

Portfolio

Student ID: 1905889



Component One: Article Review

The Age of Criminal Responsibility in England and Wales: The Need for Reform.

Words: 917

The age of criminal responsibility varies between countries, with most nations criminalising between the ages of 12 and 14, with England and Wales contentiously having one of the youngest ages of liability in the world (Crofts, 2009). Whereas, in Columbia the age of criminal responsibility is 18, with minors who have committed offences are perceived as unimputable and must be dealt with by specially designated juvenile processes (ISPCAN, 2019). The Criminal and Disorder Act of 1998 states that children above the age of ten in England and Wales can be held criminally accountable because they are assumed to have the maturity necessary to accept the same amount of responsibility as adult (Crown Prosecution Service, 2019). However, Goldson (2013) – similarly to many other scholars – has published an article to highlight the need for the minimum age to be increased to a more appropriate age in line with other countries.

According to Goldson (2013), even though there is no mandatory minimum age or standard for when a child can be held criminally responsible, there are a considerable number of human rights treaties and instruments that establish a clear justification for what is regarded "too young." What Goldson appears to be referring to is the comprehensive guidelines characterised by the United Nations Committee on the Rights of the Child in 2007, where it was recognised that the age of criminal responsibility should not be less than the age of 12 years, with any age lower than that considered as inappropriate (Committee on the Rights of a Child, 2007). However, in 1993 Jon Venables and Robert Thompson, both 10 years old at the time, killed 2-year-old James Bulger (In the matter of the person previously known as Jon Venables, 2018). In response to the public's persistent desire for legislative reform over the years as a result of the Bulger case, the government enacted the Crime and Disorder Act 1998, which removed *doli incapax*, the legal assumption that children aged 10-14 were

not capable of committing a criminal offence. Therefore, directly contrasting Goldson (2013) and the United Nations Committee on the Rights of a Child (2017).

Despite this, research shows that by the age of 10, cognitive skills are not yet fully developed (Piaget, 1932). Thus, suggesting that children who are at the age of criminal responsibility are restricted from making moral decisions. Additionally, further arguments against the removal of *doli incapax* and the low age of responsibility arises as there is tangible incoherence regarding the manner in which the legal personality of the child is constructed, and social rights and responsibilities are statutorily assigned, under the provisions of civil statute (Goldson, 2013). In England and Wales, for example, only when someone reaches the age of 16 may they legally leave school, be granted a National Insurance number, agree to their own medical care, or claim state assistance (Goldson, 2013). Furthermore, only at the age of 18 may a person serve on a jury, marry, open a bank account, or enter a legally binding contract (Goldson, 2013).

A key point raised by Goldson (2013) is that the premature involvement of criminal justice agencies and processes with youth offenders is counterproductive. As supported by Zimring (2005) and Rutherford (1992), Goldson (2013) elaborates that most youth offending is as a result of adolescent immaturity and that, in the majority of cases, youths will outgrow the delinquency they exhibit. Various criminological theories support the notion that early involvement and labelling of young offenders, prosecution, and unfavourable social interactions have detrimental outcomes (Goldson, 2013). According to Creaney (2012), involvement with the youth justice system as a child under the age of 10 diminishes the probability that they will complete

their schooling, jeopardises their career prospects, and frequently leads to a breakdown in family relations. Due to the potential destructive outcomes, public interest with regards to crime deterrence and community safety is profoundly harmed (Goldson, 2013). Early on intervention acts as the catalyst for a career in criminality. Goldson (2013) offers that the most effective diverting tactic is to eradicate children from being subject to the youth justice system entirely, by increasing the minimum age of criminal responsibility.

Despite Goldson's (2013) stance on early intervention being less than favourable, there is significant sources of evidence supporting early intervention to reduce reoffending and prevent adult criminality. Although, an important consideration to take into account is that early intervention can occur without the need for the age of criminal responsibility to be as low as it currently is. As Goldson (2013) suggests, the best diversionary tactic would be to remove youths from the criminal justice system entirely. In support of Goldson's (2013) recommendations, an alternative approach would be early intervention restorative practice. The Restorative Justice Council (2022) proposes the utilisation of restorative practice to support challenging young people to address their offending behaviour and deal with incidents in a way that leads to a positive resolution without involvement from the police or the traditional criminal justice services.

