

## WHERE NOW FOR YOUTH JUSTICE?

Roger Smith, Professor of Social Work Research, De Montfort University

**Abstract** *This article reviews the current state of play in youth justice, taking particular note of the rhetoric and initial reform proposals of the incoming coalition government. The recent history of youth justice and the nature of previous debates in this area of practice are considered, in order to 'set the scene'. In reflecting on past experience, it is suggested that there have been certain predictable patterns to policy debates, and that these have essentially been constrained within a fairly limited ideological framework, reflecting conventional narratives of progress and failure. The question of whether policy and practice in youth justice is best represented in terms of 'continuity' or 'rupture' is considered, and it is concluded that in the recent past, at least, there has been a tendency to overstate the degree of disagreement between policy positions between governments of different political persuasions, in order to justify reforms which have, in fact, been of relatively modest proportions. At the same time, established trends towards greater liberalisation or authoritarianism appear to have operated more or less independently of the policy process. This pattern is likely to be reproduced under the incoming 2010 government's proposed reforms, given their reliance on well-established rhetorical arguments, and their lack of engagement with fundamental processes of social division and 'othering'.*

**Keywords** *Othering, welfarism, continuity, rhetoric, surface and depth, hegemony.*

### All change?

As the new government begins to map out its policy direction and looks forward to the challenge of stamping its own imprint on key areas of intervention, following a lengthy period of one-party rule, it is clearly timely to pause and reflect on the implications of the most recent change in the balance of political power. This may perhaps be even more the case in the light of oft-repeated claims from New Labour that its own policies represented a radical break with what went before. Shouldn't we therefore expect a similarly dramatic shift of emphasis from its successors? Of course, it would be credulous simply to assume that there will be a clean break with the past as a result of changes in the balance of control in parliament. Indeed, this is precisely the sort of question we should be opening up for careful consideration, linked to deeper issues of the nature of political power and the meaning and dynamics of 'reform' programmes principally associated with the legislature. To what extent, for example, are parliamentary debates on the subject of crime representative of opposing or competing discourses, and how far are they merely variations on a theme, grounded not in fundamental differences but in what, essentially,

amounts to a very substantial degree of consensus? These questions almost certainly apply across all areas of the political terrain, but they appear to have particular pertinence in relation to what appear to be highly sensitive and very public issues associated with the treatment of young people and their alleged misdemeanours.

There is no doubt that the incoming regime will seek to distance itself from its predecessors, both symbolically and substantively. Some signs of this are already available, in the apparent attempt to replace the language of 'Every Child Matters' (Department for Education and Skills, 2003) and the 'five outcomes' in the broader field of child welfare. Initial political manoeuvrings in the context of youth justice have mainly focused on the 'failings' of the previous government, accompanied by promises of 'radical' reforms to come. This, we might assume, amounts to no more than the mundane product of attempts by political parties to create distance and opposition between each other. Substantive and substantial changes are more difficult and probably slower to achieve and, of course, changes in political rhetoric do not equate straightforwardly or predictably to more fundamental shifts in structural dynamics or social relations.

At this point (October 2010), we should perhaps be looking for early signs of a new policy direction and, based on previous experience, certain anticipatory changes in practice. Much, of course, will remain unresolved. Thinking back to 1997, it was perhaps unusual and rather surprising to see a new government asserting its claim to have achieved radical change so soon after coming to power, and this, among other things, may account for the subsequent sense of disappointment when 'business as usual' became the order of the day, in youth justice at least (Pitts, 2001). Given the rather more cautious and subdued mood of the present, there may be some value in seeking to sketch out the possible shape of a rather more incrementally 'reformed' youth justice system, whilst also reflecting on the question of the continuing relationship between surface and substructure.

