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Contact details

Institute of Criminology, Sydney University Law School. 173–175 Phillip Street,
Sydney, NSW 2000, Australia Ph: 61 2 9351 0239 Fax: 61 2 9351 0200
e-mail: d.koester@usyd.edu.au <www.criminology.law.usyd.edu.au>

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CURRENT ISSUES IN CRIMINAL JUSTICE

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**Special Issue:
The Criminalisation and Punishment of Children and Young People**

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The Criminalisation and Punishment of Children and Young People: Introduction

Phil Scraton*

'Folk Devils and Moral Panics' Revisited

Few public debates are mounted and sustained with such righteous indignation, outrage and vitriol than those concerning the 'antisocial behaviour', 'persistent offending', 'abusiveness' and 'thuggery' of children and young people. In 1972 Stan Cohen published his research into England's south coast town confrontations between 'mods' and 'rockers' and the media-amplified condemnations of a generation portrayed as lost to 1960s permissiveness, narcissism and moral degradation. Rather than locating the events within a long tradition of youth counter-cultures and rebelliousness the 'folk devils' fighting on the beaches were projected onto a bigger canvas as a 'gallery of types that society erects to show its members which roles are to be avoided' (Cohen 1972:10). Primarily through the media folk devils' negative identities become 'public property'. As 'adolescent groups', primarily but not exclusively from working class communities, they are presented as emblematic of a moment in a society's socio-cultural history. Cohen noted how 'certain deviant groups' come to be labelled, the individual 'type cast' and subsequent acts 'interpreted in terms of the status to which he [sic] has been assigned' (ibid:10). Folk devils are deviant 'social types' whose antisocial or offending behaviours are the self-fulfilment of ascribed negative status.

Writing during the same period Jock Young (1971:38) discussed the 'gross misperception of deviants' as a consequence 'of social segregation and stereotyped information purveyed via the mass media'. Events reported in the heat of public outrage and moral indignation were 'fantasy' representations with minimal reference to 'reality'. Reflecting Howard Becker's work on 'outsiders', the ascribed deviant label fed a 'low threshold' of public tolerance leading invariably to expulsion from 'our society' while instigating a 'process of deviancy amplification'. Thus 'it is possible for moral panics over a particular type of deviancy to be created by the *sudden* dissemination of information about it' (ibid). The mass media operates as both initiator and conduit of moral indignation 'selecting events that are atypical, present[ing] them in a stereotypical fashion and contrast[ing] them against a backcloth of normality that is over-typical' (ibid:35).

Once the 'folk devil' is mobilised in popular discourse and political rhetoric the process of amplification generates a broader 'moral panic'. It threatens 'societal values and

* Professor of Criminology, Institute of Criminology and Criminal Justice, School of Law, Queen's University, Belfast. Phil Scraton is Guest Editor of this Special Issue.

interests' and is promoted 'in a stylized and stereotypical fashion by the mass media' (Cohen 1972:9). Thus the 'moral barricades' are mobilised by 'editors, bishops, politicians and other right-thinking people' while 'socially accredited experts pronounce their diagnoses and solutions' (ibid). Cohen provides the post-1945 litany of youth culture deviants in Britain 'distinguishable as social types' or folk devils. Rooted in the defining frame of reference of Howard Becker's transactional construction of deviance and the labelling of the powerless by powerful definers, Cohen's work was the starting-point for interpreting and theorising the social marginalisation of identifiable groups and the ascription of 'outsider' status to their collective actions. Writing two decades on, McRobbie and Thornton (1995:561) reflect on moral panics as processes lending support to a 'dominant social order', providing:

... a means of orchestrating consent by actively intervening in the space of public opinion and social consciousness through the highly emotive and rhetorical language which has the effect of 'something must be done about it'. The argument about deviancy amplification is precisely that where such strategies are indeed followed by social and legislative action, they also reassure the public that there is strong government and strong leadership.

Critiques of Cohen's work focused on his frame of reference as primarily ideological and cultural, arguing that he paid scant attention to material context or structural relations of power. Yet, from the outset he proposed that 'stylised and stereotypical' media folk devil representations institutionally carried 'serious and long-lasting' repercussions for 'legal and social policy or even in the way society conceives itself' (Cohen 1972:9). As Muncie and Fitzgerald (1981:422) state: 'in times of rapid social change when traditional values are shaken up and disturbed, the ensuing public disquiet is resolved by the media identifying certain social groups as scapegoats or folk devils'. They are portrayed and received as 'visible symbols of what is wrong with society'.