In conclusion, the article published by Goldson (2013) provides substantial reasoning to consider the arguments in favour of and opposing the current age of criminal responsibility in England and Wales. Goldson's (2013) stance on the need for the age to be increased due to the lack of maturity and understanding of youths and the negative consequences of early interactions with the criminal justice system is well

supported by other published sources. However, the matter remains contentious due to cases including the James Bulger murder and society's response to delinquency and juvenile offending.

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Component Two: Reflective Report

The Key Challenges and Failures of the Prison System in England and Wales.

Words: 1,593

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Executive Summary

This report reviews the failures of the prison system and draws upon personal experiences of working with the system to support the research presented.

Introduction

Jarman and Vince (2022) provide that the penal system within England and Wales is substantially failing at addressing offending behaviour and rehabilitating offenders to prevent a revolving door of criminality and negative outcomes. As a current Housing Options Officer with Powys County Council and a previous Floating Support Worker for the Dyfed-Powys Diversionary Scheme, I am fortunate enough to have an excellent array of first-hand experience working with individuals who served custodial sentences in prisons in England and Wales. These experiences have allowed me to witness the failures of the penal system and how they have detrimentally impacted the rehabilitation and deterrence of offenders. Subsequently, providing me with an ability to confidently reflect on the challenges and failures of the prison system in England and Wales within this report.

Overcrowding

According to the Howard League for Penal Reform (2019), 60% of prisons in England and Wales hold more people than their certified capacity. The data presented in the 2019 article highlights that local prisons are under significantly more pressure from overcrowding due to the number of people on remand awaiting sentencing (Howard League for Penal Reform, 2019). According to Sturge (2022) in England and Wales, the prison population has quadrupled between 1900 and 2018, there is an estimated total of 78,000 people in prison, and projections indicate that the prison population will reach almost 99,000 by 2026—data relating to England and Wales only. The increase in custodial sentences isn't directly linked to the crime rates—as the data does not reflect a significant increase—but rather to the fact that the cases presented to the courts are more serious than before and the increase in public demand for such a

"crack down on crime" approach (Sturge, 2022 and the Howard League for Penal Reform, 2019). Another key factor is that the Criminal Justice Act (1991) introduced a system of discretionary conditional release at the halfway point for prisoners serving sentences of four years or more, meaning that prisoners had to spend a longer period in custody before becoming eligible for parole. As a result, data show that the average time served has increased by at least 14% since 2000 (Ministry of Justice, 2022).

Rehabilitation

Bullock and Bunce (2020) provide that the role of a prison in the 21st century is to act as places of rehabilitation rather than their historic objective as institutions of punishment. However, case studies, articles and data shows that prisons are failing to address support needs to ensure rehabilitation. This is support by when I worked as a Floating Support Worker with low-level offenders, I spent a significant amount of time working with Dyfed-Powys Police and prisons. It only took a few interactions with prison staff to realise that rehabilitation cannot be achieved in prisons due to various interlinking factors, which include underfunding, poor maintenance of prison buildings, understaffing, and overcrowding.

- **Reduced access to employment programmes:** Due to the limited number of resources and overcrowding, education and training programmes are not accessible to many prisoners due to disproportionate demand (National Audit Office, 2010). Data shows that only 33.3% of England and Wales' prison population is attending education programmes (National Audit Office, 2010). As a result, real work opportunities and thus securing employment following release are limited. According to Schnepel (2017), ex-offenders who are employed are 9% less likely to reoffend.

