

## **Young people, 'race' and criminal justice**

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## Young people, 'race' and criminal justice

Bankole Cole

### Overview

This chapter:

- appraises the political response to youth offending and welfare in Britain over the past 30 years;
- examines whether adequate provision is made for young offenders of different ethnicities and gender; and
- reviews the extent to which ethnicity should be a key factor in the provision of welfare for youths involved in the criminal justice system, and
- examines the UK experience, wherever possible, in context of Europe.

**Key concepts:** crime, criminal justice, offending, policing

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### Introduction

In most societies, young people are often portrayed as 'the future generation'. Behind this image is the notion that the state and society ought to care for its young people, providing what it believes is required for them to grow into useful adults. The age groups constituting 'youth' vary between different countries. In Europe, 'youths' consist of children aged 0–14 and young people aged 15–29. Figures for 2014 suggest that of the 507 million inhabitants in the 28 countries of the European Union (EU-28), 79 million (16%) were children aged 0–14, and 90 million (18%) were young people aged 15–29. In total, almost 170 million of EU inhabitants (33.3%) were

under the age of 30 in 2014 (EU, 2015a). During 2014, children accounted for 18% and young people 20% of the UK population (total: 37%) – the third highest figure in EU-28. (EU 2015a, p. 23). Two urban conurbations in the UK - Inner London (43.4 %) and the West Midlands (41.8 %) - were amongst the top five areas in Europe with the highest shares of youths (0–29 years) in the total population, in 2014 (EU 2015a, p 24)

This chapter aims to discuss the extent to which ‘ethnicity’ is significant in the provision of state support to youths who have broken the law or are at risk of offending, including those at risk of being victims of crime. The focus of the chapter will be on young persons below 18 years of age (often referred to as ‘juveniles’) as the youth justice system in most countries deals with this group of ‘youths’. Offenders aged between 18 and 20 are often referred to as young adults and those over 21 as adults. Both latter groups are often processed through the adult criminal justice systems.

## **Ethnicities, Youth and Crime**

The numbers of young people involved in the criminal justice system appear to have been decreasing worldwide. In 2010, youths consisted of an average of 9.3% of the total numbers of convicted criminal offenders per 100,000 of the populations among the surveyed 28 EU countries (European Institute for Crime Prevention and Control, 2014). In England and Wales, 27,900 young people sentenced in the year ending March 2016. This represents a fall of 10% compared with the previous year and of 71% since the year ending March 2006 (YJB/MoJ, 2017).

However, according to Section 95 statistics on ‘race’ and the UK criminal justice system (published since 1992, following the Criminal Justice Act, 1991), Black, Asian and Minority Ethnic (BAME) young people are disproportionately represented amongst the total number of youths caught up within the youth justice system, from ‘stop and search’ through to sentencing. For example, in the year ending March 2016, BAME young people accounted for 21,900 (25%) of arrests of young people, with 10,800 (12%) being from a Black ethnic group. In the same year, BAME young people accounted for 41% of the under-18 custodial population with Black

youths alone accounting for 21% of young people in custody (YJB/MoJ, 2017)

BAME youths are also overrepresented as victims of crimes compared with their White counterparts (MoJ, 2015; Uhrig, 2016). Available crime data in England and Wales shows that BAME youths are disproportionately represented among those experiencing racially-motivated antisocial behaviour and crimes, whilst the perpetrators of these offences are disproportionately White youths (Scottish Executive, 2005; Jansson, 2006; Times Online, 2009; Craig et al. (2009). Of particular concern is the number of BAME youths becoming increasingly involved in weapons-related crimes both as offenders and victims. In the year ending March 2015, the percentage of BAME young people convicted or cautioned for possession of a knife or other offensive weapons was 39% compared with 16% for adults (YJB/MoJ, 2016, p78). Reports have also indicated that BAME youths are disproportionately represented in youth criminal gang membership and activities (HM Government, 2007; Scottish Government Social Research 2010a, b). The fact that criminal justice statistics in the USA and most EU countries have also shown significant BAME youth overrepresentation as offenders and victims of crimes (See Kalunta-Crumpton, 2010) raises important questions as to whether or not addressing youth offending requires different explanations and solutions according to 'race'.

## **The Context**

Since the end of the Second World War, Europe has been witnessing a significant rise in its BAME populations, both Whites and non-Whites. The majority of the immigrants that have settled in Britain, especially immediately after the War, were from Britain's former colonies (see Bowling and Phillips, 2002; see also Chapter 2, this volume). The majority of these post-war immigrants settled in the poorest and most deprived neighbourhoods of big cities, effectively ghettoised as a result of prejudice and discrimination from their hosts and also because these offered the cheapest housing. As most of the immigrants were also employed in the lowest-paid jobs, social mobility was limited and access to support services poor. The result was that many remained permanently living in these areas, more so as white neighbours moved out into more affluent areas (see also Chapter 7, this volume). Thus, the descendants of these immigrants, now British citizens, have grown up in some of Britain's most deprived inner-city areas.

