Governing against the tide: Populism, power and the party conference

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Abstract

In this article we argue that a tendency to treat populism as a ubiquitous, mechanistic characteristic of contemporary penalty has impeded systematic theoretical discussion of how populist ideologies find contingent expression within national penal systems. Drawing upon an agonistic perspective we seek to show that the intersection between populism and punishment must be understood as a structured process that is shaped by struggle between actors with different types, and amounts, of political power. We illustrate these claims with reference to a historical case study of the 1981 British Conservative Party Conference; a political calendar ritual that facilitated symbolic conflict and provided an institutional point of entry for populist movements seeking to disrupt the prevailing liberal consensus on crime and secure substantive policy concessions from government.

Keywords

agonistic perspective, law and order, party conferences, penal policy, populism

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Introduction

Populism continues to shape, and reshape, the contemporary penological landscape. It is closely associated with unprecedented prison expansionism, a performative style of penal politics and a 'toughening' of the criminal justice system generally (Bonner, 2019). Across the globe, state institutions are under increasing strain from populist movements that are disapproving of legally codified human rights protections and quick to relegate the careful work of rehabilitation to the imperatives of an all-encompassing public protection (Moffa et al., 2019). Populism fundamentally alters the voices that 'really matter' in the public contestation of crime and its control (Garland, 2021). It presents a formidable challenge to criminal justice expertise, it has privileged the claims of certain 'authentic' victims and continues to amplify public fears over violent, sexual and foreign 'others' (Pratt and Miao, 2019a).

Ever since these penal developments have been subject to systematic description and analysis (see Bottoms, 1995) a rich and varied literature has sought to understand the determinants of penal populism (Pratt and Miao, 2019b; Sozzo, 2016), its social functions and implications for the humanity, fairness and effectiveness of the criminal justice system (Roberts et al., 2003). However, as we seek to show here, an associated tendency to treat populism as a ubiquitous, mechanistic characteristic of contemporary penalty—often reflected in the use of compound nouns such as 'penal populism' (Pratt, 2007) or 'populist punitiveness' (Bottoms, 1995)—can impede systematic theoretical engagement with the inter-related question of *how* populist ideologies find contingent expression within national penal systems. For while it is right that research in the sociology of punishment continues to study the many accomplishments of penal populism (for better or worse), this should not distract us from its failures, setbacks and political defeats; that we seek to better understand those periods in time when populism has been in retreat and alternative ideological perspectives, such as feminism or localism, have prevailed within the political marketplace of ideas (see, for example, Grzyb, 2021).

In our view greater analytical sensitivity to the *how* as well as the *why* of penal change can open up new avenues for the study of penal populism and the contextual factors that shape its contemporary manifestations. How do populist movements that are not ostensibly 'of the system' (Taggart, 1996: 32) interact with, disrupt and gain access to the political agenda? How do political coalitions organize in opposition to populism and why do populist movements present such a potent threat to existing power structures? Who were the winners and losers in these political conflicts and how did the victors seek to institutionalize their advantages? How do these complex political legacies continue to shape the unique developmental trajectory of penal populism in England and Wales, and elsewhere?

In seeking to answer this broad constellation of questions we draw upon the 'agonistic perspective' developed by Goodman et al. (2015, 2017) to understand ideological debates over populism as a structured process that has, and will continue to be, shaped by political conflict. Our central claim is that penal populism did not arrive as a fully formed political project in England and Wales, nor was its influence felt immediately and uniformly throughout the penal system. Across time and space, the basic ideological building blocks of populism have been resisted, with varying degrees of success, by continually

shifting political coalitions possessing different types, and amounts, of power; that it is through these conflicts—both material and symbolic—that the messy, incremental and uneven intersection between populism and punishment continues to be negotiated across the broad sweep of historical time.

Our point of entry into these broader theoretical debates will be a detailed historical case study of the 1981 British Conservative Party Conference. Michael Howard's 'prison works' speech—delivered to the 1993 Conservative Party Conference—is now generally regarded as *the* 'defining moment' in the development of British penal populism (Pratt, 2007: 14). In fact, these events were shaped by a process of political contestation that began more than a decade earlier. As we seek to show here, the defeat of the law-and-order motion during the 1981 Conference provided an initial point of entry for populist movements that were frustrated by a lack of penal policy radicalism following the 1979 general election (Farrall et al., 2016) and demonstrated for the first time that its advocates could secure substantive policy concessions from the Home Office, a 'Great Office of State' that, at this time, enjoyed considerable independence within its departmental sphere of influence (Windlesham, 1993).