### **The parameters of reform**

Youth justice occupies a high profile and hotly contested site in the political arena. It functions as the focal point for recurrent and apparently intractable concerns about the interface between young people, their turbulent lives, and the social systems and structures within which they are embedded. The long-standing failure to resolve these tensions on anything more than a temporary basis means that this subject remains firmly in the spotlight. Within this framework, some challenges, some debates and some underlying assumptions appear to have been pretty much constant over time. Shakespeare is known to have alluded to the problematic nature of youth, whilst a considerable number of sources have identified the problematisation of adolescence as a consequence of large-scale social change in the modern era. Thus, in the view of some commentators, there has been an inevitable continuity in the rhetorical mechanisms, political arguments and policy and practice tools brought to bear on the subject. Hendrick (2006), for instance, has noted the periodic emergence and re-emergence of debates between proponents of 'welfare' and 'justice' which have, in turn, established the legitimate terrain for the development of ideas and competing perspectives on the appropriate strategies and interventions to be applied. At different points in time, governments and other political interests may have located themselves (or their

opponents) at different points on this apparent spectrum, and on opposite sides of what seems a clear and 'natural' divide. Up until recently, at least, approaches to youth justice could be viewed and articulated as representing the results of a pendulum swing from one side of this argument to the other (Smith, 2005).

On the other hand, youth justice practices and outcomes have not always coincided with the expectations that might follow from the dominance of one or other of these alternative explanatory frames for the behaviour of young people. It is by now quite widely acknowledged that the 1970s and 1980s exemplify in different ways the divergence of practice and outcomes from the accounts of, and prescriptions for, youth justice which prevailed during these periods. Whilst the 'welfarist' 1970s were characterised by a substantial expansion in the range and intensity of institutional treatment of young people, the 'justice'-led 1980s witnessed an equally dramatic relaxation in interventions with young people, and a substantial decline in the use of custodial measures. Further evidence of this kind of disjuncture is provided by the tendency of practice to run ahead of, or at a tangent to, formal policy changes. Thus, in 2003, it took no more than the remarks of an intemperate judge to trigger a surge in the use of custodial sentences for the theft of mobile phones. Equally, it could be argued that the period after the introduction of the Crime and Disorder Act 1998 did not represent a break from the trends initiated in the mid 1990s under a previous government towards the use of more intrusive and controlling forms of intervention. Indeed, in keeping with the views of earlier writers, it may be argued that the media were more influential in these periods than the official apparatus of government policy-making. Policy, therefore, may be associated with or implicated in change processes, but it is not clearly or directly identifiable as the instigator or 'driver' of shifts in the nature of practice 'on the ground'. Even now, it is clear that significant reductions in the use of custody for young people were set in motion in 2008 without an appreciable change in government rhetoric or 'grand' policy initiatives. In some instances, in fact, it appears that reputed innovations in policy are better understood in the form of a response to external developments and pressures. So, it might seem the renewed emphasis on the purported value of custodial measures coming from government ministers ('prison works'; Howard, 1995) in the mid-1990s followed an already well-established trend, to the extent that this could be seen as a response to outside pressures, which had the effect of bestowing legitimacy on practice changes that had already taken place. Similarly, such public pronouncements may carry the same function in terms of perceived 'public opinion', as in the case of the raft of anti-social behaviour legislation of the early 2000s.

Policy in the formal sense may have a part to play, but it is one amongst a number of contingent factors that have a variable influence on the direction and content of youth justice systems, practices and impacts. These interactions are not straightforwardly quantifiable, nor do they operate predictable and consistently in the same direction. At each juncture, these dynamics require close examination and evaluation if we aspire to answer the question of what is coming next in terms of interventions with young people in trouble.

### **Narratives of youth justice: continuity or rupture?**

Having established the potentially complex dynamics of the subject, it will be helpful now to explore the possibilities associated with competing narratives of historical change in youth justice, notably the tension between those which are based on underlying assumptions of consensus and coherence, as against those which base their accounts on notions of rupture, renewal and unresolved conflict.

