

Rehabilitation of offenders in british criminal justice system criminology essay



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The modern day criminal justice system in Britain is geared at the rehabilitation of offenders so the prison system is not only a means of incarceration to remove the offender from posing any danger to the public, but also a vehicle for preparing the offender for release and re-integration into society.

The Criminal Justice Act 2003 (which has been amended by the Criminal Justice and Immigration Act 2008) sets out the criteria for dealing with dangerous offenders and is important to the court for sentencing purposes. Dangerous offenders are identified by reference to the commission of specified violent and sexual offences set out in Schedule 15 of the Criminal Justice Act. That Act says that a court must determine whether there is a significant risk to members of the public of serious harm by the commission by him of further offences (Criminal Justice Act, S 229). In a recent case the Court of Appeal held that in determining dangerousness the court was not confined to considering only "admissible" evidence and could consider, as it did in the case, an alleged history of violence although the offender did not have convictions (R v Considine and Davis, 2007). Public protection was enhanced under the Criminal Justice Act by the introduction of a sentence of imprisonment for public protection which ensures that certain offenders are not released until the Parole Board determines that it is safe to do so.

Problems arise because although the term dangerous offender is used in a general way it is in fact extremely difficult to predict who is dangerous as individuals vary in their behaviour. Not only do individuals vary as between each other so that there are differing degrees and shades of dangerousness but also, on an individual basis, the scope for carrying out dangerous and

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violent acts may vary on a daily basis. The notion of dangerousness is therefore extremely complex in itself and is capable of shifting on an individual basis whereby assessing and predicting future behaviour can be compared to attempting to mould soft sand into a permanent form.

Human nature can be fundamentally and inherently unpredictable even among stable law abiding individuals, so when mentally unstable people are added to the melting pot, the decision as to assessing their dangerousness becomes more complex. In the UK, policies addressing those with dangerous and severe personality disorders (DSPD) has expanded considerably in recent years against a background that people with personality disorders should not be precluded from accessing services available to the rest of society. The DSPD programme deals with patients who have the most severe personality disorders. The DSPD programme offers an intensive multi disciplinary treatment programme based on individual need and comprising a cognitive-behavioural group-based intervention approach with opportunities for social interaction, in ward-based community meetings for example. Specific treatment includes offence-specific groups, such as sex offender group and violence reduction programmes. There has been a shift of policy from placing people with DSPD in prisons into secure hospitals with the National Health Service taking a more active role in providing treatment. A smaller number of medium secure and community places have been programmed, but so far the implementation has fallen behind target and the rehabilitation of DSPD patients back into the community remains extremely challenging. Evaluation of the DSPD programme is a work in progress and the impact of this policy on reoffending rates remains to be deduced.

Persons assessed as having DSPD must be detained for treatment and discharge from detention is dependent upon a test of public safety as against favourable responsiveness to treatment. The link between dangerous behaviour and mental illness remains embedded in public opinion despite the attempts of mental health practitioners to highlight the absence of such a connection. A study of public opinion towards schizophrenia found that 70% of respondents view this group as dangerous (Crisp et al, 2001). Regarding treatment in the community following release from prison or hospital, Leung cites the European judgment of *W v Sweden* 1988, in which compulsory medication on discharge from hospital was not a deprivation of liberty and would not impinge Article 5 of the European Convention on Human Rights (Leung, 2002).

Prison population has increased dramatically over the last fifteen years from circa 43, 000 at the start of the 1990s (Home Office, 2005a) to in excess of 80, 000 today. Although there are numerous reasons given to explain this startling increase, the focus of the public on dangerousness is one such explanation. In 2006 a review was conducted which claimed that prison was the best place for dangerous offenders as it stopped them from re-offending (Home Office, 2006a, p. 32). In 2007 with the creation of the Ministry of Justice the preceding approach to detaining dangerous offenders for a long time did not change. On the contrary, the newly formed Ministry reiterated that “ prison places are available to protect the public from dangerous offenders” (Ministry of Justice, 2007, p 4).

The 1990s preoccupation with public protection shaped the policies of protecting the public from the risk of serious harm arising from violent
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offenders and the aim of responding more effectively to the risk of paedophiles and the increase in child sex abuse (Grubin, 1998)

Within the UK the population is generally extremely fearful of the level of violent and sexual crime (Ditton & Farrell, 2002; Kemshall, 2003). The focus on this type of crime has been exacerbated by the media and even when crime rates are shown to be falling, the public perception is that they are living in a more violent society. Dangerousness has therefore been widely used to describe an increasing amount of offences and has been accompanied with an expectation of more punitive sentences to deal with the increase. Barbara Hudson asserts that “ there has been a significant shift from doing justice to controlling risks as the goal of law and order and penal strategies” (Hudson, 2002; p 101). The modern society is characterised by the increasing scope and influence of the mass media. The far reaching scrutiny of the global mass media means that the negatives of modern society are reported and in terms of criminal justice, its failings can be exposed. Such exposure is accompanied by cynicism towards expert opinions and the positive effects of legislation (Garland, 2000).

Garland (2001, p178) has described the space between the community and prisons as having become more strictly enforced stating that “ Those offenders who are released “ into” the community are subject to much tighter control than previously and conditions that continue to restrict their freedom.... the community into which they are released is actually a closely monitored terrain, a supervised space, lacking much of the liberty that one associates with “ normal life”.

Commenting on a Panorama programme broadcast in 2006, HM Chief Inspector of Probation said he thought the programme made a fair point when he said that general talk of close supervision and monitoring of offenders” can give a misleading impression to the public of the extent of measures taken to prevent them (Bridges, 2007).

It is clear in the early stages of this essay that there are different views on the nature and extent of monitoring to which dangerous offenders are subjected on their release from prison. Academics like Garland above consider the measures stringent, tantamount to imprisonment within the community, whereas the enforcers of those measures, probation workers, maintain that it is unhelpful to make it sound as if community service is prison in the community which it plainly is not (Bridges, 2007 p 4).