In this respect, the agonistic perspective invites us to 'fracture the penal state' (see Rubin and Phelps, 2017) and explore the various actors, agencies and institutional settings that structure, curate and seek to resolve political conflicts in the penal field. As Faucher-King (2005) has argued, the party conference season is among the most important calendar rituals that mark and animate the annual cycle of British politics. They draw attention to key sites of ideological contestation, illuminate the fluid balance of power within political parties and provide early indications as to how policy problems are likely to be framed within public and parliamentary discourse. Viewed in these terms, the 1981 Conservative Party Conference did not change the politics of punishment overnight, but it did provide an early indication of how the 'tectonic plates' of penal policy were shifting as the Home Office struggled to contain: (a) the Prime Minister's personal support for an 'authoritarian populism' that sought to impose a new regime of social leadership and discipline 'from above', and (b) an emergent penal populism characterized by pressure groups and grass-roots activists campaigning 'from below' for more punitive and extensive criminal laws (Pratt and Miao, 2019b; Sozzo, 2016).

Countering populist narratives is now a priority for progressive penal reformers and, in this context, the 1981 British Conservative Party Conference offers an important historical vantage point from which to view the formative political conflicts that continue to shape the contemporary world. First, we begin to foreground this article within a broader literature concerning the complex and dynamic interaction between populism and punishment. Second, we introduce the central features of the agonistic perspective (Goodman et al., 2015, 2017). Third, we situate our case study of the 1981 British Conservative Party Conference within a broader macro-structural context, before turning in the fourth section to present a detailed account of the law-and-order motion that was defeated by a substantial majority. Fifth, we conclude this article by reflecting on the challenges presented by populist movements and how this has shaped the long-term developmental trajectory of penal policy in England and Wales.

Theorizing populism

Few ideas have permeated the contemporary criminological imagination with greater effect than populism (Pratt, 2007). In what may be considered a contemporary example of 'conceptual stretching' (Sartori, 1970: 1034), the populist label is now used to describe a wide range of political phenomena and attach a 'strong whiff of disapproval' to political actions regarded as performative or irrational (Loader and Sparks, 2017: 98). In this section we begin to sketch out a more precise theoretical account of the intersection between populism and punishment. Following the work of Margaret Canovan (1999, 2002), populism is understood here as a 'thin-centred' political ideology that does not offer an overarching vision of the 'good society' but presents individuals and groups with a partial guide to political action (see also Loader and Sparks, 2016).

A detailed review of this literature is well beyond the scope of this article (see, for example, Mény and Surel, 2002; Moffitt, 2020; Pratt, 2007), but for present purposes it is possible to identify three enduring characteristics of populist ideology: first, populism, as it has developed in modern liberal democratic systems, is defined by a rhetorical appeal to 'the people' that is designed to disrupt and destabilize established power structures (Canovan, 1999: 4). Within populist discourse it is 'the people' who retain ultimate sovereignty and populists frequently invoke this constituency as a cohesive whole whose will can be determined and must therefore be defended from outsiders and sectoral interests (Canovan, 1999: 5). Populist movements are ostensibly 'of the people but not of the system' (Taggart, 1996: 32) and while the unity of this voice has frequently been called into question, this appeal to simple majoritarian democracy remains symbolically powerful and should not be underestimated.

Second, this rhetorical appeal to 'the people' generates a fundamental tension within populist ideologies between the values of elite-level actors and the popular discontents of 'ordinary' people. As Edward Shils (1956) observed in his pioneering study of Cold War conspiracy theories, the growing hostility of some sections of American society towards the 'political establishment' eroded public trust in government and created the space where counter-narratives could flourish. In Shils' time the populist gaze was predominantly focused upon 'Ivy League' East-coast liberals but has since broadened in scope to encompass judges, civil servants and persons offering 'expertise', as well as supranational bodies such as the European Union. These 'enemies of the people' are frequently invoked by populist movements to draw out a moral distinction between the common sense of the grass roots and a corrupt or privileged elite who have shut ordinary people out from the corridors of power (Canovan, 2002: 28).