Soon after Cohen's work was published Stuart Hall and his colleagues produced a further defining study in which they explored the structural relations of power and racism as the political economic backdrop to an emergent moral panic:

British cities were visited by a dramatic and unexpected epidemic of 'mugging'. The police, reacting to these events, spurred on by a vigilant press, by public anxiety and professional duty, took rapid steps to isolate the 'virus' and bring the fever under control. The courts administered a strong, inoculating dose of medicine (Hall et al 1978:17).

While the 'appropriation' from the United States of the term 'mugging', and its attendant 'epidemic', occupied media and political debate for a relatively brief period it brought a 'strong and vigorous official reaction ... at odds with the scale of the threat to which it was a response' (ibid). Significantly the 'organised response' provoked by the moral panic 'was linked with a widespread *belief* about the alarming rate of crime in general, and with a common *perception* that this rising crime was becoming more *violent*' (ibid:29). The dynamic was social and ideological in its representation, construction and reproduction, directed towards a '*perceived* or *symbolic* threat' – the young, Black, male mugger.

Hall et al present a sophisticated analysis of the media role in the social construction of public reality yet the strength of their work was its location within the power relations and structural inequalities of class and 'race' at a time of serious economic crisis. The substantial thesis tracks the 1970s 'crisis in British capitalism' and the regulation and policing of a growing relative surplus population as an ailing economy attempted 'to stabilise itself in rapidly changing global and national conditions, on an extremely weak, post-imperialist base' (ibid:317). The 'crisis' was 'in the political class struggle and in the political apparatuses' – a 'crisis in political legitimacy, in social authority, in hegemony and in the forms of class struggle and resistance' (ibid:319).

In locating their analysis of the mugging moral panic beyond the immediacy of social reaction and popular discourse and within institutional and structural relations of power Hall et al reaffirmed the significance of context both in origins and in consequences. As stated elsewhere:

Far from being the outcome of arbitrary social reaction a moral panic is an orchestrated, hostile and disproportionate response emanating from state institutions that mobilise surveillance, containment and regulation. Tangible and material, they are reactive, involving concrete strategies, techniques and resources with social, political and economic consequences (Scraton 2007:232).

In a wide-ranging study of moral panics Goode and Ben-Yehuda (1994:31) demonstrate how purposefully harsh institutional responses draw public legitimacy in a climate fuelled by 'heightened emotion, fear, dread, anxiety, hostility and a strong sense of righteousness'. Certain acts seriously 'wounding to the body social', and the individuals or groups publicly held responsible for their commission, are condemned as 'evil'. The consequences are authoritarian and punitive: 'tougher or renewed rules, more intense public hostility and condemnation, more laws, longer sentences, more police, more arrests and more prison cells ... a crackdown on offenders' (ibid). It amounts to a 'sensitizing and legitimizing process, solidifying moral boundaries, identifying "enemies within", strengthening the powers of state control and enabling law and order to be promoted without cognisance of the social divisions and conflicts which produce deviance and political dissent' (Muncie 1996:55). The generation of fear, suspicion and hatred 'triggered and sustained by moral panics stigmatises, criminalises, ostracises and exiles the "other", the "outsider", the "outlaw"' (Scraton 2007:233).

More recently Cohen revisited his initial representation of the 'folk devil' as overly 'benign', noting that popular discourse and political debate has shifted towards a more severe imagery, that of the 'monster'. Those ascribed such status are 'essentialist offenders' whose 'actions express the essence of the type of person they are and always will be'. He notes 'the ease with which the moral discourse of sin, monstrosity and perversion is coupled with the medical model of sickness, pathology and untreatability' (Cohen 2000:40-42). 'Essentialism,' writes Young (1999:110), 'provides a cultural base for conflict and the necessary *pre-requisite* for demonization of parts of society'. As a political and ideological process demonisation 'allows the problems of society to be blamed on "others" ... instead of acknowledging we have problems in society because of basic core contradictions in the social order, it is claimed that all problems of society are because of the problems themselves'. Societal 'problems' are approached as 'cosmetic' rather than the consequences of the 'interior structure and values of society itself' (ibid:111). Thus 'crime' is a 'major currency of such demonization' and the 'imputation of criminality to the deviant other is a necessary part of exclusion' (ibid). To 'crime', add 'antisocial behaviour', particularly when the 'deviant others' are children and young people.

