

## Reforming chivalry – Criminal Justice & Rehabilitation

I love the United States of America fervently. I love Western Values – or, as Daniel Hannan (a British Conservative MEP) put it, less politely, in his book *How We Invented Freedom and Why It Matters*, “the characteristic features of the Anglo-American political system” (which, of course have been adopted more widely, especially after 1945 and again after 1989). With Western – or Anglo-American – values, I include such features as: habeas corpus, equality before the law and jury trials, which will be particularly pertinent to what I want to talk about today. These are features that found their purest and most beautiful literary and legal expression in the U.S. Constitution.

Please excuse my Britsplaining but – the Constitution is not a document that resulted from abstract, theoretical ruminations on what a good society would look like – The Constitution was the heroic response of the founders of this nation to escaping from a tyrannical state. They enshrined due process and fair treatment under the law (in Amendments V-VIII and XIV of The Bill of Rights) because they knew what life was like without those things, both from their collective memory of capricious governance in Britain and as British subjects in America. Their rejection of arbitrary detention and cruel and unusual punishments and their insistence on due process were truly progressive. My call today is to honour them and embrace their progressive spirit in our approaches to criminal justice both in the U.S. and the U.K. This is a men’s issue with men accounting for 90-95% of the prison population and because I have faith in the Men’s Human Rights Movement, as a progressive movement in the most beautiful possible way, to heed what I have to say.

At this point, you may be wondering why I’ve referred to ‘chivalry’ in my title? I have three reasons: firstly, it’s click bait; secondly, I have a penchant for going back as far as I can in history for its own sake; and thirdly, it has some, tenuous, relevance:

The commonly accepted era of chivalry encompassed several centuries and an entire continent. There was never a single chivalric code that all knights abided by – but, rather countless rules and injunctions laid out in separate codes by authorities ranging from dukes to bishops and even poets. Chivalry is commonly seen as going through three ages:

Chivalry – 1.0 – from late 10<sup>th</sup> C: centred around warrior ethics, fair fighting and loyalty to comrades and lords. Knights were instructed not to be devious or underhanded in combat and to aim take opponent's hostage rather than to take life. They were not to refuse a challenge from an equal but also not to fight for pecuniary reward. Faith and piety were central tenets of chivalry throughout the deeply Christianised medieval Europe of the Middle Ages and furthermore many chivalric codes, particularly those established by

bishops funnily enough, included particular directions to treat the men and property of the church with respect.

Chivalry 2.0 – from middle 11<sup>th</sup> C: knighthood went from being a preserve of low-class men to being associated with a landed social elite, as well as a martial one, so chivalric codes came to include instructions to be just and fair in relation to common citizenry. Bishop Warinus of Beauvais, for example, wanted knights to swear against mistreating male and female villagers, sergeants, merchants, and pilgrims. The abuse he cited included robbery, whipping, physical attacks, extortion, and kidnapping for ransom. He also forbade plundering and stealing from the poor, even "at the perfidious instigation" of a local lord. Bishop Warinus did specify in his oath that knights should not attack noblewomen travelling alone, nuns and widows... Unless he "should find them committing misdeeds against" him! Knights, though, were to protect the weak and defenceless and to fight for the welfare of all, according to The Song of Rowland. The Duke of Burgundy listed 12 indispensable knightly virtues as follows:

- Faith
- Charity
- Justice
- Sagacity
- Prudence
- Temperance
- Resolution
- Truth
- Liberality
- Diligence
- Hope
- Valour

Chivalry 3.0 – In the late middle-ages, queen consort of France and England, Eleanor of Aquitaine spearheaded a movement within her court to subvert the chivalric code to regulate the behaviour of men towards women. These women initiated a system of romantic feudalism which saw first noblemen and later men in general, as a class, subject to irresistible pressure to defer to women and subjugate themselves to women's needs and wants on a hitherto unprecedented level.

