

# Pre existing strategies for youth offending



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For over a decade Labour's three successive administrations from 1997 to 2010 has left the youth justice system in a state of near permanent reform. With almost two decades prior to 1997 in opposition Labour had the opportunity to implement ready-made policies on criminal justice which started with the youth justice system by adopting a 'root and branch reform' agenda. [2] This paper will critically review the policies pursued by Governments over the past fourteen years to address the social causes of crime amongst young people. The primary question this paper will ask is whether these policies have made a difference to either crime figures or recidivism amongst juveniles. The paper will initially begin by discussing the pre-existing strategies on youth crime employed before the last fourteen years which is crucial to critically reviewing the law's development over the past fourteen years. The second part of this paper will focus on the strategies employed to deal with the social causes of youth crime. The final section of the paper will draw the paper together by discussing the impact of the strategies employed by the various Governments to deal and manage youth justice offending by examining their impact upon youth offending.

#### Pre-Existing Strategies for Youth Offending:

Much of the twentieth-century juvenile justice system was characterised by a double taxonomy which can be best described as 'punishment' and 'welfare'. [3] The last fifty years have seen a bewildering complexity of shifts in the approach of the police, courts and various governmental agencies established to respond to youth offending and the social causes of crime. [4] It has been a dissected mix of governmental policies that alternate between punitive punishment and a welfare or care approach. The literature

presents the 1960s as a high point in the development of 'welfarism' in the youth justice system with a shift away from penal punishment to family councils and family courts to deal with juvenile offending and the surrounding social causes of youth crime. [5]

The coming to power of the Conservative government in the 1970s brought a shift back to punitive punishment for youth offenders with an increasing use of juvenile courts with custodial sentences rising from 3000 in 1970 to over 7000 in 1978. [6] Alongside this shift towards a strong sharp punishment of youth offending in England and Wales, Scotland sought to introduce an alternative approach with the introduction of the Social Work (Scotland) Act 1968. An underlying feature of this approach to youth offending were welfare tribunals which used lay people such as social workers, teachers and family representatives in coming together to manage youth offending in a collaborative way to tackle both the wider social causes of youth offending and the individual offence under consideration.

Pratt argues that there were four major sets of criticisms of the 'welfare' model of youth justice: firstly the treatment-orientated interventions were perceived to be ineffective. [7] Secondly, evidence suggested that 'care' could become more coercive than punishment. Thirdly, professional expertise of the members of the tribunals was less important than it was perceived to be, in that members were serving with little experience of juvenile offending. Fourthly, the 'care' model of justice was alleged to be ineffective at dealing with youth delinquency. The election of the Conservative government during the 1980s with a 'law and order' agenda produced a mixed approach to youth offending yet again. [8] The 1980s

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brought an introduction of a multi-agency approach to youth offending and the social causes of crime, with an increased use of formal and informal cautioning of youth offenders which distinguished first offenders from repeat offenders. A distinctive feature of this approach to youth offending was the introduction of the concept of 'corporatism' into the youth justice system which allowed a system to produce 'efficient, effective justice that worked'. [9] The focus was on delivering a youth justice framework that worked efficiently delivering value for money for the government using cheaper alternatives than the court system. The youth justice model of the 1980s enjoined the 1990s with a marriage of punitive sentencing of repeat offenders with an incoherent 'cautioning' system for first time youth offenders which the police patrolled without any consistency. [10]

#### New Labour, New Youth Justice Police?

It is arguable that, amongst other issues, Labour won its first general election under the banner of its tough 'talk' on criminal justice issues. [11] By taking a mixed approach between retributive justice and restorative justice Labour sought to increase the State's control, regulation and managerialism of criminal behaviour and the social causes surrounding crime. [12]

Labour sought to formulate its youth justice policies around a development of pre-existing philosophies of restorative justice values and practice including responsibility, restoration and reintegration, which would draw upon the experience of the existing framework. [13] Labour presented a 'Third way' to deal with law and order which centred upon tackling the youth

crime which were premised upon making young people 'take responsibility' for crime through the concepts of responsibility, restoration and reintegration. [14] The centre piece of reform manifested itself in the Crime and Disorder Act 1998 and Youth Justice and Criminal Evidence Act 1999 which have sought to bring restorative elements and values on a formal platform within youth justice. [15] In essence the statutory framework represented a clear attempt at modernising youth justice based on empirical evidence. [16]

The reform advanced by Labour to deal with the social causes of youth offending effectively represented a 'new youth justice' system composed of a Youth Justice Board (YJB) at national level and a multi-agency Youth Offending Teams (YOTs) at local level to administer the youth justice framework. [17] This multi-level and multi-agency approach to youth justice redefined the architecture of the youth justice apparatus by reconfiguring the lines of power, management and responsibility. [18] In addition to redefining the youth justice apparatus within the criminal justice system, Labour adopted a twin track approach with a perpetual stream of legislative reform focused on reformulating the punishment framework within criminal justice.

