

POLICY NETWORKS AND THE JUVENILE COURT: THE REFORM OF YOUTH JUSTICE, c. 1905-1950

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Abstract

This article examines in detail the construction of government policy for juvenile courts during the first half of the twentieth century. The Children Act 1908 required that criminal charges against children and young persons be heard by a court sitting at a different time or in a different place from the summary court hearings held for adults. Later government legislation (for London, in 1920) and guidance (for the rest of England and Wales) added that children's cases should be dealt with by specially selected justices, specifically chosen for their knowledge and understanding of young people. Drawing on policy networks theory, the article argues that the detailed application of these policies and the subsequent development of the juvenile court was developed by the Home Office in conjunction with a policy network made up of three main elements: the labour movement, particularly the Labour Party; pressure groups connected with penal reform and child welfare; and feminist women's organisations. A detailed analysis of discussions surrounding the passage of the 1920 Juvenile Courts (Metropolis) Bill reveals the tactics and strength of this network in defeating the objections of another powerful lobby – the Metropolitan Magistrates – to the Bill's main proposal, the introduction of specialist juvenile courts in London, staffed by lay-people alongside the qualified lawyers, to provide a dedicated form of justice for the youth of the capital.

Keywords: juvenile court, youth court, policy networks theory, youth justice

Introduction

In its provisions for the treatment of young people by the courts of law the Children Act 1908 was both an ending and a beginning. On the one hand it represented the culmination of a tendency for treating child offenders differently from adults, which as Peter King has shown, had probably been going on for a century or more.² On the other, it set the template for future

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² Peter King, 'The rise of Juvenile Delinquency in England 1780-1840,' *Past and Present* 160 (1998) 116-166

developments in juvenile justice. Pressure for further change had built up in the early years of the twentieth century as a result of several factors, including the shocking revelations of the poor health of British adolescent males during the war in South Africa, the associated focus on the 'boy labour problem'³ and the influence of recent American experiments upon English reformers, notably the juvenile court in Chicago which opened in 1899. In Britain, the main precursor of the 1908 provisions was the Birmingham Juvenile Court, established in 1905.

Post-1908 developments, including the provision of courtrooms in new or adapted buildings and the movement towards the use of 'specialist' magistrates, were anticipated by Part V of the Act. Section 3(1) provided that a court of summary jurisdiction, when hearing charges brought against children or young persons (i.e. under 16s), be required to sit in a different building or room from the ordinary sittings of the court, or on different days or at a different time. Importantly the Act stated that a 'court so sitting' be referred to as a 'Juvenile Court.' The intention was clear: children and young people were to be dealt with completely separately from adults, the only exception being when they were jointly charged with the same offence. Section 3(3) emphasised the separation by insisting that the courts make provision for children and young people to be prevented from associating with older individuals while waiting outside the court or in transit. Later government guidance and legislation (in 1920 and 1933)⁴ added the requirement that juveniles appear before 'specially qualified justices' and it is the promotion of this idea by a 'policy network' of reformers which this article mainly focuses on.

Before analysing the network of political interests and lobby groups that supported these later developments this article briefly reviews some of the literature on the origins and development of juvenile courts in England and Wales and critically examines the concept of 'policy networks.'

³ Harry Hendrick, *Images of Youth: Age, Class and the Male Youth Problem* (Oxford University Press, 1990)

⁴ The Juvenile Courts (Metropolis) Act 1920 and the Children and Young Persons Act 1933

1 Origins of the Juvenile Court Policy

In an important study published over 20 years ago, the criminologist David Garland argued that the emergence of the juvenile court was part of a larger shift towards 'penal welfarism' in the criminal justice system and the 'modern penal complex' beginning with the Gladstone Commission in the 1890s and prompted to an extent by philanthropy. Garland argued that the development of youth courts was part and parcel of a 'modern penal complex' and of 'penal welfare' strategies that continued to develop within the criminal justice system until the late 1960s.⁵ In somewhat similar vein, Victor Bailey argued that the new strategies and methods for dealing with young and child offenders were the work of 'liberal progressives.'⁶ Another common interpretation, most often employed by political historians, is to see the Children Act as a 'New Liberal' reform and search for the origins of its measures in politico-philosophical currents within Britain's governing elite, above all the Hegelian 'Idealism' taught at Balliol College, Oxford and later defused within the Liberal Party.⁷ While acknowledging that these ideologies were undoubtedly significant (and Kate Bradley's work reminds us of the continuing importance of the Idealist-influenced settlement movement in youth work),⁸ this article argues that some of the other intellectual and ideological currents of the era, namely socialism and feminism, were also pertinent to the evolution of juvenile courts. Moreover, existing accounts tend to assume a 'top-down' approach to policy-making by privileging the political outlook of elite men such as politicians and civil servants.

