



4 December 2009
at the
Institute of Advanced Legal Studies

EXPERIENCING THE LAW

**OBJECTIFYING CHILDREN:
Law, Policy-Making and Human Rights
Responses**

ABSTRACTS

OPENING PLENARY

Children and Social Security: from Objects of the Poor Law to Subjects of Human Rights?

Nick Wikeley, Emeritus Professor, University of Southampton & Judge of the Upper Tribunal (Administrative Appeals Chamber)

This paper considers how the social security system has treated children from the early days of the Poor Law to the modern Welfare State. How much has changed, and how much remains the same? To what extent are children viewed as rights holders in terms of entitlement to social security benefits, and how far are they still characterised as dependants of their parents, so long as they remain legally minors, and irrespective of their maturity and personal circumstances? The treatment of children as participants and witnesses in the modern tribunal system will also be explored.

SESSION ONE

Children, Young People and the Impact of the Children Act 1908 in twentieth century Britain

Kate Bradley and Simon Shaw, University of Kent

This paper will examine the foundation of the Children Act 1908 and consider the ways in which it has remained the cornerstone of British criminal justice and welfare policy in relation to children and young people. The paper will trace the origins and evolutions of the Act, with a particular focus on the relationship between the provisions of the Act and the development of the British welfare state. It will also explore the relationship between political imperatives and trends in the way in which vulnerable and offending children and young people are treated. The paper will argue that the treatment of this group of children both reflects and informs our understanding of broader processes in British society in the twentieth and twenty-first centuries.

SESSION TWO

Rights and Registers: an analysis of the policies underpinning birth registration

Rebecca Probert, University of Warwick

This paper sets the current debate about mandatory joint registration of births in its historical context, examining how common it was for a child to be registered without the name of one parent (usually but not inevitably the father) and the extent to which the law either promoted or discouraged joint registration. It is clear that the purposes served by registration have changed over time, from religious to bureaucratic to aspirational. For much of the period under consideration, children were merely the objects of registration: in the recent reforms, however, the welfare of the child has moved centre stage and has been used to justify more stringent legal requirements.

Adoption at Mid-Century: the regulation of adoption after World War II

Richard Morgan, Centre for Contemporary British History;

This paper will sketch the context for the regulation of adoption in England and Wales immediately after World War II. It will do so by looking at:

- who was adopted and why
- the effect of the war on illegitimacy and public policy towards illegitimate children
- the background to the Adoption of Children Act 1949; and
- a brief sketch of the adoption 'market' in the period

This will look at Adoption Societies who, together with adoptions arranged directly by the mother, were responsible for the overwhelming majority of adoptions in this period.

SESSION THREE

Surveillance and Confinement: Understanding and Experiencing the Electronic Monitoring of Offenders

Mike Nellis, University of Strathclyde

Some 550,000 offenders have undergone EM in England and Wales since 1999. On any given day there are 18,000 offenders out in the community wearing a tag. Researchers have asked them about their experience, but have maybe not always asked the right questions. How does it affect them and their families? How should the experience of EM be theorised, in what sense is it surveillance at least as much, if not more, than confinement in one's own home?

Potentially Violent Men?:

Teenage boys, access to refuges and constructions of men, masculinity and violence

Helen Baker, University of Liverpool

This paper discusses the challenges of meeting the needs of teenage boys who become homeless as a result of domestic violence. In particular it focuses upon the impact of age limitation policies upon teenage boys, which many refuges still operate. It considers the reasons for these policies which, it is argued, still include reliance upon so-called 'cycle of violence' or 'intergenerational transmission of violence' theories. It is argued that such theories are problematic as they correlate being a man and being violent. Consequently, teenage boys of violent men are constructed as 'potentially violent'. The ways in which absent fathers are discursively constructed as responsible for any possible future violent, criminal behaviour of their sons is also problematised. Such assumptions which presume a casual effect between absent fathers and the future behaviour of teenage boys, are argued to be part of the reason why theories, such as the 'cycle of violence', persist. The paper contends that there is a need for more adequate theorising of the relationship between men, boys and violence. It also argues that access to refuge service provision should be based solely on physical and economic resource constraints, and not by reference to such problematic theories.

SESSION FOUR

Accusations of Witchcraft: Children and the Law

Jean La Fontaine, Emeritus LSE

Children experience the weight of the law when it protects them as well as when it punishes them. This paper addresses the consequences when accusations of witchcraft are made against children, who then seek help against their accusers. It asks whether there might not be a need for family mediation services before children are taken into care and charges of child abuse are levied.

The Gaol Cradle – Who Rocks It? – Revisited

Judith Rowbotham, SOLON, Nottingham Trent University & IALS

One of the main points in Waugh's *Gaol Cradle* related to the need, when dealing with juveniles actually or in danger of becoming delinquent, to look beyond the stereotypes and the legal expectations of children shaped by such stereotypes. The points raised by Waugh have still real force today, in terms of the debate over why, when and how to punish juveniles for transgressions, and at what stage, and in what ways, the law should be part of that process. He stressed that it was the frame in which a juvenile was presented to 'respectable society' and the courts, more than the deed and the impulse behind the deed, that established the basis on which juveniles were treated in the criminal justice system; which in turn shaped a juvenile's further framing within the penal system. The duty of adults to protect the juvenile transgressor from what Waugh called 'the thrilling technicalities' of the law, in order to prevent a further degeneration of the child into criminality was an issue of the late nineteenth century; it still presents itself today, but in different ways. The framing choices, including decisions of whether or not to invoke the law to deal with such (predominantly working class) juveniles, were generally the responsibility of ordinary citizens. Today, such choices are made by a range of 'experts' who create for their use frames of reference which may clash with those used by other experts. What frames of reference should we use? How easy should such frames be to break apart? To what extent is a revisiting of the practical and timeless points made by Waugh useful?

CONCLUDING ROUND TABLE

CHILDREN AND CRIME

Laurence Lee (Laurence Lee & Co); Samantha Pegg, SOLON, Nottingham Trent University

This session, introduced by brief presentations from Laurence Lee and Samantha Pegg, provides a final opportunity for discussion and suggestions about ways forward in terms of the law, policy-making initiatives, research and applied research opportunities. The audience will, it is hoped, contribute actively, engaging in debate with the two speakers and other conference speakers.