

NEW LEFT POLICY MEETINGS

Co-sponsored by
THE SOCIALIST CAMPAIGN GROUP & THE NEW LEFT UNIONS

Chair: John McDonnell MP

New Left Policy Forum: Criminal Justice

By Harry Fletcher
March 2005

PERCEPTION

The British public perceive that crime and anti social behaviour are out of control, that prison is used sparingly, that Courts are lenient and that community penalties are soft. This vision is fuelled by the regular auction between Labour and the Conservatives on who is toughest on law and order. It is also exacerbated by the demand for further levels of retribution from certain tabloid papers. As a consequence individuals believe that the streets and their homes are unsafe and that anti social behaviour is rife. Indeed, the British Crime Survey 2004 concurred that there is a perception that anti social behaviour is on the increase. Ten years ago, a quarter of those interviewed believed that vandalism was a big problem and now one in three feels the same way. In addition, one in three members of the public believes that teenagers hanging around are a real problem compared to one in five in the early 1990s.

REALITY

In fact the same British Crime Survey strongly suggests that the level of crime and disorder are decreasing. The risk of becoming a victim of crime is one in four, which is the same as in 1981. Offences involving violence, robbery, burglary, or theft from vehicles all show a 2% to 6% fall over the last ten years. Generally, crime rose between 1981 and 1993 at about 3% per annum. It levelled out between 1993 and 1995 and has shown year on year falls between 1996 and 2004. The only crime that has increased in recent years is violence against the person, which is partly to do with changes in recording methods and also because of an increase in alcohol fuelled offences. Home Office studies have said for thirty years that property crime increases during times of high employment and drink related disorder increases in more prosperous periods.

The latest statistics from January 2005 show that, in fact, offending was uncommon. It is highest amongst teenage males aged 14 years to 17 years and most of the offending is infrequent and not serious. However, the statistics do show that there is a small minority of highly prolific offenders who have a serious impact on crime rates. The study shows that one in a hundred offenders is serious and prolific. Severity of sentence has little effect on deterrence. What affects the likelihood of offending is the perception of the offender of his or her chances of being caught.

Again, contrary to public opinion, since Labour came to power in May 1997 the prison population has increased by 24% - a rise of 14,600. The number of offenders arrested, cautioned and appearing before the Courts has remained relatively constant and there

NEW LEFT POLICY MEETINGS

Co-sponsored by
THE SOCIALIST CAMPAIGN GROUP & THE NEW LEFT UNIONS

has not been any overall increase in the seriousness of the offences. Britain now has the highest incarceration rate of all European partners.

During the last decade sentencing has become more severe. In the Magistrates Courts, offenders are three times more likely to go to prison compared with ten years ago, and in the Crown Court jail is used twice as often. Domestic burglars are twice as likely to receive a custodial sentence as they were eight years ago. Sentence lengths have also increased. The average sentence length for burglars has increased from 16 to 18 months over the last eight years. The proportion of all offenders sentenced to jail in the Magistrates Courts has risen from 5% to 16% and from 46% to 64% in the Crown Courts.

Community penalties, far from being a soft option, now contain more additional requirements than ever before. There also has been a sharp increase in the numbers of persons taken back to Court for re-sentencing following a failure to comply with requirements. Persons placed on parole are far more likely than ever before to be recalled to custody by the Probation Service following a deterioration in their behaviour. There has also been an increase in the number of offenders in the community supervised by both the Police and Probation Service under intensive conditions.

The Government's definition of anti social behaviour is extremely vague and can include anything from criminal damage and vandalism to teenagers hanging around. Given the vagueness of the term there is no evidence to suggest either way that anti social behaviour is on the increase or decrease.

OVERVIEW

The Labour Government has continued to criminalise behaviour. Since it came to power over 700 new criminal offences have been created. The Government has tried to solve structural problems in the system with endless bureaucratic reorganisation. It has, for example, centralised Court Services through a programme of closures. It is now centralising aspects of Probation, Prison and Police functions. It has increased the involvement of private sector companies in justice despite the fact that there is no evidence at all that it actually improves the service.

A PROGRESSIVE AGENDA

A progressive Labour Government should fundamentally reorganise the criminal justice system, including the Police, Courts, Probation Service and Prisons on the basis of local, visible, accountable, democratic structures, which reflect local needs. It should then create effective, multi-agency co-operation, between all those agencies which research repeatedly shows is the most effective way of preventing crime, reducing re-offending and aiding resettlement. In addition, the Government should examine

NEW LEFT POLICY MEETINGS

Co-sponsored by

THE SOCIALIST CAMPAIGN GROUP & THE NEW LEFT UNIONS

whether drug use should be decriminalised and should in any event divert resources away from criminal justice and enforcement toward health and social services.