By taking a 'network' approach to policy construction this article brings into focus the agency of social actors, some of whom by virtue of their gender and/or class cannot be located unequivocally in the political elite of early twentieth century Britain. In contrast to the hierarchical interpretation of policy making in which penal-welfare policies are seen as elite-driven, promoted within the bureaucracy by civil servants and, to a lesser extent, a small group

⁵ David Garland, *Punishment and Welfare* (Gower, 1985)

⁶ Victor Bailey, *Delinquency and Citizenship: Reclaiming the Young Offender* (Oxford University Press, 1987) p.4

⁷ Michael Freedon, *New Liberalism: an Ideology of Social Reform* (Oxford University Press, 1978)

⁸ Katharine Bradley, 'Juvenile Delinquency, the Juvenile Courts and the Settlement Movement 1908-1950: Basil Henriques and Toynbee Hall,' *Twentieth Century British History*, 19(2) (2008) 133-155

of penal reform 'experts,' this article argues that the policies that shaped the juvenile court in the period can be better interpreted as the work of a policy network which brought together activists from the women's movement, penal reform and children's pressure groups, the Labour party and nascent professional associations from the criminal justice sector together with politicians and civil servants. This article therefore seeks to establish not only the relevance of the politics of class and gender to the juvenile courts but also the enhanced role that pressure groups and professional associations (many of whom had close ties to the voluntary sector)⁹ were beginning to play in the construction of youth justice policy by the early twentieth century.

I have previously argued that that there was a symbiosis between the introduction of women JPs (and by extension, the whole issue of women's enfranchisement and citizenship) on the one hand and the development of the juvenile justice system on the other.¹⁰ Even before women over 30 won the right to vote in 1918 and began to enter into full citizenship, the women's movement and their labour movement allies had already begun to influence the juvenile courts. As already mentioned, Garland argued in 1985 that the Children Act synthesised the demands of 'child-saving philanthropists,' together with pressure for 'national efficiency' and the new criminological programme,¹¹ but he did not acknowledge either the gendered nature of 'child-saving philanthropy' or its strong connections to the women's movement in Edwardian Britain, or the contribution of feminists to the development of the criminological programme.¹² Moreover, while Bailey's 'liberal progressives' - broadly defined - undoubtedly promoted reform of youth justice, the men and women of the labour movement often viewed the issue as one where their views and experience had especial purchase. Far from adopting a Marxist critique of the justice system, early twentieth century Labour activists were strong supporters of penal welfarism. The approach I am adopting in this article

⁹ The continued importance of the voluntary sector in the juvenile justice system has been amply highlighted by Pam Cox, *Gender, Justice and Welfare: Bad Girls in Britain, 1900-1950* (Palgrave, 2003)

¹⁰ Anne Logan, "'A Suitable Person for Suitable Cases": the Gendering of Juvenile Courts in England and Wales c. 1910-1939,' *Twentieth Century British History*, 16 (2005) 129-145

¹¹ Garland, *Punishment and Welfare*, p. 222

¹² Anne Logan, *Feminism and Criminal Justice: a Historical Perspective* (Palgrave, 2008)

– which is a slight modification of my earlier analysis – is the identification and analysis of a ‘policy network’ in support of youth justice reform, bringing together feminists, penal reformers and socialists. Before sketching out this network, the article introduces the concept of ‘policy networks’ and suggests that elements of this model can be applied to the policy-making process of the early twentieth century.

2 Policy Network Analysis

The concept of ‘policy networks’ as a model of state-pressure group relationships has gained currency in political science since the 1980s, providing an alternative (and some would argue, more applicable) theoretical structure for the analysis of contemporary policy-making to the well-established perspectives of pluralism and corporatism.¹³ A networks approach proposes an alternative to the assumption that policy decisions are reached by hierarchies and transmitted by way of commands, instead suggesting that they are the product of interactions between interdependent social actors.¹⁴ For Rhodes, policy networks have played a part in the shift from a situation of strong, core executive power in Britain to a fragmented or even ‘hollowed out’ state through their relations with government and competition for resources. Rhodes has identified five types of policy networks, ranging from tightly integrated ‘policy communities’ to looser, ‘issue networks.’¹⁵ He defines the generic term ‘policy network’ as ‘a cluster or complex of organisations’ connected by ‘resource dependencies,’ that is, as functional networks. However, alternative interpretations place more emphasis upon interpersonal links within the networks rather than on structural relations.¹⁶ Importantly, network analysis can assist academic understanding of the relationships between pressure groups and governments (which vary across time, policy sector and states)¹⁷ and hint

¹³ See, for example, David Knoke, *Political Networks: the Structural Perspective* (Cambridge University Press, 1990); Martin J. Smith, *Pressure, Power and Policy: State Autonomy and Policy Networks in Britain and the US* (Harvester Wheatsheaf, 1993); R. A. W. Rhodes, *Understanding Governance* (Open University Press, 1997); Mick Ryan, Stephen Savage and David Wall (eds.) *Policy Networks in Criminal Justice*, (Palgrave, 2001)

¹⁴ Stephen Cope, ‘Analysing Criminal Justice Policy: towards a Policy Networks Approach?’ in Ryan et al, *Policy Networks*, p.1

¹⁵ Rhodes, *Understanding Governance*, pp.4-17

¹⁶ *Ibid*, pp.36-45

¹⁷ Smith, *Pressure, Power and Policy*, p.7

at answers to the all-important questions concerning the nature of political power and the process of decision-making.

