

the Howard League for Penal Reform

Early Career Academics Network Bulletin

June 2013 – Issue 20

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Introduction



Firstly, I am pleased to announce that the Howard League has awarded the 2013 Sunley Prize, which recognises and celebrates outstanding Masters dissertations researched and written on areas related to the work of the Howard League. The winners are Gerard Doherty, Alice levins, and Shona Minson. Their respective research on mate crime, daily life for sex offenders in prison and motherhood and sentencing was of an exceptional standard. Reports based on their work will be published on our website over the course of the next academic year, so do look out for them. The winners will receive their prizes at our [President's annual wine reception](#) at the Houses of Parliament on 4 July 2013, and ECAN members are very welcome to join us at this event. The John Sunley competition has now [reopened](#) for 2014, we look forward to receiving your entries.

A spring seminar, the first event supporting the work of our symposium *What is Justice? Re-imagining penal policy* was held on 16 May. The purpose of the seminar was to explore, in depth and with an expert audience, some of the ideas that are being generated by the three symposium hubs: Local justice and participation; social justice, human rights and penal policy; and the role of the state. Speakers included Professors Thérèse Murphy and Noel Whitty, Professor Shadd Maruna, and Professor Steve Tombs. More information about the event can be found on our [website](#).

Finally we now have an exciting line up of confirmed speakers for our international conference in October, including Yasmin Alibhai-Brown, Professor Albert Dzur, Professor Nils Christie and Professor Vanessa Barker. We are compiling an engaging and diverse conference programme and would like to see as many of you there as possible. Visit our website for more information and to [book your place](#).

Anita Dockley
Research Director

News

17-year-olds in police custody should be treated as children, High Court rules

Seventeen-year-olds who are arrested and taken into police custody should be treated as children, [the High Court ruled on](#) 25 April. They are currently dealt with as adults, meaning they do not automatically receive the support of an appropriate adult to help them through the legal process. In many cases, parents are not told that their son or daughter has been arrested.

The landmark judgment is a milestone in the Howard League for Penal Reform's campaign to remove a serious legal anomaly in the Codes to the Police and Crime Evidence Act (PACE) 1984. The law is out of kilter with domestic and international provisions, which recognise that those aged 17 and under are children.

In the judgment, Lord Justice Moses echoed the Howard League's concerns about how the law currently disadvantages 17-year-olds in conflict with the law: "If 17-year-olds are treated as adults, the police retain the right... to refuse contact between such a 17-year-old detainee and his parent or appropriate adult."

The High Court found that the Howard League had argued "trenchantly" that the role of a parent or appropriate adult is critical because it provides a gateway to a child's access to justice.

Ashfield: Serco-run children's prison was a 'hotbed of violence and abuse'



Responding to the HM Inspectorate of Prisons' report on Ashfield prison published 4 June 2013, Frances Crook, Chief Executive of the Howard League for Penal Reform, said:

"Today's inspection report is the damning postscript to a long story of violence and harm in this privately-run children's prison. It proves that the government's decision

to move children out of Ashfield has not come a minute too soon.

"Far from being a place of security, this was a hotbed of violence and abuse where bones were broken, levels of self-harm soared and children were routinely subjected to invasive strip-searches.

"Ashfield isn't the only prison where physical restraint has caused children serious injury. We have seen similarly shocking cases elsewhere. The system for dealing with grievances of children in custody is unfit for purpose and the Howard League is considering legal steps to bring the matter to judicial review.

Jury highlights prison failures in death of vulnerable woman Melanie Beswick in HMP Send

After a three-week inquest into the death of Melanie Beswick at HMP Send, jurors returned a verdict that she took her own life "whilst the balance of her mind was unstable", but that failures in communication and assessment contributed to her death.

Melanie was found hanging in her cell in HMP Send in August 2010. On the day she died Melanie had been taken to the Guildford hospital due to her fragile mental state, and after returning to the prison she was put on an hourly watch rather than having constant supervision. The sentencing judge had specifically warned the prison service that she was a serious suicide risk. She had two young daughters.

The jury found that failures in communication between the HMP Send and the Royal Surrey County Hospital, and internally within the prison, contributed to Melanie's death. The Coroner made two rule 43 reports recommending changes in the way suicide risk is managed at HMP Send and changes in the way information is shared between hospitals and prisons nationally.

Serco-run Thameside is a private prison 'out of control'

Responding to the HM Inspectorate of Prisons' report on Thameside prison published on 14 May, Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform, said:

"Conditions at Thameside are truly alarming. Violence was so common that the Serco management put the prison in a state of lockdown. Staff are inexperienced and often resort to physical force. The prisoners have no confidence in them. Despite enforcing one of the most restricted regimes ever seen by inspectors, this is a large private prison out of control.



"This is what happens when you hand the justice system over to vast multinational corporations, who put cost-cutting and the interests of their shareholders ahead of concern for public safety."

Legal aid proposals will consign children to the streets

Responding to the Ministry of Justice's announcement of a consultation on legal aid, Frances Crook, Chief Executive of the Howard League for Penal Reform, said:

"The government's proposals are profoundly unfair, terribly misconceived and will have potentially disastrous consequences for society as a whole. The withdrawal of funding for resettlement cases will consign children to the streets or hostels on their release from custody, exposing them to untold dangers. This is because we will no longer be able to challenge the unjust decisions of local authorities who inappropriately treat boys and girls as homeless when they leave the secure estate.

"These changes may also lead to a collapse in justice in the very place where it should be paramount – within prison walls. This will impact on children as well as adults. These

cuts build on proposed reforms which seek to deny people the opportunity to pursue judicial reviews. These are crucial in highlighting and preventing violence in jails and making sure that young people can rebuild their lives, which helps keep the public safe.”

Magistrates’ court sentencing is a ‘postcode lottery’



New research by the Howard League for Penal Reform shows that people who have been convicted of a crime in England and Wales face a postcode lottery when they are sentenced, with some magistrates’ courts four times more likely than others to send them to prison.

The statistics show a striking disparity between sentencing rates in different parts of England and Wales. For example, courts in Northamptonshire and Derbyshire imposed immediate custodial sentences in more than 6 per cent of the cases they heard during 2011. This was four times the rate recorded in Warwickshire (1.5 per cent) and Northumbria (1.6 per cent). Overall, magistrates’ courts reduced their use of custody by a quarter between 2001 and 2011.