Although the factors that trigger youth offending are many, the key factors such as association with criminal adults and peers; drug misuse, poverty and unemployment are often associated with living in deprived neighbourhoods. (see Bradshaw et al., 2004; Government Office for London 2007). The EU reported that in 2013, the proportion of children in the EU-28 experiencing severe material deprivation was 1.4 percentage points higher than the corresponding ratio for the whole population and stood at 11 % (EU, 2015a,p184). This report noted, that ‘the gap was largest in the United Kingdom, Romania and Hungary’ (EU, 2015a, p184). In the same year, 13 % of people aged 15–24 and 30 % of people aged 25–29 in the EU were not in employment education or training (NEET)( EU, 2015a, p42). In the UK, figures for October to December 2016 showed that 12% of all people aged 16 to 24 (about 862,000 young people) were NEETs. In terms of ethnicity, the figures released for April – June 2016 showed that BAME youths aged 16 – 24 were disproportionally represented amongst the youths in the NEET category, accounting for 11% of the total (126,000 youths). Office of National Statistics (ONS) figures also showed that the unemployment rate for black men aged 16 – 24 in London in September 2016 was 29% compared with 15% of Whites of the same age group (ONS, 2017).

Research evidence has also shown BAME youths encounter significant racial discrimination in employment, education and housing, resulting in their being even more socially excluded than their White counterparts. Their experiences in the UK during the 1950s/1960s, of social rejection, stigma, and prejudice are well-documented. Black youth subcultures and music were stereotyped as inspiring violence and Black youths generally were associated with ‘low level’ criminality such as illegal drug use and alleged trafficking (mainly in cannabis) and prostitution (pimping)(Bowling and Phillips, 2002). These stereotypes of Black youths were supported and orchestrated by selective and predominantly negative media reporting on Black youths and their communities which led to an increase in police presence in inner city areas where the majority of young Black people lived (Solomos, 1988; Cole, 2010). By the 1970s, concerns were already growing in Black inner city communities of being over-policed and under-protected by police forces that were allegedly deliberately and indiscriminately targeting Black youths for stops and searches, using excessive force during arrests and generally harassing their communities

(Bowling and Phillips, 2002).

In 1975, the London Metropolitan Police (Met) produced the first ethnically-coded statistics for street robbery in the capital. In spite of the fact that these figures were based on inadequate racial classifications (see Fitzgerald and Sibbitt, 1997), the Met announced that young Black youths in London were disproportionally involved in street robbery (mugging), the victims of which were mainly Whites. On the basis of these data, the Met and other police forces in Britain began a campaign of surveillance and quasi-militaristic policing of Britain's inner cities in the quest to clamp down on 'muggers' (see Hall et al., 1978). Police tactics included increased use of legal provisions in the 1824 Vagrancy Act, to stop, question and search people on the streets. It was alleged that the majority of people stopped and searched were Black youths who were repeatedly searched in ways that were considered indiscriminate and possibly racist. (see Chapter 2 in this volume). This police action exacerbated the already strained relationship between the police and inner-city Black youths, (Gaskell and Smith, 1985; Gaskel, 1986; Solomos, 1988); and it was one of the key factors that led to the inner city disorders ('riots') of the 1980s in which Black youths were disproportionally involved (Keith, 1993) According to Lea and Young, (1993.), these 'riots' were a definitive reaction to the political and economic marginalisation of Black youths and the definition of their lifestyles and communities as criminal; they were also directed at the police's 'heavy-handedness' and racist policing of their communities apparently with the support of a possibly racist and uncaring government (see Gilroy, 1982).

### **The legacy of Scarman**

In April 1981, Lord Scarman was appointed to inquire into the reasons behind the disorders at Brixton, London. What is remarkable about the Scarman Report (1981) was its attempts to find an explanation for the disturbances beyond the violence on the streets that incorporated aspects of social policy and welfare that were at the root of the problem. The report provided an analysis of the social and economic conditions in Brixton on the eve of the disturbances, comparing them with those in other inner-city areas where similar disturbances had occurred. Scarman concluded that while differences undoubtedly existed between these areas, the similarities were even more striking. He described these similarities as: 'A high ethnic minority population, high

unemployment, a declining economic base, a decaying physical environment, bad housing, lack of amenities, social problems including family breakdown, a high rate of crime and heavy policing.’ (Scarman, 1981, p12)

Scarman explained how the disproportionate experience of deprivation and poverty of BAME, mainly Black-Caribbean, (Black) youths, in the affected inner cities and their clashes with the police are inextricably linked: first, in terms of how, by living much of their lives on the streets, Black youths were more likely than other youths to come into contact with the police, especially as they are more likely to be involved in street crimes (Scarman, 1981, p11); and, second, how ‘unimaginative and inflexible policing can make the tensions which deprivation engenders greatly worse.’ (Scarman, 1981, p100). Accordingly, Scarman highlighted the importance of considering the welfare problems that Black inner city youths are faced with when policy decisions are being made about why they disproportionately offend. (Scarman, 1981.,p4-16). Scarman stressed the point that White youths also suffer from deprivations, but that black youths do so to a much greater degree. More importantly, Scarman emphasised the part that racial discrimination had played in limiting access to employment and state welfare for Black youths. In addition, he argued that racial discrimination was also intrinsic in the actions of the police that led to the disturbances. However, he dismissed the view that British police officers were generally racist. Instead, he argued that the racism that existed inside some of Britain’s police forces was caused by a handful of ‘rotten apples’ amongst the police officers (Scarman, 1981, p64–74). This position was later dismissed by the Macpherson Report (1999) in which the British police was described as being ‘institutionally racist’ (see Chapter2, this volume).