I'd like to add two more ages:

Chivalry 4.0 – the modern chivalry that has developed since the middle ages is entirely focused on gender relations. What makes chivalry different now to Chivalry 3.0 is that 3.0, for all of its absurdity and the injustices perpetrated in its name, it was instigated in a period of time wherein men and women each had privileges in different spheres. It was designed to capitalise on women’s natural dominance in the private sphere. Now we have developed into societies wherein not only do women have equal rights but they are actually are privileged in the public (as well as the private) sphere. This makes chivalry today far more malevolent and immoral.

Chivalry 5.0 – I have just invented! It’s based on ideas from chivalry 2.0, with the central principles concerning authorities treating citizens with justice, dignity and compassion.

I’d like to take this moment to thank you all for your patience with my tangent there! Now, we all want to make our communities safer and reduce offending, right?

The evidence is clear: for minor offences, community sentencing, fines and other alternatives (including early intervention and supervision) are often significantly more effective at reducing offending and reoffending than imprisonment. There is, unfortunately, no simple, cookie cutter answer to the question of precisely what intervention will work with any demographic to prevent crime – or further crime – but individuals who are treated with holistic approaches to reform their behaviour tend to show markedly improved outcomes to those who receive purely punitive sentences when they are convicted.

Where prison is necessary, to protect the public in the immediate future and for the term of the prison sentence as well as potentially deterring the offender and others from committing such crimes [although the deterrent effect is highly questionable], we must keep in mind the fact that nearly every prisoner will be released at some point. It’s irrelevant how justified a certain punishment may be, we need to concentrate on policies that make our communities safer and reduce reoffending. In the words of Steven Pinker: “Criminal punishment... is not a mandate to implement cosmic justice but part of an incentive structure that discourages antisocial acts without causing more suffering than it deters. The reason the punishment should fit the crime, for example, is not to balance some mystical scale of justice but to ensure that a wrongdoer stops at a minor crime rather than escalating to a more harmful ones. Cruel punishments, whether or not they are in some sense “deserved”, are no more effective at deterring harm than moderate but surer punishments, and they desensitise spectators and brutalize the society that implements them.”

It's easy to feel animosity towards offenders who break the social rules that make our societies work and hurt their victims in various ways but actually, when their histories and circumstances are considered, I find it pretty difficult not to feel compassion towards them too.

According to the Prison Reform Trust's 2017 'Bromley Briefings Prison Factfile', in the U.K.:

24% of offenders were taken into care as a child, compared with 2% of the general population – they were 9 percentage points more likely to have experienced child abuse and 27 percentage points more likely to have seen violence in their childhood homes. 59% regularly played truant from school, as compared to 5% and 42% were expelled or excluded from school as compared to less than 1% of the general population. 47% had no qualifications – as compared to 15% of the general population.

68% were unemployed compared to 8%, with 13% never having had a job compared to 4%. 15% were homeless compared to 4%. They were far more likely to have suffered from all manner of mental illnesses (including addiction) and to have attempted suicide.

The Prison Reform Trust document did not include statistics for fatherlessness but government documents reveal that less than 50% of prisoners were raised in two parent households, compared to the national average of 85%. According to a 2012 Psychology Today piece, the figures for youths in American prisons could be as high as 85% fatherless.

Not only do these characteristics appeal to us to treat offenders humanely though, they suggest a definite potential for improving their lives and their behaviour. These people, as a rule, aren't simply bad, they're challenged by difficult issues and circumstances and that actually offers us opportunities to help them. Nearly every prisoner will be released: so, what do we do? Treat them harshly, ignore the root causes of their behaviour and hope we can intimidate them into scathing compliance with the law? Or treat them with dignity and humanity, attending to their needs and helping them to feel invested in societies that they may feel have neglected them in the past? One of these approaches appeals to our bloodlust for punishing those who commit crimes – and it can be taken as a given that it's utilised disproportionately against men who we judge so much less generously than women. The other approach is a rational response that demonstrably prevents crime and also happens to be cheaper, if decidedly more complicated.