Nostalgia and Revisionism

In 2006 the then UK Prime Minister, Tony Blair identified escalating crime and antisocial behaviour of children and young people as key issues demanding further reforms in criminal justice policy and legislation. Society's 'moral underpinning' had eroded (Blair 2006:88) and the 'fixed order community' had been abandoned through 'loosened ... ties of home', changes in 'family structure', increased divorce rates, single person households and a reduction in the 'disciplines of informal control' (ibid:89). Ironically, for almost a decade, successive Blair administrations had pursued a 'tough on crime' agenda, driven consistently by the rhetoric of moral renewal. Within this rhetoric traditional working class

communities were caricatured as poor but content, deprived but benevolent. Men, Blair reflected, had 'worked in settled occupations' while women 'were usually at home' and social classes 'were fixed and defining of identity' (ibid). Community spirit and civic responsibility prevailed and social discipline was socialised through 'informal codes of conduct and order' (ibid:88). Blair's naïve revisionism, like that of his political predecessor Margaret Thatcher, longed for a lost 'golden age' in which law-abiding, compliant and responsible communities nurtured children into the values of decency, obedience and respect. It was an apt illustration of long-term memory loss and it does not bear scrutiny.

The proposition that 'criminal' and 'antisocial behaviour' among children and young people are recent, escalating manifestations of a collapse in societal values is enduring. It seems a qualification of their 'maturity' that adults reminisce about obedient childhoods. Wistfully, they recall and recount their early acceptance of individual and collective responsibility through which they 'knew their place' in the 'family' and the 'community'. In researching and writing a 'history of respectable fears', Pearson (1983:207) reveals the 'seamless tapestry' of 'cultural inheritance' about the 'deteriorated present' based on a 'simple nostalgia' for a lost way of life. While accepting each period is different, and social change ever-present, he traces and records the persistent myths of moral decline, particularly regarding the deviance and delinquency of children and young people. Prominent is the myth of crime and disorder spiralling beyond control, destabilising calm, caring, consensual communities. From Victorian times to the present storms gather over still waters:

Parental care plumbs increasing depths of irresponsibility, while the shortage of authority in the home is said to be mirrored by the excessive leniency of the law and interference of sentimentalists. As the rising generation soars to new heights of insubordination and depravity, working mothers are reliably identified within this otherwise predominantly masculine discourse as a primary cause of these 'new' outrages – whether by reference to the mill-hands of the 1840s, the deterioration of motherhood in the Edwardian years, or the careless guardians of 'latch-key kids' in the postwar years (Pearson 1983:208).

Among the wide range of sources in Pearson's research, commentaries focusing on the social and moral decline of the interwar years expose the simple untruth of the 'Golden Age'. Writing in 1932, a Christian youth worker, James Butterworth, bemoaned the 'passing of parental authority, defiance of pre-war conventions, the absence of restraint, the wildness of extremes, the confusion of unrelated liberties, the wholesale drift away from churches' (Pearson 1993/94:190). Two years earlier FR Leavis lamented the 'vast and terrifying disintegration of social life' as catastrophic socio-cultural change destroyed the family unit: 'generations find it hard to adjust themselves to each other' while parents 'are helpless to deal with their children'. 'We have arrived,' wrote TS Eliot, 'at a stage of civilisation at which the family is irresponsible ... the moral restraints so weak ... the institution of the family is no longer respected'. Roy and Theodora Calvert identified a national 'crisis in morals' (ibid).

Pearson closes his discussion of the interwar years with a 1939 quote from AE Morgan. There had been 'relaxation of parental control, decay of religious influence, and the transplantation of masses of young persons to new housing estates where there is little scope for recreation and plenty of mischief' (ibid:191). Alongside these socio-cultural shifts was 'a growing contempt for the procedure of juvenile courts'. The previous generation's youth, Morgan argued, had been afforded an 'extension of freedom' they had been unable to absorb thus undermining essential parental skills and authority. Pearson maintains that throughout the 20th century a consistent rhetoric consolidated in popular and political discourse, 'utterly misleading in its emphasis on the novelty and unprecedented dimensions

of juvenile crime'. He concludes: 'we seem to be able to persuade ourselves in the 1990s that we are passing through an unprecedented crisis of public morals, while expressing our fears in a language which is indistinguishable from that of generations which are long dead'. This has produced 'an extraordinary historical paradox which reflects an equally extraordinary historical amnesia about even the more recent past' (ibid). As the earlier discussion of moral panics suggests, demands to tackle 'crises' and to assuage 'fears' are regulatory and punitive. Climates of intolerance fertilise and sustain the politics and processes of criminalisation.