Cohen (1985), for example, posits three alternative views of history, social problems and social change. The first of these is described as 'uneven progress' (1985: 15), whereby developments in criminology and criminal justice are seen as part of a continuing trend towards better understanding and better practice in addressing essentially fixed and timeless challenges, such as the deviant activities of children and young people. The third of Cohen's 'models' of historical developments in criminal justice he refers to as 'the 'it's all a con' view of correctional change' (1985: 21). According to this perspective, the justice system achieves its objectives quite successfully, as it does for the first model, but these objectives themselves need to be understood rather differently. They are no more or less than the maintenance of an unequal and exploitative social order, partly achieved through a process of mystification which persuades all but a few that the system itself is 'fair, humane and progressive' (1985: 22).

These two models share the implicit belief that there are fundamental and enduring aspects of social relations which necessarily shape our approach to dealing with the problem of youth crime. It is the middle of Cohen's three models ('we blew it') which coincides more closely with a narrative of periodic attacks of self-doubt and sudden realisations that current practice may be crucially flawed. Thus, the rejection of welfarism and its reliance on institutional care at the end of the 1970s was one such shift, occasioned by short-term evidence of failure and loss of faith in prevailing assumptions. Similarly, by the end of the 1990s, New Labour was speaking the language of failure and the need for radical reform, as Newburn (1998) observed at the time. On the other hand, its policy platform was constructed on the basis of greater efficiency and certainty of delivery, what became known as 'micro management, in effect, in contrast to any more fundamental or ideologically driven attempts to create change. The core commitment made by the Labour Party prior to the 1997 election in the field of youth justice was to 'speed up' the criminal process, a measure which was promoted in the interests of greater public safety and prevention of re-offending. It did not, on the face of it, appear to presage a dramatic change in the shape or nature of the justice system, as was perhaps prefigured by the earlier Labour reform programme of the 1960s. Although the objective of greater efficiency fitted well with what is, by now, acknowledged to be a central feature of the New Labour ethos - its managerialism - it did not seem to be evidence of a truly radical reforming spirit. Other aspects of the new government's youth justice programme were of a similar hue, such as its corporatist moves towards centralisation of youth justice management, its 'actuarial' approach to early intervention (Smith, 2006), and the establishment of the highly prescriptive Youth Justice Board (YJB) as a coordinating mechanism. Measures which may have suggested a greater sense of ambition, such as the restorative justice-oriented Referral Order, were introduced much more tentatively and in ways which barely broke the surface of the conventional sentencing tariff.

Pitts (2001) has argued that very little of the much-vaunted New Labour reform package, represented by the Crime and Disorder Act 1998, was truly new and that many aspects of this legislation were no more than warmed-over versions of existing Tory policies and plans. Detention and Training Orders, for instance, were no more than rebranded variants of the *Secure Training Order*. The appearance of radical renewal was thus considerably exaggerated in relation to the relatively modest changes in the machinery of youth justice and this, in turn, was reflected in the failure to impact in any way on established trends, such as systemic discrimination and increasing reliance on custodial sanctions (Smith, 2003).

Longer-term historical views, too, have often tended to emphasise continuity rather than rupture in their accounts of the history of youth justice (Hendrick, 2006). Threads of debate and common concern can be traced over extended periods of time, and dramatic change in this one field of practice is only likely in contexts of fundamental social upheaval, it is suggested:

*[T]here is nothing new about debates concerning young people's behaviour. Nor until the end of the 1980s was there much in the way of policy innovation, for, as we have seen, from the early nineteenth century the central theme in policy discourse was how to reconcile 'welfare' with 'justice' in a variety of circumstances, within the context of evolving relationships between individual and society on the one hand and family and state on the other. (Hendrick, 2006: 14)*

Change may have been triggered by developments in 'late modern' societies, around the beginning of the 1990s, but these were not occasioned by superficial transfers of political control, it seems, but by deeper lying shifts in the structural underpinnings of society.

### **Surface and depth**

At the same time, though, Pitts (2005) has suggested that there are more immediate reasons for such changes in direction and that there are distinctive and significant 'phases' of development of much shorter duration, which can be accounted for in terms of contingent events and influences. Clearly, as we have already noted, he does not take the view that changes in political control are inevitably significant, but, nonetheless, 'things happen' which do have a direct bearing on the youth justice system. Four distinct phases are identifiable in the recent past, according to this analysis: welfarism and net-widening; systems management and minimal interventionism; the 'punitive' turn; and, micro-level 'Korrectional Karaoke' (Pitts, 2001). These are evidenced by quite sharp changes in the functions and outcomes of criminal processes relating to young people, and in their impact on the lived experiences of those concerned, we must be prepared to take them seriously.