Post-prison supervision plans ‘set people up to fail’

Responding to the Ministry of Justice’s proposals to expand community supervision, Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform, said:

“These proposals are an admission of the abject failure of short-term prison sentences, with 58 per cent of those leaving custody after a short sentence being reconvicted within a year. These plans set people up to fail. Rather than scrapping short prison terms, the government is creating disproportionate sentences for minor crimes, so that a two-week prison sentence becomes a year and two weeks of being trapped in the criminal justice system. Given short spells in prison leave most people without a job, home or access to their family, the additional support can do little more than try to repair the damage prison has done and many will end up back behind bars.”

Incentives and Earned Privileges: More red tape will make prison more costly

Responding to the Ministry of Justice’s announcement of changes to the Incentives and Earned Privileges scheme for prisoners, Frances Crook, Chief Executive of the Howard League for Penal Reform, said:

“Chris Grayling’s plans for new layers of red tape are unlikely to get prisoners out of bed and into work or training and may result in punishing people for an idleness that prisons encourage.

“Instead, Chris Grayling should look at taking our prison population back to a manageable level; giving non-violent people community sentences, so something productive can be done with those who remain in prison.”

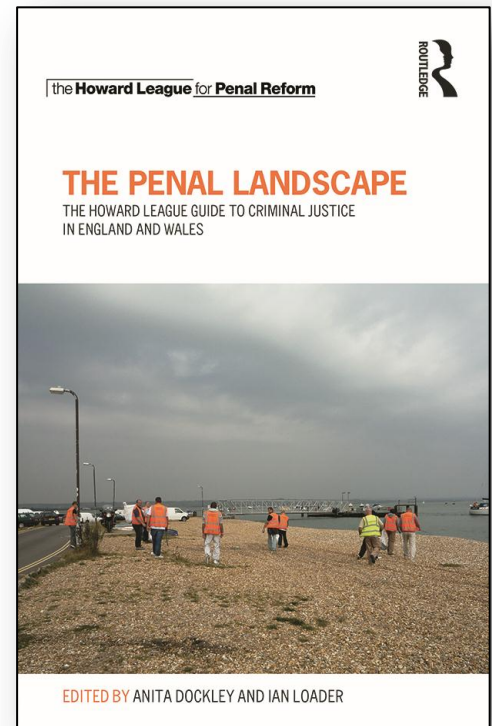
The Penal Landscape

The Howard League Guide to Criminal Justice in
England and Wales

Edited by Anita Dockley and Ian Loader

The Howard League for Penal Reform is committed to developing an effective penal system which ensures there are fewer victims of crime, has a diminished role for prison and creates a safer community for all. In this collection of ten papers, the charity has brought together some of the most prominent academic experts in the field to map out the what is happening in a specific area of criminal justice policy ranging from prison privatisation to policing and the role of community sentences.

The Howard League guide has two main aims: first it seeks to paint a picture of the current state of the penal system using its structures, processes and the specific groups affected by the system as the lens for analysis. However, each author also seeks to identify the challenges and gaps in understanding that should be considered to predicate a move towards a reduced role for the penal system, and prison in particular, while maintaining public confidence and safer communities. In doing so, we hope to inspire researchers and students alike to develop new research proposals that challenge the status quo and seek to create the Howard League's vision for the criminal justice system with *less crime, safer communities, fewer people in prison*.



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~~£24.99~~ £19.99

Hb: 978-0-415-82328-9 ~~\$155.00~~ \$124.00
~~£90.00~~ £72.00

Selected Contents: Preface, *Anita Dockley* Introduction: Mapping the penal landscape, *Ian Loader* 1. Social structural processes and the operation of the criminal justice system, *Stephen Farrall* 2. Prisons and privatisation: Policy, practice and evaluation, *Elaine Genders* 3. Policing in England and Wales: Challenges and pressure points, *Mike Rowe* 4. Replacing the ASBO: An opportunity to stem the flow into the criminal justice system, *Andrew Millie* 5. The influence of sentencing and the courts on the prison population, *Nicola Padfield* 6. The Devil in the detail: Community sentences, probation and the market, *Lol Burke and Fergus McNeill* 7. Mental disorder and imprisonment: Understanding an intractable problem?, *Jill Peay* 8. Minority groups and the penal landscape: Challenges for research and policy, *Neil Chakraborti and Coretta Phillips* 9. Raw deal: The curious expansion of penal control over women and girls, *Lizzie Seal and Jo Phoenix* 10. Children, young people and the contemporary penal landscape: Reflections, prospects, policy and research, *Barry Goldson* About the Howard League for Penal Reform.

For more information on *The Penal Landscape*, please visit:
www.routledge.com/books/details/9780415823296/

Members' notice board

Symposium

Falling Crime Rates: Causes and Consequences

For more than a decade, crime rates have fallen in the UK, USA and other countries. What could explain a 'global crime drop'? Will downward trends continue? What are the implications for the UK?

You are invited to the University of Sheffield for a special one-day symposium on 'Falling Crime Rates' featuring leading experts across Europe and the USA. The symposium will include presentations by:

Jan van Dijk, Tilburg University
Richard Rosenfeld, University of Missouri St Louis
Martin Killias, University of Zurich
Marcelo Aebi, University of Lausanne
Andromachi Tseloni, Nottingham Trent University
Michael Tonry, University of Minnesota

The symposium will take place on Friday 11 October 2013, at the School of Law, University of Sheffield. To register, and for further particulars about the speakers and their papers, see our webpage at:

<http://www.shef.ac.uk/law/research/clusters/ccr/modernlaw>

To receive the early registration rate of £35, you need to register by 30 June. After this date, the registration fee will be £50.00. This fee includes refreshments and lunch.

PhD students at White Rose universities may be eligible for a place free of charge, please contact Lisa Burns.

Questions about the event? Contact Paul Knepper:
p.knepper@sheffield.ac.uk or Lisa Burns l.k.burns@sheffield.ac.uk

Feature

Foreign nationals, criminal law and the 'criminology of mobility'

Ana Aliverti, Centre for Criminology, University of Oxford

Introduction



In recent years, the 'criminalisation of immigration', as a theme, has attracted a great deal of academic interest. Scholars concerned with this subject, particularly those working in the social sciences of sociology, anthropology and political studies, have identified a growing trend in policies and enforcement practices whereby unwelcome foreigners are portrayed as 'cheaters' and 'dangerous', and treated punitively, while immigration enforcement has borrowed the language, strategies and practices of criminal law enforcement (Bosworth, 2007, 2008, Weber and Bowling, 2004, Aas, 2012). Others have focused on the recent legal and institutional convergence of immigration and criminal law enforcement. Some authors refer to this convergence as the 'criminal administrative system'

(Albrecht, 2000: 146), the 'quasi-administrative, quasi-criminal' system (Pratt, 2005: 23), the 'hybrid crime/immigration system of social control' (Miller, 2003: 666) or the 'emerging punitive regulatory system' (Weber and Bowling, 2004: 195).

