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Conference

21st Kilbrandon Lecture

Phil Scraton

Abstract:

It is more than 25 years since publication of *'Childhood' in 'Crisis, '? (Scraton, 1997)*, a collection of essays written by members of the Young People, Power and Justice Research Group, formed following the killing of James Bulger in Liverpool. The trial in an adult court of two 10-year-old children, convicted of murder and publicly named, created an unprecedented and vitriolic reaction in the media and from politicians of all parties. The text mapped the negative impact on legislation, state policies and professional practice. In the wake of moral panics regarding escalating crime, 'no-go' areas and a rising 'underclass', a rare case was portrayed as the extreme end of a continuum of children's aberrant behaviour and parental neglect.

Derived in recent research and activism in the North of Ireland, this lecture adopts a critical analysis to critique the continued regulation and criminalisation of children and young people, particularly those defined 'troublesome'. It challenges their persistent marginalisation and denial of meaningful participation. It calls for policies and practices which: contest negative assumptions and stereotypes; address socio-economic inequalities; prioritise the lived experiences and views of children and young people; and create hope through opportunity.



The 21st Kilbrandon Lecture

Figure 1: Lecture Title Slide



Resisting the Marginalisation, Regulation, and Criminalisation of Children and Young People

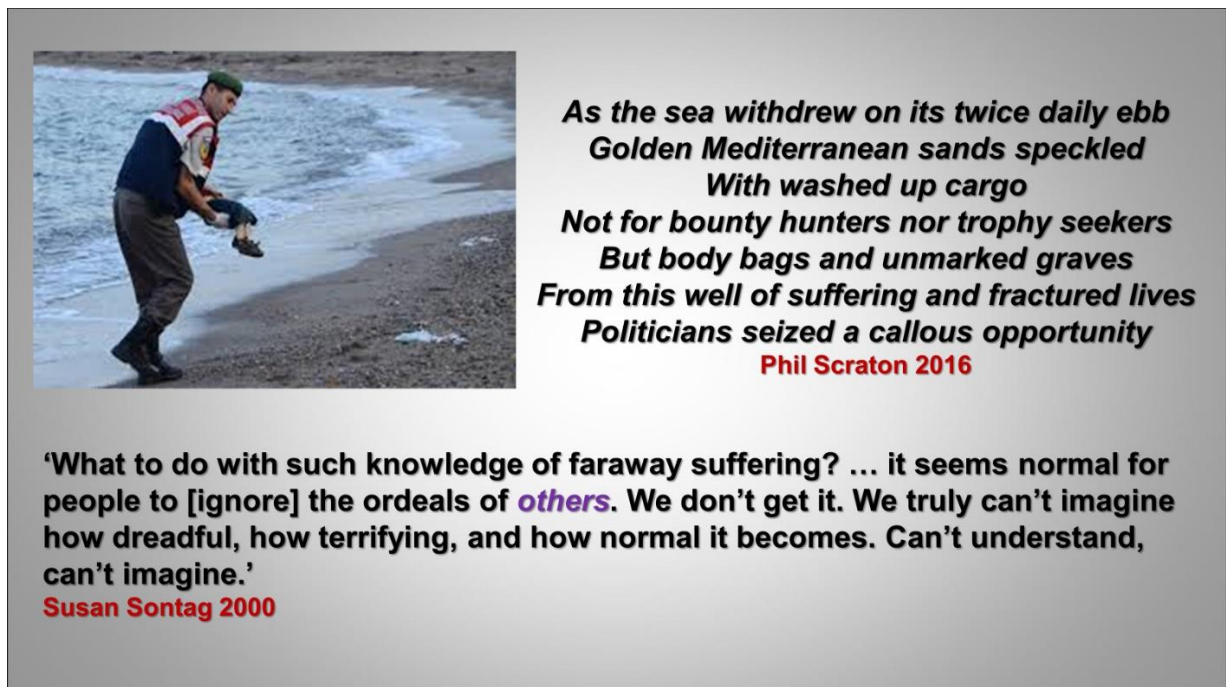
Professor Phil Scraton
School of Law, Queen's University Belfast

21st Kilbrandon Lecture
University of Strathclyde

29th February 2024

An image with which many of you will be familiar. An image of our time:

Figure 2: Lecture slide 1



*As the sea withdrew on its twice daily ebb
Golden Mediterranean sands speckled
With washed up cargo
Not for bounty hunters nor trophy seekers
But body bags and unmarked graves
From this well of suffering and fractured lives
Politicians seized a callous opportunity*
Phil Scraton 2016

'What to do with such knowledge of faraway suffering? ... it seems normal for people to [ignore] the ordeals of *others*. We don't get it. We truly can't imagine how dreadful, how terrifying, and how normal it becomes. Can't understand, can't imagine.'
Susan Sontag 2000



I'm not a poet, but I felt words were needed:

*As the sea withdrew on its twice daily ebb,
Golden Mediterranean sands speckled with washed up cargo.
Not for bounty hunters, nor trophy seekers,
But body bags and unmarked graves.
From this world of suffering and fractured lives,
Politicians seized a callous opportunity.*

Susan Sontag (2003) asked the question,

What do we do with such knowledge of faraway suffering? It seems normal for people to ignore the ordeals of others. We don't get it. We truly can't imagine how dreadful, how terrifying and how normal it becomes. Can't understand, can't imagine.

Let's just take stock for a moment to reflect on the time in which we live. 315,000 grave violations against children in conflict across Africa, Asia, the Middle East, Latin America - verified by the United Nations - between 2005 and 2022: 120,000 children killed or maimed; 105,000 recruited or used by armed forces or groups; 32,500 abducted; 16,000 children forced into sexual violence. According to UNICEF (2024), this year: 16,000 attacks on schools and hospitals; more than 22,000 instances of denial of humanitarian access for children; 11,500 children to date killed in Gaza, 9000 seriously injured, a thousand amputees; 1,400 children killed or injured in Ukraine.

Figure 3: Lecture slide 2

'WHOSE SIDE ARE WE ON?'

In August 1966 Howard Becker delivered his presidential address to the *Annual Meeting of the Society for the Study of Social Problems*.

Contemporary sociologists studying 'problems that have relevance to the world we live in are caught in the crossfire: to have values or not to have values'. It was not possible 'to do research ... uncontaminated by personal and political sympathies'. The question was not 'whether we should take sides but rather **whose side are we on?'**

Social research should 'get into the situation enough to have a perspective on it' - to challenge institutional and professional discourses.



I repeat the question posed by Howard Becker in 1966: Whose side are we on? It was his presidential address to the annual meeting of the Society for the Study of Social Problems. He became one of the great deviancy theorists and critical criminologists of his time. His point was that contemporary sociologists studying problems that have relevance to the world in which we live are, 'caught in the crossfire': to have values or not to have values. It was not possible, he argued, to carry out 'research uncontaminated by personal and political sympathies.' The question, he posed, was not 'whether we should take sides, but rather, whose side are we on?' Over the years my work has long dismissed the myth of 'value freedom'.

The imperative of 'value freedom', I learned as a young sociology student, was not value freedom at all. There was no value-freedom in official discourse that reflected the values of a State in which I lived, 'belonged to'. What Howard Becker conveyed to me as a young undergraduate in his writing was that our responsibility to become involved in any given situation to form a perspective, to challenge institutional and professional discourses.

I pause for a moment to thank you for the invitation to give this lecture ... the work conducted in the two research units here ([CELCIS](#) and [CYCJ](#)) is really important. Thank you.

So where did my journey start?

It began on, what we called in those days, a 'bomb site' on Liverpool's Everton Brow. Today it is an elevated park with fine views of the city, the River Mersey, and the Welsh Hills. In the mid-1970s it was a pull-in for Irish Travellers who were on the road. Under the 1968 Caravan Sites Act, all local authorities had an obligation to provide appropriately built sites. As in many places, in Liverpool this didn't happen. Over 150 families were encamped without legal protection and the local authority ordered evictions.

Men, who worked nights in factories, were hired by a private company to clear the caravans - 'trailers' as Travellers call them - off the site. At 4:00 am they marched along Shaw Street onto the site. With the police looking on, they dragged the caravans, the trailers, off their bases, with children and families still inside. I was one of a small group who tried to resist the eviction. To no avail.

Just three weeks earlier, in the West Midlands, there had been a similar eviction. In that instance embers were burning in a grate of a trailer. In dragging the trailer off its stands, it tipped onto its side, the trailer set on fire, and three children perished. At that time, such violence was our experience as we tried to stop evictions. For me, as a young researcher, I learned that 'bearing witness' to troubling situations was significant. Subsequently, we founded the Liverpool Travellers' Free School, and with a panel of lawyers, we faced down evictions at every opportunity.