In a rather different way, Muncie (2002), too, has suggested that the material influences on youth justice practices are varied and that their interactions are complex and somewhat unpredictable. New developments, such as 'risk assessment' and 'managerialism', are thus overlaid onto well-established principles of 'just deserts' and

'responsibilisation' (Muncie, 2002: 156). The resulting 'melange of measures reveals the fundamental contradictions' of the youth justice system, which have both long-established roots in the fear of and demonisation of 'the underclass' (Muncie, 2002: 157), and yet, at the same time, reflect the impact of more recent developments, such as the emergence of restorative practices, and a strengthened emphasis on the interests of 'victims and communities' (Muncie, 2002: 156). However, it is not only the nature of these interactions which seems problematic, but also the weight attributable to distinctive elements. Attempting to resolve such questions is, of course, of great importance if we are to begin to understand and account for current and forthcoming developments in the definition and treatment of youth crime.

### **Signs of change? The 'New Liberal' agenda**

The overarching concern affecting public and political debate in the early days of the new administration has been the financial 'crisis'. This, in itself, might be expected to have some implications for systems and practices in the criminal justice arena, but it must be considered in conjunction with other aspects of the changing landscape if we are to develop a clear view of what might happen in youth justice and why. It would be comparatively easy to read off from our experience of the 1980s the assumption that fiscal retrenchment will be associated with a new age of 'diversion', but this may be too narrow and simplistic a conclusion to draw and it will not help to address deeper questions as to the meaning and consequences of such changes. If, as some suspect, the 'minimum intervention' strategy of the 1980s led to a diminution of concern with the 'welfare' needs of young people in (and near) the justice system (Hendrick, 2006), is this likely to persist in the current climate, where there will be little impetus behind arguments that *more* rather than less money should be spent on those whose 'crimes' may be rooted in inequality and disadvantage? How also do emerging notions of 'restorative' and 'community' justice adapt themselves to a context where there is likely to be a greater emphasis on self-help and mutual problem solving? Will we perhaps witness another 'new' youth justice in the making?

Political shifts have been signalled from the early days of the new administration. In a series of speeches, the Minister of Justice, Kenneth Clarke, set out the basis for his rejection of the previous consensus on the value of incarceration. He spoke of the current population of 85,000 in prison as being 'astonishing' and a figure which it would have been 'ridiculous' to predict at the time of his previous term as Home Secretary in 1992 (The Guardian, 30 June 2010). At this point, he seemed to be marking out a decisive break from the position adopted by his predecessors in both main political parties, using language to suggest that he and the new government were committed to 'radical' changes that would lead to a 'rehabilitation revolution'. He expressed his desire also to break away from the political stalemate whereby policy-making in criminal justice had been reduced to a competition over which government could spend more and lock up more people for longer. Whilst he did offer pragmatic justifications for the change of direction signposted, such as the cost of custody and the damaging consequences of excessive use of imprisonment, he also began to speak of the purposes and objectives of the justice system in terms which had not been used quite so openly for some time; 'rehabilitation' was

rehabilitated and concerns for offenders' 'jobs', 'homes' and 'families' also came to the fore.