The main stay of the reforms was provided in the Crime and Disorder Act 1998, which established the Youth Justice Board, Youth Offending Teams and for a restructuring of the non-custodial penalties available to the Youth Court, other reforms included: anti-social behaviour orders (ASBO) and action plans, to reparation orders and parenting orders. [19] For offenders under 18, the system of police cautioning was replaced with a new system of '  
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reprimand' and ' warnings', to allow young offenders to have the opportunity of at least one reprimand and one final warning prior to prosecution. [20]

Newburn argues that the new reforms implemented sought to allow restorative values where possible within youth justice through the development of restorative cautioning, action plans and reparation orders. [21] The action plan represented an attempt to allow youth offenders to begin ' a short intensive programme of community intervention combining punishment, rehabilitation and reparation to change the offending behaviour and prevent further crime.' [22] Although Labour sought to redraw the criminal justice agenda many of the reforms introduced echoed and resembled the multi-agency approach of the 1980s. [23] The crucial difference between this fresh attempt at reform was that part of the multi-agency approach this time was not to divert but rather to intervene and become involved in the process. [24] A central driving force in Labour's restorative reforms was the influence of ' communitarian thinking', particularly with the introduction of reparation orders and restorative cautioning. [25] The Crime and Disorder Act 1998 placed local authorities with the responsibility of formulating and implementing annual youth justice plans which dealt with the social causes of crime amongst other priorities.

Gelsthorpe and Morris argue that the reforms introduced will allow restorative processes to occupy a marginal place within criminal justice until contradictory values and practices of blaming and punishing are given significantly less emphasis and restorative values and practices are given significantly more emphasis. [26] A potential flaw of the Crime and Disorder Act 1998 presented in the literature is that significant elements inherent in <https://assignbuster.com/pre-existing-strategies-for-youth-offending/>

the reforms are premised on the basis of proportionality which is characteristic of punitive punishment. Wasik identifies that the reparation order is subjected to the normal requirements of proportionality which is linked to the retributive justice value of responsibility of the offender for the crime. [27] The central concern among advocates of restorative justice is that this model will not operate with the full potential of restorative justice values and principles which could over time gradually become more punitive than restorative in nature.

Much of the debate throughout the literature focuses on the various elements of the reforms which can be considered to have restorative ideals. [28] The most significant reform was the introduction of 'Referral Orders' as part of the Youth Justice and Criminal Evidence Act 1999. Dignan and Marsh argue that 'Referral Orders' are potentially 'one of the most radical aspects of the entire youth justice reform agenda' where the court can divert the young offender away from the courts system to deal with the offending behaviour through restorative approaches. [29] Crawford and Newburn argue that the reforms implemented by Labour were heavily influenced by the 'what works' paradigm and the 'language' of risk factors. [30]

Conclusion:

Goldson argues that Labour introduced an unprecedented corpus of youth justice legislation both in terms of reach and volume. [31] Fergusson argues that the approach to youth offending became a melting pot of 'contradictions, ideals and ideologies' where a hybrid model emerges which

encompasses a dissected mix of restorative and retributive values. [32] Fergusson correctly identifies that the way governments present policy rhetorically, how they codify it legally, and how those policies are played out in practice are critically different facets of the policy process in the management of crime. [33]

Successive governments have responded to the social causes of youth crime in various ways throughout the last five decades, in particular the latest strategy employed a double edged sword which leans heavily on punitive punishment for adult offenders with a more 'welfarist' approach in dealing with youth offenders. [34] Restorative justice undoubtedly represents one of the most significant developments in criminal justice and criminological practice and thinking over the past two decades. [35] It is arguably the social movement for criminal justice reform of the 1990s and into the new millennium. [36]

Empirical evidence emanating from America, Australia and New Zealand indicate that where the use of restorative justice is prevalent for young offenders, there has been success at reducing youth offending rates and a reduction in repeat offending resulting in greater effectiveness at dealing with youth crime and the social causes of crime. [37]

The net effect of these new policies aimed at the reduction of youth crime and tackling the social causes of crime represent a more integrated approach by the state to manage youth offending rates. The policies acknowledge the failures of the previous strategies of strict punitive punishment as a deterrent for further offences. The approach of



incorporating restorative values, although arguable only at the fringes of the youth justice system, represents a more inclusive justice system which takes into account mechanisms to address the social causes of youth offending.