Third, this moral imperative results in a distinctly 'performative' style of politics (Bonner, 2019; Moffitt, 2020). Populists value directness and posit policy solutions that are simple, 'intuitive' and have a no-nonsense or common-sense appeal. They are frequently impatient with the pace of change and disdainful of the standard working practices of modern government, which is said to be congested by negotiation and compromise, backroom deals, bureaucratic procedures and legal technicalities (Canovan, 1999: 5). This disconnect infuses populism with a certain mood and fervour. As international studies have shown (Bonner, 2019; Mény and Surel, 2002; Sozzo, 2016), populist

movements are frequently emotional, energetic and galvanized by charismatic leaders that lean into symbolism and ritual rather than evidence-based policymaking about 'what works' (Loader and Sparks, 2017: 98).

Crucially then, populism is not inherently of the political 'left' or 'right' but finds contingent expression within national political traditions as it (a) responds to existing power structures and (b) interacts with 'thicker' ideological value systems such as conservatism, liberalism and socialism (Loader and Sparks, 2016). In the British and North American contexts, this process has found its most potent expression in the historical association between populism and a New Right conservatism that, initially at least, coalesced in opposition to a post-war consensus premised upon the central institutions of the welfare state and a mixed political economy underpinned by a Keynesian macro-economic strategy. As Stuart Hall (1979) observed contemporaneously, this 'authoritarian populism' was instrumental in driving a new class-based politics that tapped into the genuinely held concerns of the general public and re-framed these insecurities in ways that advanced the political prospects of the Right.

This authoritarian turn took aim at a number of long-standing populist concerns including immigration, tax and social security, but its effect on the crime question has been particularly pronounced (Pratt, 2007). While the contemporary influence of human rights and managerialism can be viewed as foreseeable, long-term pressures on the evolution of British penal policy, the emergence of a new 'populist punitiveness' was largely unforeseen and came to exert a defining influence over penal policy-making in the final decades of the 20th century (Bottoms, 1995). Over time this trend towards a performative style of penal politics has seen the official embrace of crime control practices that allow a certain view of public opinion to take precedence over its penal effectiveness (Brown, 2006; Roberts et al., 2003: 5). It is often emotive and appeals to the symbolism of ideal victims and folk devils for ideological credibility rather than the logics of epistemic crime control advocated by academics, criminal justice practitioners and prominent penal reform organizations (Loader and Sparks, 2017: 106).

While penal populism is frequently associated with political opportunism and the short-term demands of the electoral cycle, this literature has made significant strides in situating these penal developments within a broader account of socio-economic change. Jennings et al. (2017) explore the dynamic relationship between crime rates, public opinion and punitiveness in contemporary high-crime societies; while Pratt and Miao (2019b) demonstrate that populism has performed an important social function within neoliberal systems of government by helping to contain, and hive off, a broad constellation of risks, anxieties and insecurities unleashed by neoliberal economic restructuring. In a fascinating extension of this literature, recent research is beginning to document how penal populism and feminism collide and intersect in contemporary debates over gender-based violence (Grzyb, 2021) and the most appropriate societal response in high-profile cases (Phillips and Chagnon, 2020).

Towards an agonistic account of penal populism in England and Wales

These contributions to the literature continue to make significant strides in identifying the social determinants of penal populism and the broader socio-economic conditions that sustain such movements (see Barker and Miller, 2017). However, there are limitations to this approach. Populism is not simply a 'pathology' requiring sociological explanation (Canovan, 2002: 26), but an enduring feature of democratic politics that intersects with punishment in ways that are often contingent, context specific and complex (Loader and Sparks, 2016). Viewed in these terms, the study of populism as a structured process invites us to pose a different set of questions. It invites us to critique the 'newness' of contemporary manifestations of penal populism and situate current penal trends within a broader historical perspective (Rubin and Phelps, 2017). It encourages us to bring politics back into the study of populism and to explore the meso-level factors that mediate between individual actors and broader macro-structural forces. It recognizes that sociological accounts of populism, while adept at explaining the 'big picture' of penal policy change, frequently lack the explanatory power required to account for international variations in both susceptibility to, and resilience from, populism; particularly, it must be noted, in those jurisdictions that can be seen to diverge markedly from an Anglophone experience of penalty (Bonner, 2019; Sozzo, 2016; Todd-Kvam, 2019).