Criminalisation and Consequence

Within criminological texts 'criminalisation' is often defined simply as the application of a criminal label to particular individuals or groups, giving the impression it is merely an ideological construction; a by-product of social reaction to the 'folk devils' of the moment. Directed towards particular communities and identifiable groups, however, the ascription of powerful, negative labels is influenced by contemporary politics, economic conditions and dominant ideologies present at the intersections of class, gender, sexuality, 'race' and age. As a form of classification criminalisation invokes sanctions by powerful state and private institutions. It provides a 'powerful weapon' not confined simply to 'the application of the criminal label to a particular social category'. Rather, it extends to 'political containment' by mobilising 'considerable popular approval and legitimacy behind the state' (Hall & Scraton 1981:488-489). The vilification, dehumanisation and dissociation directed towards certain acts and groups, underpin the political management and differential policing of their perceived and promulgated identity.

In February 1993 two young boys were caught on poor quality CCTV walking, one before the other from a shopping mall in Liverpool, England. The second boy held a two-year old child by the hand. The small child had been taken from a shop while his mother was distracted. Broadcast on television the flickering black and white images haunted a nation. These were the final moments of James Bulger's life before he was killed. Eventually identified, the children were charged with murder and tried in an adult court. At the age of 10 they were deemed criminally responsible for their actions, the presumption being that they premeditated murder. Throughout their trial their identities were protected but on being found guilty the trial judge allowed their names and photographs into the public domain. Newspaper headlines demonstrated the ease with which individual pathology can be mobilised to secure a distance between the 'normal' and the aberrant: 'Freaks of Nature' (*Daily Mirror* 25 November 1993); 'Born to Murder' (*Today* 25 November 1993). The juxtaposition of the childhood innocence and childhood evil was emphasised by a headline in the *Daily Express* (25 November 2005) quoting directly from the judge: 'An act of unparalleled evil'.

Within days the media projected a tragic, exceptional act as the sharp-end of a continuum of contemporary childhood barbarism. A well-known author, Beryl Bainbridge, had already set the scene as she returned to the city of her upbringing. She met children on Liverpool's streets 'devoid of innocence' and 'undeniably corrupt' (*Daily Mail* 20 February 1993). Across UK cities children were portrayed as 'growing up virtually as savages' in a 'nightmarish world' (*Daily Mail* 26 November 1995). They exemplified 'childish viciousness ... random, aimless, without conscience' (*The Times* 25 November 1993). In separate *Sunday Times* commentaries the search was on for 'the Mark of the Beast' and 'the Satan bug' (both 28 November 1993). In a long *Sunday Times* feature the following summer Gerald Warner lamented that 'a nation of vipers has been bred'. It was a generation

of 'sullen, introverted, ignorant and loutish young people' who 'threatened the future of our country' and 'civilisation itself' (3 July 1994).

During the immediate aftermath of James Bulger's abduction and killing senior politicians eagerly vied for the most dramatic sound-bite. Shadow Home Secretary Tony Blair warned of the 'descent into moral chaos' (*The Guardian* 20 February 1993) while Prime Minister John Major called for a 'crusade against crime' (*Mail on Sunday* 21 February 1993). At the moment when understanding was at a premium Major thought it time to 'condemn a little more, understand a little less'. He did not have to wait as a deluge of condemnation poured down on children and young people. Familiar words bred contempt: 'Hooligans', 'Thugs', 'Vandals', 'Scum', 'Vile', 'Mindless', 'Repulsive', 'Violent', 'Terror', 'Depraved', 'Tearaways', 'Truants', 'Muggers', 'Druggies', 'Louts'. The most poignant and consistently used description of urban children was, and has remained, 'feral'. Within days of James Bulger's death, and before arrests had been made, Martin Kettle and Melanie Phillips (*The Guardian* 16 February 1993) established an agenda beyond the immediacy of the act: 'it begins to seem that William Golding's fictional universe of juvenile savagery in *Lord of the Flies* lies all around us in our housing estates and shopping malls'. Golding's fiction was raised as a 'pseudo-scientific cautionary tale that children abandoned or bereft of the discipline and guidance of adults will sink to unknown depths of cruelty and individualism normally avoided by the civilising process of adult society' (Scruton 1997:164).

