Youth And Crime: The Ways In Which Youth Justice Can Be Difficult To Implement

Youth and Crime

Introduction

This report will provide an overall summary of a selection of topics discussed over the course of the module. It will analyse the ways in which Youth justice can be difficult to implement and why this could be. It will aim to provide an overall argument on how and why some professionals may believe the Youth Justice system are criminalising children who are not yet completely aware of the consequences to their actions, as well as how the government and policy creators can implement methods to overcome this problem.

This report will discuss the history of the Youth Justice system and how it has impacted the system currently, with relevant reference to the Labour party and its policies created to provide strict and harsh punishment to young people who offend. This also provides an example from the research of Professor Stephen Case to suggest that there was not a major occurrence of youth crime, however the party constructed this problem for their political gain. This report will discuss the progression of policy approaches with focus on the developmental approach, and how it has incorporated and evolved previous policy approaches to create the current policy approach which is child first offender second. Using contribution to how these policies aim to deter young people from committing crime as well as those who re-offend.

This report will then explain how the developmental approach can be used to support diversionary approaches using the 3 stages of prevention as an example. The report will also explain how restorative justice is used and the reasons why it may not be effective. It will discuss how it can be used during the sentencing of young people to aim to prevent the young person going through the Youth Justice system, it will provide the mandatory requirements that need to be fulfilled before restorative justice can be passed. As well as, explaining the differences between sentencing for adults and children, giving the James Bulger case as an example in how they were tried in comparison to the general regulations of a youth court. The report will finish with how the effect of the media coverage of the James Bulger case impacted the public reaction of the two young killers, including an explanation of why this may have occurred with support from the ideas of Jenkins (1992) and Jewkes (2011). The conclusion of this report will use the evidence given throughout, to support the reasons why criminalising youths at 10 years old is problematic and what should be in place rather than the Youth Justice system.

First submission

Over the history of youth justice, the media and political parties have had an increased interest in young people who offend. The effects of media and political parties highlighting youth crime as a major social problem influences policy, in how we are going to punish these young people who offend. As well as this what the government and its welfare should be doing to deter this

happening and recidivism. Over the history of Britain youth crime has not always been highlighted, as youth was not a separate age group until its definition arose towards the 19th century. This was when the Labour party declared they would take a tougher stance on punishing young people who offend. Stephen Case (2018), states the reason behind this was that if the party address a problem with youth crime to the public through the media, it creates a moral panic effect where people become anxious. The public then supports the government taking action in reducing this type of offending. This occurred when the Labour party were in competition with the conservatives to be the governing body. However, the main argument is that the Labour party focused excessively on this and socially constructed the problem with youth crime to appear they had methods of gaining control over this. This caused a labelling effect on the youth and segregated this age group from the rest of society, causing adults to assume they all misbehave and cause trouble. Effectively this has helped form the policy we currently use to overcome youth crime which is child first, offender second.

The UNCRC (United nations conventions on the rights of the child) 1989 defines a youth as an individual between 15-18 years old. Meaning that they do not consider someone criminally responsible until they are the age of 15. In England and Wales, the age of criminal responsibility has been amended multiple times. For example, historically under the Children and young person's act 1933 there was a rise in the age to 8. The Ingelby report in 1961 suggested that the age was too low and that it should be increased from 8 to 12, although it was not raised to 12 it was raised to 10 years old and is the same currently (beyondyouthcustody.net, 2014). In effect it prompts reflection that due to the changing it suggests although England has a definition of a youth, they are still unable to specifically identify when this age of youth begins. This raises apprehension as to whether the age of criminal responsibility is too young and rather, the criminal justice system is labelling children as criminals. The James Bulger case in 1993 influenced debates to whether the two 10-year-old offenders could be held criminally responsible and whether they understood the consequences of their actions. This created new social policies and allowed for a young person's identity to be released to the wider community if it was in the interest of the public. The conflicting argument to this is that it breaches articles 8 and 16 under the UNCRC. Article 8 is the Protection and preservation of identity, where authority has the responsibility to keep these hidden for the individual's safety. Article 16 is the right to privacy, where the law should not release the individual's private details about the person's life.

Second submission

To understand the youth justice system, and how society works to effectively support but also make young people aware of their actions would be to explore it's history. It is important to understand that the creation of the previous policy approach's, including the developmental approach has contributed to the formulation of the current policy approach we use today. This approach is; Child first, offender second.

In the 1990's labour promoted its the focus of punishment, while others in society also projected the welfare approach. This approach was introduced to emphasize the importance of providing support for the individual, rather than putting them through a distressing criminal system. A downside to this, however, is that people in higher positions focused to explaining the perpetrators of these crimes as those from the more disadvantaged backgrounds. Which may not have been accurate (Phillips and Bowling, 2002. In Evans, J., 2006).

The developmental approach is significant because, rather than the previous approach's it begins to explain why children may commit crime. As well as why we should support them and deter them from doing this rather than punishing them. Potentially suggesting practitioners may believe the age of criminal responsibility is too young. The developmental approach states that children entering adolescence from childhood partake in crime because they become involved in risk-taking behaviour without consideration of the long-term effect.

The approach promotes the acknowledgment children need stimulation. While recidivism can be decreased if the community work with the young person, focusing on their personal needs rather than the offence they have committed. There is three parts to the approach the first being primary prevention. Followed by secondary prevention. The final is the tertiary prevention. Each of these stages are aimed at different levels of vulnerability. Beginning from when they could become vulnerable, to those who are already in the youth justice system.

Taylor, C., (2006) states that offending behaviour also happens because these children have a lack of educational attendance as well as low achievement. The child first, offender second approach has incorporated the initial idea. This is that the development approach promoted to improve the standards of educational support not only from school facilities but also community groups.