As an analytical tool, the 'network' approach has self-consciously adopted the metaphorical language of information technology in the 'information age' to describe contemporary interest group politics.¹⁸ As a more diffuse entity, a 'network' might seem a more applicable metaphor in the era of supposedly non-hierarchical, loosely structured 'social movements,' capable of utilising modern technology, than in the time when formally organised 'pressure groups' petitioned government for policy changes, communicating through the Royal Mail and personal contacts. However, an examination of Home Office files and other sources from the early twentieth century suggests that some of the salient features of the 'policy network' model were already emerging in respect of criminal justice policy, some years before the expansion of the welfare state produced a proliferation in the number of interest groups and the concomitant shift from government to 'governance' identified by Rhodes.¹⁹ For example, the Edwardian and post-First World War women's movement, while made up of a number of more or less formally organised groups, embodied many of the characteristics associated with a modern social movement, including fluid memberships and porous boundaries between organisations.²⁰ Moreover, the women's organisations continually networked with each other and with other pressure groups and adopted a flexible approach to policy-making. The existence of a reform-minded network of more than a dozen pressure groups devoted to promoting state intervention in matters of morality (including advocates of temperance, animal welfare and women's rights) has been identified even within the Victorian period.²¹ In the case of criminal justice policy, the first quarter of the twentieth century was especially significant as the time when many of the key pressure groups in the field (both cause groups and

¹⁸ Cope, 'Analysing Criminal Justice Policy,' p.1. For social movements in the information society, see Manuel Castells, *The Rise of the Network Society* (2nd ed., Blackwell, 2000)

¹⁹ Rhodes does suggest that the network concept predates the term: *Understanding Governance*, p.33. In the USA the term 'sub-governmental system' is more commonly used

²⁰ These characteristics and more are identified in Knoke, *Political Networks*, p.58

²¹ Brian Harrison, 'State Intervention and Moral Reform in Nineteenth Century England,' in Patricia Hollis (ed.) *Pressure from Without in Early Victorian England* (Edward Arnold, 1974) p.290

professional associations) came into existence, including the Penal Reform League (1907), the Howard League for Penal Reform (HLPR, 1921)²² and the National Association of Probation Officers (NAPO, 1912). I have previously argued that the existence of a feminist-criminal-justice reform movement can be detected in the 1910-1960 period and have made a provisional attempt at mapping the links between organisations within this network.²³ However, engaging in a historical analysis of the policy network phenomena also highlights the fact that networks are dynamic, not static, and that the contribution of individual actors is crucial. Inevitably, both the HLPR and NAPO are significantly changed organisations in the twenty-first century compared with the 1920s, so an entirely structural perspective on their role in policy-making would have significant limitations.

3 The Juvenile Courts Policy Network c.1908-1933

The following sections of this article return to the subject of the youth courts by way of an analysis of the passage of the Juvenile Courts (Metropolis) Act 1920 and of the groups supporting the development of separate children's courts in general and the involvement of women magistrates in decisions concerning young offenders in London in particular. Women were permitted to be JPs throughout the United Kingdom under the Sex Disqualification (Removal) Act, passed in 1919 in the wake of the parliamentary enfranchisement of women. Throughout much of England and Wales they consequently began to sit in both adult and juvenile courts immediately after appointment, but in London, where most criminal matters were dealt with by qualified barristers sitting as stipendiary magistrates (known as metropolitan magistrates), women JPs were unable to play any part in the work for which even the anti-feminist Lord Chancellor, Lord Birkenhead, felt they were most suited.²⁴

As mentioned earlier, the 1908 Act provided that juvenile courts be held in different places and/or at different times from the ordinary, 'adult' courts of

²² This was formed on the merger of the Howard Association (set up in 1866) and the Penal Reform League

²³ Logan, *Feminism and Criminal Justice*, chap. 1; also see Anne Logan, 'Making Women Magistrates: Feminism, Citizenship and Justice in England and Wales, 1918-50,' unpublished PhD thesis, University of Greenwich, 2002, Appendix C. For the analytical benefits of mapping networks, see Knoke, *Political Networks*, p.77