Finally, Scarman talked about conflicting policies between local and central governments being ‘a source of confusion and reduced drive’ (Scarman, 1981,p101). Whereas there was evidence that some efforts were being made to address racial disadvantage, Scarman maintained that there wasn’t a sufficiently well-coordinated programme for combating the problem. He was also dismayed that the private sector was not fully involved in the process. As he put it ‘the private sector is not an alternative to adequate public sector involvement: both are needed’ (Scarman, 1981. p102). Scarman insisted that unless a clear lead was given by government in this area

‘there can be no hope of an effective response’ (Scarman, 1981.,p108).However, he expressed concern that ‘a policy of direct coordinated attack on racial disadvantage inevitably means that the ethnic minorities will enjoy for a time a positive discrimination in their favour’ (Scarman, 1981., p135). He feared that this could provide a legitimate and understandable backlash from the majority British White population. Accordingly, he concluded that ‘special programmes for ethnic minority groups should only be instituted where the need for them is clearly made out (Scarman,1981, p109).

## **South-Asian Youths**

A crucial deficiency in the Scarman report was the over-emphasis that was placed on youths of African Caribbean origins, in spite of the fact that British South-Asian youths who are mainly of Indian, Pakistani and Bangladeshi origins, also took part in the inner city riots, for example, in Birmingham. British South-Asian youth were initially perceived as generally ‘law-abiding’ – a view that is believed to emanate from their adherence to strong religious moral ethics and cultures (see Wardak, 2000); but, recent UK crime statistics have been showing a steady increase in their involvement in crimes, with disproportionate numbers being imprisoned for serious crimes (YJB/MoJ,2016; Uhrig, 2016). Like their Black counterparts, Asian youths in Europe are generally socially excluded and are known to experience racial discrimination disproportionately, for example, in employment and education.(see E U., 2015b). Asian residents have also been known to be disproportionately victimised by racist far-right groups who challenge their European citizenship status and disrespect their cultures and religions. In the UK, frequent taunting of Asian youths and their families by far-right groups led to the first violent street clash between National Front/British National Party (BNP) supporters and Asian youths in Dewsbury, West Yorkshire, in 1989. This prompted media stories of emerging Asian youth gangs who might be fighting against years of racist victimisation but also had criminal intentions (Webster, 1997). Racist taunting of Asian youths and their communities continued in the UK and was one of the main causes of violent clashes between South-Asian youths and BNP supporters in what became known as the ‘Northern cities riots’ which took place in 2001 in Oldham, Burnley, Bradford and Leeds.



The Cantle Report into the causes of the 2001 riots, like the Scarman report, acknowledged deprivation and youth disillusionment as significant causes but blamed the riots on deep-rooted segregation whereby people of different ethnicities in some parts of Britain had not ‘mixed’ but lived parallel and polarised lives (Cantle, 2001). The counter-argument that the segregation was not voluntary but forced by deep-rooted racism and the alienation of Asian youths and their communities, was underplayed in the reports on these riots. Allegations of discriminatory policing were also ignored (Kundnani, 2001). Instead, the ruling (Labour) government’s response to these riots was to call for public debates on citizenship and to encourage local authorities to work ‘harder’ on promoting community ‘cohesion’ (Home Office, 2001a).

In recent years, South-Asian youths of Islamic faith have also been at the centre of serious crime debates in Europe, following the waves of terrorist attacks in the continent, especially since 9/11. It is generally believed that the threat of terrorism in Europe is posed much more by ‘home-grown’ radicalised Muslim youths who are European citizens than by radicalised Muslims from abroad. This appears to be proven by the fact that the terrorist attacks in 2016/17 in France, Belgium, Germany and the UK were carried out mainly by Muslim youths who had legal residence status or were citizens of these countries. Concerns about European Muslim youths travelling out to fight in Muslim countries of the Middle-East against western troops have existed since the 1980s, but it was the rise of organised global Islamic terrorist groups like Al Qaeda and the Islamic State and their systematic grooming (‘radicalisation’) and mobilisation of Muslim youths in Europe to fight in troubled Islamic countries like Syria, Afghanistan and Iraq, and the call also for them to perform *jihad* in their own countries that has placed Muslim youths and their communities at the centre of counter-terrorism policies in many European countries.

