

<b>Institution: University of Oxford</b>
<b>Unit of Assessment: 20 - Law</b>
<b>Title of case study:</b>  <b>Building a public philosophy of punishment based on penal moderation</b>
<b>1. Summary of the impact</b>  <p>Professor Ian Loader's research on the concept of 'penal moderation' shaped the final report of the Commission on English Prisons Today and helped to inform the policy arguments of the UK's leading penal reform charity - the Howard League for Penal Reform. These arguments, in turn, influenced the criminal justice agenda of the Coalition Government. Loader's research on the politicization of crime and justice was also influential on the final report of the Justice Select Committee of the House of Commons on 'Justice Reinvestment' (an initiative which seeks to create local financial incentives to invest in community penalties). Loader's research shaped the views of the Committee on how to build a political consensus for alternatives to imprisonment.</p>
<b>2. Underpinning research</b>  <p>Ian Loader, Professor of Criminology and Fellow of All Souls College, Oxford (2005-present) undertook two connected strands of empirical and theoretical research on idea of punishment in the public culture of Britain.</p> <p>The first strand documents the changing contours of crime governance in England and Wales since the 1970s, and explains why crime and punishment have become objects of heightened – and at times hyperactive – government interest since the early 1990s. Loader undertook elite interviews with retired senior government officials and found that what one of his subjects called a 'Platonic guardianship' mode of governance was increasingly questioned, its key assumptions challenged, and much of its architecture dismantled. The research describes the underlying cultural changes that drove these changes, notably the rise of mass media and a decline of deference towards authority. It also offers an explanation of the dynamics of key moments of transition, the first following the election of Margaret Thatcher in 1979, and the second following the murder of James Bulger in 1993. The research discloses transformations in what key actors regard as 'political responsibility' in the field of crime and punishment, and sets out sociologically tenable choices that can be made in penal policy today. This is a longstanding research programme, the key output of which [see Section 3: R1] was written and published following Loader's arrival in Oxford in July 2005.</p> <p>The second strand of research develops and deploys the concepts of 'excess' and 'moderation' to advance sociological and normative understanding of the political and cultural dynamics of crime control. In the former case the research seeks to highlight the ways in which contemporary political responses to crime in England and Wales have tried to satisfy an appetite for security and punishment which, when couched in terms of excess and moderation, may in fact be insatiable [R2]. In the latter case, the research teases out the meanings that moderation might have when applied to the penal realm (the key elements being restraint, parsimony and dignity) and seeks to articulate the cultural purchase of these ideas in the context of prevailing sensibilities. The overriding objective of Loader's research has been to develop a coherent public philosophy of punishment – one rooted in sound principles (of dignity and restraint) - that also seeks to connect with structures of public sentiment in English society [R3]. It then uses this conceptual framework to build the case for alternative penal practices, including as 'justice reinvestment', the idea that savings realised from reducing incarceration can be invested into the community to help prevent crime. This strand of research has been conducted entirely in Oxford since Loader's appointment in July 2005.</p>

## Impact case study (REF3b)

**3. References to the research**

**[R1]** 'Fall of the 'Platonic Guardians': Liberalism, Criminology and Political Responses to Crime in England and Wales' (2006) 46 (4) *British Journal of Criminology* 561-585

This publication draws on interview material generated in a study on 'The Uses of Criminology' funded by a Leverhulme Trust Research Fellowship (2001-2003, £19,820) The article was published in one of the leading criminology journals and has become a key reference point in criminological debates on trajectories in penal policy.

**[R2]** 'Ice Cream and Incarceration: On Appetites for Security and Punishment' (2009) *Punishment & Society*, 11/2: 241-257.

**[R3]** 'For Penal Moderation: Notes towards a Public Philosophy of Punishment' (2010) *Theoretical Criminology*, 14/3: 349-367.

These articles were published in leading peer-reviewed journals.

**4. Details of the impact**

The research described in section 2 was the basis for a set of arguments to reshape penal policy in directions that were less expansionist and were informed by a desire to find constructive alternatives to imprisonment, such as justice reinvestment. Loader's research had a direct and significant impact by influencing the thinking and recommendations of the Commission on English Prisons Today, a two-year inquiry established in 2009 by the Howard League for Penal Reform, the UK's leading penal reform charity. The research was used by the Howard League to develop an alternative vision of penal change, and a coherent and overarching account of what it stood for, that in turn informed its campaigning work. It also influenced the thinking of other NGOs and of leading policy makers.

