

The consequence of the bulger case criminology essay



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Critically analyse the assertion that; Young people are framed as perpetrators, but rarely considered as victims, and it is the latter that is needed.

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Introduction

The twentieth anniversary of James Bulger's death was observed on 12th February 2013. The kidnapping from a shopping mall in Bootle (Merseyside), and murdering of the two-year-old, established an entirely fresh precedent on the way in which juveniles are treated within the Criminal Justice System. [1]Due to the following 'moral panic', the case received too much public attention, which converted into a movement that commanded Robert Thompson and Jon Venables to be imprisoned forever.[2]This provided justification to the policy changes, which quickly assisted in reducing the age of criminal accountability to ten. The possibility that children could be victims themselves was disregarded. This essay will demonstrate the role of the media and the justice model in framing the youth in categories that assist in promoting popular thinking regarding a delinquent through "prevailing social values, attitudes, and beliefs...[that] change slowly over time and... reshape what people think and believe." [3]In essence, the youth are used as 'suitable vehicles' to meet political agenda. This is detrimental to society, as it does not conform to the needs of the 'victimised delinquent'. This paper contains, in this regard, an evaluation of the debates around the justice and welfare models, and highlights the urge to develop the latter. The concluding section will state how the politicisation of crime develops a punitive justice system that redefines the youth as the new folk devils. It sees them as

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perpetrators and not victims. There is a strong need to increasingly consider the youth as victims, as it is only then the benefits of such a 'welfare' model can be experienced.

The Consequence Of The Bulger Case

Debatably, the public's response towards deteriorating social order permits the introduction of more punitive measures by political parties and policy-makers. This would aid constructing public opinion so that the enforced regulations are justified and legitimised in controlling crime. Such is not a new occurrence. Cohen, in 1964, studied the moral hysteria created by the 'Mods and Rockers',^[4]the shaping of the young black 'mugger' in the 1970s was researched by Hall,^[5]the 1980s focused upon the 'punks', the 'hoodies' emerged in the nineties and the new millennium exposed gang lifestyles.^[6]Nonetheless, Smith and Seuda's study involved a postmodernist perspective of the Bulger case, which they view as incomparable.^[7]The fact that Bulger was murdered by 'Boy A' and 'Boy B' (both aged ten and not adults) fuelled the country with hate to a level that Britain was seen striving for the blood of Thompson and Venables.^[8]Through negative broadcasting, the media relentlessly sought to further demonise the boys. The media maintained the nation's hatred and even influenced the removal of the injunction against naming the boys publicly.

The 'murderers' were never promoted as victims themselves. In fact, it became obvious that framing Thompson and Venables was indefinitely an instrument to negate the boys so governmental agendas are met. Being depicted as evil killers of a cute child, both boys confronted masses outside the courts that taunted to "hang them".^[9]The entire focus was on the <https://assignbuster.com/the-consequence-of-the-bulger-case-criminology-essay/>

devastation caused and this justified lowering the criminal responsibility age. Individuals under fourteen were no longer considered to be *doli incapax* or unable to commit crime.[10] Before criticising the media's involvement, it is important to note that framing is not regarded as what the media covers but rather the way in which it does.[11] Morrison highlights how the media " elicit[ed] public sympathy" by, for example, describing the victim as " little Jamie".[12] Such evidently influenced Justice Morland in sentencing the offenders to the compulsory eight years; equivalent to the undefined sentence under section 53(1) of the Children and Young Persons Act 1933. The Judge viewed the crime as "...cunning and very wicked" and worthy of being imprisoned for "...very, very many years" until maturation. Reflecting ideas of right realists (like American neo-conservative JQ Wilson), which view offenders as ' rational' beings wilfully engaging in criminal behaviour, this ideology has gradually affected policy-making. It is incorrect to generalise children as it is certain that the age of maturity varies.[13] Also, the judge's condition of being detained " until you have matured" emphasises the view that it is criminal not to have matured by ten. The judge can be regarded as being affected by external reactions. Each case should be decided on its merit, and equal attention should be given to punishing the crime and also dealing with the causes. The latter reflects the need to realise the perpetrators as victims suffering themselves. It is this welfare system that would provide economic and social security to individuals. Punishing the crime does not solve the problem as reoffending statistics highlight,[14] but rather the causes of crime should be eradicated.