Although the majority of Muslim youths that are known to have been ‘radicalised’ came from deprived communities and to have experienced racial discrimination and exclusion that might have prompted their hatred for the society in which they live and resulted in support for a violent Islamic ideology and *jihad*; radicalisation is a complex transformative learning process that is brought about by a variety of factors (Bouhana and Wikstrom, 2011; Wilner and Dubouloz, 2011; Lynch, 2013). The result has been counter-productive as measures to prevent

radicalisation and counter-terrorism in Europe became focused on Muslim youths and communities (Kundnani, 2012; DCLG,2007 ).

The Prevent strategy in the UK and Europe includes a variety of measures aimed at preventing people from being drawn into or adopting violent extremist ideologies. These measures are to be rooted in ‘communities at risk’. and they include community engagement approaches aimed at mobilizing relevant group and institutions at the local level, to challenge violent extremist ideologies amongst ‘suspect’ groups and promote support for ‘mainstream voices’; disrupt those who promote violent extremism and their institutions; support vulnerable individuals, for example, by giving them appropriate advice and education about the dangers of being ‘radicalised’; and increase the capacity (resilience) of communities to resist violent extremism and to address the grievances that extremist ‘ideologues’ are exploiting. (HM Government 2011). However, experiences of discrimination or exclusion, unemployment and housing problems or being victimised are not regarded as grievances for the purpose of Prevent as they could apply to any form of social discontent and violence (see HM Government, 2008b). In contrast, Prevent allows links to be made between criminality and radicalisation and, therefore, encourages those concerned with youth offending to identify youths with whom they are working who may become interested in violent extremism and to consider measures that could be incorporated into their intervention in order to rehabilitate such offenders and divert them away from being radicalised.

There is a strong focus in Prevent on enabling communities to easily identify individuals vulnerable to radicalisation and where a ‘vulnerable person’ is identified, to be able to create points of referral for them to access interventions to address the root causes their radicalisation. Some of the interventions that have been suggested for those vulnerable to radicalisation include:

- referral to youth mentoring projects
- engagement with positive role models;
- providing positive alternative activities such as volunteering; and
- projects aimed at developing a stronger faith understanding.

Most significant are the powers that have been given to schools in the UK to identify children who are prone to being drawn into terrorism/violent extremism and to refer them to government early intervention programme called 'Channel' (HM Government 2010, 2012a, 2012b, 2015). The success of these programmes, if any, is yet to be researched fully. Instead, it has been alleged that counter-terrorist measures in Europe has led to an increase in Islamophobia, social divisions and racial hatred – factors that are likely to further aid the processes of radicalisation (Spalek and Lambert, 2008; Kundnani, 2012).

### **Refugee and Asylum-seeking young people**

The numbers of children and young persons fleeing from persecutions, and extreme poverty in countries experiencing political conflicts and seeking asylum in European countries have been increasing in recent years. Of significant concern has been the increasing numbers of these youths who have travelled to Europe unaccompanied. In 2016, over 90% of the 7,567 children who crossed the Mediterranean sea into Europe were unaccompanied (UNHCR, 2016). Unaccompanied and asylum seeking children (UASC) are, increasingly, becoming a significant part of the refugee and asylum seeker youth populations in Europe. Refugee and asylum seeking youths depend on state authorities in the countries of their arrival to safeguard their welfare and uphold their rights. Unfortunately, however, many European countries are experiencing difficulties coping with unprecedented refugee numbers and this has led to poor reception conditions, as well as major gaps in the provision of appropriate welfare arrangements due to inadequate funding, leading to the services provided being usually sub-standard. In the UK, refugee and asylum youths and their families are generally housed in poor inner city areas with limited or no support networks, education and employment opportunities. Delays in the processing of applications for support, the insecurity of residence and restrictions to benefits and work has driven many of these asylum-seeking youths and their parents into poverty (see Cooper, 2009). Like the resident British minority youths, they have also experience racial prejudice and victimisation. (Hemmerman et al., 2007).

Whereas there are no reliable official statistics on the offending rates of asylum-seeker or refugee youths, the association of these groups with crime has been the subject of much media and public attention in the UK since early 2000 (Malloch and Stanley, 2005; Cooper, 2009). One 2007 report maintained that there has been an increase in the numbers of young asylum-seekers and

refugees with significant post-traumatic stress conditions increasingly becoming engaged in gang activities in London. Concern was expressed that these foreign youths were having a disproportionately negative impact on their UK peer groups (MPS, 2007). As David Green, director of the CIVITAS think-tank asserted:

We are importing 15, 16, 17 and 18-year-olds brought up in countries with an anarchistic warlord culture, in which carrying knives and guns is routine. That is no exaggeration. We are asking for trouble if we do not confront this issue (quoted in Mail Online, 2007).

