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**EDITORIAL:**  
**YOUTH AND CRIME: CENTENNIAL REFLECTIONS**  
**ON THE CHILDREN ACT 1908**

***Kate Bradley, Anne Logan and Simon Shaw***<sup>1</sup>

**Introduction**

2008 marked the centenary of a landmark piece of Edwardian social legislation: the Children Act 1908. Although 100 years have elapsed since the passing of this Act, children and young people remain high on the political agenda. Recent years have also seen continuing, lively public debate about the role of children in contemporary society and the web of relationships between young people, parents, the adult community as a whole and, crucially, the State and other agencies. Shortly before this Introduction was written, the Labour Party announced at their 2009 conference new initiatives to tackle anti-social families and unsupported teenage mothers.<sup>2</sup> This followed a period in which intense concern was expressed by politicians and the media about the extent and consequences of 'knife crime' amongst teenagers in the major towns and cities of the United Kingdom, resulting in reports being made to the House of Commons and dedicated advice on this type of crime being issued to police forces.<sup>3</sup> These anxieties about the lives and habits of working class male youth living on the estates and in the inner city areas of British towns and cities had surfaced in the early 1990s, following the Jamie Bulger murder in 1993 and outrage over the

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<sup>2</sup> Gordon Brown, Speech to the 2009 Labour Party Conference, <http://www.labour.org.uk/gordon-brown-speech-conference>, viewed 7 October 2009

<sup>3</sup> Home Office, *Tackling Youth Knife Crime: Practical Advice for Police*, September 2009, <http://www.crimereduction.homeoffice.gov.uk/youth/youth087.htm>; Home Office, 'It Doesn't Have to Happen,' <http://www.crimereduction.homeoffice.gov.uk/stopknifecrime/index.htm>; House of Commons, Home Affairs Committee, *Knife Crime*. Seventh Report of Session 2008-9, June 2009, (HMSO, 2009), HC 112-1 <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/112/112i.pdf>

exploits of 'Ratboy,' Anthony Kennedy, from Tyneside, who 'terrorised' an estate by stealing from his neighbours in order to feed his drug habit.<sup>4</sup>

Concerns have also been expressed about the welfare of children and young people, often as a means of trying to prevent social problems in later life as a benefit for individuals and society as a whole. *Every Child Matters*, introduced in 2003 in the wake of the death of Victoria Climbié, an eight year old girl killed while in the care of her aunt and her boyfriend, outlined an ambitious governmental commitment to providing children with an emotionally, physically and economically stable start to life.<sup>5</sup> The 'Baby P' case, a story which unfolded in the media in the course of 2008 and 2009, reignited concerns about parenting and the responsibilities of social services departments.<sup>6</sup>

The articles in this special issue were presented at a conference held at the University of Kent in the summer of 2008.<sup>7</sup> The aim of this event was to use the centenary of the Act as a point of reflection upon the continued impact of this piece of legislation in the first decade of the twentieth century and since. The Act and its successors must be considered by those working on or in criminal justice and public welfare in the British Isles. Youth justice serves as a laboratory for the criminal justice system as a whole to try out new ideas, and the 1908 Act can be seen as instigating this dynamic. The fundamental principles of the Act – specialised criminal and civil treatment of the young by the law, measures to uphold child welfare and restrictions on detrimental influences – continue to form the cornerstone of British youth justice and welfare policies. Our objectives were to map the continuities and changes in the criminal justice and welfare systems with regard to children and young people, and to deepen our understanding of this multifaceted Act. The Children Act introduced a number of measures, of which one of the most prominent was the formal establishment of the juvenile or youth courts (Part Five). These institutions are examined in the two articles by Kate Bradley and Anne Logan, who look respectively

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<sup>4</sup> Victoria Simmond, 'Rat Boy finds God,' *Sunday Mirror*, 3 June 2007, viewed at <http://www.mirror.co.uk/sunday-mirror/2007/06/03/rat-boy-finds-god-98487-19238256/> 7 October 2009

<sup>5</sup> Department for Children, Schools and Families, *Every Child Matters*, <http://www.dcsf.gov.uk/everychildmatters/> viewed 7 Oct 2009. The original *Every Child Matters* green paper and *Every Child Matters: Change for Children* can be found here: <http://www.dcsf.gov.uk/everychildmatters/about/background/background/>

<sup>6</sup> Online media coverage of this case abounds: see the Society Guardian resource pages on Baby P, accessible here: <http://www.guardian.co.uk/society/baby-p> viewed 7 Oct 2009

<sup>7</sup> See Kate Bradley, 'Report Back: The Children Act 1908: Centennial Reflections, Contemporary Perspectives, University of Kent 30 June-1 July 2008,' *History Workshop Journal* 68 (2009) 303-5

at the daily functioning of a juvenile court and the social and political networks that the juvenile court magistracy drew upon for its personnel and its inspiration. The Act also prevented children from being sent to prison, while blurring the distinctions in function between reformatory and industrial schools (Part Four). Under Parts One and Two, another major function of this legislation was its streamlining of child welfare procedures, and particularly measures to prevent the practice of 'baby farming,' or the boarding out to strangers of infants whose biological parents would or could not look after them, as well as empowering health visitors and NSPCC inspectors to supervise children and their families. It also introduced the registration of foster parents – themes developed in Daniel Grey's article, which examines the changes in the ways in which prosecutions for infanticide were handled after the Act was passed. Imogen Lee continues the theme of the formalisation of care structures for children and young people, through a case study of schools for disabled children in London in the period 1908-1918. Finally, Stella Moss considers the way in which the Act sought to limit 'bad' influences on the young through the restriction of sales of alcohol and tobacco to minors – covered under Parts Six and Three of the Act respectively.<sup>8</sup> This discussion traces the historical context of the Act, before considering a number of important factors in its development – voluntarism, the professionalization of social work and other areas open to women, the administrative turn in English justice and the growth of the academic disciplines of child psychology and criminology. Finally, it will reflect on the impact of the Children Act on youth justice practice in the twenty-first century.