No one method exists to prevent criminality but there are many options that can contribute to effectively reforming individuals or even inhibit the urge to criminal behaviours before

they start. Upbringing is key and it's of paramount importance that our states take seriously their responsibilities as laid out in Article 16.3 of the Universal Declaration of Human Rights (which both the U.K. and U.S. are signed up to), which states that:

“The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”

The Centre for Social Justice (which is nothing like what it sounds like) recommends that marriage should again be recognised in the U.K. tax system with a specific allowance for low and middle income married couples (their research showed that 78% of British adults agreed with this policy) and that a new Cabinet-level Ministerial brief for family policy supported by an Office for Family Policy with a budget and civil service team should be created. According to their research, 89% of adults say they would support public money being spent to strengthen families and for improving parenting, specifically for children growing up in poverty. 64% of the public regard fatherlessness as a ‘serious’ problem for society according to the same research. The prisoner characteristics statistics indicate that they're right to think so, so we should be ensuring that fathers have equal rights to mothers, in legislation and practice, and that their children have the meaningful relationships with both of their parents that they deserve wherever possible. Offenders themselves benefit enormously from maintaining familial contact and the 2017 review by Lord Farmer, ‘The Importance of Strengthening Family Ties’ specifically regarding men in prison found that family support is critical for both wellbeing and reintegration. Meaningful contact can reduce reoffending [by 39% - but, in our overcrowded prison system, prisoners are often shipped to the far ends of the country to fill free spaces and family members can find it difficult therefore to make the so important visits.](#)

Skilled supervision (which can be used as an alternative to imprisonment or post-release) has been shown to reduce reoffending by up to 17 percentage points. Core correctional practices include offender managers consistently and clearly ‘modelling’ behaviours and attitudes that are anti-criminal; reinforcing desired behaviour and disapproval of undesirable behaviour; using natural opportunities to enhance problem solving; cognitive restructuring (helping people consider alternatives to their attitudes and beliefs); developing a warm, empathic and non-judgemental relationship and motivational interviewing.

Problems with addiction and mental health issues are of course a priority for many offenders – and it's generally wise to complete treatment courses in these areas before embarking on behavioural reform strategies.

[Support from the Prisoners' Education Trust for educational courses or learning materials has been shown to reduce reoffending by a quarter. And employment can be of enormous benefit – particularly when it is stable, meaningful and provides a sense of mastery. Day release for occupational apprenticeship can be life changing, especially when coupled with careers opportunities when a prisoner is freed.](#)

The U.K. has the highest rate of imprisonment in western Europe, despite the National Audit Office conclusion that there is no link between prison population and crime rates (international comparisons also show no consistent link between the two). The majority of prisoners have committed a non-violent offence and nearly half were sentenced to less than six months inside, despite the Ministry of Justice conclusion that short sentences are less effective at reducing reoffending than community sentences. The use of community sentences has more than halved over the last decade. The [cost of a imprisoning an individual for a year in the U.K. is £35,000 versus £4000 for a community service sentence.](#)

UK prisons are incredibly overcrowded and they are less safe than when records began, with higher rates of self harm, assaults (on inmates and staff) and deaths than ever before documented.

Nearly half of all adults are reconvicted of another offence within a year of leaving prison. This was understood by our previous justice secretary, David Gauke, and Conservative mayoral candidate, Shaun Bailey, who wrote about the problems with the punitive approach to minor offences in particular in The Times under the headline: 'Prison is a dead end for many offenders and we need to avoid it'. In this article (published this year), the pair claim that "when it comes to the length of prison sentences we are taking a more punitive approach than at any point during Margaret Thatcher's premiership" and describe "young, naive, petty criminals entering prison with a GCSE and leaving with a PhD in criminality." They call not for "hard" or "soft" – but "smart" justice. Their suggestion is that we do use more community sentences rather than prison – but that we toughen them up by ensuring enforcement and ease public anxiety by tagging offenders so they can be tracked. David Gauke, however, spent most of his tenure seemingly creating a legacy not based on fair and effective policy but on pandering to feminist zealots for whom women representing a whole 5% of our prison population is the greatest issue our criminal justice system faces. Under his secretaryship, a landmark decision was taken to abandon plans to build new women's prisons and instead create community hubs with residential capacity and treatments and support available to help women change their lives. I'm gonna level with you: I'm conflicted on this policy. I think and hope it will work for sure but I veer between utterly outraged that the demographic chosen to benefit from this approach is the demographic already most privileged in the criminal justice system - and resigned to the pragmatic idea that, if we keep our fingers crossed, a successful trial with this policy with women may persuade the state to roll out the same to men. Prime Minister Boris Johnson's recent pledge of £2.5 billion for

10,000 new prison beds and the rumour that he will scrap David Gauke's plan to abolish sentences of 6 months or less for all but the most serious criminals puts this hope into question.