The fact that some of the youths who took part in the 2016/17 terrorist attacks in Europe are believed to have entered Europe as asylum-seekers has raised doubts about the genuineness of asylum-seeking youths from Islamic countries and this has damaged the degree of public sympathy for these young people. Consequently, the crime problems in which ethnic minority youths are statistically disproportionally involved in now range widely in the UK and Europe from street crimes and weapons-related offences to terrorism.

## **Welfare vs. Criminal Justice**

In Britain, criminal justice responses to youth offending have varied slightly depending on the government in power. These variations are between what is commonly referred to as the ‘welfare’ and ‘justice’ approaches to youth justice. Although the differences between both have been contested, ‘welfare’ is largely associated with a rehabilitative approach, while ‘justice’ describes a youth justice system that is focused on punishment or retribution (Muncie, 2009). This section provides a review of UK youth justice policies under various governments since 1979.

### ***Conservative Governments (1979 – 1997)***

The Conservative governments of the 1980s/1990s did not act upon Lord Scarman's preference for a ‘race’-related welfare approach to youth offending. Instead, the policing recommendations in the report were given priority with new laws passed in 1984 and 1986, giving the police more

powers in criminal investigation and in the policing of public disorder respectively.

The UK Conservative Party's approach to youth justice is rooted in the neo-conservative theory of crime and generally embraces the 'justice' model of youth justice (Muncie, 2009, see also chapter 11, this volume). The Conservatives see crime as, 'a matter of choice and a course of action freely chosen by pathological individuals with no self-control who [threaten] the very moral fabric of society' (Muncie, 2009 p140). The causes of youth offending are believed to include: indiscipline, weakened social bonds, lack of secure family upbringing or parental irresponsibility, family breakdown (absent fathers), underachievement in school mainly as a result of truancy, idleness or being work-shy, and moral decline, epitomised, for example, by misuse of drugs (Muncie, 2009). Thus, youth crime is placed within the larger context of societal decline – the result of the 'ill-effects of modernisation and affluence, which have led to the erosion of traditional values based around morality and duty to the family and wider community' (Gunter, 2010, p. x). Accordingly, young offenders were to be treated as candidates for 'correction', not 'welfare'.

The moral panic in the 1980s/1990s that youth offending was fast rising, provided the governing Conservative Party with a justification for adopting a punitive stance on youths breaking the law. A new Criminal Justice Act, passed in 1991, was based on the principle of 'just deserts', with a strong focus on individual and parental responsibility. The law introduced a variety of sanctions that could be used for children and young persons who commit crimes, as well as for their parents. This punitive stand on youth offending was matched, however, by the Conservative governments' poor record on youth welfare. For example, youths not in full-time education were, in 1991, denied social security benefits. In addition, the reduction in the numbers of affordable accommodation, the result of government market-driven housing policies, led to increased youth homelessness (see Hutson and Liddiard, 1994). Furthermore, Conservative youth employment and training initiatives to 'help' youths gain employment left many young people in precarious situations of economic uncertainty and disaffection, including high unemployment, with minority ethnic minority youths generally, and girls in particular, most affected (see Griffin, 1985; Cockburn, 1987).

Offending was not perceived in terms of 'race ' or racial differences in youth experiences. Young people who commit crimes were seen as having similar characteristics in terms of life experiences and exposure to criminogenic factors. As a result, a 'one-hat-fits-all' approach was adopted in youth justice during the 1980s and early 1990s, in spite of research evidence that continued to show BAME youths' disproportionate exposure to these criminogenic factors.

### **New Labour (1997 – 2010)**

The 'New' Labour government that came to power in the UK in May 1997 was greatly influenced by the left realist criminological theory of crime (Matthews and Young, 1992; Young, 1997). This view believes that whereas the root causes of crime lie in 'relative' deprivation and social exclusion, the explanation for social action should be the same and people should be seen as being responsible for their actions. A left-realist approach to youth crime, therefore, would tackle youth social and economic exclusion head-on, but, at the same time mete out appropriate punishments to those breaking the law. This position was captured in the New Labour slogan of 'tough on crime and tough on the causes of crime' (see Home Office, 1997a, b, c). But, according to Young (2002), New Labour, in fact, adopted a 'weak' definition of exclusion viewing it as a self-imposed condition by a lazy and idle underclass - a view it shared with previous Conservative governments.

Muncie (2009) argued that the New Labour era was a culmination of different youth justice discourses ranging from the liberal justice position of viewing youths as rational actors to neoliberal and neo-conservative positions, seeing youths as irresponsible, dangerous and immoral. These views have produced youth policies ranging from measures to clamp down on youth anti-social behaviour right through to more legal provisions to ensure that youths, on the one hand, face up to their offending behaviour while parents, on the other, take responsibility for their child's criminal or deviant behaviour. Muncie concluded that, under new Labour, 'there appears an almost universal political consensus that the root cause of youth crime lies in a breakdown of morality associated with dysfunctional families and a feckless underclass' (2009, p146). As a result, laws were enacted that placed youth offending on a par with that of adults, in