The rapid pace and huge transformations documented in the literature on 'crimmigration' (Stumpf, 2007) have some resonance with developments on the ground in Britain. In the early 2000s, the Immigration and Nationality Directorate was restructured and reorganised as an executive agency with both policy-making and enforcement powers. With the creation of the UK Border Agency in 2008, the immigration force became a law enforcement body bestowed with police-like powers to search and seize evidence, and to arrest and detain for a short period suspected immigration lawbreakers both at the border and inside the country.¹

Immigration enforcement has not only become tailored to criminal law enforcement; in many ways it is shaping and altering the way in which the criminal justice system works. As global human mobility reaches unprecedented levels, states in the rich west adopt with increasing fervour measures to restrict and eject illegalised foreign nationals – including the use of penal powers. Traditional criminal justice institutions are not immune to these developments. Immigration staff are now stationed in some British prisons, working alongside their prison officer colleagues and routinely checking the immigration status of inmates. Recently the Metropolitan Police and the UKBA announced that these checks are to be carried out at an early stage, when the person is still detained in the police station so that their departure takes place shortly after serving their sentence. These are a few, albeit telling manifestations of the convergence of two traditionally separated regimes – immigration and criminal law regulation. In this piece, I will

¹ In March 2012, after the Brody Clark scandal, Home Secretary Theresa May announced that the UK Border Agency would be split into two, effectively reversing the convergence of policy-making and law enforcement functions in one organisation. One year after that announcement, May once again made public her frustration about the 'closed and secretive' culture within the agency and its underperformance, and forecast its abolishment (see Travis, 2012 and 2013).

concentrate on a specific manifestation of this trend: the increasing criminalisation of immigration breaches and the enforcement of so called 'immigration crimes'.

Criminalising mobility

The embryonic research on the 'criminology of mobility' has uncovered the many ways in which foreigners are being policed both at the borderlands and inland, and in turn how such novel forms of control are not only denationalising sovereignty on crime controls but are also shaping national criminal justice institutions (Aas, 2011, 2013, Bosworth, 2012). Perhaps the most clear and explicit manifestation of this encounter between state sovereign power used for control within state borders (internal security) and to protect its population from outside threats (external security) is the formal conversion of immigration breaches into criminal offences. Although immigration offences are not new, there has been a noticeable change in the intensity of formal criminalisation since the mid 1990s. Between 1999 and 2009, Britain witnessed the fastest and largest expansion of the catalogue of immigration crimes since 1905. Concomitantly, within the same period, there was a steady increase in the rate of prosecutions (and convictions) for these offences.

The vast majority of immigration offences remain under-enforced. Yet a limited number of them are pursued with enthusiasm by immigration officers and prosecutors. Immigration prosecutions cluster on three main offences: assisting unlawful immigration (facilitation), seeking leave to enter or remain or postponement of revocation by deception (deception) and being unable to produce an immigration document (no document).² People using documents which are false, improperly obtained or belong to someone else are often prosecuted under the offences in the Identity Documents Act 2010³ – which repealed the Identity Cards Act 2006 that contained similar offences.

Both the foreigner in breach of his or her immigration status and 'third parties' facilitating such breach are liable under immigration crimes. The offence of 'facilitation' is quite broad, including a range of conducts such as helping people to get into the country, providing them with accommodation and employment once here and even marrying them. Indeed, while 'sham marriage' is not a crime in the UK, the British or EU brides or grooms engaging in it are frequently charged with 'facilitation'. The criminal pursuit – and eventual punishment – of the aider or abettor ('facilitator') is directed by immigration objectives: that is, through the prosecution of those who facilitate irregular immigration, the flows of unwelcome migrants can be disrupted. The upward trend in prosecutions for this offence in both magistrates' and crown courts since at least 2005 may be interpreted as reflecting this conviction among policy makers and prosecutors.

In my research on the enforcement of immigration offences in two English courts with jurisdiction over Heathrow airport (Uxbridge Magistrates' Court and Isleworth Crown Court) I found that facilitation is one of the most frequently prosecuted immigration offences. Yet, contrary to the official rhetoric which promised to reserve criminal prosecution for organised criminality and those causing the most harm, court data shows that those charged with facilitation are unlikely to be part of a larger smuggling organisation. Some defendants are accused of helping family members or friends. They are either foreigners or naturalised British citizens.

² Respectively, ss 25(1) and 24A(1), Immigration Act 1971; and s 2(1), Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

³ Ss 4 and 6, Identity Documents Act 2010.

Foreigners in breach of their immigration status reach the criminal justice system most typically because of irregularities with their identity documents. Non-British nationals make up half of those in prison serving a custodial sentence for 'fraud and forgery' offences. While the proportion of foreigners serving custodial sentences for other crimes is small compared to their British inmates, they are comparatively overrepresented in this category of crimes –together with drug crimes (Aliverti, 2013).

Since it was enacted in 2004, the offence of 'no document' has been the most often prosecuted immigration offence before the magistrates' court (it is an either way offence so cases are often decided before the magistrates' courts). Since 2006 numbers of prosecutions for this offence have gone down, however, prosecution numbers for this offence remain high in comparison with other immigration offences. Prosecution trends for deception are less clear: while there has been a downward trend since 2009 at magistrates' courts, since 2006 the number of prosecutions have been on the rise in the crown courts (Home Office, 2012).

Although these figures only show variations in the use of these offences in the last six years, it is important to understand the reasons why these offences are used at all and why other offences – for example, overstaying or illegal entry – are not as frequently used. One answer could be that there are more people with forged documents, or more of them being caught, than overstayers and illegal entrants. However, such explanation is not conclusive, in part because there is no precise estimation of the numbers for each category. One factor that seems to be relevant for explaining prosecution patterns is the instrumentality of criminal prosecutions for immigration enforcement. Immigration enforcement relies heavily on administrative actions – mainly, executive removal. It is only when this primary response cannot take place that a criminal prosecution is sought. Overstayers and illegal entrants are rarely prosecuted because they can be removed straightaway. Criminal law is more often than not used against foreigners who cannot be removed from the country because they have an outstanding asylum claim and because they are undocumented, and their presumptive countries of origin do not accept people back without proof of nationality. High ranked UKBA officers I interviewed for my research told me that a criminal proceeding 'buys' immigration staff time to re-document the defendant. In addition, there is a relationship between fraud-related foreign defendants and un-removable migrants: they cannot be removed because they do not have valid passports, and so they are prosecuted.