Of course, one speech alone could not be expected to shift the balance of opinion, either within or beyond the confines of the minister's own party, especially because his position was immediately attacked by his opposite number, Jack Straw, who was only too ready to re-enter the competition about who could look up more offenders for longer: 'does anyone seriously believe that crime would have come down and stayed down without those extra prison places [created by Labour]?', he asked (Daily Mail, 30 June 2010), conjuring up recollections of the familiar phrase 'prison works', associated with the former Conservative Home Secretary of the mid-1990s, Michael Howard. Howard himself was quick to join the fray, being quoted on the same day reasserting his commitment to custody:

*I am not convinced by his [Clarke's] speech. Serious and persistent criminals need to be put in prison. When I was home secretary crime went down as the prison population started to go up. (quoted in The Guardian, 30 June 2010)*

The task facing Clarke, then, was to try and create some sort of political consensus in the face of this prevailing orthodoxy, both in terms of pre-existing beliefs and the 'evidence' to support them. So, his next step, in a speech to the judiciary, was to begin to dismantle this wall of opposition by referring firstly to the absence of any clear correlation between prison numbers and crime rates. He observed that crime had fallen 'throughout most of the western world in the 1990s', irrespective of the prevailing sentencing practices in the countries concerned (The Guardian, 14 July 2010), suggesting instead that economic prosperity might be a more likely contributor to such trends (and claiming credit for this as a former Chancellor of the Exchequer!).

Joining him on the offensive was the Home Secretary, who was also keen to associate excessive use of criminal sanctions with the over-intrusive ethos of the previous New Labour administration. Theresa May chose the Anti-Social Behaviour Order (ASBO) and associated measures as the focal point for her attack, suggesting that Labour had introduced a 'ludicrous list' of sanctions targeted at anti-social behaviour, which were poorly understood, even by professionals, variably applied depending on the area of the country concerned, 'too complex and bureaucratic', and 'they too often criminalised young people unnecessarily, acting as a conveyor belt to serious crime and prison' (The Guardian, 28 July 2010). Excessive use of criminalising interventions is thus carefully associated with the failings of the previous government in terms of its supposedly excessive interventionism, its wasteful use of resources, and its inefficiencies (in the sense of criminalising young people rather than preventing crime). Like Clarke, the Home Secretary was beginning to speak of measures which would be rehabilitative and 'restorative', rather than 'criminalising and coercive'.

### **Organising consent?**

What is emerging here appears to be a carefully constructed portrayal, which conflates the failures and excesses of the previous government with an overuse of

counterproductive coercive sanctions that cannot hope to achieve their stated aims. Thus, in addressing the party faithful at the Tory conference in 2010, Clarke began by highlighting again the 'disgraceful waste' which his government had inherited from its predecessor, framing his new justice policy in the context of a need to reduce costs. However, for him, it would not simply be a matter of 'doing less of' what the previous Labour administration had done, but doing 'better' with less. Nodding in the direction of his party's hardliners, he reiterated the view that 'career criminals and violent, dangerous criminals should be in prison – not roaming our streets' (speech to Conservative Party Conference, 5 October 2010), bringing to mind a similar pronouncement from his earlier spell as Home Secretary, when he announced an expansion of the secure estate for 'really persistent, nasty little juvenile offenders' (The Independent, 28 February 1993). Indeed, the language used most recently suggests another well-established 'hegemonic' (Gramsci, 1971) strategy is being brought into play yet again, and this is to distinguish between the 'criminals who should be locked up' because their offences are serious or because they are 'dangerous', and those who 'don't need to be locked up', for whom 'tougher and more effective' community disposals are the appropriate option (speech to Conservative Party Conference, 5 October 2010). 'Bifurcation' of this kind has been a feature of policy-making in criminal justice for some time now (see Bottoms, 1977).

In constructing an alternative model of intervention, the two ministers were clearly also guided by what they deemed to be 'acceptable' ways of representing intervention strategies, and that is to employ the language of reform and prevention. Later in his conference speech, Clarke again drew on the imagery of 'need' and disadvantage to justify his favoured welfare-oriented approach, referring to the very many prisoners with mental health problems or educational difficulties.

Clarke subsequently committed himself to reducing the prison population by at least 3,000, with Treasury support, significantly (The Guardian, 20 October 2010). Money would be saved at the same time as the 'rehabilitation revolution' would be initiated. The aim of the new welfare measures outlined (see Ministry of Justice, 2010: 68) would be to provide the most effective means of working with 'difficult, inadequate, not very nice' people to make sure they do not re-offend (The Guardian, 30 June 2010), rather than simply the most punitive.