²⁴ National Archives (hereafter NA) LCO2/463, letter from Schuster (Lord Chancellor's Office) to the Home Office, 16 Feb 1920

summary jurisdiction, with the obvious intention of removing relatively innocent, younger offenders (and other children brought before the courts for reasons other than criminality) from contamination. But reform was not going to end there. Campaigners regarded the traditional court rooms as being unsuitable for children's hearings and they objected to the formal nature of legal proceedings (which may well have been baffling to some adults too). Above all, they argued that the magistrates who decided on the fate of the young people should be 'specialists' in that they should have some (at least informal) qualification and aptitude for the job, including an interest in and sympathy with children, and an interest in probation and child welfare work.²⁵ Between 1908 and the 1930s there were three distinct but associated elements in the network of pressure groups which promoted the notion of the 'specialist' juvenile court magistrate: the labour movement, penal reform and children's pressure groups and the women's movement. This article examines each of these in turn, briefly assesses the opposition and then returns to the question of the network's members' relationships with each other and with the Government.

The Labour Party

The Labour Party's interest in this question can be traced at least as far back as 1908 and the need for specialist magistrates was first articulated by a Labour representative during evidence heard by the 1910 Royal Commission on Justices of the Peace. This Royal Commission was a deeply political enquiry, established by the Liberal government in response to concern over the Conservative domination of county benches that had resulted from the Liberal Party schism over Gladstone's Home Rule Bill in 1886.²⁶ Commission member and Labour MP Arthur Henderson inquired whether 'suitable person[s]' should be required to hear 'suitable cases.'²⁷ From the context of his question to a witness it seems that he had women magistrates and children's cases in mind. This was, of course, before women had the parliamentary vote, let alone the right to become JPs, jurors or lawyers, or even remain in a court room as spectators if the presiding judge or magistrate ordered them to leave.

²⁵ Ibid, memorandum by William Clarke Hall, 20 Feb 1920

²⁶ Sir Thomas Skyrme, *History of the Justice of the Peace Volume 2* (Barry Rose, 1991) pp.218-9

²⁷ Parliamentary Papers (hereafter PP), Royal Commission on Justices of the Peace, *Minutes of Evidence* (9 March 1910), paras. 1013-15 and 1196-1200

Henderson perhaps simply could be taken as a 'liberal progressive' on this question. But significantly, women in the labour movement²⁸ were already in the forefront of the campaign for reform of juvenile justice and Labour women continued to take a marked interest in the juvenile courts in the ensuing decades. In 1908, before the Children Act became law, the Women's Industrial Council (an early, women's 'think tank' closely associated with the labour movement) published a detailed polemic for juvenile courts written by Henrietta Adler, secretary of the Wage Earning Children's Committee.²⁹ Over the next 12 years the informal policy network of labour movement activists, feminists and penal reformers continued to promote the agenda outlined in Adler's pamphlet: separate accommodation for juvenile courts, less formality and specialist magistrates.

Although many of the activists supporting the juvenile court were by no means working-class (Adler for example was the daughter of a chief rabbi) there was a clear recognition that the putative clients of the courts were predominantly drawn from the labouring classes and that the most pressing need was for JPs – male and female – who understood the social conditions of the young people brought before the court. In general (although with some significant exceptions), Labour politicians – but not necessarily their governments or ministers – were inclined towards penal progressivism during the first 50 or 60 years of the party's existence. In Henderson's day the party was also generally well-disposed to women's rights, as long as these were taken to encompass the wives of working-class men as well as wealthy spinsters.³⁰ To an extent therefore, the women's movement and socialists were natural allies in promoting the development of juvenile courts in this period. This alliance was cemented by certain individuals who were capable of bringing these separate political worlds together, such as the women's trade union leader, Gertrude Tuckwell, the organiser of the 1920 deputation to the Home Office in support of the Juvenile Courts (Metropolis) Bill.

²⁸ The term 'labour movement' is used here to encompass not only the Labour Party, but also trade unions and other organisations that sought to organise, represent, or research (from a sympathetic perspective) the lives of working class people. It therefore includes organisations such as the Women's Industrial Council and the Women's Co-operative Guild.

²⁹ Nettie [sic] Adler, *Separate Courts for Children* (Women's Industrial Council, 1908)

³⁰ For the Labour Party's debates over women's suffrage, see Sandra Stanley Holton, *Feminism and Democracy* (Cambridge University Press, 1986)

Class remained an issue when it came to the selection of JPs even after the report of the 1910 Royal Commission had recommended that the Government should seek to achieve a political and social balance on the bench. Partisan Labour activists believed that Labour women – be they working-class or not – would be among the most ‘suitable’ persons to adjudicate in juvenile courts. In 1928 *The Labour Woman* reported a case in which a boy was charged with stealing coal in Wales. The court heard that the child’s mother was dead and that he got up at 5am every day to light the fire and get his father and brother up for work. *The Labour Woman* concluded:

it is in cases like [this] that we must have the advice and guidance of Labour women magistrates, people with an understanding of the home circumstances of the little ones, and a desire to treat the citizens of tomorrow with sympathetic understanding and not vicious punishment.³¹