In this context, recent theoretical advances in the sociology of punishment can help us to make sense of *how* populist ideologies find contingent expression within national penal systems. Loader and Sparks (2016: 319) build the case for a more fully 'political criminology' that recognizes ideological politics as the most appropriate arena for contesting and determining answers to the crime question. Seeds (2019) has traced the historical manifestations of lifelong incarceration through a succession of penological paradigms, while Campbell's (2018) careful historical work on state-level penal trends in the USA has illuminated how penal culture, institutional structures, partisan politics and inter-group factors coalesce at a local level to shape penal policy outcomes. Campbell and Schoenfeld's (2013) highly influential work on the political sociology of punishment has emphasized the importance of careful historical periodization and greater analytical sensitivity to how national developments interact with state-specific institutional contexts to produce political innovation and legislative experimentation in the penal field.

Drawing together many of these strands within the literature, Goodman et al. (2015, 2017) offer an 'agonistic perspective' that identifies conflict between political actors as 'the motor force of criminal justice history' (2017: xi). The authors take issue with a series of long-standing disciplinary assumptions about penal change and begin to challenge a 'pendulum model' of history that: (a) focuses narrowly on moments of historical 'rupture', such as the shift from penal welfarism to a contemporary culture of control; (b) promotes a mechanical view of history that is shorn of contingency, variation and struggle; and (c) encourages a tendency to treat criminal justice as a monolithic system where penal developments are homogenous, national and system wide.

Motivated by dissatisfaction with the conceptual limitations of this theoretical toolkit, Goodman et al. (2015: 318) develop three 'mid-range propositions' about penal change

that, it is argued, better integrate the empirical findings, and conceptual innovations, often found in case study, with the broader theoretical insights that emerge from social theory and the careful study of macro-structural forces:

1. 'That penal development is the product of struggle between actors with different types and amounts of power': the agonistic perspective centres upon the creative role of struggle *between* political actors. Struggle can take both material and symbolic forms; but, as Goodman et al. (2017) rightly argue, these moments of contestation rarely take place on an even (and we would add, stable) institutional playing field. Policy actors differ in their access to economic, political and cultural capital, while various 'axes of inequality'—including, but not limited to, race, gender, sexuality and class—can be seen to affect the hierarchical distribution of power among differing social groups. As policy actors achieve and accumulate power, they tend to institutionalize their advantages and over time this process can entrench the relative positions of political incumbents, who work to preserve the status quo, and political challengers who seek to reform or radically alter existing penal practices.
2. 'Contestation over how (and who) to punish is constant; consensus over penal orientations is illusionary': viewed through the lens of the agonistic perspective, periods of apparent political consensus are in fact evidence of quieter, less visible conflicts—particularly symbolic struggles—that gradually unsettle existing penal practices and lay the foundations for more radical pivots.
3. 'Large scale trends in the economy, politics, social sentiments, inter-group relations, demographics, and crime affect (or condition)—but do not determine—struggles over punishment and, ultimately penal outcomes': not only are penal policy outcomes shaped by the dynamic relationship between structure and agency, but they are mediated through a dense mosaic of institutional structures and democratic political cultures that coalesce in myriad ways to shape penal policy outcomes at a local, national and supranational level.

When taken as a whole, the agonistic perspective provides a promising theory of the middle-range that seeks to explain both the *how* and the *why* of penal change (Goodman et al., 2017: 15). It seeks to integrate macro-, meso- and micro-level factors into a 'fully social theory' of crime (Reiner, 2017: 117) and invites us to move beyond a narrow analytical focus on periods of rupture and crisis, to examine the 'spaces in between' when the political terrain appears (outwardly at least) settled and characterized by apparent continuity. Of course, this approach is not without limitations. Agonistic perspectives have been criticized for a failure to deal adequately with forms of political struggle that are largely absent from the historical record or fall outside of agreed liberal democratic norms (see Koehler, 2019: 802). However, recent contributions to the literature do suggest that the agonistic perspective travels well in both historical (Rubin and Phelps, 2017) and international perspective (McNeill, 2019), as a powerful analytical framework through which to interrogate the formative political conflicts that shape the contemporary world.

The dog that didn't bark: Populism, 'law and order' and the 1979 general election

We turn first, then, to the 'big picture' of penal policy change in the final decades of the 20th century. What makes the events that culminated in the 1981 British Conservative Party Conference so interesting from an agonistic perspective, is that they occurred at a point in time when the 'shifting axis of penal power' (Pratt, 2007: 37) within British politics was still in flux, when institutional resources were finely balanced and a number of developmental trajectories were imaginable.