Loader was a member of the Commission. In this capacity he was invited to write two briefing papers, based upon his research, to be considered as evidence. The relevant papers are: i) 'Principles of the Penal System' and ii) 'Why Penal Moderation?' **[see Section 5: C1]**. Loader's evidence was key to the Commission and to the Howard League more generally. The charity said that, 'Professor Loader's contribution to the Commission was central and essential as he provided expert advice and guidance throughout its proceedings which influenced the questions considered and recommendations. The central focus of the Commission was that of penal moderation which was brought by Professor Loader': his research **[R2]** on this topic proved absolutely 'seminal'. **[C3]**

Part III of the Commission's report **[C2]**, especially pp. 31-36] is organized around the idea of 'penal moderation' as developed in Loader's research. **[R2]**, **[R3]** The Commission describes this idea as the 'intellectual foundation' (p. 31) of its recommendations and directly endorses Loader's account of its three key elements – restraint, parsimony and human dignity (pp. 32-34). The Report contains further positive references to Loader's research and extended quotations from his papers **[C2, C3]**.

By this route, Loader's research directly shaped a report which now provides the framework guiding the Howard League's campaigning work. It was also influential in the thinking of others, including Make Justice Work, a group that includes former prisoner governors and charity directors and that lobbies for change in how Britain deals with minor offenders. Its founder said, 'Research conducted by Professor Ian Loader has helped to underpin much of the deeper knowledge that is necessary to run a campaign such as Make Justice Work, particularly work he has undertaken around community sentences and short term prison sentences.'**[C4]**

Beyond such groups, the research had a further indirect impact upon penal policy debates **[C5]**. Loader disseminated the key findings of the Commission Report among senior managers in the prison service. He was invited to deliver one of the Annual Perrie Lectures to an audience of 200

## Impact case study (REF3b)

senior prison staff at the Prison Service Training College in July 2009. The Lecture was subsequently published in the Prison Service Journal – the main in-house journal read by senior prison staff [C6]. The Commission Report also became influential on the criminal justice agenda of the Conservative Party, then in opposition, partly through its dissemination to MPs [C5] and partly through a much-discussed blog entry by Loader, based on the Commission Report, on the high profile Conservative Party website, *Conservative Home* [C7].

By these and other routes, Loader's research went on to shape debate in Parliament and the views of various MPs working in the field of penal policy [C3, C5]. Its influence may be seen in the Home Office Select Committee's Inquiry into Justice Reinvestment, to which Loader was invited to give oral evidence on 25<sup>th</sup> November 2008. He was invited based on his research on the changing governance/politicization of crime, and gave evidence drawing on that research [R1, R2]. The Committee's criticisms of the politicization of criminal justice policy and on its views on how to create a political consensus for alternative measures such as justice reinvestment follow Loader's arguments in many respects. Seventeen approving references to Professor Loader's evidence can be found in the final report of the Justice Committee [C8], and on nine occasions the Committee quotes verbatim from Loader's evidence. 'Loader's research shaped the views of the Committee on how to build a political consensus for alternatives to imprisonment... His publications have considerable impact and are frequently cited by individuals and bodies which are key players in the development of public policy.' [C5]

Loader's research thus shaped public debate about a central issue of public policy in England and Wales. His findings and ideas influenced leading NGOs, opinion in parliament and in a political party, and by uptake of senior managers in the prison service, also major stakeholders in the penal system. The ideas of penal moderation and of 'justice reinvestment' in local communities became distinctive themes in the national argument about criminal justice. As one key player put it, 'The argument, posited so cogently by Professor Loader, that penal excess was expensive in terms of individual lives and public expenditure, gained traction with politicians, particularly now that we are in times of financial austerity. It is an argument that will resonate for many years to come.' [C3]

##### 5. Sources to corroborate the impact

[C1] 'Principles of the Penal System' and 'Why Penal Moderation?' are both available at <http://www.prisoncommission.org.uk/index.php?id=publications>.

[C2] *Do Better Do Less: The Report of the Commission on English Prisons Today* <http://www.howardleague.org/index.php?id=835>, especially Part III.

[C3] Letter of 27 September 2013 from the Director, Howard League for Penal Reform.

[C4] Letter of 26 September 2013 from the Founder and former Director of Make Justice Work.

[C5] Letter of 25 September 2013 from a Trustee and former Director of the International Centre for Prison Studies (1997-2005, 2010-2011).

[C6] 'How, and why, to Stop Banking on Prisons', *Prison Service Journal*, 186/November, pp. 14-20.

[C7] 'Why penal reform should be a Conservative issue', *Conservative Home* <http://conservativehome.blogs.com/platform/2009/07/ian-loader-why-penal-reform-should-be-a-conservative-issue.html>; 4<sup>th</sup> July 2009.

[C8] *Cutting Crime: The case for Justice Reinvestment*, final Report of the Justice Select Committee (December 2009). <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/94i.pdf>