Research done on the above mentioned courts shows that a good proportion of foreigners accused of the offence of no document or deception plead guilty to the charge: at Uxbridge, 95 per cent of the defendants pleaded guilty. Hearings on these cases were distinctively short and uncontested. Upon conviction, defendants were typically sentenced to a term in prison. The penalty imposed on those charged with the offence of no document ranged from eight weeks' to six months' imprisonment. Alternatives to prison are almost never considered by the courts in these cases – particularly when they involve foreigners with no or weak community ties who are due to be removed or deported.

Concluding thoughts

Making migrants criminally accountable does not result in more but in fewer protections for them. The practice of prosecuting offences involving migrants accused of violating the boundaries of their status as non-members is selective and highly erratic, militating against the predictability and certainty of criminal norms. The criminal prosecution does

not preclude expulsion and so even if they are convicted and punished foreign immigration defendants are still liable to be deported from the country. A criminal proceeding is expensive, time-consuming and fruitless in most of these cases since the ultimate objective of the immigration authority is to expel unauthorised foreigners from the country. Most importantly, the initiation of a criminal procedure and subsequent imprisonment is a disproportionate sanction for these offences. In some cases it contravenes international treaties given the numbers of those accused of immigration crimes who have claimed asylum or been granted refugee status.

The criminalisation of immigration is not merely a symbolic phenomenon whereby unwelcome foreigners are depicted as criminals, abusers and outlaws. Because they are liable to prosecution and conviction, they are in institutional and legal terms 'criminals'. That seems a rather heavy and unfair label to apply to someone trying to get into the country, albeit deceitfully. Criminal punishment produces unnecessary pain and the state should not be licensed to appeal to it for merely instrumental reasons.

The growing interest among criminologists and academics working on the sociology of punishment more broadly in this emerging field of research is a welcome sign. It should pave the way for more in-depth research on how penal powers are expanding and changing, and the importance of citizenship in the novel sites of state control, where criminal law powers are increasingly being deployed to police migratory movements.

About the author

Ana Aliverti is the Oxford Howard League Post-Doctoral Research Fellow (2012–2013) at the Centre for Criminology, University of Oxford. She is the author of 'Crimes of Mobility. The Regulation of Immigration through the Criminal Law' which draws on her research on immigration crimes and is forthcoming with Routledge (Summer 2013). Her areas of work encompass criminalisation, immigration controls, and criminal law theory.

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Feature

Predatory others: Child sexual exploitation, ethnicity and faith

Laura Zahra McDonald and Zubeda Limbada, ConnectJustice

There is no community where women and girls are not vulnerable to sexual attack and that's a fact.

(Nazir Afzal, Chief Crown Prosecutor, Crown prosecution Service North West. *Guardian*, 2012)

You can only start solving a problem if you acknowledge it first...this small minority who see women as second class citizens, and white women probably as third class citizens, are to be spoken out against.

Sayeeda Warsi, Senior Minister of State at the Foreign and Commonwealth Office and Minister for Faith and Communities. *Evening Standard*, 2012)



Introduction

As public awareness of victim reporting, prosecution and conviction of sexual grooming, exploitation and abuse rises, a concurrent escalation in reactive political discourse appears to have grown, informed by headlines more than facts. Distinct from reports of white male celebrities and child killers is the

development of a racialised narrative in which 'Asian' males – usually identified as having Pakistani Muslim heritage – have become archetypal sexual predators whose ethnicity is understood as intimately connected to the crimes themselves. In the British context, public discourse and moral panic on the 'problem' of immigration and multiculturalism, security fears relating to home-grown terrorism, and notions of 'un-British values' underpin this concern – that the 'nature' of these 'other' men, their ethnicity, cultures and faith, in some way motivate, support and shape the ways in which their crimes are manifested, specifically in cases where at least some of the victims, if not all, have been white girls, including recent high profile cases centered around Rochdale (2012), Derby (2012) and Oxford (2013).

The politicised focus on 'brown men' abusing 'white girls' raises a number of interesting questions for the social scientist, not only in relation to the crimes themselves, but connected to the attitudes of the perpetrators, victims and the social discourse in which crimes intersect with issues of sexuality, gender, culture, faith and ethnicity in complex ways. For communities and practitioners, these questions raise a further set of challenges: how might such crimes be prevented, identified and pursued without the inhibition of stigma, where the experiences and attitudes of victims and perpetrators have in some cases been couched in racialised terms?

In addition to this, recent findings highlighted in the 2012 Office of the Children's Commissioner's interim report into the extent of child sexual exploitation (CSE) in England reveal a further complication. Figures indicate that 28 per cent of victims who reported to the inquiry were from black and ethnic minority backgrounds, highlighting an

over-representation of BME individuals⁴ in the victim statistics. This statistic runs counter to the current public perception of the 'ideal victimhood' (Spalek, 2005) of young, white girls. And more confusingly, despite the media focus on 'Asian gangs' (Norfolk, The Times, 2012), state and non-governmental agencies provided very little information about perpetrators with statutory information submitted on the ethnicity of perpetrators even less reliable than that supplied (Berelowitz et al., 2012) on age or gender.

Our research therefore seeks to unpack and unpick this complex and sensitive picture, to better understand the intersectionality of discourse, crime and victim experience. Using an in-depth qualitative approach alongside quantitative data analysis, the large-scale project focuses on victims and perpetrators identified and identifying with a range of ethnic and religious communities. The research also looks at practitioners in key stakeholder organisations dealing with CSE, including police forces, statutory organisations and community groups in Bradford, Birmingham and London. Crucially, we explore the impact upon the wider communities affected by grooming and/or sexual exploitation – especially those communities linked to victims and to people who offend. The perceptions and opinions of victims – mainly young females⁵ – are central and their voices – often drowned out and 'represented' by media perspectives – feature strongly. Lastly, as there is little substantial evidence about the networks who are involved in the sexual exploitation and abuse of girls and young vulnerable women, we are examining the impact of public perception and discourse, especially the way it may be shaped through the 'otherisation' of Asians in general and Pakistani Muslims in particular – who have, in the words of Karmani (2013) transitioned within racist narratives from 'terrorists' to paedophiles, targeting white society.