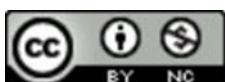


Figure 4: Lecture slide 3



That was the beginning of my research into the Merseyside Police prior to the inner-city uprisings ... I also began teaching evening class in Walton Prison, now HMP Liverpool, leading eventually to researching the politics of confinement ... Long hair, standard waistcoat, standard collarless shirt, I wasn't welcome in the prison. Once again, I witnessed something I had never seen before ... known as the 'shit detail'. Prisoners, often locked down two and three to a cell without access to a toilet, deposited faeces out of cell windows. Every morning a detail of prisoners shovelled it into a wheelbarrow.

Witnessing the appalling treatment of prisoners, regularly denied access to my class, I became concerned about what was being done in 'my' name in prisons. That led eventually to Glenochil Young Offenders' Institution, here in Scotland, and the work on deaths in custody in the YOI and the Detention Centre.

It also led to a panel, on which I was co-researcher and co-writer, that focused on the Peterhead Prison uprising (Scraton, Sim and Skidmore 1991). At the time I had also begun research into deaths in state custody and was a founder member of INQUEST: United Campaigns for Justice. That led, in turn, to my work on researching the aftermath of disasters and contested inquests, fatal accident inquiries, and the rights of the bereaved.

This body of research underpinned my research of the context and aftermath of disasters, and my long association with Hillsborough (Coleman et al 1991; Scraton et al 1995; Scraton 1999/ 2016). This was a precursor to the Hillsborough Independent Panel (2012), and my work in the north of Ireland, the legacy of the Northern Ireland conflict - work with which I remain engaged. More recently, research exposing institutional cruelty in mother and baby institutions, Magdalene laundries and workhouses (Mahon, O'Rourke and Scraton (2022).



These reflections are not a self-indulgence. The work is not about me, but the wonderful people that I have met and worked with en route, whose lives have been blighted and damaged, who have suffered premature death and death at the hands of the state.

Figure 5: Lecture slide 4



So where does this come from? What does it lead to? It returns me to Howard Becker's core question, 'Whose side are we on?' Whose side are we on when we're faced and confronted with power, authority and the legitimation of that power - in the hands of the state institutions that wield that power, regardless of the political party that's actually in government at the time.

Central to that process is official discourse comprising: State inquiries and their reports; outcomes of so-called investigations, often serviced by academics; a discourse that denies or incorporates alternative accounts and/ or contrary evidence. Together this process constitutes a 'view from above'. My commitment is to challenge the view from above by seeking the 'view from below'.

As critical scholars our work must bear witness to the testimonies we hear and gather, recovering truth. Truth recovery is the essence of my research in a way that seeks, hears, and records alternative truths. In so doing, it challenges the deceit of the State and other powerful institutions that collectively create official discourse inextricably plumbed into the media - a media that in essence, and with a few notable exceptions, rarely questions official discourse.

Hillsborough, for example, thirty years of research and campaigning, thirty years to discover and uncover the details of truth, and have it acknowledged. Ninety-seven women, men and children killed at a football match. How did it take so long to arrive at the second inquest verdict in 2012 that they had been killed unlawfully and that the main reasons for their deaths were systemic failings in



policing, ground safety, rescue and evacuation? (see: Scraton 1999/ 2016). Because it challenged the deceit of the State and its organisations that informed and sustained a false official discourse.

'Bearing witness' is about what C. Wright Mills (1959), another influence on my early research, named 'the sociological imagination', turning personal troubles into public issues. In contemporary scholarship much is made of personal 'agency' – that as individuals we each possess and enjoy personal agency. Coming here, tonight, was an act of agency. I turned up - an act of agency; but considered in the context of the structural issues on which I have been discussing, what does agency mean? The hope I have is that because some of us in positions of influence can operate in an oppositional way, create an alternative discourse, we can become agents of social change.

There are people in this hall, I know for certain, who are agents of social change in their communities, working against all odds, working in professions that have been depleted, working in neighbourhoods that have been laid waste. But still that work is done because you know that you alone are initiators of social change. This commitment is derived the personal experiences to which you bear witness - the lived histories of everyday life on the margins. Not history from above, not textbook history, but the lived daily histories that exist in and around your communities. Critical social research maps those social and cultural circumstances.

Figure 6: Lecture slide 5



CRITICAL SOCIAL RESEARCH

Rejects the premise that 'knowledge is value-free or value-neutral. Rather, it is derived and reproduced in the structural relations of inequality and oppression' within our society.
Kathryn Chadwick and Phil Scraton, 2001

Relations of Power and the Politics of Legitimacy

Delves beneath the level of appearances

Beyond social, political and ideological constructions

Exposes acts of State institutional oppression

Challenges official discourse and 'scientific' knowledge

Exposing the myth of value-freedom / value-neutrality

And that's where critical social research begins its mission:

It rejects the premise that knowledge is value free or value neutral. Rather, it is committed to establishing that knowledge is derived and reproduced in the structural relations of inequality and oppression within our society.



Kathryn Chadwick and I drew that conclusion in our research and analysis because we needed to answer the question (Chadwick & Scraton, 2001): 'What is so critical about the social research that you do?'

It is about tracing the relations of power and the politics of legitimacy underpinning and legitimating that power; about delving beneath the level of appearances, going beyond the social, political and ideological constructions that surround us every day, every evening, in our communities, on our televisions. Whether it's 'Big Brother' or the latest game show or whatever, it feeds collectively into ideological reconstructions of our lives.

It is about exposing acts of state institutional oppression. I would see that as being significant, not in a simplistic, subjective way, but objectively - revealing oppression through challenging official discourse and so-called 'scientific' knowledge. For, science is temporary, even 'hard' science is temporary. It comprises only what we know and understand at a particular moment in time. Scientific knowledge, therefore, is always open to question, not set in stone. Critical analysis exposes the myth of value freedom, value neutrality, in how knowledge is shaped, legitimised, and all that follows.

Figure 7: Lecture slide 6

CRITICAL SOCIAL RESEARCH as DISCLOSURE

Context
understanding and analysing moments, events and responses with their *structural determinants*

'Personal Troubles' (C. Wright Mills)
contextualised and explained in the structural relations of social and historical conditions

'Troubling Recognitions' (Stan Cohen)
issues of profound concern that are denied, neutralised or reconstructed.
The critical researcher's responsibility is to uncover, disclose and disseminate 'troubling information'.

Investigative - Revelatory - The 'View from Below'

Critical social research places us as academics, as practitioners, or as people in our community, at the heart of the issues; focusing on disclosure, the context being 'understanding and analysing moments, events, and responses within their structural determinants'. It takes us, as C Wright Mills stated, into contextualizing, explaining the structural relations of social and historical conditions.

We're not born in a vacuum, nor do we live in a vacuum. We inherit societal, social and personal contexts and prevailing conditions. The late great Stan



Cohen, who I was privileged to work with, stated the significance of 'troubling recognitions' regarding issues of profound concern, 'denied and neutralised and reconstructed'. The researcher's responsibility is to uncover, report on, trace, disclose and disseminate information that troubles us. This is the academic mission.

It is investigative, it is revelatory, and it legitimates that 'view from below' I mentioned previously. So how do we contextualise acts - any act? It's about how meaning is ascribed to acts. Nils Christie (1998), the fine Norwegian criminologist also a significant influence on my work, summed it up in a nutshell:

Figure 8: Lecture slide 7

CONTEXTUALISING 'ACTS'

Meaning: 'Acts are not, they become. So it is with crime. Crime does not exist. Crime is created. First there are acts. Then follows a long process of giving meaning to those acts'. **Nils Christie 1998**

Representation: 'The act's deviant character lies in the way it is defined in the public mind'. **Howard Becker 1963**

Central to the process are ideological constructions underpinning the 'meaning' of everyday life. These are not simply personal or social but profoundly **institutionalised**.

Acts are not, they become. So, it is with crime. Crime does not exist. Crime is created. First there are acts. Then follows a long process of giving meaning to those acts.

Nils makes a profound point, as did Howard Becker (1963): '*The act's deviant character lies in the way that it is defined in the public mind*'. That is so important ... Central to the process about which I am talking, are ideological constructions that underpin the meaning of everyday life, our daily lives. This experience is not reducible simply to immediate personal and social issues. Rather, its context is institutionalisation, how institutions contain us in a host of ways. In this process, marginalisation plays a defining role. Childhoods, youth, communities, in the context of time, place, culture and social order.