Home Office research shows that 55% of prisoners admit to committing crimes immediately prior to incarceration to feed drug addiction. The absence of proper treatment whilst in prison virtually ensures that these prisoners, on their release, will go back to drug abuse and within a short period of time will be back in jail. Research shows that between 100,000 and 200,000 criminally active drug users are responsible for half of acquisitive crime. It is estimated that the UK illegal drugs market is worth £6.6 billion per annum. In addition, an estimated £2.5 billion is lost in insurance claims each year.

A Labour Government should fundamentally base its criminal justice system on resettlement, rehabilitation and cost effective ways of preventing re-offending.

The key cornerstones of this policy should be:

1. Anti Social Behaviour

The Government has introduced the Anti Social Behaviour Order as a simple enforcement solution to what is, in reality, a complex problem. This is flawed. Anti social behaviour has deeply rooted social, economic and political origins. Tackling the root causes is a long-term challenge and must involve investment in the environment, education, health and social services. In the short-term many of the problems are not matters for the criminal justice system, they are more properly a matter for Environmental Health, Housing Departments, Social Services or Health Authorities. There needs to be rapid response from these agencies to perceived problems and a broader debate about investment in our neglected public services. A Labour Government should establish the correct ownership of the anti social behaviour problem and place it in the wider context of long-term community regeneration. Much of the running on anti social behaviour has been made by the Home Office. This sends out the wrong message and leads to the wrong solutions. It implies that anti social behaviour is a sub-category of crime and criminal justice, rather than of health, social services, environment and transport. Local Government, rather than the Home Office, should be at the centre of tackling anti social behaviour at a local level, with the Office of the Deputy Prime Minister tackling it nationally.

2. Policing

Policing should be community based and intelligence led. Government targets set for the Police should be realistic and not conflict with those of other criminal justice agencies. The number of priorities and targets need to be rationalised. There should be real local accountability to Boroughs and Local Authority Areas. Decisions to stop and search should be based on intelligence, the quality of the intervention and the outcome. Consideration should be given to encouraging all new police officers to spend

NEW LEFT POLICY MEETINGS

Co-sponsored by
THE SOCIALIST CAMPAIGN GROUP & THE NEW LEFT UNIONS

a minimum period of time in community liaison. The introduction of identify cards is likely to lead the Police into greater conflict with ethnic groups and should be scrapped. All contact with the same ethnic minority groups should be positively improved and indicators developed to maximise visible presence in the community.

3. Diversity

Labour needs to develop a strategic and comprehensive policy on the recruitment and retention of Black staff. It should form strategic alliances with Black community organisations. A willingness to counter discrimination and racism must come from the criminal justice leadership. A Labour Administration needs to understand why so many young Black people end up in the criminal justice system, particularly prisons, and take appropriate action to counter such discrimination.

4. Courts and Sentencing

The Government should reverse its policy of centralising the Courts, Probation, Prisons and the Police and instead make each accountable to local Boards that reflect local needs. The sentences passed by the Courts should be commensurate with the seriousness of the offence. Custody should be used as a last resort and reserved for the most serious violent or sexual crimes, or where the risk of harm to individuals is so great that no other sentence is appropriate. The criteria underlying sentences should be proportionality, consistency and effectiveness. All defendants should have a right to jury trial regardless of the complexity of the case against them.

In addition, the Courts should take into account the cost of the sentence they pass and the capacity of the system to supervise or incarcerate them. Sentences should not be based simply on exclusion or expulsion and should be non-discriminatory, and take into account the likelihood of the reducing re-offending and enhancing basic literacy and numeracy skills. Consideration should be given to reviewing the performance of each Magistrates Bench annually based on sentencing trends, outcomes and re-offending rates. Courts should be encouraged to list cases by the name of the victim as well as the defendant. There should be more use of video links to jails and more victim and witness suites. The Government should promote the use of the fine. Fines should be directly related to the disposable income of the defendant. The Fine Enforcement Service should continue to be properly publicly funded. The more the service is resourced the more the fines will be collected and paid.

5. Use of Custody

The purpose of imprisonment should be primarily based on the protection of the public and the seriousness of the offence. Programmes in prisons should be geared to encouraging prisoners to make different choices to those that led to crime. The

NEW LEFT POLICY MEETINGS

Co-sponsored by
THE SOCIALIST CAMPAIGN GROUP & THE NEW LEFT UNIONS

Government should try to limit the number of new offences with custodial tariffs that it creates. Nobody should be in prison in order to access mental health or drug rehabilitation treatment. Both of these services should be provided in a health or social services setting. The Government needs a far more ambitious target on custody than restricting the daily prison population to 80,000 by the end of the decade. A sustained fall in prison numbers is needed.