Research questions

The research is still in the preliminary stages, but building upon knowledge through our work with Spurgeons⁶ on intervention work with victims, and through engagement with the literature and national datasets, we have identified the following key research questions:

- i) How is sexual grooming conceptualised and understood among community and statutory agencies?
- ii) What is the response to sexual grooming among community and statutory agencies towards victim and perpetrators, and how is information gathered and shared?
- iii) How are messages targeted within communities when media pressure is applied – and the responses of black, white and Asian communities in the area of CSE?
- iv) Explore perceptions of, and towards young females with specific identification of attitudes and understanding of sexual consent (Phoenix, 2012), sexual permissiveness, and promiscuity.
- v) How is the wider debate around the 'otherisation' of minorities in relation to race, ethnicity and religion played out within the sexual grooming arena – and how will understanding this help us to respond better to communities (who may

⁴ Based on the 2011 census statistics, the BME population is currently estimated to be 14.1 per cent of the overall total in England and Wales, rising from 7.9 per cent in 2001.

⁵ Of the 2,409 children identified via the call for evidence, 72% were girls and 9% boys. The gender of the victim was not specified in 466 cases (Berelowitz, 2012).

⁶ Spurgeons is a UK based charity which provides support to vulnerable children, helping them to fulfil their potential and enjoy their childhoods by providing them with care and protection.

be viewed as indirect victims of grooming due to the stereotyping that is happening), to direct victims and those who offend.

Research aims

The team's multi-sectorial backgrounds and interdisciplinary approach underpins the research objective: to meaningfully engage with the sensitive topic of child sexual exploitation with police, statutory agencies, community organisations and all affected communities to address the critical questions that statutory agencies are not able to engage with publicly. While the current media-led discourse on CSE demands answers from authorities – the lack of research (Berelowitz, 2012), coupled with the fear of sexual offences from wider society and the added anxiety for communities associated with perpetrators by ethnic, religious or familial ties has led in part to the inhibition of information sharing. For example, the statistical collation of information routinely addresses responses to tackling the end result of a horrific crime, but not the start processes. An important objective therefore is to seek to understand child sexual grooming and exploitation of young girls and women more fully and interrogate attitudes and understanding of sexual consent beyond legal definitions, addressing race, ethnicity and religion.

Our second related aim is to assess the impact and stigmatisation on communities – identified in national data as white, black and Asian – as victims and perpetrators. Victimisation includes primary victims, but also families and the impact on wider communities, while perpetration from a theoretical perspective and in terms of actual impact may also include social, cultural and religious discourse relating to sex, gender and crime, exacerbating attitudes from a motivational and legitimizing perspective. We want to understand how the wider debate around the 'otherisation' of minorities in relation to race, ethnicity and religion is played out within the sexual grooming arena – and how understanding this will help us to respond better to communities, who may be viewed as indirect victims or perpetrators of grooming because of stereotyping of direct victims and people who offend.

As the context of ethnic and social relations are crucial to understanding CSE and ethnicity, we are also mapping current knowledge and capabilities of police and local statutory agencies, providers and communities in identifying perpetrators and victims, and how this intersects with community relations. A specific example of an unrelated incident triggered by historical inter-ethnic rivalries occurred in Birmingham in 2005 when local riots happened in Handsworth and Lozells – an inner city area of Birmingham. Ongoing inter-community resentments boiled over after a wholly unsubstantiated rumour was spread via radio, stating that a young black girl had been gang-raped by a group of south Asian men. Relations between the black and Asian community were already tense as a section of the Asian community was seen to be prospering at the expense of the black community. The riots culminated in the deaths of two young men and rioting on the streets of Birmingham.

Relating to this wider context, the research also seeks to identify the spaces where local discourses around grooming and exploitation are being discussed within communities. While some local meetings and conferences have occurred in community⁷, academic and

⁷ University of Birmingham event with Southall Black Sisters (Summer 2012) and WMCTU event with Muslim communities (Autumn 2012).

statutory circles⁸ the absence of shared dialogue between the three sectors is evident even today. Observed community meeting discussions seem to be driven by media headlines where some feel victimised as 'Pakistani Muslims', coupled with frustration at not knowing what to do – especially when discussing sex is considered a taboo subject in usually conservative communities – and the fear of stoking communal rivalries in mainly economically deprived communities. In some observed local spaces in towns, local women may informally meet to talk about such issues privately but would be reticent to discuss sensitive issues around CSE publicly. This may be because of the fear of drawing attention to themselves and their communities by talking about such a taboo subject publicly. It could also be to avoid labelling, to avoid being seen as a 'problem' community or to avoid drawing the attention of outsiders to the community, when the community as a whole regard the issue not as a community problem, but more a societal problem around grooming and exploitation.

Finally, we explore how the 'otherisation' of minorities in relation to race, ethnicity and religion are played out within the sexual grooming arena to examine what the potential impact and repercussions in addressing CSE might be. For example, in 1989 there were 3000 male sex offenders in prisons in England and Wales (Cowburn et al., 2008) with the figure reaching 8,106 in 2007, and within this increase the proportion of BME men in the prison population of sex offenders had increased from 12.2 per cent to 17.7 per cent, reflecting the hugely disproportionate number of BME population in the criminal justice system. Comparatively, the Child Exploitation and Online Protection organisation (CEOP, 2011) scoping study into 'localised grooming' (which is roughly synonymous with on-street grooming) indicated that response rates to the researchers' request for data from police, children's services and the third sector were low. Based on this patchy data, CEOP suggest there are over 2,000 'potential offenders' in the UK and most will never have been formally identified, let alone arrested, charged or prosecuted. Ethnicity data was available for just one-third. Of these, 49 per cent were white and 46 per cent Asian with the proportion of Pakistani Asians unknown. The question remains as to why in a country where Asians constitute 7 per cent of the general population, the figure is so high.

The sensitivity and politicisation of narratives relating to these questions enriches and complicates the research, which is intended to contribute to policy and practice as much as to academic knowledge, in an arena of victimisation that destroys lives and taints social relations.

About the authors

Dr Laura Zahra McDonald and Zubeda Limbada are Co-Directors of ConnectJustice, specializing in research, evaluation and facilitation in situations of social conflict. www.connectjustice.org

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Research update:

Child arrests in England and Wales 2008–2011



This research briefing presents analysis based on freedom of information data from all 43 police service areas in England and Wales. Data was provided on the number, age, gender and ethnicity of child arrests. The data shows that within the study period numbers of child arrests fell.