Figure 9: Lecture slide 8

CONTEXTUALISING MARGINALISATION

'Childhood', 'youth' and 'communities' in the contexts of time, place, culture and 'social order'

STRUCTURAL RELATIONS OF INEQUALITY

Wealth, Poverty and Class
Racism and Sectarianism
Patriarchy, Gender and Sexuality
Age, Ageism and Adulthood

'Each instance of impoverishment, sexism, homophobia, racism, sectarianism or child-hate as an expression of agency has its particular circumstances and lived history. Yet they cannot be researched, analysed and fully comprehended without location in the determining contexts of structure.' Phil Scraton 2007

What I'm talking about here is how marginalisation emerges and consolidates. And where does that originate? It doesn't emerge from nowhere. We know what privilege means in our society: it's about wealth, it's about poverty, it's about class, it's about witnessing the excesses of racism and sectarianism, of how patriarchy constructs and reproduces gender and sexuality relations and their consequences for every child.

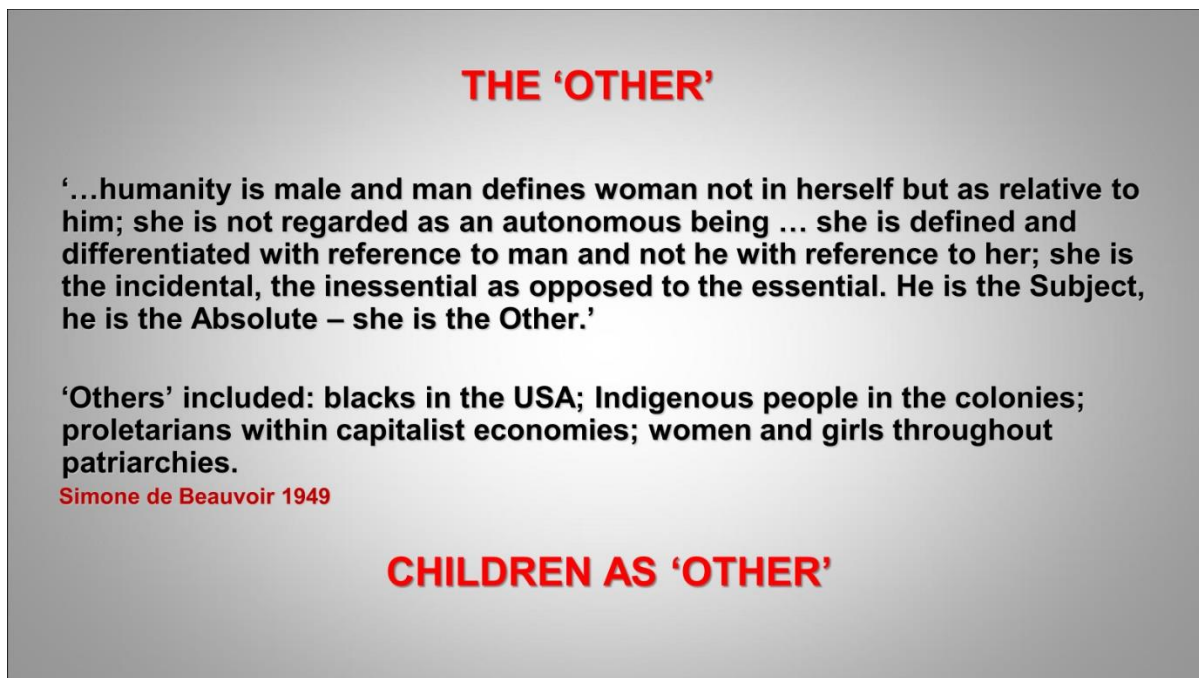
Also, it's about age, ageism - what I have named 'adulthood'. There isn't an -ism for child discrimination as there is racism. Adulthood, then, is a way of seeing, viewing, marginalising the child. I wrote in *Power, Conflict and Criminalisation* that 'each instance of impoverishment, sexism, homophobia, racism, sectarianism or child hate as an expression of agency has its particular circumstances and lived history. Yet, they cannot be researched, analysed and fully comprehended without location in the determining contexts of structure' (Scraton, 2007). Yes, child hate.

But Phil, that is such a strong phrase. No, it's not. When you consider the excesses experienced by children, 'child hate' fits the bill in the same way as racism, sexism or homophobia. Expressions of personal agency have their specific circumstances and lived histories. Yet they cannot be researched, they cannot be analysed, they cannot be fully comprehended without location in the determining contexts of structure.

This takes me back to another wonderful book that had a great influence on my life, Simone de Beauvoir's, *The Second Sex* (1949):



Figure 10: Lecture slide 9



She states,

...humanity is male, and man defines woman, not in herself, but as relative to him; she is not regarded as an autonomous being ... she is defined and differentiated with reference to man, and not he with reference to her; she is the incidental, the inessential, as opposed to the essential. He is the Absolute - she is the Other.

Today, we read many sociology, politics, law texts in which the concept of 'other' and 'othering' is used. If you turn the page, however, de Beauvoir extends the definition of 'others' to include Blacks in the USA, indigenous peoples in the colonies, proletarians within capitalist economies, women and girls throughout patriarchies.

Yet, nowhere does she mention children as 'other' in the structural, contextual sense.



Figure 11: Lecture slide 10

ABSENT VOICES

‘Children seem absent from any public discourse about the future and the responsibilities this implies for adult society; rather, children appear as *objects*, defined through the debasing language of advertising of consumerism ... often portrayed as a problem, a *danger to adult society* or, even worse, irrelevant to the future ... dangerous, mindless, addicted to drugs. Or socially irresponsible and almost always crassly immature ... a whole generation of youth have been labeled as *superpredators*, spiralling out of control.’ Henry Giroux 2003

Henry Giroux (2003) writes,

Children seem absent from any public discourse about the future and the responsibilities this implies for adult society; rather, children appear as objects defined through the debasing language of advertising, of consumerism ... often portrayed as a problem, a danger to adult society, or even worse, irrelevant to the future ... dangerous, mindless. Or addicted to drugs or socially irresponsible - and almost always crassly immature ... a whole generation of youth have been labelled as super predators spiralling out of control.

Figure 12: Lecture slide 11

FOLK DEVILS

During periods of significant cultural change a dramatic image of young people emerge, the ‘folk devil’ enters popular discourse powerfully challenging ‘societal values and interests’. Stan Cohen 1972

‘...public disquiet is resolved by the media by identifying certain social groups as *scapegoats* or folk devils ... visible symbols of what is wrong with society.’ John Muncie and Mike Fitzgerald, 1981

MORAL PANICS

This results in ‘heightened emotion, fear, dread, anxiety and a strong sense of righteousness ... intense public hostility and condemnation, more laws, longer sentences, more police, more arrests and more prison cells ... a crackdown on offenders.’ Goode and Ben-Yehuda, 1994



When I read that, I thought he was focusing solely on the United States, yet it took me back to Stan Cohen's early work on 'folk devils' (Cohen 1973); that during periods of significant cultural change a dramatic image of young people emerges, the 'folk devil' enters popular discourse powerfully, 'challenging societal values and interests'. As John Muncie and Mike Fitzgerald (1981) state, 'public disquiet is resolved by the media identifying certain social groups as scapegoats or folk devils ...visible symbols of what is wrong with society'. Stan Cohen considered that this created moral panics generating, 'heightened emotion, fear, dread, anxiety, a strong sense of righteousness ... intense public hostility and condemnation, more laws, longer sentences, more police, more arrests, and more prison cells ... a crackdown on offenders' (Goode and Ben-Yehuda 1994).

Figure 13: Lecture slide 12

**A DEFINING MOMENT
THE KILLING OF JAMES BULGER
Bootle, Merseyside, 1993**

Two year old boy abducted from a shopping mall, led to a railway and killed
CCTV coverage showed that two children are responsible for the abduction
Eventually, two 10-year-olds arrested
Held in solitary confinement for nine months without counselling
Charged with murder, prosecuted in adult court
Clearly did not understand the process
Found guilty, imprisoned at 'Her Majesty's Pleasure'
Judge disclosed their identities, allowed media to publish photographs

And that was in my mind when two young boys led James Bulger ¹ away, abducted him, from a shopping mall in my home city. Most of you will have viewed the CCTV coverage. The intensity of the public outcry fuelled by a vindictive media was intense. Eventually the boys were charged, after many others had been arrested in a police trawl lasting several weeks. They were held in solitary confinement for many months, charged with murder, prosecuted in adult court, clearly didn't understand the process, and had no idea what was unfolding in court.

Found guilty, imprisoned at Her Majesty's pleasure; the judge took a remarkable decision to disclose their identities, allowing the media to publish their

¹ This refers to the abduction and killing of a two year-old boy by two 10 year-old boys in Liverpool, England, on 12 February 1993.



photographs, their families hounded from their neighbourhoods. How were they represented in the media? I'll be quick on this, it defies comprehension:

Figure 14: Lecture slide 13

MEDIA REPRESENTATIONS

'Sullen, introverted, ignorant and loutish ... a nation of vipers has been bred.'
Gerald Warner, The Sunday Times

'... amoral, childish viciousness; horrible precisely to the degree it was childlike – random, aimless and without conscience.'
Janet Daley, The Times

'... the Mark of the Beast might not also be imprinted on their offspring.'
Editorial, The Sunday Times

'... we can never know which of them has the Satan bug inside him.'
Walter Ellis, The Sunday Times

'... devoid of innocence ... old beyond their years and undeniably corrupt, women wondered if they should have been drowned at birth.'
Beryl Bainbridge, Daily Mail

'A nightmarish world ... where children are growing up virtually as savages.'
Lynda Lee Potter, Daily Mail

'Sullen, introverted, ignorant and loutish... a nation of vipers has been bred'.