Our new justice secretary, Robert Buckland is a different kettle of fish. Appointed on 24<sup>th</sup> July 2019, he immediately backed a campaign by Sir Cliff Richard and Paul Gambaccini to ban the naming of those arrested on suspicion of rape and other sexual offences. Downing Street promptly made it clear that his comments did not represent government policy – but I feel encouraged by his attitude that looks like it could just be more pro-men than we've come to expect. But, his comment that “More and better prison places means less reoffending and a lower burden on the taxpayer” does suggest that he may not be the reformer that we need.

Research has found a significant increase in the likelihood that offenders will be sentenced to custodial sentences if they're from an ethnic minority rather than white – this is dwarfed though to the increased likelihood that offenders will be sentenced to a custodial sentence if they're men rather than women. Feminist campaigning has seen to it that female convicts are treated with compassion and that rehabilitation and preventing reoffending take precedence, as a general rule, over punishment - but the same humane and rational approach is still dragging behind, over a hundred years since the Enlightenment that Pinker refers to, when it comes to the treatment of male convicts. According to William Collins, if men were treated as leniently in the criminal justice system as women are today, 5/6 men in prison would be free. [Factors that explain this disparity, according to the Ministry of Justice, include: a greater percentage of convicted men being sentenced to prison, men being given longer sentences on average than women, women being paroled earlier than men \(despite being more likely to be disciplined for bad behaviour whilst incarcerated\) and women being more likely to have mitigating factors \(such as age, dependents, lack of previous relevant convictions and the appearance of genuine remorse\) applied to their sentences whereas men are more likely to have aggravating factors \(such as presence of previous relevant convictions, the location of the offence, being a member of a group or gang and evidence of some degree of pre-planning or pre-meditation\) applied to their sentences.](#)

Women are somewhat less likely to reoffend after being convicted of a crime ([18% as opposed to 26% of men](#)) - but I firmly believe that the treatment they receive in the Criminal Justice System, as well as the more sympathetic attitude taken to them by society in general (which is displayed in media coverage of crimes), are critical factors in explaining this disparity.

The gender justice gap in the U.S. is, according to Professor Sonja Starr in 2012, six times as great as the racial justice gap with women siphoned out of the criminal justice system at every stage, ultimately ending up – if they do end up in prison – with 63% shorter sentences. Women account for 10% of prisoners in the U.S.

In 2015, Hilary Rodham Clinton said in a speech that: “It’s a stark fact that the United States has less than 5 percent of the world’s population, yet we have almost 25 percent of the world’s total prison population. The numbers today are much higher than they were 30, 40 years ago despite the fact that crime is at historic lows.” 2018 statistics showed that the U.S. prison rate per 100,000 people still dwarfs other nations – with Turkey in second place, locking up 287 people per 100,000 compared to the U.S.’s 655 per 100,000.