## **1 The Children Act 1908 in Historical Context**

The Children Act 1908 marked the convergence of a number of themes and currents in nineteenth century Western societies. By extending legal protections for the welfare of the young, it spoke to longer concerns about the ways in which children were treated by their parents within the domestic sphere and shifting notions of the role of the state in family life. By introducing the juvenile courts, it engaged with sustained developments in the fields of summary jurisdiction and paradigmatic shifts in how a wide range of offences were viewed by the magistracy and by society. Through treating childhood and adolescence as distinct and special periods in the

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<sup>8</sup> For commentary on the Act itself, see William Clarke Hall and Arnold Petty, *The Children Act, 1908: Being the Third Edition of the Law Relating to Children* (Stevens, 1909). For an extended discussion of the various Parts of the Act, see Harry Hendrick, *Child Welfare, England 1872-1989* (Routledge, 1994) pp.121-6

life-course, the Act tapped into the growing fields of child psychology and psychiatry, anthropology and criminology.<sup>9</sup> These views gradually insinuated themselves into mainstream thinking about childhood, providing what has been seen as a foundation for the so-called 'century of the child' after 1900. Mid to late nineteenth century reformers shared a belief that children were inherently different to adults and needed special treatment, be that in removing them from dangerous jobs in industry, through the Factory Acts, or evolving alternative punishments for them, namely the Youthful Offenders Acts. It also involved a view that children needed to be given an elementary education (Education Act 1870), and that they should be accorded rights rather than being seen as the chattels of their parents or guardians (see Children Act 1889). Children's misbehaviour was increasingly viewed as the result of parental poverty and neglect, and thus ultimately recoverable.

The Children Act 1908 was first and foremost a part of the pantheon of social legislation passed by the Liberal Party following their landslide election victory in 1906. The Liberal Governments passed a series of new laws introducing school meals (1906), school medical inspections (1907), old age pensions (1908), labour exchanges and trades boards (1909), unemployment and sickness cover under the National Insurance Act (1911), as well as others concerning employment and workplace rights.<sup>10</sup> These Acts were innovative insofar as they introduced or formalised state intervention in a number of key areas of social need, but the issues they tackled were major concerns for Victorian social reformers. Childhood was a particular source of anxiety, in the UK and elsewhere in the West: working-class children in particular caused concern, as future workers and voters. Attention was paid to their health, their welfare and their education in order to equip them for their potential adult lives, of which the 1904 *Report of the Inter-Departmental Committee on Physical Deterioration* was a notable embodiment.<sup>11</sup>

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<sup>9</sup> See Marijke Gijswijt-Hofstra and Hilary Marland, (eds.) *Cultures of Child Health in Britain and the Netherlands in the Twentieth Century* (Amsterdam, New York: Rodopi, 2003); William Llewellyn Parry Jones, 'The History of Child and Adolescent Psychiatry: Its Present Day Relevance,' *Journal of Child Psychology and Psychiatry* 30:1 (1989); Christopher J. Wardle, 'Twentieth-Century Influences on the Development in Britain of Services for Child and Adolescent Psychiatry,' *British Journal of Psychiatry* 159 (1991); Dora Black, 'A Brief History of Child and Adolescent Psychiatry,' in Dora Black and David Cotterell (eds.) *Seminars in Child and Adolescent Psychiatry* (London: Royal College of Psychiatrists, 1993)

<sup>10</sup> See J. R. Hay, *The Origin of the Liberal Welfare Reforms 1906-14* (Palgrave, 1983), Michael Freedon, *The New Liberalism: An Ideology of Social Reform* (Oxford University Press, 1978)

<sup>11</sup> Parliamentary Papers, *Report of the Inter-departmental Committee on Physical Deterioration* (London: HMSO, 1904) Cmd. 2175

Examination of the various dimensions of the Children Act 1908 reveals the complexities surrounding the formation and delivery of the policies for young people's welfare. As all the articles here demonstrate, the elements of the Act were generated by networks of practitioners and campaigners, whose activities crossed back and forth across national boundaries, between charities, pressure groups, local government and the political parties. The activities outlined took place in what Hubert Llewellyn Smith in 1937 termed the 'borderland' between the public and the charitable;<sup>12</sup> that liminal space in which volunteers and charitable organisations undertook responsibilities on behalf of the state. In the case of youth and child welfare and justice, this meant the recruitment of social work experts who had gained their experience in charitable endeavours serving as juvenile court magistrates.<sup>13</sup> Probation officers were variously employed by the courts or by the Police Court Missions.<sup>14</sup> Voluntary agencies – such as the National Society for the Prevention of Cruelty to Children – took on the surveillance and prosecution of families, in place of or in tandem with local government and the police, an early echo of Geoffrey Pearson's denotation of the patterns of inter-agency work in recent decades.<sup>15</sup> Reformatory and industrial schools were run by charities and religious organisations, such as the Church of England Children's Society, as were many children's homes – Barnardo's were and remain a large player in this area.<sup>16</sup> The Act also exposed the importance of gender and class in the experience of the youth welfare and justice system. Most of the children and young people who encountered the system in its various forms were from working class backgrounds; school teachers, probation officers and social workers came from across the broadest range of the middle classes, and magistrates, of course, had the most resolutely affluent backgrounds. Gender shaped the ways in which children were treated, in terms of how their