'Amoral, childish viciousness; horrible precisely to the degree it was childlike - random, aimless and without conscience'.

'The mark of the beast might not also be imprinted on their offspring'.

'We can never know which of them has the Satan bug inside him'.

'Devoid of innocence... old beyond their years, undeniably corrupt, women wondered if they should have been drowned at birth'.

'A nightmarish world where children are growing up virtually as savages'.

And politicians' commentaries sustained the imagery.



Figure 15: Lecture slide 14

POLITICAL CONSENSUS

‘... we are sick and tired of these young hooligans ... we must take the thugs off the streets ...’
David McLean, Home Office Minister

‘... persistent, nasty, little juvenile offenders without values or purpose’ supported by social workers ‘mouthing political rhetoric ... about why children in their care are so delinquent’
Kenneth Clarke, Home Secretary

‘... paternalistic and well-meaning indulgence’ of ‘the sub-culture of thuggery, noise, nuisance and anti-social behaviour often linked to drug abuse.’
David Blunkett, Shadow Health Minister

‘... descent into moral chaos’ could be avoided only through teaching the ‘value of what is right and what is wrong’, avoiding a ‘moral vacuum’ though policies ‘tough on crime and tough on the causes of crime.’
Tony Blair, Shadow Home Secretary

David McLean,² ‘We’re sick and tired of these young thugs. We must take the thugs off the streets.’

Kenneth Clarke ³, ‘persistent, nasty little juvenile offenders without values or purpose’, supported by social workers, ‘mouthing political rhetoric, wondering why the children in their care are so delinquent’.

David Blunkett ⁴: ‘paternalistic and well-meaning indulgence within our societies of subculture, of thuggery, noise, nuisance, anti-social behaviour often linked to drug abuse.’

Tony Blair ⁵, cashing in on the rhetoric, a ‘descent into moral chaos’ avoided only through teaching the ‘value of what is right and what is wrong’; there existed a ‘moral vacuum’. And you know the phrase that followed, you’ve heard this multiple times, ‘tough on crime and tough on the causes of crime’.

Why am I harking back to 1993? Because it set a UK agenda that has persisted through generations that followed, criminalising young people and their communities. So much so, that when Stan Cohen (2000) revisited what he had written in 1972 in *Folk Devils, Moral Panics*, he commented that by the end of the 1990s, a Labour Government in power, the imagery of the ‘folk devil’ appeared ‘benign’.

² Home Office Minister

³ Conservative Party politician who held the UK government cabinet post of Home Secretary, 1992-1993.

⁴ Labour Party politician, who at the time ‘shadowed’ the government’s health portfolio.

⁵ UK Prime Minister, 1997-2007, used the phrase in his leader’s speech to the Labour Party conference on 30 September 1993.



Figure 16: Lecture slide 15

CRIMINALISING COMMUNITIES, TARGETING CHILDREN

By the end of the decade, a Labour Government in power, the imagery of the folk devil appeared 'benign'; the focus had become 'essentialist offenders ... a moral discourse of sin, monstrosity and perversion coupled with a medical model of sickness, pathology and untreatability.'

Stan Cohen, 2000

Political Opportunism, Media Amplification and Public Outrage

Essentialist offenders: the Marginalised, Destitute and Dispossessed

'Clampdown': reaffirming moral order and social discipline; 'zero tolerance'; community surveillance

Legislation: crime and antisocial behaviour; targeting children, young people, parents, neighbourhoods, communities

Regulation and Control: differential policing, criminalisation and incarceration

The discourse had transformed to one of, 'essentialist offenders... a moral discourse of sin, monstrosity and perversion coupled with a medical model of sickness, pathology, and untreatability'. That synthesis was significant to all that followed. It became a perfect example of political opportunism, media amplification and public outrage.

And it worked. We now had essentialist defenders, and I'm sure many of you in this hall have witnessed this rhetoric. A rhetoric targeted at the marginalised, the destitute, the dispossessed in our communities, and a 'clampdown' followed, reaffirming 'moral order' and 'social discipline' and - the phrase imported from the United States - 'zero tolerance' alongside 'community surveillance'. The crime and anti-social behaviour legislation that followed criminalised the latter without considering its meaning and impact.

Targeting children, young people, parents, neighbourhoods, communities; not only giving credence, but legitimacy to regulation and control through the development of differential policing within our cities and towns. Criminalisation and, of course, incarceration; demonisation.



Figure 17: Lecture slide 16

DEMONISATION

'A process through which individuals, groups or communities are ascribed a public, negative reputation associated with pathological malevolence often popularly represented as 'evil'. While ideological in construction and transmission, demonisation has tangible consequences in social and societal reactions.'

Phil Scraton, 2008

These were newspaper front and inside pages, a process through which individuals, groups within communities were publicly ascribed negative reputations associated with pathological malevolence - represented as evil. While ideological in construction and transmission, however, demonisation has tangible consequences in social and societal relations.

This wasn't happening in a vacuum. It fed new policy, new legislation, new training programmes. Should we have any doubts about its impact and legacy, this is the relatively recent imagery from the north of Ireland.

Figure 18: Lecture slide 17



Every bus stop displayed the poster: 'Playing out. Or playing up? Do you know where your child is?'. Then what comes? 'Stop loitering on your property', the introduction of mosquito devices, even at McDonald's.

Figure 19: Lecture slide 18



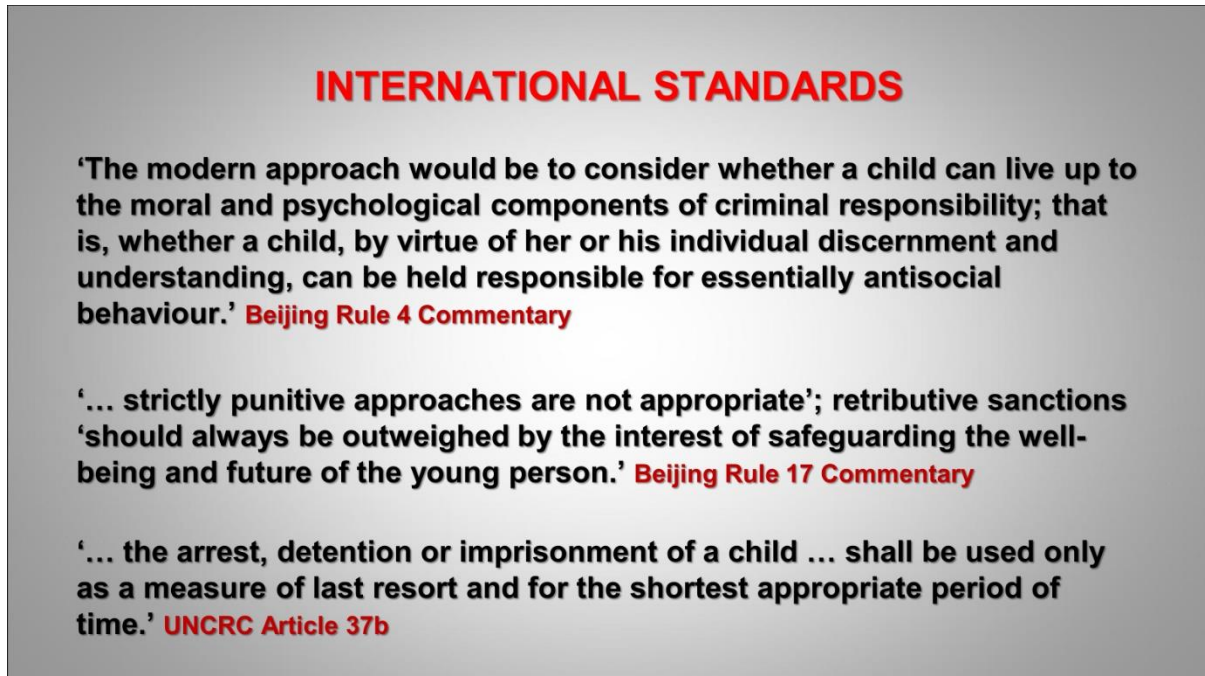
This was Operation Exposure in the north of Ireland, established precisely to deal with these issues. I'm not going back to the time of James Bulger's death, this is recent, posted through letterboxes: 'If you recognise any of these people' [none of whom had been convicted of any offence] 'please contact the numbers on the front of this leaflet'.