However, the most pro-male POTUS I never thought I’d see signed a bipartisan bill called The First Step Act last December. The bill reduced mandatory minimum sentences for some non-violent offences (especially drug offences) as well as giving judges more discretion and encouraging rehabilitation efforts - and ended the Clinton era three strikes rule under which anyone convicted of three serious offences was jailed for life. On June 13<sup>th</sup>, President Trump announced that the White House is advancing second chance hiring to help returning citizens transition back to society successfully by supporting their right to employment. The black demographic, which has been disproportionately affected by incarceration with black adults being six times as likely to be incarcerated as whites, will gain tremendously from this Administration’s commitment to fixing broken areas in the U.S. justice system and expanding opportunity. Following the passage of the First Step Act, blacks comprised over [90 percent of prisoners whose sentences were reduced because of](#) resentencing provisions. The unemployment rate for former prisoners was nearly five times higher (at 27%) than the national average when the bill was signed. The Trump administration aims to cut the unemployment rate for returning citizens to [single digits within five years. There’s therefore currently an all-hands-on-deck effort across federal agencies, the private sector, states, and criminal justice reform organisations to help former inmates find opportunities and succeed in their jobs. For example, the Department of Justice and Bureau of Prisons are launching an initiative to connect returning citizens with employers looking to hire them. The Department of Labor will give states \\$2 million for bonds that underwrite companies which hire workers with criminal backgrounds. Even federal jobs will no longer effectively be off limits as the Office of Personnel Management will make job listings on USAJOBS available to those in and released from prison.](#) Another obstacle to working for former inmates is securing a license to practice a vocation or trade in their home state. Thankfully, occupational licensing reform effort across many states is underway to reduce or eliminate the onerous and costly requirements or scale back prohibitions for those with criminal backgrounds.

Globally, the War on Drugs costs more than \$100 billion per annum in law enforcement, with one in five prisoners incarcerated for drug offences, 85% for possession only. In 2017, the U.S. sent over 450,000 people to prison for drug offences and today, there are more people behind bars for a drug offense than the number of people who were inside for any crime in 1980. This has resulted in 25% of incarcerated women and 14% of incarcerated men serving time for a drug offence. Given that the U.S. prison system is operating above

capacity, U.S. prisons could well do with a population reduction which would allow for safer and more effective management and treatment of other prisoners. Moreover, evidence from Portugal, where all drug use was decriminalised in 2001 (amidst an epidemic of drug related problems like addiction, crime and deaths) has shown that liberalising drug laws and taking a health-based approach can lead to seriously positive outcomes – including huge reductions in HIV and hepatitis infections and deaths. There is no solid evidence that the criminalisation of drugs decreases their use. In fact, a recent paper by Mark Anderson et al from Montana State University found a near 10% decrease in marijuana use amongst teens in states that have legalised the drug. Not only this but prohibition pushes the market towards riskier, more potent products – that are both more profitable and easier to smuggle as they require less space, and pushes consumption into unsafe environments and robs consumers of the opportunity to make properly informed decisions about what they use. It's prohibition that has led to the trend for marijuana containing increased levels of the chemical THC (which makes people stoned but also vulnerable to psychosis) and decreased levels of CBD (which inhibits the negative actions of THC). So, if you're worried about marijuana causing anti-social behaviour and crime – legalisation is the way forward!

Capital punishment is currently legal in 29 U.S. states. The practice brutalises this wonderful country and needs to die its own death. I'm only human – when I hear about some crimes, of course I feel an instinct for eye-for-an-eye justice. But what I am asking for today is an evidence-based approach to criminal justice, and the death penalty fails that test. Firstly: miscarriages of justice do happen. From 2005 – 2011 there were on average 5 people released from death row per year after their innocence had been proven. Secondly: it's wildly expensive. For example, Enforcing the death penalty costs Florida \$51 million a year above what it would cost to punish all first-degree murderers with life in prison without parole, according to the Death Penalty Information Centre. Thirdly: it does not work as a deterrent. A 2012 report by the National Research Council, titled Deterrence and the Death Penalty, stated that studies claiming that the death penalty has a deterrent effect on murder rates are “fundamentally flawed” and should not be used when making policy decisions and, consistent with previous years, the 2016 FBI Uniform Crime Report showed that the South had the highest murder rate. The South accounts for over 80% of executions. The Northeast, which has less than 1% of all executions, had the lowest murder rate.

Our criminal justice systems, both in the U.K. and the U.S. leave a lot to be desired but the U.S. in particular is moving slowly in the right direction. I'm less positive about the direction that the U.K. is heading in. There is an appetite for change both from the public and the Trump administration that could help individuals and communities greatly. Now is the time to exert pressure to ensure that innovation flourishes and that progressive policies reach everyone who can benefit from them and transform their lives. A U.K. study found that [97% of prisoners report that they want to stop offending. Let's help them.](#)