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<sup>12</sup> Hubert Llewellyn Smith, *The Borderland Between Public and Voluntary Action in the Social Services* (Oxford University Press, 1937). See also Geoffrey Finlayson, 'A Moving Frontier: Voluntarism and State in British Social Welfare, 1911-1949,' *Twentieth Century British History*, 1 (1990) 183-206

<sup>13</sup> See Victor Bailey, *Delinquency and Citizenship: Reclaiming the Young Offender 1914-48* (Clarendon, 1987); Kate Bradley, *Poverty, Philanthropy and the State: Charities and the Working Classes in London, 1918-1979* (Manchester University Press, 2009)

<sup>14</sup> For the history of the probation service, see F.V. Jarvis, *Advise, Assist and Befriend: A History of Probation and After-Care Service* (National Association of Probation Officers, 1972); Dorothy Bochel, *Probation and After-Care, Its Development in England and Wales* (Scottish Academic Press, 1976); Maurice Vanstone, *Supervising Offenders in the Community: A History of Probation Theory and Practice* (Ashgate, 2004); Philip Whitehead and Roger Statham, *The History of Probation: Politics, Power and Cultural Change* (Shaw, 2006)

<sup>15</sup> See NSPCC, *A Pocket History of the NSPCC*, (NSPCC, 2004) p.8; also Geoffrey Pearson, *The Delinquent Imagination* (Macmillan, 1975)

<sup>16</sup> See June Rose, *For the Sake of the Children: Inside Dr Barnardo's, 120 Years of Caring for Children* (Hodder and Stoughton, 1987)

offences were constructed, their potential to be harmed or corrupted, and the possibility of their reform. Middle class women also found work with children served as an outlet for activities in the public arena, and a means of carving out careers and gaining professional expertise during a time in which women's rights were limited.

### ***The Voluntary Impulse***

As outlined above, the philanthropic or voluntary impulse was critical to the development of juvenile justice. The state expanded in the course of the nineteenth century but not without reliance upon philanthropic funding and voluntary efforts. Volunteers performed state functions, such as serving as a magistrate or on a Board of Guardians; charities and networks of activists provided a locus for campaigning for change. Jonathan Simon has described this process of voluntary participation in the justice system in the US context as 'governing through crime': a means for the middle and upper classes to exert control over the working classes and other 'deviant' groups.<sup>17</sup> There is a high degree of similarity with the British case. Although much of the expansion of volunteering and philanthropic activity in the nineteenth and early twentieth centuries fits with Jürgen Habermas' model of the creation of the public sphere, this model needs tweaking if it is to reflect the evidence.<sup>18</sup> Simon's notion of governing through crime – and we would add governing through welfare – provides a complementary explanation.

This expanding sphere of action for women and the state has been explored by a number of historians, from a variety of perspectives. Martha Vicinus' earlier work on the experiences of single women in carving out physical and social space for them to live and function professionally has had a major impact on this area of research.<sup>19</sup> Likewise, Frank Prochaska's early work on women and philanthropy in nineteenth century England provided a framework for understanding the ways in which women could use charitable endeavours on behalf of such 'suitable' groups as needy

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<sup>17</sup> Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (Oxford University Press, 2007)

<sup>18</sup> Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. T. Burger and F. Lawrence (Cambridge University Press, 1989)

<sup>19</sup> See Martha Vicinus, *A Widening Sphere: Changing Roles of Victorian Women* (Methuen, 1980), and *Independent Women: Work and Community for Single Women, 1850-1920* (Virago, 1985)

children as a means of effecting social change and empowering themselves.<sup>20</sup> This topic has been significantly furthered by Seth Koven and Sonya Michel, whose work on 'maternalism' opened up consideration of women's activism and its role in the creation of welfare states from the later nineteenth century in the US, the UK and Europe.<sup>21</sup> Gender has also played a major role in the 'revisionist' interpretations of the history of the welfare state. Such interpretations, put forward in particular by Pat Thane and Jane Lewis, have complicated the inevitability of the welfare state as something growing inexorably out of Victorian and Edwardian social reforms. Thane in particular has drawn attention to the complexities of women's networks,<sup>22</sup> while Lewis introduced the concept of the mixed economy of welfare as a means of describing the interrelationships between the state, voluntary and private sector agencies.<sup>23</sup> Questions around the public sphere and citizenly engagement retain their importance as the current government and opposition continue to involve the voluntary or 'third' sector heavily in the provision of the welfare state and other social goods. By reconsidering the complexities of the national and international networks around the formation of juvenile justice and welfare policies at the turn of the twentieth century, we can bring different perspectives to bear on current debates around the role of volunteers and voluntary agencies in the fields of welfare and justice. It also serves as a reminder that justice – and particularly summary justice – is very much a part of the broader social system, and not a practice in isolation.