Reflecting on the aftermath of this tragic case the strength and durability of moral panics about children as folk devils become clear. Identified collectively in public, media and political discourses it is a status, associated with pathological malevolence popularly represented as 'evil', condemned and demonised. It reflects a dynamic process inflicted on individuals, groups or communities without a 'right to reply'. While ideological in construction and transmission, demonisation has tangible consequences in social and societal reactions. An unambiguous and highly influential illustration is Charles Murray's construction of 'underclass'. Focusing on those living in impoverished housing estates, he berates the emergence of a 'new rabble ... characterised by high levels of criminality, child neglect and abuse, and drug use'. On unkempt streets children abandoned by fathers 'run wild' growing up 'essentially barbarians' (Murray 1990:23). Rather than seeking solutions in political-economic analysis of impoverishment Murray's gaze remains transfixed on the social and cultural 'habits' of those he assumes moral degenerates. He condemns the antisocial, uncivilised and criminal habituation of children bereft of socialisation. They are dysfunctional to the core of their personal and social selves, deserving only of zero tolerant responses by all state institutions, whether social welfare or criminal justice oriented.

As Parenti (1999:72) vividly demonstrates, 'zero tolerance' strategies unleashed in United States' cities were predicated on 'rapidly and insidiously escalating police power; the opening of a new stage in the development of an American-style, democratic police state'. Police targets, pursued relentlessly on the street, in public places and in their homes, were 'people of color, youth and the poor'. Following the harassment of 'squeegee merchants' and 'cardboard city dwellers' from Manhattan's sidewalks, came a 'city-wide round-up of truants: refugee youth escaping New York's hyper-violent and dilapidated public schools' (ibid:77). Truancy clampdowns were highly publicised as 'family courts braced for a wave of new cases'. What materialised was a 'masterful orchestration of disparate social forces into a single law-and-order crackdown; multiple layers of public and private social control – from press to jails – acting in concert to form a totalising net of surveillance, enforcement and intimidation'. Parenti (ibid) concludes:

Perhaps archaeologists of a future world will read the records of such campaigns as the deranged youth initiation ceremonies they are. What do kids learn from such treatment? How to be cuffed; how to shield one's face when paraded before the press; in short, how to act like a criminal. But in 1990s New York turning police power against children made perfect sense.

In his bleak yet enlightening analysis of the 'abandoned generation' Henry Giroux (2003:xvi) explores not a war on crime, on drugs, on terror, but how the 'United States is at war with young people ... especially those marginalized by class and color'. His concern is the prevailing 'sense of moral indifference, if not cynicism, about the forms of *domestic terrorism* suffered by children who are poor, hungry, homeless, neglected, lacking in medical care, or suffering physical abuse by adults' (ibid:xiv, emphasis in original). Without recognition or 'standing in the public sphere' all children 'are denied any sense of entitlement or agency', seemingly 'absent from any public discourse about the future and the responsibilities this implies for adult society'. If not objectified via the exploitative, consumerist discourse of 'fashion', they are 'portrayed as a problem, a danger to adult society or, even worse, irrelevant to the future' (ibid). Giroux (ibid:xvii) continues:

No longer seen as a crucial investment for the future of a democratic society, youth are now demonized in the popular media and derided by politicians looking for quick-fix solutions to crime. In a society deeply troubled by their presence, youth prompts in the public imagination a rhetoric of fear, control, and surveillance ... Schools increasingly resemble prisons, and students begin to look more like criminal suspects who need to be searched, tested [for drugs], and observed under the watchful eye of administrators who appear to be less concerned with educating them than with policing their every move. Trust and respect have now given way to fear, disdain and suspicion ... increasingly translated into social policies that signal the shrinking of democratic public spheres, the hijacking of civic culture, and the increasing militarization of public space.

What this amounts to is exclusion from 'public spaces' that previously provided children and young people with active engagement and a range of opportunities. They become outsiders within the places they live, 'forced to hang out in the streets ... increasingly subject to police surveillance, anti-gang statutes, and curfew laws, especially in poor, urban neighborhoods' (ibid:xviii). In the UK, 1990s policing strategies adopted the US surveillance model of 'zero tolerance', net-widening 'crime' to include 'antisocial behaviour' and targeting 'feral' children, 'lawless' youth, 'inadequate' parents and 'sink' estates. The consolidation of differential policing reacted against the most marginalised communities resulting in an unprecedented rise in the imprisonment of men, women and children.