- **Lack of accessible mental health support:** It is estimated that up to 9 out of 10 prisoners are diagnosed with a mental health condition such as Anxiety, Depression or Emotionally Unstable Regulation Disorder (Criminal Justice Alliance, 2012). The poor conditions caused by overcrowding allow for prisoners with mental health illnesses to struggle to access appropriate service provisions due to limited accessibility due to the demand, and a deterioration in mental health due to poor living conditions – which prevents essential support to be delivered to promote stability and prevent misusing substances to keep their mental health at bay (Criminal Justice Alliance, 2012).
- **Substance misuse and internal drug epidemics:** Wakeling and Lynch (2020) provide that the usage of drugs in England and Wales is a significant issue and that there are insufficient resources to reduce consumption. Public Health England survey results raise particular concerns, with one-third of prisoners admitting that drugs are effortless to obtain in prison and one-fifth of prisoners confessing to have used heroin while in prison (Wakeling and Lynch, 2020). The Prison Reform Trust (2018) report that care plans should be put into place to support prisoners to address offending behaviour by putting care plans into place. However, a 2017 study revealed that 8% of prisoners entering prison tested positive for Spice but upon release, the figure doubled to 16% - thus illustrating the prison's shortfall in address substance misuse (Randox, 2017).
- **Peer Influence:** custodial sentences can also have adverse effects by placing like-minded individuals in close proximity where prisons are subject to peer effects and there are able to significantly reinforce and advance their criminal capital by developing their offending knowledge, network and form associations

to expand their reach (Damm and Gorinas, 2022). Damm and Gorinas (2022) write that peer effects allow for the reinforcement of offending behaviour and offending as lower-level criminals are subject to the exposure of more experienced criminals whereas community sentences can prevent these associations being formed by tactical people management.

Reoffending Rates and Homelessness

Reoffending rates allow for a clear illustration of how the prison system is failing to rehabilitate offenders.

- In 2016, 46% of prisoners who had a sentence exceeding 18 months were said to reoffend within one year of released and 60% of short-sentenced prisons would reoffend within the same 12-month period (Full Fact, 2016).
- In 2017, 62.2% of adults released from prison who had a custodial sentence of less than 12 months were evidenced to have reoffended between July and September alone (Ministry of Justice, 2019).
- However, in 2020, the reoffending rates of the same category individuals had decreased down to 54.9% (Ministry of Justice, 2022).

An issue which I feel is currently proving paramount is the lack of support from prisons to assist prison leavers in securing accommodation ready for release. A prime example is the 2013 study, led by Howard League, which revealed out of 480 homeless participants, 41% had been released from prison with No Fixed Abode (Howard League for Penal Reform, 2013). In Wales, prison leavers are classed as 'priority need' by the Housing (Wales) Act 2014. This in turn means that upon release from prison, if they are going to become homeless, a Housing Options Officer like myself, will seek to provide the prison leaver with interim accommodation under

Section 68 of the Housing (Wales) Act 2014. However, despite this, data presented by Hardwick (2021) shows that 60% of prison leavers who are in interim accommodation provided by a local authority have said that if they had permanent and stable housing, they believe they would be less likely to reoffend than when they are threatened with homelessness.

As a current Housing Options Officer, over 73% of my caseload consists of individuals who have been released from prison in the last 12 months. A reoccurring issue I have identified is the lack of support that is provided to prisoners leaving prison by both the prison and probation services. Frequently, ex-offenders are released without having spent any time developing the necessary skills to manage a tenancy. This means that homelessness is often prolonged as those skills need to be developed for the successful rehousing of the prison leaver. As mentioned, there is a direct connection between homelessness and offending behaviour largely as a result of the lack of stability and adverse effects.

Another significant challenge is that prisons and the probation service do little to ensure that prison leavers have stable housing to which they can be released. Many ex-offenders end up in temporary housing, and I've realised that this creates a breeding ground for drug use and anti-social behaviour.