### **Professionalization**

The historical development of criminal justice agencies and social work also needs to be placed in the context of the history and sociology of work and of professionalization. Once more gender is a highly relevant factor: while the pre-1900 criminal justice workforce (in the police, for example) was exclusively or predominately male, welfare-orientated legislation like the Children Act legitimised a

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<sup>20</sup> F. K. Prochaska, *Women and Philanthropy in Nineteenth-Century England* (Oxford: Clarendon Press, 1980)

<sup>21</sup> Seth Koven and Sonya Michel, 'Womanly Duties: Maternalist Politics and the Origins of Welfare States in France, Germany, Great Britain and the United States 1870-1920,' *American Historical Review* 95(4), (1990); Koven and Michel (eds.) *Mothers of a New World: Maternalist Politics and the Origins of Welfare States* (Routledge, 1993)

<sup>22</sup> Pat Thane, 'Women in the British Labour Party and the Construction of State Welfare 1906-1939' in Koven and Michel (eds.) *Mothers of a New World*, pp.343-77; 'Women, Liberalism and Citizenship, 1918-1930' in Eugenio Biagini (ed.) *Citizenship and Community: Liberals, Radicals and Collective Identities in the British Isles, 1865 – 1931* (Cambridge University Press, 1996); also *Foundations of the Welfare State* (Longman, 2<sup>nd</sup> edition 1996)

<sup>23</sup> See especially Jane Lewis, *Women and Social Action in Victorian and Edwardian England* (Edward Elgar, 1991), also *The Voluntary Sector, the State and Social Work in Britain: The Charity Organisation Society/Family Welfare Association since 1869* (Edward Elgar, 1995)

variety of new occupations for women in the public sphere, both as volunteers and in a professional capacity. The Infant Life Protection Officers discussed in Daniel Grey's paper provide an excellent example. Feminist scholars maintain that women social workers of the late nineteenth and early twentieth centuries have been unfairly represented as interfering, middle class 'child-savers': Linda Gordon noted in her study of social work in Boston that women actively contested the 'Lady Bountiful' stereotype, preferring instead to accentuate the 'scientific' basis of their practices.<sup>24</sup> In Britain too, there was a clear desire for professionalism exemplified by the establishment of social work training courses in the late nineteenth and early twentieth centuries, such as those organised by the Women's University Settlement and the London School of Economics. The 'professional' ethic even affected the work of justices of the peace (the volunteer magistrates who dealt with most of the cases brought against children after 1908), discussed in this volume by both Kate Bradley and Anne Logan.

Professionalization also inevitably led to the formation of associations and interest groups who followed up legislation with campaigns for further reform. Although, as Bradley demonstrates, probation was not at first as popular a disposition with magistrates as it later became, probation officers were employed in increasing numbers and by 1912 had formed a National Association (NAPO), which continues its lobbying activities to this day by seeking to '[exert] influence on the Government, the Opposition, the executive and public opinion.'<sup>25</sup> Lee's paper reveals that local authorities could also be active lobbyists when Bills that concerned them were before Parliament, while Moss' article reveals the key role played by commercial interests in the form of brewers' trade associations in the ongoing debate about children, parents and alcohol.

The voluntary sector too, which provided many of the reformatories and industrial schools of the era, was not without representation in the corridors of power: as early as the 1840s the reformatory pioneer, Mary Carpenter, was called upon to advise Parliamentarians. The NSPCC took up this role later in the century, being instrumental in campaigning for the passing of the 'Children's Charter' in 1889, which introduced a range of protections for children.<sup>26</sup> Moreover, in the early twentieth

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<sup>24</sup> Linda Gordon, *Heroes of their Own Lives, the Politics and History of Family Violence: Boston 1880-1960* (Virago, 1988) p.62.

<sup>25</sup> NAPO <http://www.napo.org.uk/about.shtml>, accessed 30 Sept 2009

<sup>26</sup> NSPCC, *A Pocket History*, pp.7-8

century a range of 'cause' pressure groups devoted themselves to campaigning over issues that affected children in trouble, including the Humanitarian League (which concerned itself with corporal punishment), the Howard League for Penal Reform and the State Children's Association. As Logan's article reminds us, the development of youth justice policies and practices in the twentieth century owes a great deal to such campaign organisations and the networks they formed with like-minded groupings. Only by researching these networks – and the key individuals within them – can we achieve a fuller understanding of the trajectory of policy over the century since 1908. Professionalization, therefore, inevitably led to the formation of associations and interest groups who followed up legislation with campaigns for further reform. Several papers in this collection remind us that the Children Act set in train further debates over the role and treatment of young people.