terms of their subjection to the criminal law and the Criminal Justice System (Cavadino and Dignan, 2007). For example, the Crime and Disorder Act, 1998, abolished the old legal tradition of *doli incapax* (someone who cannot be legally held responsible for their actions) for 10 –to 13 year-olds and introduced, instead, a range of ‘early intervention’ child orders for children under the age of 10, ‘to catch them before they start’. New Labour scaled up the managerialisation process started by the Conservatives on an even greater scale. The 1998 Act created the Youth Justice Board for England and Wales, a new executive, non-departmental public body (NDPB) responsible for the supervision, monitoring and assessment of all aspects of the youth justice system. Multi-agency Youth Offending Teams (YOTs) were created, to manage the local delivery of youth justice services. Most importantly, the focus of New Labour’s youth justice programme was allegedly ‘prevention’. On this platform, initiatives were encouraged that combined the efforts of public, private, voluntary and faith groups (the third sector) and communities to address and prevent the causes of youth crime (see Home Office, 2009; Neuberger, 2009).

Unlike its Conservative predecessors, Labour appeared to want to tackle ‘race’ issues in youth justice. In 2006, the House of Commons Home Affairs Committee inquired into the persistent problem of the over-representation of Black youths in the criminal justice system. In May 2007, the Committee published its report, with 67 main recommendations (House of Common HAC, 2007).

In many ways, this report is a replay of the Scarman report published 25 years earlier. Like Scarman, the Committee identified the causes of black youths offending as emanating mainly from their disproportionate subjection to social exclusion, educational underachievement compounded by high levels of school exclusion; high unemployment rate, a lack of positive role models for young Black people (especially boys) as a result of the predominance of single-parent families (absent fathers) within Black communities; mental health problems, homelessness, misuse of drugs, living in unsafe and criminal communities and the negative effect of popular music and culture on Black youths (House of Common HAC, 2007). The Committee was particularly concerned about the disproportionate involvement of Black youths in criminal youth

affiliations ('gangs'), especially that both male and female youths were joining gangs as a 'protective measure' against victimisation by gang members (House of Common HAC, 2007 pp21-24; see also Home Office, 2002). Finally, like Scarman, the HAC report maintained that whereas racial discrimination within the criminal justice system might be a contributory factor, it was so 'only in some instances' (House of Commons HAC, 2007, p45).

The Committee has been criticised for focusing mainly on black youths and ignoring youths of other ethnicities (Bowling and Phillips, 2006). However, in responses to the Committee report (HM Government, 2007, 2008a and 2009), the Labour government made efforts to show that, unless otherwise specified, the majority of on-going initiatives were meant for youths of all ethnicities. The common denominator, it was claimed, was: youths living in 'challenging' or deprived environments and are offending or at risk of offending. (See Box 12.1 for a list of initiatives linked to youth offending supported under New Labour)



## **Box 12.1: Youth Crime Prevention Initiatives under New Labour**

### **Family and personal support**

- Initiatives to ensure that parenting support services are accessible, appropriate and relevant to BAME families' needs.
- Ensuring that available drug treatment facilities for youths are accessible to and meeting the needs of youths of all ethnicities.
- Engaging youths at risk of offending in positive activities that would involve them in expressing their creativity positively in music, creative arts and other cultural activities and sports, to empower young people, raise their self-esteem, confidence and aspirations, endowing them with skills and knowledge required for the workforce and ultimately diverting them away from offending.
- Supporting youths who are victims of crime, to make sure that they do not turn to crime in response to being a victim.
- Helping young offenders leaving custody reintegrate into the labour market and get accommodation on release.

### **School and education**

- Expansion of schools and community mentoring schemes to include mentoring by peers and ex-offenders for young adults in prisons.
- Increased efforts to reduce the school exclusion rate of Black youths.
- Ensuring that all schools fully meet their responsibilities under the Race Relations (Amendment) Act 2000 to eliminate unlawful discrimination and promote equality of opportunity and good relations between persons of all ethnic groups.
- Ensuring that proper educational provision is made for young people excluded from school.
- Ensuring that the school curricula are relevant to the needs of Black youths as well as empowering them.
- Making schools safer by expanding the Safer Schools partnerships scheme and increasing after-school police patrols in known high-crime areas.

### **Community**

- Increasing awareness of, and access to, safe spaces in areas of high deprivation in which young people can meet informally and gain access to information about organised (positive) activities, help and advice.
- Tackling gang membership more seriously by setting up more youth gang exit programmes, paying more attention to the provision of 'safe houses', providing mentoring and positive activities in the communities for youths caught up in youth affiliations but not yet involved in crime, arresting gang members, and providing more support at schools to help youths say 'no' to gang membership

- Tackling gun and knife crimes by giving continuing financial support to existing national initiatives such as the Tackling Gangs Action Programme (TGAP) and Tackling Knives Action Programme (TKAP), encouraging the development of similar initiatives elsewhere.
- Using the media to raise awareness among youths about the dangers of becoming involved in violent crimes.
- Ensuring that support provided by the YOTs met the needs of young black people.
- Tailoring support and services those youths receive within the criminal justice system to individual needs, not age, ensuring continuity of support when an offender moves from the youth justice system into an adult one.
- Improving the youths' trust and confidence in the use of police 'stop and search' powers, and encouraging youths from minority ethnic backgrounds to choose the police as a future career option.
- Engaging with young people, for example, through local youth forums set up by the police and local Crime and Disorder Reduction Partnerships (CDRPs) in which young people can meet to talk about their concerns.