These arguments have been well rehearsed within the academic literature and need not detain us at any great length here (see, for example, Newburn, 2007). This general picture suggests that the late 1970s signalled a long-term shift in both the aims and techniques of British penal policy. On the one hand, significant socio-economic change, a rise in recorded crime and a series of negative research findings gradually undermined the post-war dominance of 'penal welfarism'; a policy paradigm, which David Garland (2001: 34) has described as a complex web of values and attitudes united by a common belief that, 'penal measures ought, where possible, to be rehabilitative interventions rather than negative, retributive punishments' (but see also Brown, 2006).

On the other hand, the 1979 general election signalled the declining influence of a small metropolitan elite of 'platonic guardians' who held key positions in the civil service, judiciary and politics, and who shared a broadly liberal disposition towards the governance of crime (Loader, 2006). As Loader (2006: 568) has argued, this governmentality, which he characterizes as 'liberal elitism', provided policy-makers with a settled normative roadmap for thinking about crime policy on the basis of three interlocking ideational commitments: a civilizing project that sought to manage crime in a decent, humane and balanced manner; a strong belief that criminal justice and penal policy should be developed on the basis of expert knowledge; and a paternalistic attitude towards 'untutored' public sentiment and a strong desire to manage public opinion on such an emotive issue in the right and proper way.

The key point to note here is that it took time for these broader macro-structural shifts in the organization of British society to work through the body politic and manifest in everyday penal policy and practice. As Gamble and Wells (1989) observe, the first Thatcher government was more noteworthy for its rhetoric than its substantive policy achievements. Despite a landslide general election victory in 1979, the Prime Minister was still regarded as an outsider within the British political establishment (Evans, 1999) and Thatcher's team were forced to confront a broad coalition of vested interests, political opponents and civic activists that were resistant to change and reform (Holmes, 1985). In practice, this impeded the promulgation of a Thatcherite 'instinct' within government (Riddell, 1991) and in many cases resulted in a 'communicative dissonance' between the rhetorical radicalism of Thatcherism and the aims and techniques of substantive policy initiatives as they came to be implemented (Farrall et al., 2016: 223).

In short, Thatcher did not possess unlimited political capital and this basic strategic challenge demanded an ongoing process of prioritization, negotiation and compromise while in government (Farrall and Hay, 2010). Law and order had been a central theme of the 1979 general election campaign, but this did not result in immediate policy

radicalism. While there were clear rhetorical shifts in the public presentation of crime policy—predicated upon what later became known as ‘get tough’ measures and the introduction of a ‘short, sharp shock’ for young offenders—the ‘stickiness’ of existing political institutions frequently impeded the spread of Thatcherite policies across Whitehall at a time when cognate areas of public policy, such as the economy, housing and the welfare system, dominated the political agenda. Accordingly, the substantive content of criminal justice legislation throughout much of the 1980s was characterized by continuity and clear synergies with an earlier, liberal stance (Farrall et al., 2016: 207).

This dissonance was particularly apparent in William Whitelaw’s appointment as Thatcher’s first Home Secretary in May 1979. On assuming office, Thatcher opted for what she would later describe as a balanced Cabinet that ensured considerable continuity with the past. Key economic roles in Cabinet were bestowed upon Thatcher loyalists who were committed to the central tenants of monetarism and neoliberal reform (see Evans, 1999: 51). However, prominent ‘wets’, who remained committed to a Keynesian economic strategy, were appointed to senior positions within the major spending departments. William Whitelaw—a key strategic bridge between the Thatcherite and One Nation factions within the Conservative Party—assumed responsibility for the Home Office and a substantial departmental portfolio that included the police, prisons, probation services and youth justice (see Guiney, 2018). While the Prime Minister held strong personal views on crime, and the reintroduction of the death penalty in particular, Whitelaw was given considerable freedom to manage crime policy on his own terms (Windlesham, 1993).

In this context, the arc of crime policy diverged markedly from core areas of Thatcherite policy and, in so doing, exposed the shifting fault lines within British penal politics: the uneasy relationship between the neoconservative and neoliberal faces of an ascendant New Right project; the moderate, one-nation instincts of William Whitelaw; the penal pragmatism of the Home Office; and an ascendant populism within the party membership that Thatcher had carefully cultivated in her ongoing political battles with the Conservative Party establishment. We now know that there is something of an ‘elective affinity between neoliberal economic and social policies and populist punitiveness and cognate adaptations in the penal sphere’ (Newburn, 2007: 461). However, at the time of the 1981 Conservative Party Conference, the relative distribution of power between these rival political coalitions, and their electoral prospects, had not yet been fully tested within the institutional domains that really mattered.