### ***The Administrative Turn?***

The evolution of summary justice and the role of the courts in Victorian and Edwardian England is a vital backdrop to the articles presented here. As Radzinowicz and Hood have outlined in their history of English criminal law, the nineteenth century witnessed a major overhaul of the justice system and the functioning of the courts.<sup>27</sup> The police and the magistracy came to play a far greater role in the justice system. Police forces were set up in towns and cities from 1835 and in the countryside from 1839. A series of Acts – the Larceny Act 1827, the Juvenile Offenders Act 1847 and the Criminal Justice Act 1855 – transferred more work from the Assizes and Quarter Sessions courts, presided over by judges and using juries, to the Petty Sessions, which were overseen by Justices of the Peace (JPs). Outside of London, JPs were male volunteers from the gentry and middle classes who were untrained in law but seen to be qualified on account of their social status.<sup>28</sup>

Radzinowicz and Hood argue that this gradual process of changing the work of the courts was a process intended to first remove juvenile offenders from the higher courts and to lessen the severity and the type of the penalties that could be applied to them, and then later to apply the same principles to adults.<sup>29</sup> While this

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<sup>27</sup> Leon Radzinowicz and Roger Hood, *The Emergence of Penal Policy in Victorian and Edwardian England*, vol. 5, *A History of English Criminal Law and Administration from 1750* (Clarendon Press, 1990)

<sup>28</sup> John Briggs et al., *Crime and Punishment in England: An Introductory History* (UCL Press, 2001) p.221

<sup>29</sup> Radzinowicz and Hood, *Emergence of Penal Policy*, pp.618-22

undoubtedly provided the legal environment in which the juvenile courts could be created by the start of the twentieth century, we should not overlook the contributions of growing philanthropic interests and networks and the power of the state more generally. Martin J. Wiener has attributed this 'administrative turn' in the justice system to increasing interest in the social sciences and a rethinking of the causes of crime and refreshing the ways in which offenders should be treated, alongside a growth in the powers of the state.<sup>30</sup> The quintessentially mid-Victorian prison was increasingly perceived to be a failure by the 1890s and Liberal governments in particular were searching for dedicated criminal justice institutions that could serve the needs of specific groups of offenders more successfully. However, that these changes were slow in arriving should not be forgotten. Wiener also reminds us that the provisions in the Children Act which were aimed at removing children and young persons wherever possible from prisons, together with the Prevention of Crime Act 1908 (which legitimised the use of borstals as places for detention of young offenders) and the Probation of Offenders Act 1907, were all based on policies recommended over a decade earlier.<sup>31</sup>

### ***Academic discipline***

The growth of the academic disciplines in the nineteenth century also had an important bearing on attitudes towards crime in general, but particularly on how the crimes of the young should be dealt with. Learned societies had an important role to play in both supporting and disseminating knowledge and theory, especially across national boundaries. The international Criminal Anthropology conferences of the 1880s and 1890s were one such example of this, bringing Cesare Lombroso's work on the physical attributes of criminal 'types' to wider audiences beyond Italy.<sup>32</sup> Likewise, the growth of child psychology and psychiatry from the 1880s onwards provided both academic and popular audiences with a means of rethinking the ways in which children could best be brought up. The Child Study Movement of the 1890s encouraged parents to observe the psychological development of their children, while others read the works of James Sully and Stanley Hall, who were respectively major figures in British and American child psychology.<sup>33</sup> The findings of psychologists,

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<sup>30</sup> Martin J. Wiener, *Reconstructing the Criminal: Culture, Law and Policy in England, 1830-1914* (Cambridge University Press, 1994) pp. 257-60

<sup>31</sup> Wiener, *Reconstructing the Criminal*, p. 379. Part V of the Children Act prohibited the imprisonment of children under 14 and circumscribed the incarceration of 14 and 15 year olds. It also abolished the death penalty for children and young persons.

<sup>32</sup> Kate Bradley, 'Cesare Lombroso,' in Keith Hayward, Shadd Maruna, and Jayne Mooney (eds.) *Fifty Key Thinkers in Criminology* (Routledge, 2009)

<sup>33</sup> Hendrick, *Child Welfare*, pp.33-5

psychiatrists and criminologists increasingly found their way into the reformist literature, and thus began to shape the ideas of those working with children and young people through charitable endeavours, schools or the courts, as Bradley's article demonstrates. While these various disciplines served to inform the practice of those working with children and young people, their divergent recommendations also became sites of conflict. Indeed, 'childhood' as a concept became a source over which many formal agencies (such as social workers and psychiatrists) would battle for control throughout the 1950s and 1960s.<sup>34</sup> Certainly, the history of juvenile justice is littered with competing bodies of knowledge about this delinquent group, with agencies coming into conflict at various times over claims to expertise.<sup>35</sup>

## 2 Contemporary Perspectives

One of the more recent reforms to the operation of the youth justice system has been to enjoin all those agencies with an interest in the criminal behaviour of young people to work together in a more uniform way. Couched in the modern language of a 'joined-up' approach to working, such inter-agency collaborations are presented as being progressive and novel. The reality, however, is somewhat different. The notion of agencies working together across (and beyond) the criminal justice system is by no means new,<sup>36</sup> despite the fact that the demand for such organisations has accelerated since the 1980s.<sup>37</sup>

The Labour Party made the transformation of the youth justice system one of their key manifesto pledges during the 1997 general election campaign.<sup>38</sup> In the wake of a scathing review of the youth justice system by the Audit Commission which identified major inefficiencies and wastage in the functions of youth justice,<sup>39</sup> the Labour Party sensed that it was an opportune moment to seize the initiative on youth crime and disorder.<sup>40</sup> They proposed sweeping reforms to the youth justice system, which included halving the time between arrest and sentencing for persistent young

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<sup>34</sup> Pearson, *The Deviant Imagination*

<sup>35</sup> Heather Shore, 'Re-inventing the Juvenile Delinquent in Britain and Europe, 1650-1950' in Pamela Cox and Heather Shore (eds.) *Becoming Delinquent: British and European Youth, 1650-1950* (Ashgate, 2002)