Labour women’s support for the ‘welfare’ orientation of youth justice was re-emphasised in an article by ‘a Woman Magistrate’ published in *The Labour Woman* in 1936, which drew readers’ attentions to a recent Home Office circular that insisted that panels of specially selected magistrates for juvenile courts be appointed before 1st November that year. Under the sub-heading ‘Exclude the Unsuitable Magistrate’ the anonymous author argued that:

there must be a concerted effort to exclude the Deaf, the Aged and the Sentimentalist, and to elect to the Panels only those who have a sympathetic understanding of the child and his problems, those who are nearly his contemporaries, who quickly discerning the difference between the ‘Little Lord Fauntleroy’s’ and the child who, because of contempt born of familiarity, is not much troubled by one more cuff, and is probably more sinned against than sinning: Justices who with a far-seeing eye realise whether institutional or Home treatment or any other of the other odd dozen methods of treatment which the Court has the power to order is best suited to meet the needs of the juvenile before it.³²

Not only was the writer calling for sympathetic magistrates, she was also clearly convinced that they needed to be younger than many current JPs. Class and gender were not mentioned explicitly as factors on this occasion, but the article made it plain that it was vital that the ‘names of people known for

³¹ ‘Child and Coal Stealing,’ *The Labour Woman*, (Jan 1928) p.16

³² ‘The Juvenile Court,’ *The Labour Woman*, (Oct 1936) p.151

their successful handling of children' must be included in nominations for the bench.

In the 1940s and 1950s Labour women magistrates continued to vocally support juvenile courts staffed by sympathetic magistrates and progressive methods of dealing with young people. In 1944 Joan B. Thompson, a Middlesex JP, ridiculed the 'old-fashioned type of magistrate... old men [who] gather together with long faces saying: "This is shocking! Our Juvenile Court is too lenient, the probation system is a failure. We must insist on more birching."' Thompson raised the question of class as well as gender, blaming such poor understanding on the part of JPs on the fact that 'although roughly 98 per cent of the children who come before our courts are from the working class the great mass of our magistrates belong to the well-to-do and privileged classes' and were consequently lacking in empathy with the poor. She advocated sweeping changes to the process by which JPs were appointed and juvenile panels selected and called for action from 'Labour organisations': 'our Courts must become true People's Courts,' she said, 'in which justice is administered by the people for the people.'³³ Mrs Thompson's opposition to corporal punishment, a quintessentially penal-progressive stance, was echoed by another Labour woman magistrate, Mrs Gibbin of Newcastle-on-Tyne. Writing in 1952, Mrs Gibbin expressed satisfaction that birching had been at last abolished as a judicial penalty.³⁴ While not all women magistrates shared this opinion, it seems that most of those who were associated with the Labour Party did. In 1936 a South Shields woman JP publicly criticised her fellow magistrates for ordering the birching of two boys and in the same year another Labour woman magistrate made an impassioned protest against the beating of 'underfed, half-starved, half-clothed' children.³⁵ Mrs Thompson blamed 'a reactionary House of Lords' for Parliament's failure to abolish corporal punishment for juveniles in the 1933 Children and Young Persons' Bill, although she acknowledged the cross-party elements of penal progressivism by emphasising that the 1938 Home Office committee that unanimously recommended the abolition of birching and flogging was 'presided over by a

³³ Joan B. Thompson, *Justices of the Peace in Juvenile Courts* (Labour Research Department, 1944), p.8

³⁴ J. L. Gibbin, 'Recollections of a Magistrate,' *The Labour Woman* (March 1952) p.288

³⁵ NA LCO2/1461; Logan, *Feminism and Criminal Justice*, p.72

Conservative MP.³⁶ In the place of corporal punishment Labour women advocated 'talking to a child, quietly showing it the error of its ways'³⁷ by 'a humane Bench.'³⁸ Above all, they supported the use of probation.

Penal Reform Groups

The second element of the network can be broadly characterised as the penal reform movement. Between 1907 and 1920 there were two major penal reform pressure groups active in England and Wales, the Howard Association (founded 1866) and the Penal Reform League (set up in 1907). Of these two, the latter had some, informal association with the suffrage movement, having been established as a result of reports of conditions in Holloway prison from suffragettes. Later, during the First World War, it attracted support from conscientious objectors and their associates. After the Quaker suffragist (and Labour supporter), Margery Fry took over as secretary a merger was agreed with the older, and arguably less radical, Howard Association. Both the HLPR and its predecessors were strong advocates of juvenile courts, the appointment of women as JPs and the greater use of probation. A Howard Association pamphlet argued that 'probation is constructive and positive, whilst flogging is negative' and emphasised the role of social problems in the creation of juvenile delinquency:

Probation officers know that, more often than not, the fault lies less with the child than with his parents, and the social conditions in which the family group lives; and wisely administered, probation results in correction of the parental and social conditions of the case – conditions never reached by flogging the child.³⁹

However, not all magistrates could be trusted to renounce birching in favour of probation, so penal reform groups also advocated the selection of 'special' children's magistrates.