Conclusion

In conclusion, the views of Jarman and Vince (2022) appear to be supported by the data present in this report, which supports that the penal system in England and Wales is failing to successfully rehabilitate offenders by delivering vital resources due to overcrowding and poor preparation for release. As supported by Sturge (2022),

overcrowding appears to be a significant and key challenge that prisons across England and Wales are facing, which is playing a substantial role in inhibiting the successful outcomes of custodial sentences due to the knock-on effect it has on prison resources and environmental factors. As published by Bullock and Bunce (2020), the role of a prison is to rehabilitate; however, the data and information create a cause for concern with regards to what role prisons actually undertake if they do not successfully achieve what they are intended to do. From personal experience and as this report provides, there is clear evidence that not only are the internal resources failing within prisons failing, but services to support prisoners to prepare for release and, when released, lead successful and productive lives are also failing. From my first-hand experience, I understand the role housing plays a vital in the prevention of reoffending. Despite the importance of stable housing, the evidence collated by the Howard League for Penal Reform (2013) indicates that there are insufficient resources directed toward preparing prisoners to identify and secure housing upon release. This, in turn, with prisoners not being able to access mental health service provisions and substance misuse support, means that prisoners are released while being vulnerable and susceptible to a lack of stability (Criminal Justice Alliance, 2012).

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Component Three: Academic Poster

Revictimisation of Rape Victims

Revictimisation of Rape Victims

by Warwick Proctor (1905889)

OVERVIEW

From the beginning to the end of a rape case, numerous Criminal Justice System (CJS) agencies with diverse cultures and practises are frequently involved in excessively long processes for victims to achieve justice and for perpetrators to be proven guilty (Criminal Justice Joint Inspection, 2015). Only 843 rape cases, out of a total of 50,000 that were reported to the police in England and Wales in 2020, resulted in some form of criminal charge according to BBC News (2021).

Despite an increase in the number of rape cases being reported on an annual basis, the number of cases progressing to court is declining according to data (Gandolini, 2015). According to the Centre for Women's

instances of rape are repeatedly told that their case will not progress beyond the initial report, or that if it does progress, they will not be given any updates regarding the status of their case – thus subsequently, violating their 'Victims Rights' and leaving victims with an ultimatum between giving up on justice to protect their mental health or sacrifice their wellbeing for a chance at securing justice. As a result of the insensitiveness of the Criminal Justice System which is unable to meet the needs of the victim and allows for re-victimisation, most victims decide to dismiss their allegations (Molina and Poppleton, 2020).

KEY CAUSES OF REVICTIMISATION

- > Low rates of reported cases successfully prosecuted,
- > Lack of police and other services communicate victims after initial reports are logged,
- > Victim's evidence is often held for considerable periods of time. This includes personal and sentimental items if they play a role in the case, causing victims to feel as if they are the guilty,
- > Cross-examination tactics can cause emotional and psychological distress (Jordan, 2011).

Rape Cases Leading to a Conviction



CASE STUDY: FRANCIS ANDRADE

- In 2013, Frances Andrade committed suicide after she was told by the police to delay accessing vital mental health services after she reported that she had been raped until after court proceedings as there were concerns that the therapy would interfere with her ability to accurately recall the events (BACP, 2015).
- Francis' suicide occurred despite the Victim's Code outlining that pre-trial therapy service provisions should be easily accessible to victims before the commencement of court proceedings (Ministry of Justice, 2020).

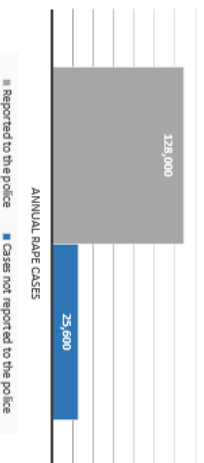


Image above of Frances Andrade (BACP, 2020)

A Stress Inducing System

- Many scholars, including Herman (2005), explain that if a system that was purposely designed to induce traumatic stress needed to be identified, the Criminal Justice System would be a prime example. In many cases, victims have displayed extreme symptoms of anxiety, panic attacks, and emotional distress before and during court proceedings, often said to be due to the ruthless and violating cross-examination tactics used (Payne, 2009).

Reported Rape Cases



Recommendations

- Restorative Justice is a direct alternative to traditional Criminal Justice processes,
- By utilising Person Centred Practice techniques, Restorative Justice focuses on victim rehabilitation and offender remorse,
- Victims should be provided with the option between pursuing Restorative Justice and traditional Criminal Justice processes.

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