Criminalising Antisocial Behaviour

Within weeks of election to UK Government in 1997 the Labour Party, 18 years in the political wilderness, announced a root and branch overhaul of youth justice. Parenting Orders, Child Safety Orders and local Child Curfew Schemes were significant elements of the fast-tracked and wide-ranging 1998 Crime and Disorder Act. What was to become the most contentious initiative, however, was the introduction of Antisocial Behaviour Orders (ASBOs), civil injunctions applied for through the magistrates court as preventive measures responding to 'persistent and serious' antisocial behaviour. Conveniently elastic in definition, this was behaviour deemed to cause 'harassment to a community' amounting to 'antisocial criminal conduct' or 'otherwise antisocial ... disrupt[ing] the peaceful and quiet enjoyment of a neighbourhood by others; intimidat[ing] a community or section of it' (Local Government Information Unit 1997). The wording revealed an elision between

'criminal conduct' and 'antisocial behaviour'. Under the Act a criminal offence was committed on the breach of an order without 'reasonable excuse'. The initial guidelines stated that ASBOs would 'be used mainly against adults' (CDA Introductory Guide, Section 1).

Ashworth et al (1998:7) immediately condemned the Act as presenting 'local agencies virtually unlimited discretion to seek highly restrictive orders' while disregarding 'fundamental legal protections'. Penalties for violation of civil orders or injunctions were 'potentially draconian and wholly disproportionate'. They constituted 'stringent measures' reflecting a 'regulatory-disciplinary approach to crime prevention' (Johnston & Bottomley 1998:177). The Act amounted to 'an amalgam of "get tough" authoritarian measures with elements of paternalism, pragmatism, communitarianism, responsabilization and remoralization' (Muncie 1999:169). Its potential was 'net-widening, over control ... and what one can only call "joined-up labelling"' (Downes 2001:9). According to Goldson (2000:52), '[e]arly intervention, the erosion of legal safeguards and concomitant criminalisation, is packaged as a courtesy to the child'. He predicted, accurately, the promotion of prosecution and violation of rights that 'in the final analysis will serve only to criminalise the most structurally vulnerable children'.

Hester (2000:166/171) considers that ASBOs received 'a degree of political backing out of all proportion to their potential to reduce crime and disorder' while Parenting Orders demonised parents, 'exacerb[at]ing a situation ... already complex and strained'. ASBOs would be used primarily in 'poor communities' (ibid:172). As several key urban local authorities established 'antisocial behaviour units' staffed by 'antisocial behaviour officers' tasked with delivering ASBOs that established curfews, limited access to streets and, in some cases, exiled people from communities, it became clear that the most heavily regulated families were those least able to cope with economic marginalisation. Youth justice and social work became tied to interventions 'preoccupied with questions of "risk", "evidence" and "proof", rather than "motivation", "need" and suffering' (Pitts 2001:140). Gardner et al (1998:25) note the irony in legislation ostensibly geared to 'tackling social exclusion' yet 'destined to create a whole new breed of outcasts'.

As the Act was introduced and policing 'antisocial behaviour' gained momentum throughout England and Wales, children as young as 10 were photographed, named and shamed in the media, on local authority leaflets and in shop windows. Openly condemned and vilified they were banned from streets, exiled from communities and prohibited from associating with friends. As courts ruled on ASBOs defence lawyers had little understanding of procedures, particularly regarding reporting restrictions. Threats were made arbitrarily by local authority officials, police officers and community wardens to intimidate children. They feared being 'fitted up' and struggled to meet the conditions imposed. Families lived in fear of being reported by neighbours, of being evicted should their children breach conditions imposed by the courts. Within five years of the Act's introduction children were regularly imprisoned having never been convicted of a crime other than breach of a civil order.

These disturbing developments astonished Alvaro Gil-Robles, European Human Rights Commissioner. He expressed 'surprise' at official 'enthusiasm' for the 'novel extension of civil orders' (Gil-Robles 2005:34). Likening ASBOs to 'personalised penal codes, where non-criminal behaviour becomes criminal for individuals who have incurred the wrath of the community' he questioned 'the appropriateness of empowering local residents to take such matters into their own hands' (ibid:35). Disproportionately used against children, ASBOs brought children to the 'portal of the criminal justice system'. Their subsequent

stigmatisation, imprisonment for breach and inevitable alienation risked entrenchment of 'their errant behaviour'. Widespread publicity of cases involving children was 'entirely disproportionate' in 'aggressively inform[ing] members of the community who have no knowledge of the offending behaviour' and had 'no need to know'. He 'hoped' for some respite from the 'burst of ASBO-mania' with civil orders 'limited to appropriate and serious cases'.