The cause of juvenile courts also drew several other philanthropic and lobbying bodies concerned with child welfare into the orbit of penal reform. These

³⁶ Thompson, *Justices of the Peace*, p.6

³⁷ NA LCO2/1461, cutting from the *Northern Echo*, 1 May 1936

³⁸ Gibbin, 'Recollections'

³⁹ Cecil Leeson, *The Magistrate and Child Offenders* (Howard Association, n.d. [1920?]) Leeson had experience of the Birmingham Juvenile Court where he had been a voluntary probation officer

included Adler's Wage Earning Children's Committee, which was dedicated to tackling the 'boy labour problem' and the reform of troublesome male adolescence in general; and the State Children's Association. The latter was a philanthropic organisation that championed the needs of what today would be called 'looked after' children: those who resided in workhouses and other state-funded institutions. This was a prestigious body that boasted many titled individuals on its headed paper, and had Henrietta O. Barnett as its Honorary Secretary.⁴⁰ Unsurprisingly, given the organisation's philanthropic mission, personal links to the women's movement can readily be found. Its president, Lord Lytton, was the brother of the suffragette, Lady Constance Lytton, whose devotion to the cause was so great that she famously adopted the disguise of the working-class Jane Wharton in order to remain unrecognised by the prison authorities and accorded more privileges than the 'ordinary' suffrage prisoner.⁴¹ Other well-known supporters of the State Children's Association included the suffragist Lady Frances Balfour, Mrs Barrow Cadbury (one of the first women magistrates and a volunteer probation officer from the opening of Birmingham's pioneer juvenile court in 1905) and the Marquis of Crewe, the Lord Lieutenant of London.⁴²

The National Society for the Prevention of Cruelty to Children (NSPCC) was also part of the network. Interestingly its director, Robert Parr, lobbied unsuccessfully during the passage of the Juvenile Courts (Metropolis) Bill in 1920 for the adoption in London of a Chicago-style central juvenile court, preferably presided over by the Metropolitan magistrate, Sir William Clarke Hall.⁴³ A leading champion of juvenile courts and allied causes (including the abolition of corporal punishment and the development of the probation service), Clarke Hall was son-in-law of the founder of the NSPCC as well as a member of the Howard Association (which also backed the centralised court plan), and was therefore certainly a pivotal figure in the network of

⁴⁰ Henrietta and her husband Samuel Barnett founded the Toynbee Hall settlement in East London. Henrietta Barnett was heavily involved with the Charity Organisation Society, the Metropolitan Association for the Befriending of Young Servants and the Children's Country Holiday Fund, amongst others. See Seth Koven, 'Barnett, Dame Henrietta Octavia Weston (1851-1936)' in H. C. G. Matthew and Brian Harrison (eds.) *Oxford Dictionary of National Biography* (Oxford University Press, 2004)

⁴¹ Constance Lytton, *Prison and Prisoners* (Virago, 1988, originally published 1914)

⁴² NA LCO2/463, State Children's Association leaflet, n.d.

⁴³ *Ibid*, letter from Parr to LCO, 20 March 1920

organisations interested in policy for juvenile courts. However, he was by no means universally liked. Although his vision for the juvenile court was strongly supported by the NSPCC and other elements of the reform network it was equally forcefully rejected by his legal colleagues in the Metropolitan magistracy, one of whom significantly described him as 'the favourite of all the wild men and women.'⁴⁴ It is highly likely that his trenchant and publicly-expressed criticisms of their methods caused the antagonism of his London colleagues. In 1920 the Metropolitan magistrates succeeded in getting the Government to reject the NSPCC's central court proposal, although the other elements of the plan put forward by Parr were adopted, namely special juvenile courts in London each made up of one metropolitan magistrate and two lay JPs (one male and one female), held in different premises from the main police courts.

Feminist Organisations

The third main branch of the network was the women's movement. As already mentioned connections between penal reform groups and women's organisations were well-established even before women's enfranchisement. Naturally the relationship between child welfare bodies and philanthropic women's groups was also close. Foremost among the latter was the National Council of Women (NCW) which operated as an umbrella group for a wide variety of organisations. Originally named the National Union of Women Workers, the NCW combined an interest in women's rights with a dedication to tackling social issues through both voluntary activity and political lobbying. There has been some dispute among scholars as to what extent the NCW can be characterised a 'feminist' body but it is clear that their support for such causes as women's suffrage, the professional advancement of women and reform of sex-discriminatory laws was unequivocal.⁴⁵ Within the NCW the justice system was the concern of the Public Service and Magistrates' Committee, a body of which over 550 women JPs were members by 1927.