The judge, in the Bulger case, believed that eight years was “ very, very many years” for a ten year old.[15]However four weeks later, Lord Chief Justice, Lord Taylor of Gosforth wanted to extend it to ten years so it would act as a deterrent. Nonetheless, such would again fall short of the author’s argument that queries how a young mentally disturbed immature person could weigh up the consequence of his actions in such circumstances. It is not, for one second, being suggested to forgive murderers, but rather the state should recognise them also as victims and act to prevent future generations from suffering to the extent where they see such violent acts as rational. From a neutral perspective, it is apparent that the framing process provides a carte blanche to policy-makers to increase punishments and satisfy the community’s punitive urge. The Home Secretary, Michael Howard, was equipped with thousands of cuttings from the Sun’s movement steered by Bulger’s parents to extend the sentencing to ‘ whole life’. In 1994, Howard increased it to fifteen years to calm the apprehensive public. [16]Such a move prohibited the recognition of the perpetrators as victims. It is evident that the victim’s family were stressed and wanted revenge, but if this request is completely adhered to by the state, this would detract completely from the welfare model and what is left is a system of solely crime and punishment. This is not a preventive model and would be ineffective in tackling problems faced by young offenders. Such has been supported by the English Court of Appeal[17]and the majority in the House of Lords,[18]who banned the ability of policymakers in deciding sentencing. Furthermore in T v UK and V v UK,[19]the European Court of Human Rights rightly recognised the unfair trial that resulted from the negative public opinion injected by the media. Lord Woolf cancelled the increased sentence <https://assignbuster.com/the-consequence-of-the-bulger-case-criminology-essay/>

and viewed the YOIs as too harsh. The boys were released with new identities after serving the original eight years. James Bulger's mother warned the public to watch out for any unknown eighteen year olds residing in their area and advised that "[t]hey got away with murder...[and to] do what you can to get them out because they're still dangerous. I know they'll kill again".[20]Being allowed to make defamatory assertions illustrates the framing process to be intact. Also, there was clearly no appreciation of the work in rehabilitating the offenders so they are not seen as a threat in community.[21]However, if it was given attention in the press then this, consequently, would have offended the victim's family.[22]This is irrational. It is important to promote, to a certain extent, such rehabilitation work so it can educate the nation as to risks associated with disadvantaged children. This obviously will lower crime rates in the long run as crime-inducing factors would be dealt with; this is why Morrison argues the illogicality by questioning whether its "...possible to imagine a place where the rehabilitation of lost and damaged children would be a matter for celebration, not outrage?" However, too much attention would prove harmful, as this would promote a lenient criminal justice model catering to reform the young. Convinced to be looked after, 'immature' individuals would commit crime. To be effective, the system employed should advertise both the stringent sentencing powers along with the welfare measures. But obviously, it is necessary for offenders to be classified as victims first.

The Norwegian Example

Outlining the James Bulger case was not simply due to its significance to present-day English and Welsh penal policy, but moreover to compare it with

how other nations deal with the issue. Soon after, there was another murder that resembled the Bulger case.[23]Here, a six-year-old boy, along with two boys aged five, murdered five-year-old girl called Siljie.[24]Nonetheless even though she lost her daughter, the mother forgave “...the ones who killed... It is not possible to hate small children. They can’t understand the consequences”.[25]The offenders returned to normal schooling within two weeks and identities continue to be confidential.[26]They were not punished strictly but were initially seen by psychologists and welfare specialists. Obviously, the individuals were confronted with hardship but rather “...care, support, guidance and counselling” was encouraged.[27]Such was not overtly welcomed in the Bulger case.

A welfare model operated in Norway. Many scholars began to query the way in which one society strives towards the ‘whole life’ punishment, whilst another favours implanting offenders back into their normal lives and hoping they will recover from events as if they were victimised.[28]29Both these approaches represent the two extremes of the spectrum. Norway is seen as soft on crime whereas embracing the harsh method of England and Wales would be disadvantageous in understanding crime. A hybrid adoption would serve well; whereby deserving punishment is given and also the offenders are recognised, overtly and impartially, as victims so society can be ‘cured’ and not merely punished.

Political Platform

The right realist policies are far greater retributory in nature than those of other EU States.[30]31A political economy has an impact upon the methods of framing certain individuals not least to imprison them in the assurance of <https://assignbuster.com/the-consequence-of-the-bulger-case-criminology-essay/>

a present societal unanimity that would not query it. A platform was offered to Tony Blair who manipulated Bulger's death to attack the Conservative reign, which Marxism stated catered the desires of the elite.[32]As elections approached, Thatcher demanded the removal of " anarchy and violence" from society. After Bulger, Blair was also seen asserting there to be " something... very sick at the heart of our society".[33]These statements are evidences of the use of juvenile crime to reach governmental agendas. [34]Furthermore, it also enables the introduction of more crime control methods that, along with attracting voters to political manifestos, moves away from the model of due process.[35]The focus is on punishing crime rather than ultimately understanding it. It shifts towards a model that fails to recognise criminals as individuals with rights, and even a history of victimisation themselves.