Figure 20: Lecture slide 19



Photographic stills of children, lifted by the Police Service of Northern Ireland from CCTV coverage, and publicised throughout communities. It contravened international children's rights standards, as did much of the media discourse that followed, influencing policy and practice.

Figure 21: Lecture slide 20



Those familiar with the Beijing Rules will be aware that

The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility, that is whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially what is seen as anti-social behaviour' (Beijing Rule 4, Commentary).

Then Rule 17:

... strictly punitive approaches are not appropriate'; retributive sanctions 'should always be outweighed by the interest of safeguarding the well-being and future of the young person'.⁶

Clearly a process that was not engaged. In fact, the very opposite applied.

And in the UNCRC Article 37(b), '... the arrest, detention, imprisonment of a child shall be used only as a measure of last resort and for the shortest period of time'.⁷

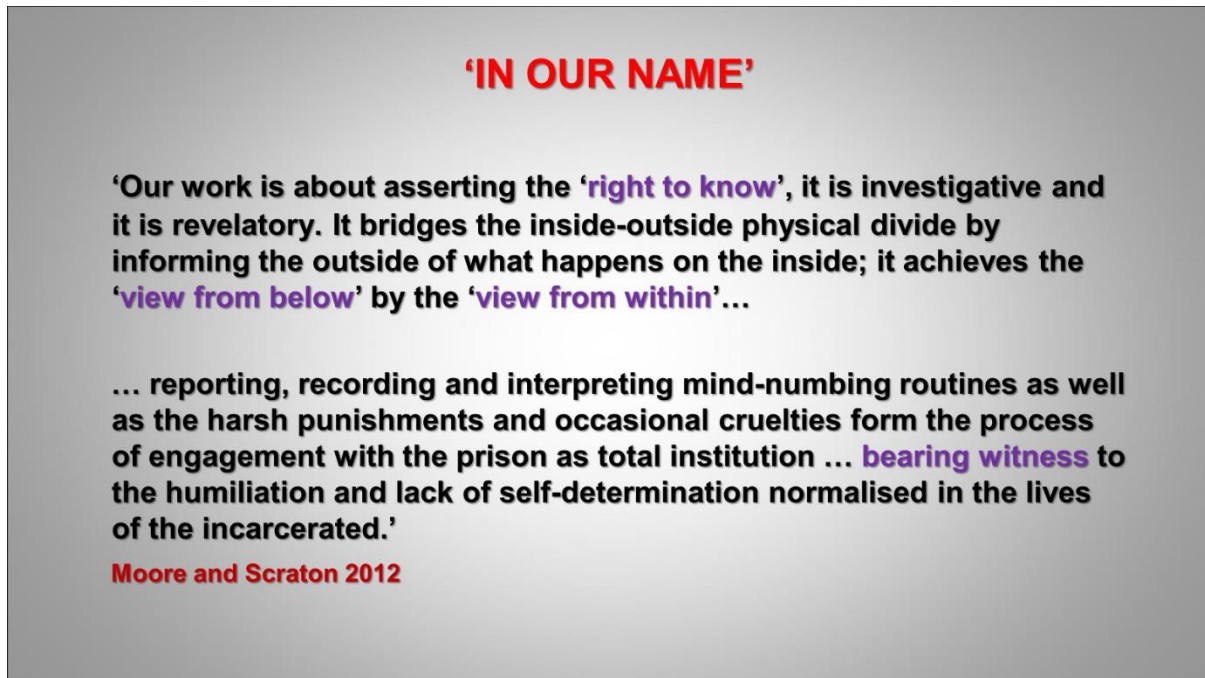
⁶ The Beijing Rules: The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985).

⁷ United Nations Convention on the Rights of the Child (1989).



I have not delved here into the depth and breadth of my research, but these human rights violations are significant in my work with Linda Moore regarding our research in prisons in the north of Ireland (Moore and Scraton 2014).

Figure 22: Lecture slide 21



As we state:

Our work is about asserting the 'right to know'. It is investigative and it is revelatory, it breaches the inside-outside physical divide by informing the outside of what happens on the inside. It achieves the 'view from below' by the 'view from within' ... reporting, recording, interpreting mind-numbing routines, as well as the harsh punishments and the occasional cruelties that form the process of engagement within prison as a total institution ... bearing witness to the humiliation and lack of self-determination normalised in the lives of the incarcerated.

When we were conducting the research in Northern Ireland prisons, we met a wonderful young woman, brilliant artist - I'm sure many of you would know a young woman like her. During her early teenage years in her community, she was exploited by men she knew. Growing up in oppressive circumstances, inevitably she transgressed the law. She was a child, held on remand in an adult prison.

She was in solitary confinement. We met her through our right of access via the Human Rights Commission, the body that commissioned the research. That day will always live with me. A cell, and some of you will have seen something similar, a concrete plinth, the mattress removed all day, a jerry pot for a toilet in the corner of the cell.



When we met, I said, 'you might not want us to be in here. And as a man, I will willingly leave and leave Linda with you'. She said, 'No, no, I want to talk to both of you'. She had a canvas gown with the velcro fastenings removed. It was held together with cellotape because she self-harmed rubbing the velcro. From mid-thigh down to her ankles, her arms covered in cuts, lacerations, some bleeding. I said to her: 'What led to this?'

Figure 23: Lecture slide 22

'MARY'S' VOICE

That night I tried to hang myself ... The voices tell me to do them [self harm]. And I release the pain as well. It's terrible, so it is ... Just look what they make me go to the toilet in. That's for night time . They don't give me underwear or nothing ... It's hard. They just give you a wee sanitary towel and that's it ... no privacy or nothing. You're dignity's taken away. They just said, 'It's your own fault you're behind the door.'



Mourne House, HMP Maghaberry, Belfast

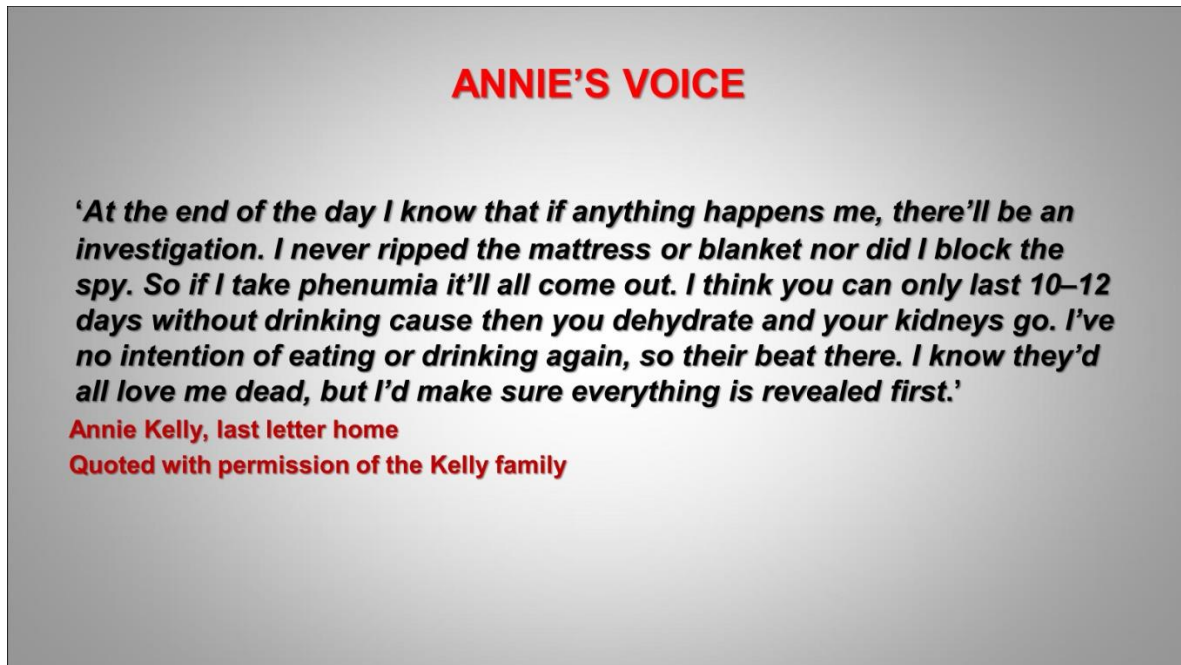
She said 'that night I tried to hang myself. The voices', there's a clue, 'the voices tell me to do them', self-harm; 'I release the pain as well. It's terrible so it is ... just look what they make me go to the toilet in. That's for night-time. They don't give me underwear or nothing'. I said, 'You're saying now you don't have underwear'. 'No', she said, 'it's hard'. I said, 'Can I ask you a very personal question? What do you do on your periods'? She didn't hesitate ... looked at me and said, 'They just give you a wee sanitary towel and that's it' She trapped it between her legs. 'no privacy or nothing. Your dignity's taken away. They just said, 'It's your own fault, you're behind the door'.