As an umbrella organisation, naturally the NCW was well-networked with other women's organisations, especially the former suffrage societies (the Women's

⁴⁴ Ibid, letter from Biron (Chief Metropolitan Magistrate) to LCO, 31 July 1920

⁴⁵ For a review of this debate, see Logan, *Feminism and Criminal Justice*, pp.5, 24-30

Freedom League and the National Union of Societies for Equal Citizenship) that continued their campaigns for women's rights into the interwar period. Equally noteworthy are its connections with the penal reform lobby groups, especially the HLPR. The records of both bodies reveal sustained contact throughout the 1920-1950 period, maintained by women such as Margery Fry and Clara Rackham (both JPs) who were prominent in both organisations. Joint lobbies were organised, representatives of one organisation attended meetings and conferences of the other and resolutions were submitted. These contacts ranged over a much wider field than just juvenile courts, encompassing many other concerns, especially those relating to women and the criminal justice system, but the joint lobby in favour of the Juvenile Courts (Metropolis) Bill in 1920 must have been a major incident in cementing the alliance of penal reformers and women's groups. The last section of this article further analyses the role of the juvenile courts policy network in lobbying for the establishment of new arrangements for children brought before London's courts and examines the opposition that they faced.

4 The Juvenile Courts (Metropolis) Bill

The intention to introduce a Bill for London's juvenile courts was announced by Mr Shortt, the Home Secretary, in May 1920. The Government's original plans were to establish a single children's court for the metropolis as well as to introduce two lay magistrates, one male and one female, to sit alongside a Metropolitan magistrate on equal terms and with the same authority.⁴⁶ The proposals ensured that there would be strenuous opposition from the majority of the Metropolitan magistrates to both propositions. A central court would take all children's cases out of their hands, and – as many obviously feared – put them in the hands of Clarke Hall. Moreover, as qualified barristers, the Metropolitan magistrates objected to the idea of sharing authority with untrained, unprofessional, 'amateur' lay people. They especially objected to the prospect of equality of status with the newly-appointed women JPs, some of

⁴⁶ *The Times*, 10 May 1920

whom, at least one of the legal men suspected, might be tempted to be 'soppy and sentimental'⁴⁷ towards the children.

The Metropolitan magistrates were clearly successful in lobbying Parliamentarians as when the Bill was debated in the House of Lords a 'compromise' proposal to the introduction of lay JPs was suggested: that the newly-created women magistrates should sit as 'assessors,' that is, without the power and authority of the magistrate.⁴⁸ No mention was made of the male JPs, although presumably this would not be regarded as a good use of their time. While there was some sympathy with the assessor plan (which had originated with the Metropolitan magistrates) in the Home Office, the Lord Chancellor's permanent secretary made clear that he thought it unworkable: women would not be satisfied and London would remain an anomaly, since women JPs could preside in children's cases elsewhere in England and Wales.⁴⁹ However, the Metropolitan magistrates then got the support of some of London's women probation officers who wrote to *The Times* to express the opinion that 'the appointment of women [JPs as] assessors in children's courts is entirely unnecessary.'⁵⁰ An anonymous civil servant commented that 'the London Beaks generally are against the Bill and appear to be stirring up subterraneously a certain amount of opposition.'⁵¹ By the end of May they even had the support of a *Times* leading article.⁵²

In the event, the Bill was passed, but at the cost of dropping the central court proposal, a concession which was announced during the committee stage in the House of Lords.⁵³ Instead the Act allowed for an unspecified number of juvenile courts, but stipulated that they were not to be held in existing police courts. The latter point might seem to be a victory for the reformers, although it was also supported by the Chief Metropolitan Magistrate. While the Metropolitan magistrates had succeeded up to a point, they had failed to see off what they regarded as the more serious challenge to their professional

⁴⁷ *The Times*, 17 Jan 1921 Letter from Mr Bankes, South Western Police Court magistrate