The UK's ' Attempts' To Go ' Welfare'

There have been rare instances where attention has been given to juvenile delinquents, as hinted in the title. Immediately after Bulger's death, Home Secretary Kenneth Clarke proposed reforms that established new YOIs to support twelve to fourteen year-olds. These ran parallel with retributive programmes.[36]Although this depicts the justice methodology, the Bulger case did eventually query parental duties, increased state intervention and rehabilitation schemes within the framework of YOTs; diverting offenders from custodial sentencing to reparation with the sufferer and alternatively face community punishments. All questions were soon answered by the Crime and Disorder Act 1998. Nonetheless, the guidelines included have differing impacts on the procedures adopted by ' welfare' performers as

opposed to those of the justice approach. The year 1998 also introduced policies such as ASBO's, Parenting Orders, Dispersal Orders, Behaviour Agreements, Detention and Curfews.[37] However, despite being introduced to support them, the policies rather went on to adversely affect those appearing before the developing YOTs.[38] This is correct where multi-agency policies are intrinsic in programmes where society decides the juvenile's consequence. Nonetheless when based upon 'evidence' from quantitative research, there are problems since it claims that actors should closely follow procedures that are known to be successful. As seen in Section 93 of the Powers of Criminal Courts (Sentencing) Act 2000,

"[w]here a person aged under 21 is convicted of murder... the court shall sentence him to custody for life unless he is liable to be detained under section 90 above."

In the words of John Pitts, "we are far too concerned with their deeds and uninterested in their needs".[39]

Contrary to the view expressed in the title, there have been attempts to unite justice and welfare to generate a more caring yet regulating attitude. This supports the idea that even though the individual is responsible for his action, the system does acknowledge the victimisation of that delinquent. For example, the restorative justice model enabled 'offender victim mediations' whereby the offender meets the sufferer, apologises, displays sorrow and advances towards reparation. Such encounters are done with a volunteer who would, assisted by a script, monitor the procedure into a reasonable conclusion.[40]

This was a great move but gradually, right wing views were injected into community sanctions and, as it became associated with custodial punishments, this defeated the objective. The proposed multi-agency system was further disordered with bifurcating approaches of the actors; largely police officers who are bias towards the youth (especially those from black/ethnic minorities). Feilzer and Hood, who discovered African-Caribbean juveniles as being disproportionately represented in the youth justice system, have supported this assertion.[41] This can be explained by Hall et al and their study into the framing of black youths in Handsworth (Birmingham).[42] The delinquency is dissimilar but the manner in which the media reacted, and policy amendments that followed, is largely comparable. Three black youths attacked a male in 1973 and such a street crime would result in a six months sentence. However, they were found for a 'new' crime called 'mugging'.[43] The media exaggerated and labelled all 'black' men as 'muggers'. This helped justify (following the 2011 UK riots) strategies like 'stop and search' and 'sus' laws contained in Code A of PACE (Police and Criminal Evidence Act 1984) whereby, in absence of reasonable basis, black men could be stopped.[44] Here also, photos of the offenders, one aged sixteen and two aged fifteen, were all over tabloids. Eventually, the oldest received twenty years of imprisonment and ten years were given to the other two.[45] Ultimately, the framing of the individuals, who were accountable for a lesser crime, initiated riots that consequently helped justify the severe punishments, police conduct and discretion. This can develop into a vicious cycle and would result in harsher forms of punishment that are justified with more severe 'criminal movements'. Such can be prevented

through actually treating the causes of criminality by, as this paper argues, increasingly identifying youths as victims themselves.

The so-called 'developments' in law are a result of children being used (as 'suitable vehicles') to construct media exaggerations even though children murdering children is not a new phenomenon. This in turn questions why previous practices of criminal justice were overwritten by Bulger. It was to distract the viewer from considering the youth as victims. In the case, Justice Morland questioned how "...two mentally normal boys aged 10 of average intelligence committed this terrible crime is very hard to comprehend".

[46]It's obvious. They were mentally unstable as they were victims of brutality. Although 'experts' evaluated them to be 'mature enough' for an adult trial, they were not. In Norway, they would have been impartially recognised as victims, treated and sent back into their normal lives.

Norway's intentional homicide rates are exceptionally low with a rate of 0.6, as opposed to UK's 1.2, per hundred thousand in 2009.[47]Norway's focus on rehabilitation is surely effective as seen in its low crime rate. The UK needs to increasingly consider the youth today as victims. This, in the long run, will address UK's problem of rising criminal behaviour.