The strategy adopted here to 'organise consent' appears to have three strands. First, the position inherited by the incoming government is associated with the failures and inefficiencies of the previous New Labour administration, and so the 'overuse' of custody can be attributed to its excessive interventionism, as opposed to the much less persuasive argument that it had been too 'tough on crime'. Second, there has been a renewed emphasis on the need to distinguish ('bifurcate') between serious and dangerous criminals, and those who are simply clogging up the system, probably to their and our detriment. Finally, this latter group becomes ripe once again for 'welfarist' arguments, which emphasise the importance of rehabilitation and reform and their preventive qualities. Notably, these are strategies which have been deployed in various forms over an extended historical period and may thus indicate the limits of the repertoire of available justifications for policy change. Restorative interventions, by contrast, are given



a brief and essentially cursory mention by ministers in the new government and do not seem to have displaced traditional polarities. The principal focus of the policy proposals set out specifically for young people by the Justice Secretary is articulated in terms of 'a joined up approach to address the multiple disadvantages that many young offenders have and the chaotic lifestyles that many lead (Ministry of Justice, 2010: 68).

### **Changing direction or going with the flow?**

Support for the approach being developed by the Justice Secretary is available elsewhere and helps to create a sense of direction for this policy agenda. For instance, the 2010 Conservative election manifesto made commitments to 'reduce the causes of crime', to 'deal with anti-social behaviour without criminalising young people unnecessarily', and to '*help* (my emphasis) young offenders go straight' (Conservative Party, 2010). Authoritative support is also offered by the right-leaning think tank, the Centre for Social Justice, which has repeatedly expressed concern about the social factors linked with youth offending, and the recognition that custodial settings act as 'colleges of crime' (CSJ Press Release, 4 February 2010).

The liberal flavour of many of these pronouncements may be surprising to some but it clearly represents a concerted attempt to create the impression that government is taking the initiative to promote change. A more cynical view might be that this approach is more reactive than proactive and that many of the new directions signalled are, in reality, aligned with trends which have already been established, and pre-date the change of government. From a consistent level at around 2,800 over a number of years, the use of custody for under 18-year olds fell sharply by about 25% from mid-2009. There was a 19% fall in the number of young offenders processed formally between 2005/2006 and 2008/2009 (YJB, 2010: 2), and it seems this trend has continued, fuelled by the Youth Restorative Disposal available to the police since 2008. The use of ASBOs has also been in decline since 2005 (The Guardian, 28 July 2010). In other words, it would be too simplistic to associate the Labour government with a monolithic strategy of interventionism or to identify a distinct break in criminal justice practices with a change of government. Indeed, it seems more likely that many of the changes identified are rooted in pragmatic attempts to respond to other, predominantly economic, drivers. If this is the case, then what we may be observing is a process of rationalisation, whereby the incoming government finds suitable rhetorical and ideological devices to justify a continuation of pre-existing developments, mirroring in reverse a similar pattern of events before and after 1997.

Perhaps then, the recent ministerial pronouncements are of interest more because of their symbolic content than because of their direct impact in the field of youth justice. In this respect, it is significant that the discourses drawn upon are familiar, and have their roots in well-established historical debates. This suggests that there is a relatively restricted repertoire available from which to draw upon when advancing rationalisations in support of specific policy options. The reversion to the terrain of 'welfare vs. Justice' (Smith, 2005) rather seems to give support for those who argue that we are observing an essentially 'cyclical' process (Bernard, 1992), and that this opposition has set the terms of engagement over an extended historical period. Even the recent 'punitive turn' appears

as no more than a particularly abrupt swing towards one end of the continuum, according to this view:

*Because only a limited number of policies are possible to begin with, the result is that the juvenile justice system tends to cycle back and forth between harshness and leniency. (Bernard, 1992: 39)*

Certainly in the political sphere, debate is circumscribed by particular parameters, which we may be able to identify in broad terms: individualisation, criminalisation, classification, offender focus, behavioural change. Whether viewed through a 'justice' or a 'welfare' lens, these will be common features of conventional attempts to account for and address problematic actions associated with young people. Change is only possible within this kind of explanatory framework, apparently, and alternative ways of approaching the subject are implicitly excluded from consideration.