⁴⁸ Hansard HL Debates, (5th series) vol. 40, 15 June 1920, col.610

⁴⁹ NA LCO2/463, letter from Schuster to Home Office, 19 March 1920

⁵⁰ *The Times*, 21 May 1920

⁵¹ NA LCO2/463, memorandum, 27 May 1920

⁵² *The Times*, 25 May 1920

⁵³ HL Deb (5th series) vol. 41, 6 Aug 1920, col. 919

status posed by the introduction of ‘specialist’ – but legally untrained - JPs, particularly women. More remarkably still the Bill passed despite the personal distaste of the Lord Chancellor (Lord Birkenhead) who was not only a lawyer but also a well-known opponent of women’s suffrage.⁵⁴ Therefore it can be concluded that the juvenile courts policy network had achieved a qualified success. A well-publicised and well-timed deputation to the Home Office by the Howard Association, the Labour Party, the PRL, the NCW, State Children’s Association, Wage Earning Children’s Committee and some other organisations⁵⁵ helped to achieve this result. At that point the Lord Chancellor’s Office clearly feared that its Bill would be lost, as the Government files reveal that the reform groups’ deputation was carefully orchestrated by Permanent Secretary Schuster and the women’s trade union leader, Gertrude Tuckwell JP. Tuckwell had been working with the Lord Chancellor’s Office as a member of the Women’s Advisory Committee over the preceding months, so personal and political connections obviously played a part in this process as well as formal lobbying by organisations. Tuckwell was also linked to both Labour and women’s organisations and later became president of NAPO,⁵⁶ so in many ways she was a vital part of the juvenile courts policy network. Over the following three decades the network continued to be sustained through the maintenance of such personal relationships between key individuals in the reform pressure groups including Margery Fry, Geraldine Cadbury and the civil servants they worked with.⁵⁷

Conclusion

Outside London, where stipendiary magistrates were rarely employed, there was no need for legislation in order for specialist magistrates to be chosen for juvenile courts but the Home Office nevertheless issued advice to magistrates that they should draw up a rota of men and women with ‘special’ qualifications to hear children’s cases. Progress was so slow that in the 1933 Children and Young Persons Act the formation of a special panel of justices for juvenile

⁵⁴ John Campbell, *F E Smith, First Earl of Birkenhead* (Jonathan Cape, 1983)

⁵⁵ *Ibid*, 28 July 1920

⁵⁶ Angela V. John, ‘Tuckwell, Gertrude Mary, 1861-1951,’ in Matthew and Harrison (eds.) *Oxford Dictionary of National Biography*

⁵⁷ For an examination of the role of Fry and other women magistrates on government advisory committees, see Anne Logan, ‘“Statutory Women” and the Provision of Criminal Justice Policy Advice 1944-64,’ (unpublished paper)

courts was made statutory. In the meantime women's organisations, penal reformers and labour groups continued to support this reform, for example in the discussions of the Departmental Committee on the Treatment of Young Offenders in 1927.⁵⁸ Once the special courts with their selected magistrates were in place campaigners were able to increase their advocacy of 'modern' and 'scientific' methods of dealing with delinquency. However, they remained dissatisfied with the actions of some benches, for example those that 'selected' *all* their members for the juvenile panel and those that placed nonagenarians in the youth court.⁵⁹

Looking back in 1952 Mrs Gibbin, one of the first Labour women magistrates, argued that 'since my early years as a magistrate our legal code has been humanised and improved... we have proved that discussion, explanation and instruction can succeed where cold punishment and a rigid code inevitably fail.'⁶⁰ Labour party ideology had played an important role in the genesis of the English juvenile court even though the party was only rarely in government between 1908 and 1945. But Labour activists had worked alongside penal reform pressure groups and women's organisations, brought together by overlapping, mutual interests in the welfare of children. Moreover, they had received encouragement from a political-administrative class of men in government who were also sympathetic to the youth court project. The impetus for this example of penal-welfarism thus came primarily from an alliance of feminists, labour movement activists and penal welfare groups, who despite differences of emphasis shared a common agenda in the construction of the juvenile court. In the case of the Juvenile Courts (Metropolis) Act the reform network had been forced to accept a compromise, but in practice the scheme of a handful of youth courts in different parts of London seemed to work well.

The actions and organisational behaviour of the juvenile court's supporters can be interpreted within the framework of policy network analysis. Feminists, Labour Party activists, children's charities and penal reformers joined forces, recognising the mutual advantage and likely enhancement of their

⁵⁸ PP Departmental Committee on the Treatment of Young Offenders, Report, (HMSO, 1925) Cmd 2831

⁵⁹ Thompson, *Justices of the Peace*

⁶⁰ Gibbin, 'Recollections'

campaigning that working together would bring.⁶¹ As a relatively fluid grouping the reform supporters can be said to display some of the crucial characteristics of a loosely integrated 'issue network,'⁶² one whose relationships with civil servants were far closer than a traditional 'pressure group meets government,' pluralist model would imply. However, within the network the activity and agency of individuals was vitally important: for example, letters in the National Archives file suggest that without Tuckwell and Schuster the Bill would have been in jeopardy. The failure of the Bill would probably have been a big setback for the whole juvenile court project as well as for equal citizenship. Thus the contribution of individual actors to policy construction cannot be underestimated: a policy network module which over-emphasises structures at the expense of human agency cannot adequately capture the fluidity and complexity of the relationships which lay at the heart of the construction of youth justice policy in the early twentieth century.

⁶¹ Cf. the remarks on policy network formation in Ryan et al, *Policy Networks*, p.14

⁶² Rhodes, *Understanding Governance*, p.9