We came out stunned. I'd been researching and visiting prisons for years and had never experienced anything like this. With condescension the prison officer said, 'You wouldn't have got any sense out of her'. I replied, 'No, we got a lot of sense out of her'. He replied, 'So she made allegations'. I said, 'Oh yes, she made allegations'. His response was, 'Don't believe them, they're not true. And anyway, you have no proof'. I revealed the tape recorder I had used for the interview. Next morning I was in court and she was freed from those conditions, then freed on remand.



We know we had a significant impact on her life because she talked about it for so long afterwards. With help, she moved on and her art became a passport to a measure of success.

Figure 24: Lecture slide 23



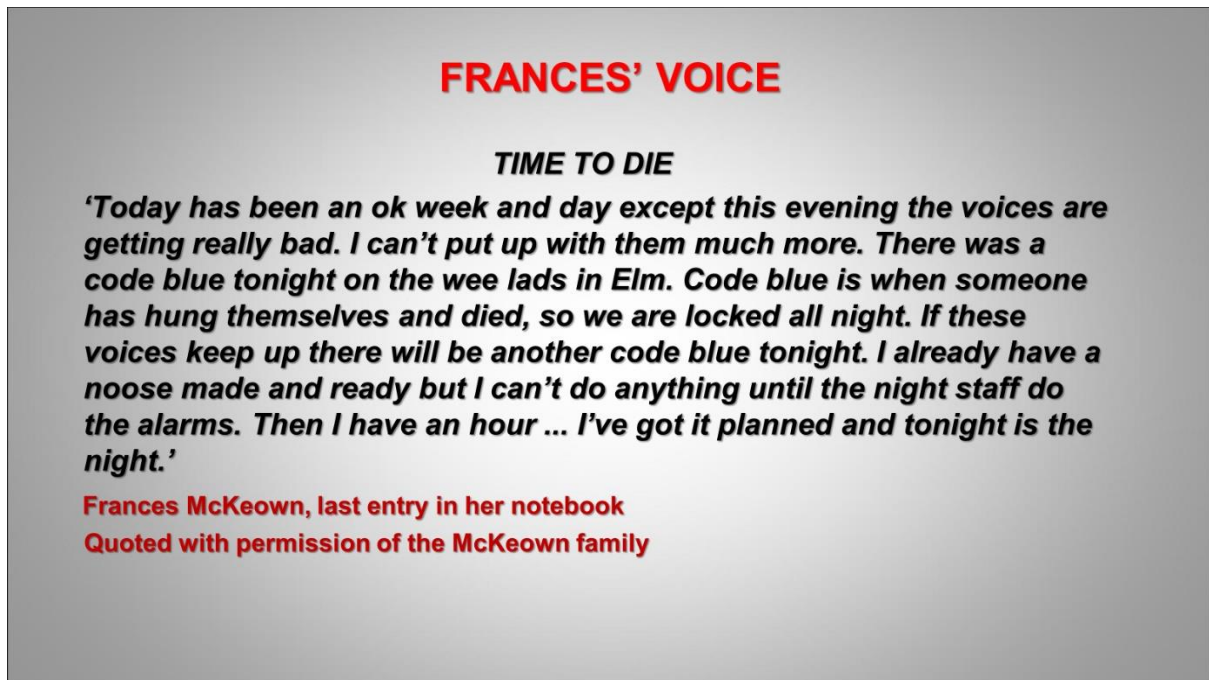
Annie Kelly. I know this case not because I met Annie, but because I gave evidence at the inquest into her death in prison. This was the last ever letter she wrote home. She'd been in prison since she was 15, on an off ...

At the end of the day I know that if anything happens to me, there'll be an investigation. I never ripped the mattress [which she'd been accused of], or blanket nor did I block the spy [spy hole in the cell door] so if I take phenumia [sic], it'll all come out. I think you can only last 10 to 12 days without drinking, because then you'll dehydrate, and your kidneys go. I've no intention of eating or drinking again so their [sic] beat there. I know they'd all love me dead, but I'd make sure everything is revealed first.

And we became the conduits for those revelations, giving evidence at her inquest.



Figure 25: Lecture slide 24

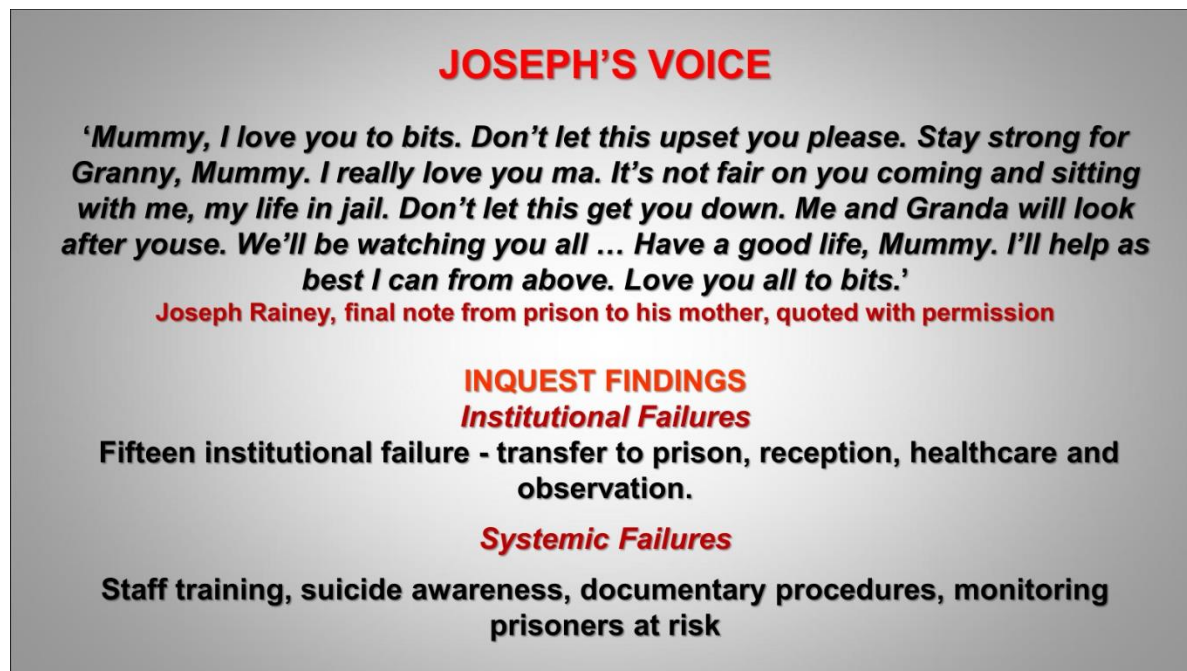


And Frances, the final entry in her diary: 'Today has been an OK week and day except this evening the voices are getting really bad. I can't put up with them much more'. Such a telling statement. For we all know what 'voices in the head' means. 'There was a code blue tonight on the wee lads in Elm. Code blue is when someone has hung themselves and died, so we are locked all night'. A young boy did die that night. 'If these voices keep up there will be another code blue tonight. I already have a noose made and ready, but I can't do anything until the night staff do the alarms. Then I have an hour ... I've got it planned and tonight is the night'.

And 'tonight' was the night.



Figure 26: Lecture slide 25



JOSEPH'S VOICE

'Mummy, I love you to bits. Don't let this upset you please. Stay strong for Granny, Mummy. I really love you ma. It's not fair on you coming and sitting with me, my life in jail. Don't let this get you down. Me and Granda will look after youse. We'll be watching you all ... Have a good life, Mummy. I'll help as best I can from above. Love you all to bits.'

Joseph Rainey, final note from prison to his mother, quoted with permission

INQUEST FINDINGS
Institutional Failures

Fifteen institutional failure - transfer to prison, reception, healthcare and observation.

Systemic Failures

Staff training, suicide awareness, documentary procedures, monitoring prisoners at risk

And finally, in the numerous statements taken from children and young people is Joseph. Joseph's final note from prison to his mother, I quote here with his parents' permission.

Mummy, I love you to bits. Don't let this upset you please. Stay strong for Granny, Mummy. I really love you ma. It's not fair on you coming and sitting with me, my life in jail. Don't let this get you down. Me and Granda [who had passed] will look after youse. We'll be watching you all... Have a good life, Mummy. I'll help as best I can from above. Love you all to bits.

As an academic researcher, what do I do with such troubling information? We're not press reporters, not television programme makers. It is what we bring to an inquiry, to an inquest; what can be presented that might change the process and protect the lives of others. We can't bring back those who died, but we can reveal institutional failures in their incarceration.