<sup>36</sup> Walter B. Miller, 'Inter-Institutional Conflict as a Major Impediment to Delinquency Prevention,' *Human Organization* 17 (1958) 20-3

<sup>37</sup> Adam Crawford, 'The Partnership Approach to Community Crime Prevention: Corporatism at the Local Level,' *Social & Legal Studies* 3 (1994) 497-519

<sup>38</sup> The Labour Party *New Labour Because Britain Deserves Better* (Labour Party, 1997)

<sup>39</sup> Audit Commission *Misspent Youth: Young People and Crime* (Audit Commission for Local Authorities, 1996)

<sup>40</sup> Jack Straw and Alun Michael *Tackling Youth Crime: Reforming Youth Justice – A Consultation paper on an Agenda for Change* (Labour Party, 1996)

offenders, the introduction of restorative measures into the youth justice arena and a radical restructuring of those agencies involved in the administration of youth justice under premise of 'modernising' the system.<sup>41</sup> The new 'inter-agency' Youth Offending Teams (YOTs)<sup>42</sup> became the engine which drove through the reforms once the Labour Government took office. While New Labour has promoted the development of YOTs as a new and innovative idea,<sup>43</sup> there has been a long-standing advocacy of its use within youth justice. As long ago as 1925 Burt suggested that

all who come into official contact with the child should be working hand in hand, not only with each other, but with all the clubs, societies, and agencies, voluntary as well as public, that seek to better the day-to-day life of the child.<sup>44</sup>

More recently, Pratt has alerted us to the fact that inter-agency co-operation had been 'a regular feature of most local juvenile justice systems'<sup>45</sup> and such informal networks were, by-and-large, already the trademark of localised youth justice prior to the advent of the Crime and Disorder Act 1998.<sup>46</sup> Thus, the originality of the YOT lies in its emergence at a particular historical juncture, rather than in the structure of the organisation. Indeed, as Kate Bradley's article demonstrates, this more holistic approach to juvenile justice echoes many of the same debates which were being voiced in the juvenile courts of the interwar period.

In many respects, the passage of the Children Act 1908 reified ideological and moral beliefs about children who found themselves in trouble with the law. It provided a philosophical touchstone upon which many of the developments within the realm of youth justice were built. However, the century since the creation of the juvenile court has witnessed many a twist and turn on the path of youth justice. The journey has frequently taken it far from its conceptual roots. Indeed, at times the landscape of youth justice has become unrecognisable from that envisaged by the Children Act, and this is particularly true of the last 20 years. The laudable ideal that the welfare of

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<sup>41</sup> Eugene McLaughlin, John Muncie and Gordon Hughes, 'The Permanent Revolution: New Labour, New Public Management and the Modernization of Criminal Justice' *Criminology and Criminal Justice* 1 (2001) 301-18

<sup>42</sup> These inter-agency consist of members of the police, social services, probation, health and education services

<sup>43</sup> Home Office, *No More Excuses: A New Approach to Tackling Youth Crime in England and Wales*, 1997, <http://www.homeoffice.gov.uk/documents/jou-no-more-excuses?view=Html> 8 October 2009

<sup>44</sup> Cyril Burt, *The Young Delinquent* (University of London Press, 1925) p.610

<sup>45</sup> John Pratt, 'Corporatism: The Third Model of Juvenile Justice,' *The British Journal of Criminology* 29 (1989) pp.236-54; pp. 241-242

<sup>46</sup> Barry Goldson, 'Wither Diversion? Interventionism and the New Youth Justice' in Barry Goldson (ed.) *The New Youth Justice* (Lyme Regis, 2000)

the child should be central to the operation of the youth justice system has slowly ebbed from sight, as the ravages of both 'populist punitiveness'<sup>47</sup> and the politicisation of youth crime<sup>48</sup> have taken their toll on the administration and practice of youth justice.

Muncie argues that this 'punitive turn' in juvenile justice is not an isolated occurrence in England and Wales, but rather it is part of a broader global trend that affects countries in America and Western Europe in different ways.<sup>49</sup> Such consequences of this disciplinary shift are clearly evident in the current Government's fascination with anti-social behaviour and their passion for 'dispersal orders,'<sup>50</sup> rising juvenile incarceration rates,<sup>51</sup> and the arsenal of techniques and tools in the fight against youth crime. These frequently use the language of prevention, restoration and social inclusion, but mask something much more authoritarian.<sup>52</sup> For example, the creation of parenting orders under section 8 Crime and Disorder Act 1998 was developed to specifically address the deficiencies in the parenting styles of those whose children had committed offences. The implication was that the inability of these parents to adequately fulfil their duties had (directly or indirectly) led to their children's offending behaviour. Such requirements resonate strongly with the care and protection provisions of the Children Act 1908. These elements of the legislation are addressed by both Daniel Grey's and Stella Moss' articles in this volume, which provide a fascinating account of the way that such legislation was enacted in practice. Moreover, Kate Bradley's article directly addresses the enduring fascination with parental actions and the need for other organisations to intervene if parents were