‘It was not what they wanted’: Populism and the 1981 British Conservative Party Conference

The year 1981 is regarded by many as a ‘crucially pivotal year’ in the history of British politics (Evans, 1999: 61). The performance of the British economy remained sluggish and the Chancellor of the Exchequer’s emergency budget, delivered on 10 March 1981, went further than many political commentators had predicted in the pursuit of a monetarist macro-economic policy. Deindustrialization (partly resulting from the 1981 budget) continued to have a corrosive effect on many working-class communities and

during Thatcher's first term in office the unemployment rate almost doubled from 5.4% in September–November 1979 to an unprecedented post-war level of 10.1% in September–November 1981 (ONS, 2020).

The summer of 1981 saw serious civil unrest across Great Britain. Beginning with the Brixton riots in London, before spreading nationwide to areas such as Toxteth in Merseyside by July 1981. There were also major concerns about escalating sectarian tensions in Northern Ireland. The government was rocked by a series of high-profile prisoner hunger strikes that led to the deaths of 10 Irish Republican prisoners, including Bobby Sands in May 1981. On 10 October 1981—just three days before the Conservative Party Conference—the IRA detonated a bomb outside the Chelsea Barracks in London in reprisal for what it described as the UK government's unlawful treatment of political prisoners. The blast killed two civilians and injured 40 people, including 23 British Army soldiers.

The party was trailing Labour in the polls, while the initial popularity of the newly established Social Democratic Party continued to narrow the centre-ground of British politics. Thatcher's position within the Conservative Party was still far from secure and intense intra-party conflict between the 'wet' and the 'dry' factions within her Cabinet dominated the news cycle. Calls for the Chancellor to return to a broadly Keynesian macro-economic policy agenda continued to destabilize the government and these political pressures culminated in a major Cabinet reshuffle in September 1981 that was intended to consolidate Thatcher's position and revitalize the government (Holmes, 1985: 28).

It was against this volatile economic, social and political backdrop that delegates gathered for the annual British Conservative Party Conference (see Kelly, 1989: 191). Law and order was debated on 13 October 1981 and problems began with the initial framing of the conference motion. Of the 184 resolutions proposed by party delegates the conference organizers settled upon a rather anodyne motion that played directly to a populist critique of crime and criminal justice:

This Conference, whilst appreciating the steps already taken to assist the police with the enforcement of law and order, deplores the outbreaks of aggravated violence against our society and calls upon Her Majesty's Government to provide the police and the courts with powers to enable them to maintain the order and moral standards which the citizens of this country are entitled to expect.

(Conservative Party, 1981: n.p.)

In the debate that followed the restoration of capital punishment was a predominant leitmotif. Loud applause greeted the demand from one delegate for the restoration of capital and corporal punishment and his insistence that there now be a three-line whip in the House of Commons to ensure it was implemented by Parliament. Following this contribution, the tone of debate became increasingly ill-tempered. In an infamous moment of political theatre, the prominent Conservative politician, Edwina Currie, brandished a pair of handcuffs from the speaker's podium and called for the police to make greater use of their powers of arrest. One delegate was booed and heckled for drawing

attention to widespread racism within the police and Conservative Party, and Whitelaw (1989: 197) later admitted that he was so upset by this response that he lost his temper and departed from his pre-agreed remarks.

‘Visibly shaken and ashen faced’ (*Daily Express*, 1981), Whitelaw used his keynote speech to uphold the party’s liberal tradition and defend the government’s recent track record on crime. Whitelaw outlined his principled opposition to the reintroduction of capital punishment. He noted that the Home Office had moved swiftly to implement the party’s manifesto commitments on police pay and stated unequivocally that he would support Chief Constables with the provision of any equipment they felt was necessary to uphold the rule of law. Whitelaw repeated his support for a ‘short sharp shock’ when dealing with young offenders, but in a key passage from his speech, which drew jeers from the conference hall, the Home Secretary went on to express his view that custody was an inappropriate (and inadequate) response for many low-level and repeat offenders:

the vast majority of offenders and the vast majority of those in prison are neither violent nor dangerous. While society rightly expects them to be punished for their crimes there is hope also that the majority of these offenders can be returned to play a positive role in society if their punishment properly fits their crimes. We should not use our prisons simply as dustbins for such offenders without any thought as to how they may be reformed.

