



Law and order under a resurgent right

The rise of authoritarian populism

by Chris Butler

Over 30 years ago, the Thatcher government in the United Kingdom and the Reagan government in the USA set out to dismantle the social democratic legacy. Crime was politicised and the political right pursued a punitive law and order agenda that is now largely taken for granted. The targeting of criminal offending as an individual failing combated through intensive policing and more punitive sentencing displaced the focus on social, economic and cultural causes of crime.

This politicisation of law and order reinforced community fears and utilised the mass media's readiness to demand aggressive responses to crime. It was part of an ideological project to mobilise grass roots discontents through an authoritarian form of democratic politics. The British cultural theorist Stuart Hall called this political form 'authoritarian populism' and at its heart is a contradiction. In the economy, neoliberalism is presented as an inherently anti-statist programme of freeing individual citizens and the economy from unnecessary state interference. However, neoliberal interventions in the area of criminal justice provide a clear demonstration of the right's preparedness to expand state power and direct it towards specific strategic ends. This contradiction is neatly encapsulated in Andrew Gamble's slogan for Thatcherism as 'the free economy and the strong state'.

The law and order consensus

Since Thatcher and Reagan, parties of the moderate left have demonstrated remarkable timidity in avoiding any challenge to the dominance of neoliberalism, particularly in the criminal justice arena. They have tried to defuse any perceived electoral disadvantage in this area by abdicating their traditional defence of the links between socio-economic factors, crime and justice. As a result, the mainstream parties have a political consensus about law and order. Politicians and the media continue to

Table 1: Imprisonment Rates per 100 000 of national population

Country	Imprisonment Rate
United States	716
Russia	490
South Africa	307
New Zealand	194
England and Wales	149
Australia	130
China	121
Canada	114
Italy	108
France	101
Netherlands	82
Germany	80
Norway	71
Sweden	70
Denmark	68
Finland	60
Indonesia	58
India	30

Source *World Prison Brief 2013*

manufacture and reinforce public perceptions that crime is out of control and ensure that punitive law and order policies are at the forefront of election campaigns.

Yet concrete evidence about crime is rarely considered. This might be because the evidence is contrary to assertions of a perpetual 'crime wave'.

Indeed, crime rates in Australia are falling. Don Weatherburn, the Director of the NSW Bureau of Crime Statistics and Research, notes that between 2000 and 2009 there was a national reduction of 39% in the murder rate, 43% in the robbery rate, 55% in the burglary rate and a 62% decrease in the rate of motor vehicle theft. However, Australia's imprisonment rates have moved in the opposite direction - from 88 per 100 000 adults in 1984 to 172 per 100 000 in 2010 - a 97% increase.

While these figures are nowhere near the almost unbelievable incarceration rates of the USA, Australia's rate of imprisonment is still relatively high in international terms as shown in Table 1.

The imprisonment rate in the United States is more than ten times that in the Nordic countries. In these countries, the egalitarian values of the welfare state have generally continued at the same time that countries like Australia, New Zealand and the United Kingdom embraced a punitive, neoliberal path in their approaches to criminal justice.



FOCUS: READING FOR THE RIGHT

~~and has chosen to ignore the attacks on civil liberties that have inevitably flowed from the ongoing 'war on terror'.~~

and has chosen to ignore the attacks on civil liberties that have inevitably flowed from the ongoing 'war on terror'. This has effectively allowed the Coalition parties to direct the law and order agenda from the Opposition benches.

Perhaps the most disappointing development is the ALP's capitulation on asylum seekers and its decisions to expand mandatory detention and revive offshore processing arrangements. This smooths a path for an incoming Abbott government to move from the criminalisation of immigration policy to its militarisation, through its plans to forcibly turn boats back to their port of origin.

The new rise of the right and criminal justice

Prior to the NSW State election in 2011 the Liberal Party Shadow Attorney-General Greg Smith announced his intention to end the 'law and order auction' between the major political parties. This is a rare exception to the hardline approach of recent years. Since taking office he has acted to close three NSW prisons and promised to reduce the State's prison population through reforms to bail and sentencing laws. How much of these policy changes are being driven by the fiscal imperatives of the post-GFC climate is hard to gauge, and questions remain about the government's commitment to the adequate resourcing of in-prison and post-prison programmes which will be required to successfully produce sustained reductions in the number of prisoners. Nevertheless, the reforms to date are welcome signs that proposing alternatives to a punitive approach to criminal justice does not automatically lead to electoral suicide.

Unfortunately, in other States the law and order agenda is still alive and well. The Newman government in Queensland has announced a series of measures aimed at tackling graffiti and youth crime, including the recent introduction of US-style 'boot camps' as a sentencing option for magistrates. As part of its austerity drive, it has cut funding to the prisoner support organisation Sisters Inside and abolished the diversionary Murri, Special Circumstances and Drug courts. In Western Australia, the campaign for this year's State election began with the Liberal Party's announcement of plans to extend the range of offences for which mandatory sentences will apply and in early 2013, the Victorian government released its proposals for the strictest parole laws in the country.

At the Commonwealth level, there are also depressingly few signs of any significant changes to the major parties' bi-partisan endorsement of the ideology of law and order in a number of areas of justice policy. In government, the ALP has continued the 'war on drugs'

Conclusion

We should certainly expect a continuation of the punitive law and order stunts that have characterised electoral politics in recent decades. Just as worrying is the prospect of an intensification of austerity measures and further neglect of social services, alternatives to prison and programmes of community support. This hostility to social investment, rehabilitation and addressing social inequality is the source of neoliberalism's long-term criminogenic effects. Despite the recent, tentative moves away from an authoritarian populist approach in New South Wales, neoliberal policies remain entrenched. A vigorous public debate is needed to challenge explanations of criminal offending which are solely based on individual responsibility, and to emphasise the links between the provision of adequate social services and tackling the causes of crime. Neoliberal criminal justice policies may have proved a failure, but arguments for socially just alternatives need to be heard more widely and more often if such policies are to be defeated.

Dr Chris Butler is Lecturer in Law at Griffith University. His book *Henri Lefebvre: Spatial Politics, Everyday Life and the Right to the City* has been recently published by Routledge