In the four years 2008–11 there were over a million child arrests in England and Wales. During 2011 there were 2,006 arrests of primary school age children (i.e. children up to and including 11-year-olds). Girls accounted for around a fifth of all child arrests each year. Police made more than 34,000 arrests of girls aged 17 and younger during 2011 whereas three years earlier in 2008, more than 62,000 arrests were recorded. Several police services have reviewed their arrest procedures and policies as a result of the Howard League's engagement with them.

Fourteen police services recorded a fall in arrests of more than 50 per cent. They were Bedfordshire, Cambridgeshire, Dorset, Essex, Gloucestershire, Hertfordshire, Humberside, Lancashire, Northumbria, Suffolk, Thames Valley, Warwickshire, West Midlands and West Yorkshire. Only one police service, City of London, recorded an increase.

The research shows that numbers of child arrests are affected by different policing styles, with variations across police service areas. A move away from target-driven policing has helped to reduce unnecessary child arrests. There also appears to be an increase in the use of informal and restorative sanctions. While this is to be welcomed when it lessens the severity of the intervention, the potential impact of these sanctions on children's futures should be acknowledged.

The statistics were published following a year-long inquiry on girls conducted by the All Party Parliamentary Group on Women in the Penal System. The inquiry found that responding to teenage girls' behaviour too harshly or disproportionately can make it more likely that they will be drawn further into the justice system, leading to more serious problems.

As funding to third sector organisations is cut, the police could find themselves with increased responsibility for the welfare of children. This is inappropriate and to be avoided. The briefing makes a set of recommendations that will help consolidate the reduction in the number of child arrests, including the need for policing to move away from an adversarial approach to children and better coordination with other services so that children's services take responsibility for children in need.

The full research briefing is available to download from the Howard League's website.
<http://www.howardleague.org/child-arrests/>

Innocence Projects in the UK: functioning effectively?

Naomi-Ellen Speechley, University of Leeds Innocence Project Manager 2011–2013



In the wake of Wullie Beck's failed conviction appeal at the Scottish High Court of Justiciary, hopes have been dashed for the first ever exoneration of an individual assisted by a UK Innocence Project. Coinciding with an Innocence Network UK (INUK) report querying whether wrongful convictions are being dealt with effectively by the Criminal Cases Review Commission (CCRC), the time seems ripe to examine the success of UK Innocence Projects themselves.

Innocence Projects in the UK comprise of student volunteers researching criminal cases where applicants claim that they have suffered wrongful convictions and are factually innocent. After detailed inquiries overseen by legal professionals or academic staff, students put together an application to the CCRC who may then re-investigate and refer the case back to the Criminal Court of Appeal. The Projects were intended to benefit both applicants and students – the former receive help putting a CCRC appeal together, and the latter gain experience of applying the law to real cases, while receiving first-hand education about the causes of wrongful conviction.

However, in the eight years since they were brought to the UK, Innocence Projects have failed to significantly increase the number of successful applications to the CCRC. Only a small percentage of applicants' cases qualify to be sent by Projects to the CCRC, and of these a smaller percentage again is investigated further by the CCRC. No convictions have so far been quashed. The use of these particular statistics may be misleading when measuring Innocence Project 'effectiveness' – research has shown that applicants with legal representatives working on their case have higher chances of success, and Projects help applicants with no support put together a good quality application. However, Projects still have a limited capacity to affect CCRC decisions, as the CCRC must by law apply their own criteria when choosing to a) accept and b) refer a case.

To their credit, Innocence Projects have done important work raising case profiles, providing support and research for applicants, securing legal representation, and educating future lawyers about the causes of miscarriages of justice. In many cases, students work to explain legal complexities in layman terms, explaining to imprisoned applicants why they were found guilty in plain language. This has proved an important role for many projects. Some projects also strive to offer guidance to applicants on where to seek help regarding issues such as complaining about police or poor legal advice. Despite this positive work, serious problems remain with Project practices that may prove a barrier to justice for would-be applicants.

Since their inception, a divide has developed between Projects connected to INUK and independent Projects affiliated only with the larger worldwide Innocence Network. Independent Projects source their own cases and guide student investigations individually, whereas INUK Projects must follow certain research protocols, pay fees, and can only work on cases approved by an individual at Bristol University. Each approach has merit, but it means that there are no set standards across all UK Projects, thus project work and protocols vary. This problem is compounded by the fact that some volunteers have not studied criminal or evidence law, and other volunteers are assessed, changing the focus of their work. This can create confusion for applicants who apply to

more than one Project, and applicants can also be frustrated and setback by the varying standards of Projects and the different avenues of investigation undertaken.

A further problem is that some Projects hold onto cases for a number of years, while each year's cohort of students re-learn and re-investigate the facts of a case. In addition, Projects generally only consider cases of *factual innocence*, which differs from the CCRC's criterion of wrongful conviction. This is problematic because the CCRC's criterion includes factually guilty applicants whose cases featured procedural unfairness, but can exclude factually innocent applicants who cannot meet the threshold for the CCRC to accept the case. This can also mean that Projects turn applicants down who are still eligible for CCRC consideration.

Research has shown that Project-assisted applications may be more likely to attract increased attention by the CCRC due to their clarity and eloquence (particularly where investigation results have shown proof of certain points). However, once a case has been accepted, the CCRC still has to conduct its own investigations, repeating Innocence Project research that has already cost the applicant time. Arguably, if Project investigations enable the CCRC to deal with the case more effectively, then the time, money and students' efforts are worthwhile. But the aforementioned lack of set procedures across all Projects in relation to how their investigations are carried out leads to a lack of clarity, which can lead to situations where applicants work with a Project and then later find it doesn't have the resources to properly investigate their case.

It is unfair that Projects can hold cases for years while investigations are underway, investigations which the CCRC must then repeat – particularly when a different Project could have offered a different approach. There are of course constraints on university or law firm resources and competition, but clear guidelines outlining how each Project works, whether it has resources to investigate or not, and what it could specialise in would be beneficial for applicants and volunteers alike. If Innocence Projects shared research, cases and areas of expertise, applicants would not become confused or disillusioned and Projects would not suffer from the problems surrounding case monopoly.

Closely related to the lack of inter-Project cohesion is the sceptical relationship between Projects and the CCRC. Failed Innocence Project applications to the CCRC have led to an 'us versus them' mentality, which – far from prompting the Commission to increase transparency – has added to backlogs and frustrated both parties. Often, the reasons for the CCRC's non-referral have been disclosed to the applicant and their lawyers, but for legal reasons have not been released to projects and campaigners, who are then not fully aware why the application was rejected.