(For full details see HM Government, 2007, 2008a and 2009).

Particular emphasis was put on working with faith groups, in order to reach out to youths in communities perceived to be 'hard-to-reach' (Cabinet Office, 2006; 2007; MoJ, 2008; MoJ and NOMS, 2008). Faith groups, especially Muslim ones, were used to raise awareness of government youth initiatives, thereby increasing programme and project take-up rates in these communities. Faith groups were also involved in the setting up of gang exit and safe haven programmes to support youths wanting to leave gangs and those avoiding victimisation or pressure to join gangs (NOMS/YJB, 2007; DCLG, 2008)

On first reading, the above list of initiatives appears to have a strong 'welfare' edge to it. A closer look reveals that the welfare issues that are mostly connected with BAME youth offending: unemployment, homelessness and experiences of racial discrimination and exclusion - are not stressed in any of them. More important is the lack of provision for monitoring and accountability. There were so many projects established but no overall coordination provided and many were not properly evaluated.

### **Conservative-Liberal Democrats coalition government (2010 - 2015)**

The coalition government that came to power in 2010 inherited a decreasing population in youth offending. In contrast, however, was an ever increasing re-offending rate with over 60% of young people leaving custody reoffending within a year (Gove, 2015; YJB/MoJ, 2015c). A House of Commons Justice Committee report on youth justice appeared to put the blame of youth offending on the shoulders of 'other agencies, arguing:

There is a limit to what criminal justice agencies can achieve in preventing offending: young people in the criminal justice system are disproportionately likely to have high levels of welfare need and other agencies have often failed to offer them support at an early stage (House of Commons Justice Committee, 2013,p3)

The Government supported the Committee's view on the critical importance of effective early intervention and the crucial role that various agencies could play in preventing youth offending; but, in its response to the Committee report, it singled out lack of education as a criminogenic

factor that required significant attention (MoJ, 2013) . Thus, in a consultation Green Paper published in February 2013 entitled: *Transforming Youth Custody: Putting education at the heart of detention*, the coalition government proposed to establish a network of secure colleges across England and Wales to replace existing youth custodial provisions. In addition, the number of contracted education hours in Young Offenders Institutions was to be doubled (See MoJ, 2014)

### **Conservative Government (2015 - )**

The succeeding 2015 Conservative government, in its party manifesto, *Strong leadership, a clear economic plan, a brighter more secure future*, made no explicit references to youth offending or youth justice, suggesting that there was to be no fundamental break with policies of the previous coalition administration. Accordingly, the policy to place education at the centre of youth justice was adopted. However, shortly after taking up office, amidst criticisms of secure colleges becoming modern day borstals and the immense costs that the construction of the colleges would incur, the Conservative government took a dramatic U-turn not to proceed with the secure colleges project. Instead, in September 2015, Charlie Taylor was asked to lead a departmental review of the youth justice system for the Ministry of Justice. His interim findings supported the government's view that the youth justice system would be more effective and better able to rehabilitate young people if education was at its heart. However, in place of the secure colleges, Taylor recommended the introduction of secure schools delivering core subjects such as English and mathematics, as well as a range of work training, and the setting up of apprenticeship schemes with employers post-sentence to ensure that young ex-offenders are earning or learning on release. The secure schools would be:

Smaller custodial establishments of up to 60-70 places... located in the regions that they serve. They should be set up within schools legislation, commissioned in England in a similar way to alternative provision free schools, and governed and inspected as schools. Rather than seeking to import education into youth prisons, schools must be created for detained children which bring together other essential services, and in which are then overlaid the necessary security arrangements (Taylor, 2016, p. 40)

It is alarming to note that ‘race’ continued to slip into the oblivion as an explanation for youth offending as the factor that makes it obvious – racism – continues to be unacknowledged.

Meanwhile, the Youth Justice Board (YJB) has been busy researching how best to address re-offending (YJB, 2014, 2015a). This has resulted in the publication of a reoffending toolkit which is designed to provide better understanding and analysis of the characteristics of the reoffending cohort and help YOTs develop strategies to prevent further reoffending. The reoffending toolkit includes a disproportionality toolkit which allows YOTs to gain a broader understanding of when, where, how and why ethnicity-based disproportionality arises in their local youth justice system (YJB 2015a,p10). However, the disproportionality tool only enables a YOT to see ‘at a glance’ whether there is any overrepresentation of any particular ethnic groups in their local youth justice system. The YJB is yet to provide a tool that will enable YOTs to provide a deeper analysis or explanation of any disproportionality by ethnicity and how it might be addressed.(YJB, 2015b, p9–10). The favoured approach is to continue to address common risk and needs factors based on the Ministry of Justice’s definition of what works in managing children and young people who offend (MoJ, 2016b).