### **What will change, and what won't?**

Beyond the sound and fury of public political debate, what changes in youth justice might we expect, then, and what sorts of changes are effectively excluded from the agenda because they lie outside the established field of debate?

The 'bifurcatory' arguments being advanced share much with their predecessors in the 1980s and appear to be consistent with a political imperative to shrink the state and save money; they are also consistent with already established trends to reduce levels of intervention, as we have observed. These are likely to gain ground and provide cover for politicians who want to demonstrate that they have not 'gone soft' on crime but, rather, are targeting their predecessors' waste and incompetence. We can, therefore, expect the re-emergence and re-legitimisation of 'diversion' in some form, as is already being piloted in some parts of the country.

At the same time, the renewed articulation of the importance of 'rehabilitation' poses more substantial challenges to government because it implies increased investment in welfare services on the one hand and appears insufficiently punitive on the other. Clearly, bifurcation helps to some extent here, re-establishing the historical distinction between 'deserving' and 'undeserving' cases (Hendrick, 2006), but this alone does not provide adequate justification for major investment in reform programmes. The first moves in this direction seem to be an attempt to incorporate market principles into the equation with the suggestion that programmes will be paid for 'by results'. Only 'successful' rehabilitation schemes will be guaranteed continued funding if this kind of initiative is widely implemented (Kenneth Clarke, speech to Conservative Conference, 5 October 2010). However, it is unclear whether this particular aspect of the reforms will do any more than create additional and possibly perverse incentives to sharpen the distinction between those who offer the prospect of successful rehabilitative outcomes and those whose prospects are less promising. In other words, market forces may actually serve to reinforce rather than resolve bifurcatory tendencies.

## **The 2010 Green Paper and beyond**

Having prepared the ground for reform by emphasising recent failures (we, or rather, they, 'blew it'; Cohen, 1985), the government moved swiftly to issue the Green Paper, tellingly entitled 'Breaking the Cycle'. The proposals in respect of youth justice were essentially pragmatic, albeit liberal sounding, and qualified by one or two choice rhetorical flourishes to appease the Tory right wing.

The main thrust of the planned reforms is straightforward. The intention is to reduce the costly reliance on custody at one end of the spectrum and minimise the number of unnecessary, intrusive and ineffective interventions at the other. Budget savings are clearly a key consideration, but it is also possible to detect a degree of conceptual coherence in the measures put forward in support of this. 'Rehabilitation' continues to feature strongly in the detail, and there is also a renewed interest in diversionary interventions and informal 'community-based' responses to minor infractions:

*An informal intervention could be more effective in making the young person face up to the consequences of their crime, provide reparation for victims and prevent further offending.* (Ministry of Justice, 2010: 68)

It is, of course, too early yet to know how these intentions will be played out in practice, but it seems that there is a significant prospect of a change of direction in the policy domain regarding the treatment of young offenders. On the other hand, there is also no doubt that the measures proposed draw, to a substantial degree, on the well-established logic of welfarism allied with financially-driven expediency. In other words, the inherent tensions between 'surface' and 'depth' remain, with much sound and fury very likely to signify nothing of any real substance.

As much as anything, this serves to confirm both the limits of reform within conventional political debate and, in parallel with this, a persistent failure to engage with more fundamental and intractable problems in the classification and treatment of young offenders. The processes and functions of 'othering' (Garland, 2001) are too deep-rooted to be significantly affected by a reform programme, whose terms of reference and aspirations are constrained by a narrowly-defined political consensus about what (or, more accurately, who) constitutes 'the problem'. More promising models of practice have been documented over the years (Smith, 2011), and it is possible that they, too, will gain ground in a period of political uncertainty, economic uncertainty and ideological confusion. However, in order to achieve this kind of change, clear principled arguments, grounded in a children's rights framework, and a strong coalition of support will need to be marshalled to create political space for the implementation and documentation of alternative models of 'effective' practice.

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