

# Hundred-year sentences ignore both logic and evidence

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Dr Siddhartha Bandyopadhyay discusses proposals to impose incredibly long sentences.



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David Cameron plunged into the criminal punishment debate recently by throwing his support around proposals to impose incredibly long sentences (100 years or so) for some murders as a way to circumvent the EU court's ban on life sentences without parole.

This proposal will certainly resonate with members of the public who remain deeply aggrieved at what they see as European interference in the country's

sovereignty. Its credibility as useful policy, however, is minimal and its moral credentials are just as dubious.

There is very little consensus on what optimal crime and punishment policy is. This holds not just for murder, but for almost any type of crime. In debates over penal policy, two apparently opposing schools of thought seem to mainly talk at each other rather than converse. The so-called liberal left mainly emphasises the fact that criminals are often the product of socio-economic circumstances (poverty, broken homes, lack of education and employment opportunities), and advocate for a focus on reforming the criminal and, more ambitiously, reforming society.

Meanwhile, the traditional right-wing law and order camp believe crime is a moral choice, and call for policing and punishment to both reprimand the wrongdoer and deter others from similar behaviour. When particularly horrendous crimes are committed, their call for draconian punishment clearly resonates with public opinion. Nowhere is this more apparent than when particularly dreadful murders are committed. In these cases, public calls for the return of the death penalty as well as "locking the door and throwing away the key" are common. And as demonstrated by today's argument over the proportion of convicted sex offenders actually sent to jail, the main political parties remain firmly set on prison as a solution.

It was the predominance of academic criminologists in shaping crime policy in the 1960s and 1970s that kept such feelings from shaping policy in the Western world. However, a crime wave in the USA turned the tide of public opinion even more strongly against the "liberal" treatment of criminals, and started the draconian sentences that characterised the US penal system. To this day, non-violent offenders spend long years in American prisons; the number of people sentenced to death has seemingly plateaued, but life without parole sentences remain a major feature of US penal policy.

While the death penalty has never made its way back into British law, sentencing has become tougher. The Crime and Disorder Act of 1998 led to a surge in prison population. This trend has continued, and Ken Clarke's brief push for a "rehabilitation revolution" is now just a memory in the face of Chris Grayling's tough approach. The current Justice Minister has made it clear that he falls squarely in the orthodox law and order camp, and prison sentences are unlikely to fall in the near future.

## Who's right?



As always, there is more than a grain of truth to both views. Better policing certainly works, and long sentences for a small group of offenders may help reduce crime. Prison itself works via incapacitation and deterrence: locking up murderers prevents them from re-offending, while long sentences may also deter others from committing the same crime. This is the case for ultra-long murder sentences, and it enjoys popular support – but it is only superficially compelling.

It has been thoroughly established that murderers are among the lowest repeat offenders, which hamstring the incapacitation argument. Meanwhile, there is only equivocal evidence that even the most serious deterrent, the death penalty, actually has a deterrent effect – many people argue it has no clear effect at all.

Put simply, there is not a strong empirical case for either deterrence or incapacitation. The best argument for extra-long sentences might therefore seem to be a moral one – but even here, we are on increasingly shaky ground. A growing body of new research suggests that some murderers have underdeveloped brains. Rather than being victims of social circumstance, their actions may yet turn out to stem from neurological development rather than moral depravity. From this point of view all crime is not necessarily a moral choice – violent crime perhaps even less so. If this holds, we would be back to deterrence as an attempt to justify ultra-long sentences.

If we accept the logic behind 100-year sentences is weak, we must admit that they are nothing more than a way to gratify the Conservative voter and show off the party's commitment to Britain's "sovereignty" in the run-up to the European parliament elections. Whether this is in fact a question of sovereignty is called into question by our Lord Chief Justice's own misgivings over life sentences without parole for murderers. If the heart of the legal establishment is at best equivocal over these proposals, their claim to defend the sovereignty of the UK seems very weak indeed.

In short, the upcoming EU elections in May are clearly the real motive behind the push to rewrite sentencing regulations. This must not be allowed to hide the lack of evidence and dubious moral case that underpin these proposals – however popular they may be.

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