It is essential to understand the victimisation of youth as this would display societal defects that need attention. The first of three ways in which steps can be taken to avert juveniles from criminal conduct is by using Asset; where risks and defending factors are analysed to estimate the 'needs' and improve matters of schooling, parenting, deficiencies or bullying for

example.[48]Secondly, YOTs must concentrate on both the victim and

offender. Where the community punishment is ineffective, the offender

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appears in court but the juvenile's interests are at the heart of the process.

[49]The other factor comprises of the monitoring order where checks are made to prevent re-offending, and also encourage attainment of goals. It is essential that such be actually followed through for reasons highlighted in this paper. However, history has taught us the opposite. In fact, the aftermath of Tony Blair's landslide victory did not prohibit the victimisation of vulnerable juveniles. Under Blair's government, the initial nine years created 3, 023 criminal offences and these mostly were associated with regulating the youth.[50]Such an attitude is reflected with the positivist views enshrined in today's policy-making in support of crime control and policies promoting words like ' Zero Tolerance' and ' Three Strikes'. These openly conflict with the much-needed care of the welfare model.

The main objective of introducing the Youth Justice System was to merge the justice and welfare models to tackle juvenile delinquency.[51]It aimed to understand juvenile offending and also punish the youth as adults, to offer protection to society. The equilibrium has not obviously been met and the United Nations Committee on the Rights of a Child was " extremely concerned" regarding the level of juvenile poverty in UK and described teen pregnancy and homelessness as its main concerns.[52]This highlights the inability of children to enjoy normal lifestyles and instead, resort to crime to fulfil basic requirements. It is necessary to primarily identify the youth as victims so that such issues can be addressed. In the YJB questionnaires for instance, 71% participants from college/school believe family members cared about them. Since they were questionnaires, interviewer bias was not relevant but this percentage is definitely an overrepresentation with children

being inclined to answer positively. At least 29% were overtly not feeling protected; this is detrimental and needs to be recognised. Also when asked whether they “ stay away from home without asking”, [53]73% denied this – similarly another overrepresentation.

Case Study: Joseph Scholes

Overall, “ local authorities across the country are failing to provide proper assessments and care plans for vulnerable children”. [54] This was seen in the Joseph Scholes case. Said to be well-mannered yet vulnerable by social workers, Scholes resided with mother Yvonne after a custody dispute.

[55] Scholes had also experienced sexual abuse from an early age and this transformed into self-harming. After being handed into care, Scholes would go out and get drunk with friends. On one occasion, an assault and a theft of a mobile occurred. Despite being a spectator, Scholes was arrested since he was “ look[ing] after” the stolen phone. [56] Scholes became tensed and inflicted self-harm by slitting furiously his face using knives. Scholes’ difficulties were discussed and all relevant documents were presented by psychiatrists, social workers and YOTs, which proposed non-custodial sentencing owing to Scholes’ suicidal tendency. [57] The problem however was that the defendant pleaded guilty even though he was innocent to ‘ all intent and purpose’. [58] The judge stressed his inability to depart from Lord Woolf ‘ s standpoint that every street robbery must “ receive immediate custodial” sentencing. [59] He received a two-year custodial sentence.

[60] Furthermore, a deficit in placements compelled the Board to situate Scholes at Stoke Heath Youth Offending Institution, where he needed care but only received a piece to cover his stripped body. After being shifted to

the Health Care Wing, Scholes was found dead hanging from the window bars just nine days into his punishment. The observance of stringent rules has proved detrimental again. Research by Ofsted identified fifty cases where

“...professionals [failed] to see the situation from the child’s perspective... to see and speak to the children; to listen... to observe... to take serious account of their views... supporting their needs is probably the single most consistent failure in safeguarding work with children”. [61]

Conclusion

Following the critical analysis of the assertion, it is obvious that the youth are largely seen as perpetrators of crime. The consideration towards the idea that the youth can be victimised is required in contemporary society to ensure the individual is protected as seen in the ‘ Buffer Model’ – examined by Armstrong et al (2005). This paper relied upon the controversial debate surrounding the justice and welfare models. The author supports the view that the justice system should be relaxed to the point where the welfare model can be most effective. After all, an association found upon trust and care with individual assistance is much more economical and successful than imprisoning mentally scarred juveniles away from their lives. Framing individuals creates stereotypes, which promote negatively shaped identities.

[62]This can be disadvantageous to ‘ offenders’ and ultimately disorders society further. Every case needs to be viewed as different from one another and, where victimisation of the offender is recognisable, it must be identified and treated. Also, external factors, such as the media, should not be allowed

to influence. It is only then the problems from a custodial sentence can be
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avoided and most importantly, the welfare model can function at its best.

Realistically however, although there is a much greater need to consider the youth as victims, the use of children as 'suitable vehicles' to meet political plans makes it highly unlikely for such recognition in today's society.