This could be achieved by:

- § The diversion of large numbers of less serious offenders from prosecution by conditional cautions, warnings and reprimands.
- § The diversion of others receiving short prison sentences on to community sentences.
- § The introduction of income related fines for low risk offenders.
- § A sharp reduction in the needless use of custodial remand - currently half of those remanded receive either a non-custodial sentence or are acquitted.
- § Ensuring that the Sentencing Guidelines Council is instructed to produce comprehensive guidance designed to reduce sentence lengths and to reduce the number of short-term prisoners.
- § The establishment of a clear political leadership to emphasise that sentencing is harsh and that prison is used too frequently.

6. Community Penalties

There is an urgent need for a Government led national programme to promote community penalties amongst the public and the Judiciary. The more information that is available the more the public and the Judiciary will have confidence. The statistics show that 44% of those placed on a community penalty re-offend within two years of the commencement of that order compared with 56% following discharge from jail. In addition, it currently costs in excess of £30,000 per year to jail someone, compared with £3,080 for supervising somebody in the community. An Intensive Supervision Order, which lasts up to 12 months, costs on average £7,300. Yet a privately run Curfew Order, reinforced by an electronic tag with no Probation supervision at all costs £6,570 per annum. The Government should also fund community penalties that have a direct impact on rehabilitation, re-offending and public protection. Tough community penalties for their own sake fail. 50% of receptions into prison in the US were for breach of parole or probation. In Britain the latest figures show that over 8,000 persons per annum are now sentenced to a period of custody for failing to obey the conditions of a community order and the return to custody for non-compliance with a parole licence has doubled in the last five years.

- § Judges and Magistrates should be encouraged to review cases where community penalties are imposed. Currently they only see the failures. The Government should also invest in restorative justice and mediation cases where there is a high level of victim and community confidence. The Government

NEW LEFT POLICY MEETINGS

Co-sponsored by
THE SOCIALIST CAMPAIGN GROUP & THE NEW LEFT UNIONS

should also invest in community programmes that enhance education, literacy and numeracy and preparation for work for all offenders and which reduce the likelihood of re-conviction. There should be a sharp increase in 1:1 support for offenders, particularly women.

7. Victims

The Labour Government should develop a comprehensive strategy for victims that demonstrates an understanding of their situation, puts them at the centre of the justice system and treats them with respect. This would include victim impact statements being taken seriously by the Police and the Courts; establishment of more victim and witness suites in Courts; and ensuring that restorative justice and reparation are cornerstones of the justice system. As a matter of urgency, the Government needs to examine why the number of convictions for rape has collapsed to an all time low of less than 6%. The culture of scepticism, which affects female victims of alleged serious sexual assault and rape, must be addressed in police training without delay.

8. Privatisation

All independent research into privatisation and the use of the Private Finance Initiative (PFI) in the criminal justice system shows that there is no added value. While research concedes that some of the practices in private jails is positive there is no evidence that it achieves any gains in effectiveness, efficiency or reduced reconvictions on release. What research does show is that staff can be up to 70% worse off in the private sector when all terms and conditions, including pensions, leaves, sickness arrangements and pay are taken into account. Staff turnover is ten times greater in the private sector.

In order to eliminate any further doubts the Government may have about the wisdom of its privatisation obsession, it should commission a proper evaluation of the real costs of PFI, market testing, contestability and privatisation. If this evaluation again shows that the privatisation exercise is not cost effective, that wages and terms and conditions are reduced, and that quality of service is not improved or is inferior, there should be an end to investment in such programmes.

Recent evidence from Scotland and from the experience of the Youth Justice Systems shows that it is clear that effective multi-agency co-operation between all the criminal justice agencies including the Police, the Crown Prosecution Services, the Courts, Prisons and Probation, is the most efficient way of preventing crime, reducing re-offending and stabilising the individuals involved. It is also clear that if the agencies are not properly resourced then multi-agency working is undermined. There are a number of multi-agency initiatives, introduced by the Labour Administration, that have been effective. Prominent amongst them is the Multi Agency Public Protection Panel (MAPPA) where agencies come together to supervise those offenders who pose a risk to the public. Similar initiatives could be used for those who are mentally ill, for

NEW LEFT POLICY MEETINGS

Co-sponsored by

THE SOCIALIST CAMPAIGN GROUP & THE NEW LEFT UNIONS

vulnerable young people, for women in the criminal justice system and for offenders from ethnic minority backgrounds.

CONCLUSION

Reform of the criminal justice system will be expensive. However, greater inter-agency co-operation will reduce the need for resources. Treating drug abuse as a health problem, rather than one that merits punishment and incarceration has the potential to save significant sums of money for investment in the infrastructure such as education, literacy, housing, parenting and other causes of crime. The Government needs to develop a long-term strategy for dealing with the problems that lead to young people becoming involved in criminal activity. Principally, these include exclusion from school, further education, employment, and integration in mainstream society. The main problem for the current Labour Administration is that it does not publicly recognise the need for such a strategy and instead prefers short-term initiatives such as curfews, anti social behaviour orders, crackdowns on various forms of crime which produce headlines, and no doubt win votes, but do not deal with the root causes of criminality.