Far from liberalising and decriminalising, the Blair agenda within the UK directed its efforts towards personal and social responsibility using legislation and policies that pathologised and punished children, their families and their communities. Blair's nostalgia for a 'golden era' of 'strong community' remains rhetorical and aspirational, neglecting conflict in communities dislocated by deep, structural inequalities evident in poverty, racism, sectarianism, misogyny and homophobia. Reconfiguring governance, focus and direction of public services, however radical, deals only with surface issues. The full spectrum of disruptive behaviours is kindled, ignited and fuelled by political-economic marginalisation and criminalisation. Combinations of material deprivation, restricted opportunity, access to drugs and alcohol, conflict and violence directed against the self and others, damages self esteem and destroys lives. Significantly, children and young people witness the rhetoric of inclusion and stake-holding, knowing they are peripheral, rarely consulted and regularly vilified. Disrespect is their expected daily reality.

Children's petty offending, truancy and antisocial behaviour can be addressed only through community development work responsive to their lack of power, rights and participation in decisions that affect their lives. The institutional backlash against children and young people has brought egregious breaches of international conventions and standards, undermining the 'best interests' principle, presumption of innocence, due process, the right to a fair trial and access to legal representation. Also significant are: separation from parents; freedom of expression; freedom of association; protection of privacy. Naming and shaming seriously compromises child protection and imprisonment for breaching civil orders abandons the principle of custody as a last resort. Without addressing power differentials and rights abuses central to the marginalisation and exclusion of children in conflict with the law, the rhetoric of 'moral renewal' is inherently deficient.

The Special Issue

It was against this background, the processes of demonisation, criminalisation and punishment of children and young people, that this special issue was conceived. The articles that follow provide distinct yet related variations on these themes. Siobhán McAlister's primary research in the street-corner society of young people in a north eastern English town that had suffered major economic decline as a consequence of the collapse of its industrial base gives voice to the experiences of the 'abandoned generation'. She relays the experiences of children and young people living at the margins. Indeed, these are typical of what Charles Murray would term the 'new rabble' within the new 'underclass'. The managerialist conceptualisation of 'risk' is irrelevant in communities where choices are so limited, agency so regulated by material deprivation. Yet the resistances are present in the hopes and aspirations of young people making their way in harsh realities, including illicit means to achieving positive ends.

Timo Harrikari reveals the challenges to Finland's Nordic much respected welfare model. On the back of a moral panic about the violence of young people conservative politicians initiated a move away from social justice principles towards criminal justice

responses and drew a measure of popular support. The reactionary road, however, was successfully diverted but what followed were interventionist policies based on risk analysis and risk management. His article demonstrates how shifts in policy and practice do not necessarily require the cutting edge of authoritarianism in order to dilute and challenge sound welfare principles.

At the other end of the spectrum of authoritarian interventionism Chris Cunneen identifies the 'heightened public concern' and 'moral panics' that have targeted 'ethnic minority' youth in Australia. While there is evidence of progressive reform, particularly in diversion and restorative justice initiatives, and a broad reduction in the incarceration of children and young people, 'zero tolerance', 'mandatory sentences' and stronger police powers have paralleled these developments. He argues that Indigenous children and young people have been 'bypassed' by limited progressive shifts in youth justice. Of particular concern are the consequences of the 'greater bifurcation between less serious offenders and repeat offenders'. Central to Cunneen's analysis of potential for change are the combined themes of the 'right to self-determination for Indigenous people' and the state's compliance with international standards regarding the welfare of children and young people.

The legacy of conflict and transition are central themes in the article by Deena Haydon and Phil Scraton. Against the background of 30 years of conflict and the persistence of sectarianism within the north of Ireland they consider the significance of a decade of relative calm for the lives of children and young people marginalised by poverty. While not experiencing the moral panics that initiated the 'crisis' in 'childhood' in 1990s England, such social and political shifts are emergent and identified by children and young people in the primary research presented here. Of particular significance is the regulation of children and young people by the police and by paramilitaries in those communities where a policing deficit persists. Linda Moore and Una Convery, also researching in the north of Ireland, focus on the experiences of children and young people in custody. Drawing on primary research within the sole juvenile justice centre, they demonstrate the serious limitations of imprisonment and the reality of rights abuses in 'total institutions'. While identifying some positive developments in terms of regime, they reveal the serious consequences of holding the most vulnerable children in secure custody away from families and friends in situations where international standards are breached through lack of privacy and the use of restraint and isolation.

Based on extensive primary research with young men in custody Mark Halsey provides rich insights into their lives through their words and experiences. His article complements accounts in Siobhán McAlister's research in showing how young people in conflict with the law negotiate their personal, social and community lives within the material, structural conditions they endure. Of particular significance is the discussion of the impact of incarceration on 'significant others' in young people's lives and of how 'pathways' that lead to custody, and those that might lead from custody, are offered and trodden. Halsey raises crucial questions about the alienating, silencing and dislocating reality of prison for young people who endure difficult and often damaged lives in chaotic circumstances. Such realities rarely touch the consciousness of those who comment on, legislate and determine dispositions that are punitive and debilitate the potential of positive relationships.