### **Gender, Youth and Justice**

Studies conducted on gender and the CJS have shown that the reasons why young women enter the criminal justice system are slightly different from those of young men (Smith and McAra, 2004; Gelsthorpe, 2006; Gelsthorpe and Sharpe, 2006). Like ethnicity, gender is yet to be fully understood in the delivery of youth services to young girls, especially those from minority ethnic backgrounds who are also disproportionately represented in the criminal justice system. The Youth Justice system appears to treat young women of all ethnicities in a similar way (YJB, 2009). It is often assumed that the risk factors for young women’s offending are the same as those for boys, namely, peer pressure, failure in education, family issues and drug/alcohol abuse.

Although arguments in favour of ‘gender responsive strategies’ and initiatives for women are developing (Shaw and Hannah-Moffat, 2000, 2004; Hedderman, 2004), the bulk of the arguments that have been put forward so far have been for adult women. Research has shown

that young women (girls) in the youth justice system do not respond in the same way to treatment as their male counterparts (YJB, 2009). This area needs further research. With regard to ethnicity, there is yet no concrete evidence on whether the offending behaviour of young women of different ethnicities differs; after all, it was only in 2010 that the first partially detailed set of racially-coded statistics on UK women was published (MoJ, 2010). At least, however, this process has started.

## **Conclusion**

It is doubtful whether governments can accommodate the criminal justice and related welfare needs of youths of all ethnicities. Dell and Boe (2000) have argued that to prioritise 'race' or ethnicity in addressing offending behaviour would be to assume that offending behaviour arises more from racial experience than from shared common life histories. According to them:

Individuals differ due to their racialized experiences but they also resemble one another due to common life experiences. The overall implication is that caution must be exercised in focussing ... exclusively on race. The lack of attention to similarity across racial categories may result in overlooking or minimizing elements of individual shared life histories that may contribute to understanding and identifying criminogenic factors (risk and needs) (p, iv),

The need to prioritise 'shared experiences' over 'race' is promoted by those claiming that the 'race' or ethnicity dimension is overplayed and that in today's multicultural, modern Britain, for example, we should 'celebrate' shared experiences rather than emphasise difference (see Mizra, 2010). Cole (2008), however, argues that racialized experiences should not be undermined. Scarman has shown that disadvantage in education, housing and employment, which minority ethnic youths disproportionately suffer, is a key factor in understanding their over-involvement in crime. There is no clear evidence that this situation has changed significantly today. Research in England and Wales shows that the most frequent form of explanation offered to account for offending by Black and Asian offenders is racism in society generally and within the criminal justice system, specifically (Denney, 1992; Calverley et al., 2004; Cole and Wardak, 2006). Cole

(2008) argues that the risk of re-offending is high where offenders are confronted by racism after completing a sentence; which means that a significant factor in their offending remains ever-present. 'Celebrating' difference is not divisive. In fact, it is a fundamental requirement of true democracy. However, it is not expected that there will be any significant change in the approach to 'race' under UK Prime Minister Theresa May's government as youths, not to mention BAME and foreign youths, did not appear as a priority in any of the policy issues that have been presented as important to her government.

In summary:

- British and European crime and criminal justice statistics reveal that there are differences in youth offending and victimisation by ethnicity.
- The Scarman report into the 1980s riots set a precedent by alerting governments to the importance of prioritising welfare over criminal justice (policing) as the way of addressing the offending behaviour of BAME youths who predominantly live in Britain's most deprived inner cities.
- Subsequent political responses to youth offending and welfare appeared to have ignored 'ethnic' differences and focused on tackling known criminogenic needs, irrespective of ethnicity - a cautionary move, perhaps, acknowledging the warnings given by Scarman of a possible 'backlash' if policies were instituted that directly favoured Blacks with reasons given that are considered unfair by the general (White) population.
- New Labour, though their vigorous pursuance of multi-agency partnerships in youth crime prevention initiatives appears to have acknowledged Scarman's recommendation regarding the involvement of all sectors in youth justice. The reality, however, is that government control of the process continued 'at a distance' through monopoly of youth justice policies and funding.
- The current move to give education a priority in youth justice system is welcomed but has yet to be tested.
- Low priority continues to be given to female youths.

- The youth justice and welfare systems are yet to provide adequately for youths of all ethnicities, but the question remains as to whether ethnicity or ‘shared experiences’ should be the guiding principle.



### **Questions for discussion**

- What are the causes of the disproportionate representation of BAME youths in the criminal justice system? How can these be addressed through a reform of the state welfare system?
- What should be the priority in welfare provisions for youths at risk of offending and those who offend: ethnicity or 'shared experiences'?
- How should gender be approached within welfare provision for youths of all ethnicities involved in the criminal justice system?

## Further reading

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