During the years 2000 – 2003 the Home office set up the 'On track early intervention and prevention programme'. This scheme was a government funded method of giving 24 communities who were the most deprived in England and Wales resources that identified risk factors in children aged 4 to 12, who were most vulnerable to become a potential offender later in life (France, A. 2008). This agrees with the developmental approach because it aims at identifying the underlying causes that may exist due to limitations in the child's development and education. Not only this but it is also targeted at supporting their families as well to stimulate their growth with interactions with parental figures (France, A., et al: 2004).

The developmental approach supports the diversionary approach of multi-agency responses to social problems. The co-operation between them all means that they can contribute more knowledge and resources to support young people and improving their knowledge. It also states that by using this method it builds better relations between members of the community (Gilling, D. J. 1994 in Burnett, R. and Appleton, C. 2004).

Third submission

Restorative justice (RJ) is considered as a diversionary process in the Youth Justice system (YJS), when the individual is known to have committed an act. Crawford and Newburn, (2003:23) draws attention to the fact that 'Restorative justice has tended to focus upon young people', this indicates that youths tend to get the opportunity to take part in RJ more frequently than those of a different age. This could be due to the assumption that a child has more of an opportunity to be rehabilitated as they may grow out of their stage of criminal behaviour, rather than an adult who feels they had no other choice, for example, those who steal due to financial strain.

A condition that must be met before RJ can be used is that the young person must admit guilt and acknowledge their action, forcing the individual to take responsibility for their behaviour.

Collins, (2015) the Chief Executive Officer for the Restorative Justice Council, reported that the method was particularly useful when used to divert young people from the life of crime especially with anti-social behaviour. One of the main consequences of using RJ is that some children may not understand that their action was a crime to begin with. Therefore, this question's whether the age of criminal responsibility is too low and whether we should punish people at 10 years old due to different levels of understanding.

In the James Bulger case, there was many instances that differentiated from a general youth trial, for starters they were tried as adults using a formal process in the Crown Court, whereas normally it would take place in a youth court. They were given long custodial terms to secure children's homes which is similar to a prison, however for children (R. V. Home secretary, Ex p. Venables & Thompson, [1996]). This is because of the seriousness of the acts and the reaction from the public, and is now supported by section 91 of The Powers of Criminal Courts and Powers Act 2000, of grave crimes (yjlc.uk, 2018). During the trial the YJS discarded the use of Doli Incapax, which is the belief that anyone of the age of 10 and under were incapable of committing crime. During sentencing, the judge can impose that the young person take part in RJ alongside a conviction or a referral order to make up for the harm they have caused (sentencingcouncil.org.uk, 2019).

The James Bulger case, 1993 had many impacts on the YJS not only the sentencing of young people, but also how the media represented these two 'killers' to the public. Evidence for this is the title of the Independent news in 1993 just after the pair were tried stating, 'The Bulger murder: An act of unparalleled evil: Boys who Battered James Bulger to death locked up for 'very many years' The use of the explicit depiction would have received public interest because it was a menacing and violent crime. There was a public outcry because they wanted a harsh punishment, regardless of their age.

Jenkins (1992) in Jewkes (2011:61) states that 'any offence, particularly those that deviate from the moral consensus, are made more newsworthy if children are involved', this is irrespective of whether the child is the victim or offender, which is understood by the public reaction.

Conclusion

In conclusion, there are disadvantages that arise when the government and judicial systems criminalise children at a young age. Many of these policies that were introduced to criminalise children and create a tougher stance on the toleration of crime were created, when there was more media interest and therefore public fear in how the government were going to take control of these 'delinquent' children. This definition of a youth from the UNCRC, identifies the main problem that arise is the disputed understanding of when someone should understand and take formal responsibility for their actions.

The developmental approach for example, was introduced to acknowledge different views from professionals in this industry on how young people who offend were treated by the judicial system, and what kind of problems this may cause. It can be suggested through the research put forward by Professor Stephen Case and Charlie Taylor that professionals who specialise in Youth crime agree that children should not be put through the stress of a trial. While Stephen Case argues that Youth crime was rather a social construct made to have the affect of a moral panic on the public to aid political agendas. Charlie Taylor argues that the problems stem from

social strains and pressures on the child, due to them having a poor standard of education, or poor attendance to these educational facilities.

The developmental approach argued that criminalising children too young in effect had more of a negative impact rather than a positive one. The approach begun to emphasize the need to understand the reasons why the child committed the crime, so measures can be put into force to prevent it from reoccurring. It discussed what actions that the government can undertake to ensure that children do are not put into a harsh judicial system, that is going to affect them their whole lives, and rather recognises that children grow into phases where they take risks.

The approach then went on to support diversionary approaches that can be used to ensure vulnerable children at risk of committing crime are deterred from doing so at the earliest stage possible. However, it also puts measures into place at other identified vulnerable stages therefore they are not just left to be put through a criminal justice system after the primary prevention, but rather still had the opportunity of support throughout the process and after, from the tertiary prevention. Charlie Taylor having stated above supports the belief that the government can reduce this sort of criminal behaviour by improving the standard of education from all aspects the child may learn through interaction. Therefore, Charlie Taylor would essentially promote the launch of the ‘On track early intervention and prevention programme’ by the Home Office in the early 2000’s.

To support youths from committing crime can be done through multiple aspects and this has been shown to be done through restorative justice, and community programmes as a method for the young person to understand how their behaviour may impact someone, and take responsibility for their actions, as restorative justice can also be implemented by a judge to assist the punishment given. Whereas, community programmes promote positive relationships with their parental figures.

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