The INUK report has identified problems in the CCRC's practices (mostly due to statutory constraints), which is a step towards fundamental improvements, but changes can be made faster and on a smaller but still significant level. Discussions at the CCRC stakeholder event last November prompted ideas about how Innocence Projects could progress to ensure that students' voluntary work remains worthwhile.

The two key methods of improvement involve standardising student training across all Projects in a democratic and flexible way, and redirecting their work to more problematic (and suitable) areas without losing the benefits provided by Innocence Projects. The CCRC already give talks and workshops for Project students to attend, educating them

about the CCRC investigation and referral criteria, with the aid of redacted case examples. Such talks and workshops could be adapted to focus on identifying what the Commission seeks from an application and how students can draw out these points from applicants. They could also examine the most common or problematic potential avenues for investigation. Not only would this result in practical education with tangible benefits in better focused, standardised Project-assisted applications, but it would also encourage better student engagement with the appeals process, improving understanding and accountability.

Leading on from this, the work done by Project students could be more productive if they were to go into prisons and youth offending centres, and contact local miscarriage of justice groups to speak directly with applicants. As Project students are situated all over the country, in Universities with law schools or societies that organise prison visits, they would be well-placed for such a role. Moreover, having access to up-to-date legal tuition and law libraries gives them an advantage over other campaign groups. Students would benefit from the eye-opening experience of applying textbook law to real cases and interviewing difficult and marginalised social groups, under supervision of tutors and aided by CCRC advice. Ultimately, this approach would greatly increase access to justice for applicants.

While this idea may not be popular with all Projects, it would vastly increase the pool of potential applicants. As the situation currently stands, most Projects only help applicants who proactively contact them. However, given the lack of Project adverts or media, particularly surrounding wrongful convictions, a sizeable proportion of the prison population are completely unaware of Innocence Projects or the CCRC. In some cases, prisoners are also unaware of the fact that their convictions may be wrongful or that they may be able to appeal. The CCRC have received an influx of applications partly due to their 'Easy Read' application form and outreach presentations targeting previously inaccessible inmates. To increase the visibility of the work they do among potential applicants, Innocence Projects need to amend their advertising and application process at the very least.

Given that the aim of both Innocence Projects and the CCRC is to enable the wrongfully convicted to seek justice, it is important to recognise both the merits and shortcomings of current Project practices in achieving this. The next step is to think seriously about how to make improvements.

Event review

Why do some countries cope with fewer prisoners? How can England and Wales do the same? Seminar given by Tapio Lappi-Seppälä as part of the *What if?* series

Reviewed by Thomas Guiney, PhD Candidate, LSE



On Wednesday 20 March 2013 the LSE hosted the fifth event in the 'What If' seminar series, a partnership between the Howard League for Penal Reform and the Mannheim Centre at the LSE that brings together thinkers, academics and practitioners to challenge conventional thinking on penal issues.

The seminar was chaired by Dr Coretta Phillips and the presentation was delivered by Tapio Lappi-Seppälä, Director-General of the National Research Institute of Legal Policy in Helsinki. He was joined by Baroness Onora O'Neill, chair of the Equality and Human Rights Commission and Professor Richard Wilkinson, co-founder and board member of the Equality Trust.

Drawing upon an impressive range of comparative data Tapio systematically debunked the widely held belief that we are witnessing an inescapable global shift towards greater use of imprisonment. In reality many European countries have sustained low prison populations with no demonstrable impact on public safety. Finland has actively pursued a policy of de-incarceration while the justice reinvestment movement in the USA offers some hope that even the most active penal states can wean themselves of the present addiction to incarceration.

Through his presentation Tapio offered a cautious tale of penal optimism: We must not forget that incarceration rates are political products, they result from the choices of our policy-makers and there are alternatives to our ever increasing use of imprisonment. Our European neighbours offer a number of possible blueprints for change but implementation will require political will. Societies with low numbers of prisoners invest heavily in social welfare, pursue policies that actively seek to alleviate income inequality and build social capital. England and Wales can cope with fewer prisoners but it will require a level of commitment that is presently lacking.

In reply Baroness O'Neill reflected upon Tapio's finding that high levels of social trust are strongly correlated with low incarceration rates. We must get beyond correlations to

understand causation and seek a richer understanding of how trustworthiness, individualism and a sensationalist media interact to determine public trust in the political system and social institutions like the police.

Professor Wilkinson then concluded the panel responses by expanding upon the theme of relative income inequality. The central message was that unequal societies give rise to a range of social evils from poor educational attainment to low life expectancy. In the criminal justice sphere there is mounting evidence that unequal societies tend to be more brutal, favouring higher rates of imprisonment and tough law and order narratives. Inequality unleashes powerful socio-psychological anxieties about social status and for Professor Wilkinson the choice we face is a stark one; either we can choose to arrange our society around the norms of rivalry and competition or we can aspire to a more equal society built upon mutual trust and exchange.

As Tapio so powerfully demonstrated, the former can only result in a vicious cycle of imprisonment, punitiveness and generalised feelings of insecurity, harming us all in the long run.

Why do some countries cope with fewer prisoners? How can England and Wales do the same? Seminar given by Tapio Lappi-Seppälä as part of the *What if?* series

Reviewed by Anna Matczak, PhD candidate, LSE



The purpose of the seminar was to discuss the range of factors that influence imprisonment rates in various countries, focusing on the current situation in England and Wales and using Finland, one of the countries with the lowest rate of imprisonment in Europe, as a reference point.

The presentation by Dr Tapio Lappi-Seppälä included a variety of statistical data, and gave an overview

of prevailing interpretations of the subject. Tapio suggested that it is important to look beyond common explanations and consider other evidence, for example investments in social welfare. According to the speaker there is a simple mechanism: equality supports inclusion and this produces higher trust and legitimacy. Lack of thereof contributes to greater use of 'penal power'. The other factor discussed in more depth was types of democracy. By referring to Arend Lijphart's *Patterns of Democracy* (1999), the speaker concluded that majoritarian democracies, like the British one, do not support and accommodate lower incarceration rates.

Once Tapio had completed his presentation, two invited discussants contributed to the seminar. Baroness O'Neill reminded the audience that part of the incarcerated population should be sent to mental health institutions rather than prisons – and this issue is frequently neglected when discussing incarceration rates. Then she challenged the hypothesis on the correlation between types of democracy and imprisonment rate, considering it unlikely to be sustainable. Professor Richard Wilkinson gave further

evidence on income inequality and its impact on incarceration rates, and also brought a more sociological approach to the foreground of the analysis. Professor Wilkinson referred to *Democracy in America* by Alexis de Tocqueville and discussed the notion of sociality by Marshall Sahlins (1968).