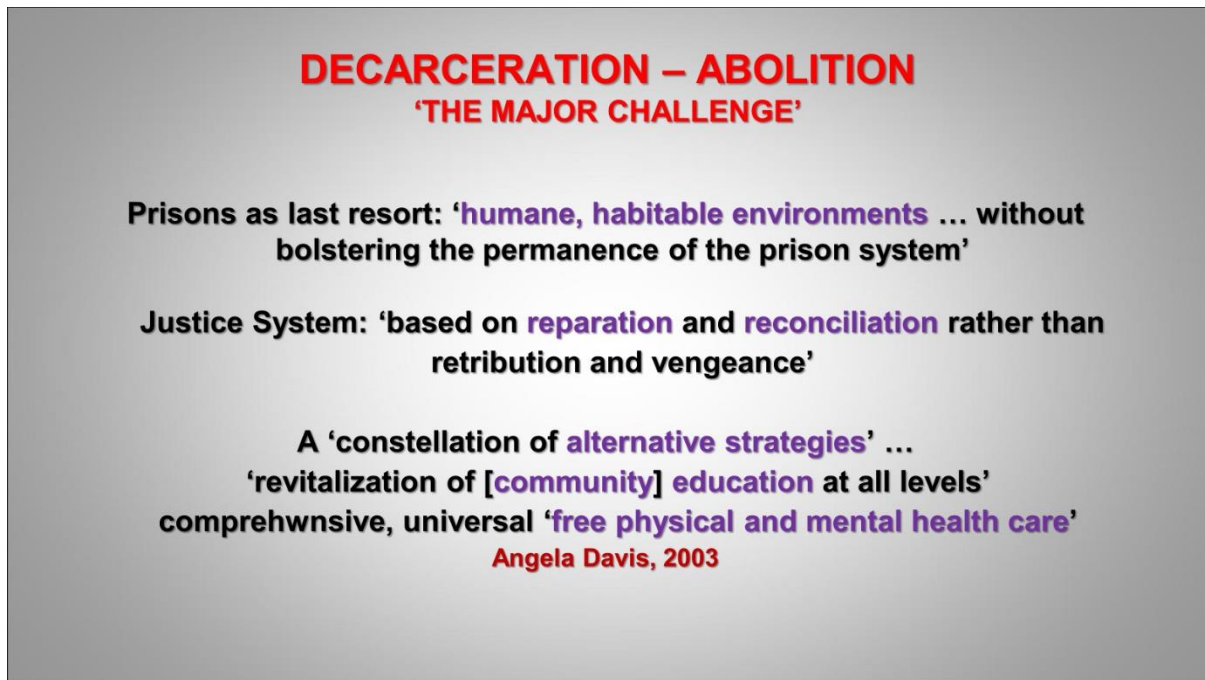
There were multiple failures exposed, relating to Joseph's transfer to prison reception, health care, and lack of observation and systemic failures in staff training, suicide awareness, documentary procedures and monitoring prisoners at risk. Not only were they directed against the Northern Ireland Prison Service, but also against the Health Service.

As a researcher bearing witness to these tragic events, you question what you have you achieved. Well, I know what we achieved for the families, but what have we achieved in terms of real structural change? We're now in the process - having made a short film on the life of Joseph,⁸ of making a full documentary.

⁸ <https://vimeo.com/748363494>



Figure 27: Lecture slide 26



This takes me to the lifelong commitment of a woman whose work I first read when I was much younger, an undergraduate in fact. She wrote the wonderful book, *If They Come in the Morning* (Davis, 2003). Angela Davis is a prison activist, now a professor in California. She argues that incarceration always should be a last resort. If we are to have prisons they must be 'humane, habitable environments ... without bolstering the permanence of the prison system' (Davis 2003).

She continues: the criminal justice system should be 'based on reparation and reconciliation, rather than retribution and vengeance'. A 'constellation of alternative strategies should be created', including the 'revitalisation of community education at all levels' alongside comprehensive, universal, 'free physical and mental health care'. While she is here focusing on USA prisons, we are well aware of the abysmal failures in mental health care in the UK and Northern Ireland, not because of the people who are administering it, but because of under-resourcing.



Figure 28: Lecture slide 27



So where am I going with this brief excursion into my work? If it has any meaning, if the projects have any relevance, they're about the promotion of social justice, about seeking an end to poverty, securing essential services, mental health, well-being, access to age-appropriate information and full support throughout the life cycle, effective state community relations and support and consultation. Inclusive active participation throughout the lifespan. Meaningful participation.

Celebrating diversity, challenging and defeating discrimination. Addressing misogyny and homophobia, challenging racism, sectarianism and segregation. Dealing with fear - fear that is inculcated into our communities by a media high on desperate stories. Challenging the stereotypes. Oh, and this sounds so wishy-washy but it's not: creating hope through opportunity.

For me, hope is central to action, hope that what we do in research and practice makes a difference. My hope is that we will be listened to, hope that many of you in this room, in your professional practice and research and as citizens: you will create that hope through knowledge and understanding and intervention. Promoting not *criminal* justice, but *social* justice through rights compliance, establishing a critical rights-based agenda that is the heart of social justice.



Figure 29: Lecture slide 28

ESTABLISHING A CRITICAL, RIGHTS-BASED AGENDA

Rights as entitlements: *neither conditional nor transactional*
**Children and young people: 'human beings' rather than 'human becomings',
*social actors in all aspects of their lives***

**Recognition of children's special status: *inherent and structural
vulnerabilities, evolving capacities, advocacy***

Participation: central to *protection from harm and full realisation of rights*

**Children's rights and status equality requires:
'a fundamental shift in the *structural relations and determining contexts of
power which marginalize and exclude children and young people from
effective participation in their destinies'***
Phil Scraton and Deena Haydon, 2002

This is not simply a shopping list of desirable outcomes. Rights are not simply entitlements. They're more than that. They should not be considered conditional, nor transactional. They should be embedded in our lives, in our communities. Children and young people, as Qvortrop (1994) states, are 'human beings', not simply 'human becomings'. They have voice, they have knowledge, they have understanding, and they are social actors in all aspects of our lives, our practice, our work.

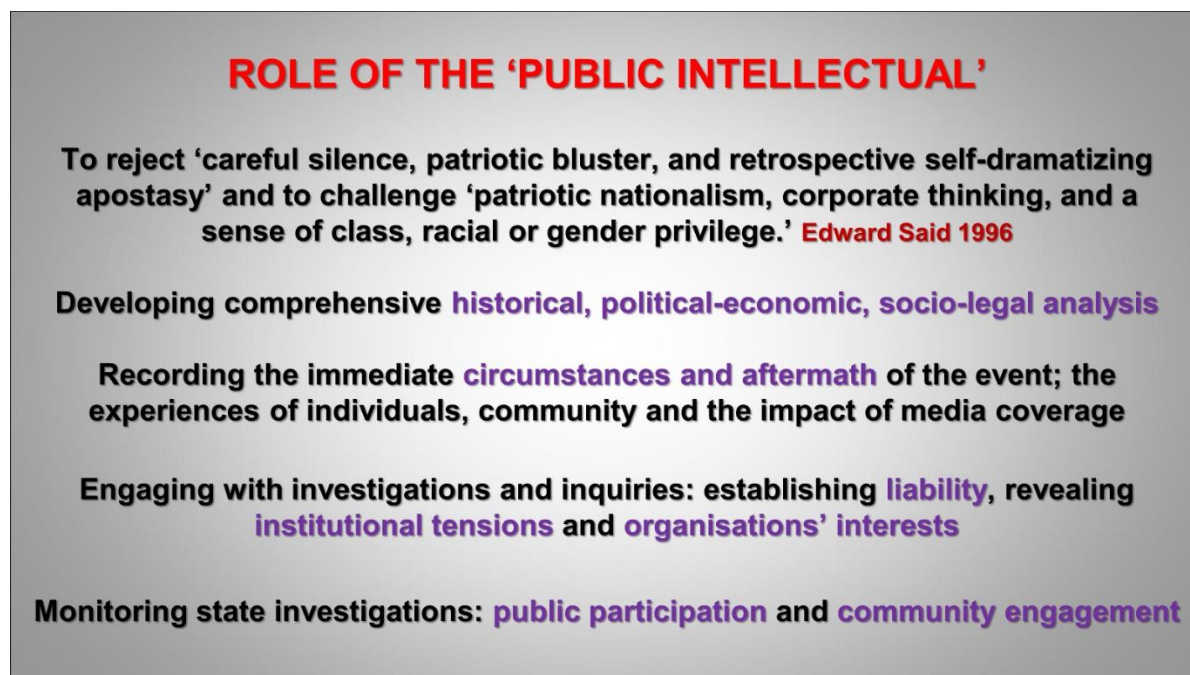
Yet, they have special status because as children they have inherent individual and structural vulnerabilities. Children don't have voice but have evolving capacities. Many of you here are advocates for children and young people identifying and acting in their 'best interests', in consultation with them.

