academics and governments have allowed penal populism to impact on policy development (Pratt 2007).

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