The talk ended with questions and comments from the audience. In general, the seminar encompassed a much wider spectrum of issues than just a range of factors that correlate with incarceration rates. The nature of the feedback from participants was to the greatest extent contributive. One of the most interesting remarks detailed how the perception of equality and human rights has changed over time in England and Wales. Initially it was seen through the lens of the communist/socialist ideology, and currently it is at the heart of the criminal justice system.

In addition, participants listed issues that are highly related to the discussed subject but were absent (or very much silenced) in the presentations. Among them were: youth crime; immigration; consumerism driven by inequality that can lead to criminality; population density and its impact on prison population; separating England and Wales when discussing the incarceration rate; differentiating data on the number of people on remand and in prisons; sentencing guidelines and mandatory sentences.

Finally, Professor Robert Reiner called attention to a very interesting argument. As far as the subject of imprisonment rate is concerned, one has to make a distinction between a range of measurable elements (as presented by Dr Tapio Lappi-Seppälä, Baroness O'Neill and Professor Richard Wilkinson), and the impossibility of measuring the propensity of societies to generate crime.

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What is Justice? Re-imagining penal policy

International conference
1–2 October 2013, Keble College, Oxford



The Howard League for Penal Reform is holding a two-day international conference to generate an intellectual debate to contest the conventional role of the penal system. The conference will explore ideas for a new, achievable paradigm that would deliver a reduced role for the penal system while maintaining public confidence, fewer victims of crime and safer communities.

The conference will explore themes of local justice and participation, social justice, human rights, and the role of the state.

Speakers will include:

- **Yasmin Alibhai-Brown**, journalist and author
- **Vanessa Barker**, Professor of Sociology, Stockholm University
- **Nils Christie**, Professor Emeriti in Criminology, University of Oslo
- **Frances Crook OBE**, Chief Executive, the Howard League for Penal Reform
- **Danny Dorling**, Professor of Human Geography, University of Sheffield
- **Albert Dzur**, Professor of Political Science, Bowling Green State University
- **Stephen Farrall**, Professor of Criminology, University of Sheffield
- **Barry Goldson**, Professor of Sociology, Social Policy and Criminology, University of Liverpool
- **Will Hutton**, Chair of the Big Innovation Centre at The Work Foundation and Principal of Hertford College, University of Oxford
- **Baroness Helena Kennedy, QC** Barrister, member of the House of Lords and chair of Justice
- **Nicola Lacey**, Professor of Criminal Law and Legal Theory, University of Oxford
- **Ian Loader**, Professor of Criminology and Professorial Fellow of All Souls College, University of Oxford
- **Fergus McNeill**, Professor of Criminology and Social Work, University of Glasgow
- **Matt Matravers**, Professor of Political Philosophy, University of York
- **Ann Oakley**, Professor of Sociology and Social Policy, Institute of Education, University of London
- **Monika Płatek**, Professor, Faculty of Law and Administration, University of Warsaw

Conference structure

There will be two days of plenary sessions with keynote speakers and ample opportunity for questions and debate, seminar sessions, exhibition and networking opportunities. A gala dinner will be held on the first day of the conference in the magnificent hall of Keble College.

Who should attend

Academics and students within the criminological and legal disciplines and also from the fields of philosophy, geography, political science, history and economics; policy makers and practitioners, lawyers, voluntary sector organisations, and anyone concerned about penal reform.

Continuing Professional Development

Accredited for Law Society 12 hours CPD.

For further information and to book a place visit the [conference website](#).

For 'early bird' rates [book before 1 July](#).

Member profile

Trevor Calafato, University of Malta, PhD candidate at the University of Sheffield



I am an Assistant Lecturer in the Department of Criminology at the University of Malta and a fifth year PhD student in the School of Law at the University of Sheffield. My research focuses on security policies and terrorism research. I started my research on this subject while reading for an MSc in Security and Risk Management at the University of Leicester, where for my dissertation I assessed the capability of Malta to manage a terrorist attack. This interest in terrorism was a significant departure, considering that at the time I was a Probation Officer. However, the subject interested me to the extent that I decided to take my studies to the next level. In those days I was a visiting lecturer at the University of Malta and I did not think my choice of studies would entirely change my career, but after the first few months of working on my

MPhil proposal to progress to my PhD I got an interview at the University of Malta: the unique nature of my studies was salient in helping to start an academic career.

My previous work as a Probation Officer also helped because although my main studies focus on security and terrorism issues, my field experience in probation helps me to contribute to the Bachelor of Criminology and the MA in Probation Services delivered by the Department of Criminology. Together with a number of academic colleagues and practitioners in the field of criminal justice I was one of the founders of the Malta Criminology Association. These diverse research interests are reflected in my publications which cover a variety of subjects including Criminology and Criminal Justice in Malta⁹, Aviation Security¹⁰ and Lombroso¹¹.

The Early Career Academic Network is important because it helps me to make more connections and exchange ideas relating to my broad interests in the field of criminology: security, terrorism and pioneer research in criminology.

⁹ Calafato, T. and Knepper, P. (2009) 'Criminology and Criminal Justice in Malta'. *European Journal of Criminology*, 6, pp. 89–108.

¹⁰ Calafato, T. and Zahra, K. (2012) *Forensic Update*, No 106.

¹¹ Calafato, T. (2013) 'Gli Anarchici and Lombroso's theory of political crime' in Knepper, P. and Ysethede, P. J. *The Cesare Lombroso Handbook*. London: Routledge.

Guidelines for submissions

Style

Text should be readable and interesting. It should, as far as possible, be jargon-free, with minimal use of references. Of course, non-racist and non-sexist language is expected. References should be put at the end of the article. We reserve the right to edit where necessary.

Illustrations

We always welcome photographs, graphics or illustrations to accompany your article.

Authorship

Please append your name to the end of the article, together with your job description and any other relevant information (e.g. other voluntary roles, or publications etc.).

Publication

Even where articles have been commissioned by the Howard League for Penal Reform, we cannot guarantee publication. An article may be held over until the next issue.

Format

Please send your submission by email to anita.dockley@howardleague.org.

Please note

Views expressed are those of the author and do not reflect Howard League for Penal Reform policy unless explicitly stated.