It is imperative that children and young people are considered active participants in society. Central to that combines protection from harm with realisation of their rights. As Deena Haydon,⁹ who is here tonight, and I have written, children's rights and status equality require, 'a fundamental shift in the structural relations and determining contexts, a phrase that I use consistently, of power which marginalize and exclude children and young people from effective participation in their destinies' (Scraton and Haydon, 2002). We wrote that twenty years ago and today remains as relevant. This analysis is developed more thoroughly in Haydon and Scraton (forthcoming).

⁹ Dr Deena Haydon is an independent researcher, writer and children's rights activist.
<https://deenahaydon.com>



Figure 30: Lecture slide 29



ROLE OF THE 'PUBLIC INTELLECTUAL'

To reject 'careful silence, patriotic bluster, and retrospective self-dramatizing apostasy' and to challenge 'patriotic nationalism, corporate thinking, and a sense of class, racial or gender privilege.' Edward Said 1996

Developing comprehensive historical, political-economic, socio-legal analysis

Recording the immediate circumstances and aftermath of the event; the experiences of individuals, community and the impact of media coverage

Engaging with investigations and inquiries: establishing liability, revealing institutional tensions and organisations' interests

Monitoring state investigations: public participation and community engagement

So, drawing to a close, what is the role of the 'public intellectual'. As Edward Said (1996) states, it is to reject the 'careful silence, the patriotic bluster, and retrospective self-dramatizing apostasy'; to challenge 'patriotic nationalism, corporate thinking, and a sense of class, racial or gender privilege'. It is to develop a comprehensive, historical, political, economic, social, legal analysis of the issues I have raised, and more besides.

It is about recording the immediate circumstances and aftermath of any given event involving children and their exploitation; the experiences of individuals, of communities, and the impact of the media coverage that is our responsibility to expose, engaging with investigations and inquiries. I have experienced enough of them to understand what that feels like - and I include inquests, fatal accident inquiries - establishing liability, revealing institutional tensions and contradictions, revealing the interests of organisations.

Most significant, is independent, critical monitoring of state investigations; the significance and impact of our public participation in state investigations, inquests or inquiries. This is community engagement. When we completed the work on the Mother and Baby Institutions and Magdalene Laundries in the north of Ireland, we recommended, as I had experienced almost three decades after Hillsborough, not a simple public inquiry - we know how easily they can be derailed by vested interests - but an independent panel with the relevant expertise to consider in detail all aspects of what had happened in the institutions. Our work revealed much of it. (Mahon, O'Rourke and Scraton 2022)

But now this has been further advanced, not in isolation from a public inquiry but as a precursor that will plumb into a public inquiry, so that people who have



suffered so much already will have their evidence collected and will not be subjected to questioning at a public inquiry by lawyers representing the institutions or the State.¹⁰

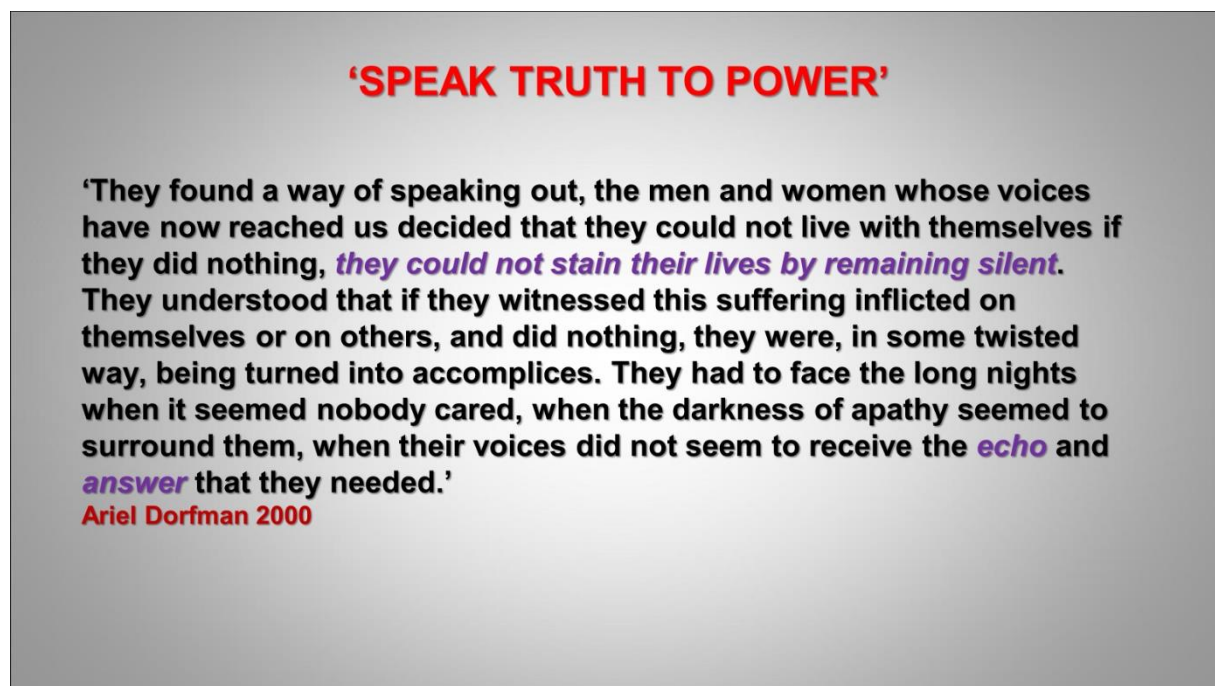
Such questioning has happened in a range of public inquiries into sensitive issues, witnesses stating, 'I've relived my trauma, I feel worse now than I ever did before'. In our research into mother and baby institutions, we created an environment where they could share their truth sensitively rather than feeling cross-examined by legal teams in a formal inquiry. And that gave substance to our report.

And for me, public participation should be developed in a form that enables those voices to be heard. And you've seen it: a person comes to an inquiry, they've waited for this day for many years, and their examination, by lawyers representing institutional interests, destroys their testimonies.

'What do you mean? You're on your hands and knees, eight months pregnant, scrubbing the floor. What do you mean? With a nun standing over you? When was this? How do you know you were eight months pregnant?' 'Well, I remember'. 'No, but how do we know that your memory is accurate?' 'Well, I might have been seven months pregnant, might have been six months pregnant, you know, you're asking me to go back 30 years.' She feels diminished, her testimony is doubted, she has suffered again.

While not making a direct comparison, I conclude with a quote from Ariel Dorfman (2000) writing about the 1973 Pinochet coup in Chile.

Figure 31: Lecture slide 30



¹⁰ <https://www.executiveoffice-ni.gov.uk/news/appointment-truth-recovery-independent-panel>



They found a way of speaking out, the men and women whose voices have now reached us decided that they could not live with themselves if they did nothing, they could not stain their lives by remaining silent. They understood that if they witnessed this suffering inflicted on themselves or on others, and did nothing, they were, in some twisted way, being turned into accomplices. They had to face the long nights when it seemed nobody cared, when the darkness of apathy seemed to surround them, when their voices did not seem to receive the echo and answer that they needed.

Here in a hall [University of Strathclyde's Barony Hall] where I can hear my voice bouncing off the walls, seeking the echo and the answer should be my last words, the role, the duty, of the critical academic activist. And I'm sure so many of you understand that proposition each day in the excellent work you do in your communities.

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About the Kilbrandon Lecturer

Professor Phil Scraton is professor emeritus in the School of Law at Queen's University Belfast. Widely published on critical theory, incarceration, and children/young people, he was a member of the Liberty Advisory Committee on deaths in custody and the JUSTICE panel on coronial powers. He led the Hillsborough Independent Panel's research team and was principal author of its ground-breaking 2012 Report, Hillsborough. In 2016 he published a revised edition of Hillsborough: The Truth. Seconded to the families' legal teams throughout the 2014-2016 inquests, he was consultant on, and contributor to, the 2017 BAFTA winning ESPN/BBC documentary Hillsborough. He holds a Leverhulme Research Fellowship. Most recently, he was principal author of The Report of the Independent Panel of Inquiry into the Circumstances of the H-Block and Armagh Prison Protests 1976-1981 (Coiste, 2021), Deaths in Contested Circumstances and Coroners' Inquests (ICCL, 2021), and Truth, Acknowledgement and Accountability: Mother and Baby Institutions, Magdalene Laundries, and Workhouses (NI Executive, 2021). His new book, with Deena Haydon, Childhood, Transition and Justice, will be published by Routledge in 2024. He was awarded the Freedom of the City of Liverpool in recognition of his Hillsborough research, and he refused an OBE.