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<sup>47</sup> Anthony Bottoms, 'The Philosophy and Politics of Punishment and Sentencing' in Christopher Clarkson and Rod Morgan (eds.) *The Politics of Sentencing Reform*, (Clarendon, 1995) pp.17-49, esp. pp.39-41; Tim Newburn, 'Tackling Youth Crime and Reforming Youth Justice: the Origins and Nature of 'New Labour' Policy,' *Policy Studies* 19 (1998) 199-212; Tim Newburn, 'The Contemporary Politics of Youth Crime Prevention' in John Muncie, Gordon Hughes and Eugene McLaughlin (eds.) *Youth Justice: Critical Readings* (Open University Press, 2003); John Pratt et al. (eds.) *The New Punitiveness: Trends, Theories, Perspectives* (Willan, 2005); John Pratt, *Penal Populism* (Routledge, 2007)

<sup>48</sup> John Pitts, *The Politics of Juvenile Crime* (Sage, 1988); John Pitts, *The New Politics of Youth Crime: Discipline or Solidarity?* (Russell House, 2003)

<sup>49</sup> John Muncie, 'The "Punitive Turn" in Juvenile Justice: Cultures of Control and Rights Compliance in Western Europe and the USA,' *Youth Justice* 8 (2008) 107-21; for a more general discussion of this across all sectors of the justice system, see David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press, 2001)

<sup>50</sup> See Adam Crawford, 'Criminalizing Sociability through Anti-social Behaviour Legislation: Dispersal Powers, Young People and the Police,' *Youth Justice* 9 (2009) 5-26

<sup>51</sup> Barry Goldson 'Child Incarceration: Institutional Abuse, the Violent State and the Politics of Impunity,' in Phil Scraton and Jude McCulloch (eds.) *The Violence of Incarceration* (Routledge, 2009)

<sup>52</sup> See John Muncie and Barry Goldson, 'England and Wales: The New Correctionalism,' in John Muncie and Barry Goldson (eds.) *Comparative Youth Justice* (Sage, 2006) pp.34-47

seen not to be fulfilling their moral obligations in this role, themes also developed by Lee. Controversies regarding parenting continue unabated in both popular<sup>53</sup> and academic<sup>54</sup> discourses.

One of the consequences of the developments in the arena of youth justice has been to increase the levels of responsibility and culpability for adolescents, thereby altering our conceptions about what it means to be a child or young person<sup>55</sup> and exacerbating their 'status ambiguity'.<sup>56</sup> Many of the recent reforms concerning youth justice have denounced the legal privileges of 'childhood' status of young people and raised the level of responsibility ascribed to them. Commentators have labelled this process 'dejuvenilisation'<sup>57</sup> and 'adulteration',<sup>58</sup> and it can be seen in its purest form in the abolition of the principle of *doli incapax*, the idea that there is an age below which humans are incapable of committing crimes.<sup>59</sup> The public response to the young boys (Robert Thompson and Jon Venables) who murdered James Bulger in 1993 had major implications for the process of 'dejuvenilisation,' and contributed to what Jenks describes as a 'conceptual eviction,' a process in which the 'childhood' status of young offenders is replaced with that of an 'adult child'. These delinquents come to be viewed in the context of evil and pathology, and no longer deserving of legal safeguards.<sup>60</sup> Such notions stand in stark contrast to the intentions of the Children Act and this somewhat mars the celebration of its centenary.

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<sup>53</sup> Fiona McIntosh, 'Blame the Parents for these Evil Monsters,' *Daily Mirror*, 6 September 2009, viewed at <http://www.mirror.co.uk/news/columnists/mcintosh/2009/09/06/blame-the-parents-for-these-evil-monsters-115875-21650350/> 8 October 2009

<sup>54</sup> Patricia McKinsey Crittendon, *Raising Parents: Attachment, Parenting and Child Safety* (Willan, 2008)

<sup>55</sup> John Pitts, 'Korrectional Karaoke: New Labour and the Zombification of Youth Justice,' *Youth Justice* 1 (2001) pp.3-16; John Muncie, 'Institutional Intolerance: Youth Justice and the 1998 Crime and Disorder Act,' *Critical Social Policy* 19 (1999) 147-75; Barry Goldson, 'New Labour, Social Justice and Children: Political Calculation and the Deserving-Undeserving Schism,' *British Journal of Social Work* 32 (2002) 683-95

<sup>56</sup> John Coleman, Liza Catan and Catherine Dennison, 'You're the Last Person I'd Talk To,' in Jeremy Roche et al. (eds.) *Youth in Society* (Open University Press, 2<sup>nd</sup> edition 2004)

<sup>57</sup> John Pitts, 'The New Correctionalism: Young People, Youth Justice and New Labour,' in Roger Matthews and John Pitts (eds.) *Crime, Disorder and Community Safety* (Routledge, 2001)

<sup>58</sup> John Muncie, *Youth and Crime* (Sage, 3<sup>rd</sup> edition 2009)

<sup>59</sup> Sue Bandalli, 'Children, Responsibility and the New Youth Justice,' in (ed.) Barry Goldson *The New Youth Justice* (Russell House Publishing, 2000)

<sup>60</sup> Chris Jenks, *Childhood* (Routledge, 2005); Michael G. Wyness, *Contesting Childhood* (Falmer Press, 2000); also Bob Franklin and Julian Petley, 'Killing the Age of Innocence: Newspaper Reporting of the Death of James Bulger,' in Jane Pilcher and Stephen Wagg (eds.) *Thatcher's Children? Politics, Childhood and Society in the 1980s and 1990s* (Falmer, 1996) pp.134-54