Henry Giroux addresses the broader structural, determining contexts of inequality within which children and young people are expected to survive and make their way in the United States. Relegated to bystanders and placed at the political-economic margins, young people, particularly young people of colour, experience little scope for negotiation and few opportunities to demonstrate their potential. Giroux's poignant and severe analysis argues

that the prevalent political discourse, supported by draconian, criminalising interventions amounts to a 'war against young people' reflecting and sustaining a 'crisis in democracy'. He considers ways forward not least through a politics of inclusion, a reconstitution of democracy based on civic engagement and the transformation of education. This is a politics of resistance and a politics of hope in a period of 'possibility' as well as 'crisis'.

Forty years on from its first publication, Tony Platt revisits his still-published and defining *Child Savers*. In a candid self-reflective commentary he discusses the critiques and short-comings of his initial scholarship alongside recognition of its enduring strengths. Most significantly he identifies five suggestions for 'revising the canon' to take account of contemporary developments and he discusses the need to revive 'historical analysis'. The commentary by Shadd Maruna and Anna King returns the debate to the 'punitive criminalisation' of children and young people that has hall-marked UK youth justice policy in recent years. 'Generational anxiety' and 'redeemability' are two features of a mixed method research study into public attitudes regarding punitiveness.

Finally, Bryan Stevenson provides a chilling account of the sharp end of the continuum of punishment in reviewing the practice, in certain States in the USA, of incarceration for life of children as young as 13 or 14 imprisoned for serious offences. These are children who will die in prison. Stevenson considers their backgrounds, their damaged lives and the over-representation of children of colour. Bree Carlton's review of Goldson and Coles' primary research-based book on deaths of children in UK custody and Stevenson's work on 'life meaning life' are stark reminders of the institutional potential to criminalise, punish and brutalise in advanced democratic states that claim to prioritise the welfare and advancement of children and young people.

Reading the following articles it is evident how children and young people ambivalent or resistant to the imposition of interpersonal and/ or institutional adult authority, particularly children in conflict with the law, are excluded from processes of consultation and decision-making that determine their destinies. The only means through which children are allowed to negotiate their inclusion is through compliance and the price paid in that transaction combines deference and obedience. In the debate about children's rights, for example, the exchange currency invariably and inappropriately demands an acceptance of adult-defined 'responsibilities'. The imposition of compliance reflects a politics of subjugation. Complex relations between adults and children – in families, in schools, on the street, in prisons – cannot be understood without consideration and analysis of the structural and institutional dynamics of power. Power vested in adulthood, manifested in economic dependency, in political exclusion and in ideological construction. It is a power that allows and sustains the ownership of children in the private realm, that polices, regulates and criminalises their movements and freedoms in the public sphere.

Advanced democratic states that utilise the language of rights compliance, of children's 'best interests', of active participation and of civic responsibility are remarkably ambivalent in establishing means through which children – regardless of class, 'race', cultural tradition, gender, sexuality or age – can realise opportunities that would help frame their daily lives, build their self esteem and constructively challenge the *status quo*. Rituals of socialisation and techniques of disciplinary control are manifestations of adult hegemony supported by canons of child development and their attendant professional practice. Modified, conditioned and rewarded behaviours are ritualised and acts of defiance and/ or deviance are subject to child-specific 'reasonable chastisement' (assault) or other forms of

punishment. As this introduction proposes, the creation and reproduction of children and young people as ‘folk devils’ has a significant history. For those who experience the intersections of marginalisation – through poverty, racism, sectarianism, sexism and homophobia – criminalisation is over-arching, demonisation is all-pervasive and punishment, emotional and physical, against body and mind, is often all-consuming.

I was put in the hospital wing for nine days. They brought me over here [punishment and segregation block] for one night. That night I tried to hang myself and they wouldn't take me back over ... I hear voices and see things. The voices tell me to do them [self harm]. And I release the pain as well. It's terrible, so it is. You sleep and you keep changing positions ... And they won't even give me my own clothes ... in case I did anything stupid. Just look what they make me go to the toilet in. That's for night time ... It's a disgrace. They don't give me underwear or nothing ... It's hard. They just give you a wee sanitary towel and that's it. It's hard (17 year old in a strip cell, Mourne House Women's Unit, Maghaberry Prison, N Ireland, March 2004; in isolation because she self-harmed. See: Scraton & Moore 2005).

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