Youth justice currently stands at an important juncture. Indications suggest that it will follow its Probation Service sibling down the road of offender management and that it will transform into something akin to the National Offender Management Service. The welfare of children and young people seems somewhat absent from the contemporary obsession with 'risk managing' young offenders. The tiered approach to youth justice (to be known as the *Scaled Approach* and due to be launched in November 2009)<sup>61</sup> is concerned only with assessing and managing the risk posed by the young person, and deciding the level of intervention needed. There is little consideration of any welfare needs that may be pertinent. However, Anne Logan's paper argues that the ideological perspectives of particular groups helped to shape the development of the juvenile court. In a similar vein, there is strong reason to believe that deeply-held principles of contemporary youth justice practitioners will inform their practice.<sup>62</sup> There is sufficient discretion involved in the working life of the youth justice practitioner to allow policy to be interpreted and mediated through their working credos.<sup>63</sup> The danger, however, is that youth justice workers may exploit the assessment procedure to artificially raise the assessed risk posed by the young person, simply to secure and address any welfare needs that the child may have.<sup>64</sup>

Furthermore, the welfare considerations of children and young people with which the 1908 Children Act seemed so preoccupied take on a much more clinical and vacant meaning in the contemporary 'prevention' discourses. Many of the correlates associated with youth crime have come to have a standing of authority and certainty among policy-makers and they coalesce nicely with the increasingly managerial emphasis on 'evidence-based research'.<sup>65</sup> The fashionable neo-positivistic claims of the 'Risk Factor Prevention' paradigm<sup>66</sup> look set to remain in the ascendancy for the

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<sup>61</sup> See Youth Justice Board, *The Scaled Approach and the Youth Rehabilitation Order* (YJB, 2009)

<http://www.yjb.gov.uk/publications/Resources/Downloads/Scaled%20Approach%20and%20Youth%20Rehabilitation%20Order%20-%20Information%20Leaflet.pdf> 8 October 2009

<sup>62</sup> See Michael Lipsky, *Street Level Bureaucracy: Dilemmas of the Individual in Public Services* (Russell Sage Foundation, 1980)

<sup>63</sup> See Andrew Rutherford, *Criminal Justice and the Pursuit of Decency* (MacMillan, 1994)

<sup>64</sup> Alex Sutherland, 'The 'Scaled Approach' in Youth Justice: Fools Rush In...' *Youth Justice* 9 (2009) 44-60

<sup>65</sup> See Anna Souhami, *Transforming Youth Justice: Occupational Identity and Cultural Change* (Willan, 2007)

<sup>66</sup> For the official information on what constitutes 'risk factors' see Youth Justice Board, *Risk and Protective Factors* (YJB, 2005)

foreseeable future, despite the somewhat questionable validity of the assumptions on which it is founded.<sup>67</sup>

And yet, there are important caveats to this ‘adulteration’<sup>68</sup> argument which look set to keep the youth justice system distinct from its adult brethren. The *Every Child Matters* programme continues to dominate the agenda and inform the work of all agencies who are concerned with development of children and young people, including those involved with youth justice. In 2004 the Home Office released *Change for Children in the Criminal Justice System*,<sup>69</sup> a document specifically designed to ensure that the youth justice system was complying with the *Every Child Matters* agenda. Such an ideological approach resonates strongly with the philosophy enshrined in the Children Act. It is vital that the spirit of the Children Act is kept alive to guide the youth justice system as it evolves further. This challenge may prove to be especially difficult, given managerial and political pressures which threaten to sway its development from such a course.

## Conclusion

The collection of articles that follows serves as a timely reminder of what can be achieved by a landmark piece of legislation. The articles also place the elements of the Children Act within their historical contexts, looking at the changes and continuities in these areas before and after the Act; they also draw out the complex, nuanced character of the Act and its operations. The collection also emphasises the need to see the Children Act in the broader contexts of British society, in terms of the ways in which women and men participated in public and professional life, the expansion of the powers of the state and its agencies, and the often fraught relationships between the classes. Simon’s thesis of ‘governing through crime’ needs greater evaluation in a British context, especially as the voluntary sector has once again come to play a larger role in the provision of British welfare since the late 1990s. The editors believe that the study of the history of youth justice and welfare

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<sup>67</sup> Stephen Case, ‘Questioning the Evidence of Risk the Underpins Evidence-led Youth Justice Interventions’ *Youth Justice* 7 (2007) 91-105; see also Stephen Case and Kevin Haines, *Understanding Youth Offending: Risk Factor Research, Policy and Practice* (Willan, 2009); Kevin Haines and Stephen Case, ‘The Rhetoric and Reality of the “Risk Factor Prevention Paradigm” Approach to Preventing and Reducing Youth Offending,’ *Youth Justice* 8 (2008) 5-20; Paul O’Mahony, ‘The Risk Factor Prevention Paradigm and the Causes of Youth Crime: A Deceptively Useful Analysis?’ *Youth Justice* 9 (2009) 99-114

<sup>68</sup> See Muncie, *Youth & Crime* pp. 369-70

<sup>69</sup> Home Office, *Every Child Matters: Change for Children in the Criminal Justice System* (Home Office, 2004) <http://www.dcsf.gov.uk/everychildmatters/download/?id=2680> / 8 October 2009

has much to contribute to our understandings of social processes in twentieth century Britain, and thus should be given greater consideration by historians. Likewise, the continuing function of youth justice and welfare as a test bed for policies for the justice system as a whole must be considered by those working in the fields of criminology, social policy and social work – and the adoption of a reflective, historical viewpoint enables this.