(Conservative Party, 1981: n.p.)

In contravention of party tradition, no one in the conference hall, or on the leadership platform (including Margaret Thatcher) stood to applaud Whitelaw at the end of his speech. The law-and-order motion was defeated by a ‘substantial majority’, and, at the conclusion of the conference debate, Whitelaw was rushed into an emergency meeting with the Prime Minister. In an exchange that captured the mood of the times, it was reported that as Whitelaw left the podium, he was approached by the former-Prime Minister, and prominent Thatcher critic, Edward Heath, who offered the following words of commiseration, ‘that was a very good speech Willie...’ before adding sombrely, ‘it was not what they wanted of course’ (*Daily Mail*, 1981).

The political fallout from the debate was immediate. Whitelaw did not receive public backing from the Prime Minister at the end of conference (*The Times*, 1981) and would later note in his memoirs that ‘inevitably, the mood of this conference debate made my handling of law-and-order issues more difficult in the months immediately ahead, for my critics had gained ground’ (Whitelaw, 1989: 199). In early November, the Home Office abandoned a system of automatic release for short sentence offenders (see Guiney, 2018), and the department would find it increasingly difficult to marshal support for its flagship penal reform programme and guide this legislation through Parliament (Garnett and Aitken, 2002: 277).

It is also clear that these events were permanently etched upon the collective consciousness of the modern British Conservative Party. In 1983, following the general election, Whitelaw was replaced as Home Secretary by the Thatcher loyalist Leon Brittan. Keen to avoid a similar fate to that of his predecessor, the new Home Secretary used

his inaugural speech at the 1983 Conservative Party Conference to announce a series of punitive sentencing reforms, including restrictions on parole eligibility for serious violent and sexual offenders and a further free vote in Parliament on the restoration of the death penalty (see Guiney, 2018: 153–155). While it is true to say that the Home Office did reassert a largely pragmatic penal policy programme in the years that followed, the public presentation of crime policy was forever altered. Never again would Conservative ministers underestimate the disruptive potential of the party conference or the political risk of appearing ‘soft on crime’ (Windlesham, 1993).

Governing against the tide: Power, symbolism and resistance

The growing influence of populist ideologies has, and continues to be, a matter of significant scholarly attention (see Bonner, 2019). It exposes the underlying tensions between the liberal and democratic faces of government (see Pratt and Miao, 2019a, 2019b) and draws attention to the intense ideological clashes that have surfaced between populists and those advocates of rational, evidence-based policymaking (Loader and Sparks, 2017). Both of these dynamics were in play during the 1981 Party Conference, but it is also apparent that the various ways in which these political struggles were refracted through the political system was as, if not more important, than the substantive content of these policy debates (Newburn and Jones, 2005; Rubin and Phelps, 2017). Not only was the law-and-order motion contested by political actors with different types, and amounts of power, but these debates were constituted within the eclectic institutional rules, practices and norms of appropriate conduct that defined the Conservative Party Conference.

As we have already noted, the party conference season is among the most visible symbols of politics in action (Faucher-King, 2005) and a potentially important source of democratic legitimacy for political parties seeking to establish a representative link between party leaders and grass-roots members (Gauja, 2013: 66). Done well, the party conference season can galvanize party support and help party leaders to project an image of ‘unity, cohesion and vigour’ (Kavanagh, 1996: 29). However, the benefits to be accrued from democratic engagement can also expose political elites to considerable uncertainty and reputational risk. How do party leaders bring the general public into the politics of crime and provide genuine opportunities for democratic participation, while at the same time explaining these complex public policy concerns in a way that is simple, accessible, compelling and coherent (Canovan, 2002: 26)?

In 1981, the central tenants of ‘liberal elitism’ (Loader, 2006: 562) still provided a viable political template for dealing with this problem, but this approach was becoming increasingly difficult to maintain. As the axis of penal power began to shift in the late 1970s, and populist voices grew in influence, ministers were confronted by three basic strategic options in their handling of the party conference: (1) to offer a wide-ranging ideological defence of a liberal crime control policy; (2) to pursue a strategy of ‘communicative dissonance’ that embraced the rhetoric of law-and-order politics while simultaneously seeking to implement a more pragmatic policy programme ‘behind the scenes’ (Farrall et al., 2016: 223); or (3) to accept and endorse penal populism as an expression of official government policy. Whitelaw opted for a combination of the first two options

but, when presented with an ascendant populist challenge he had not encountered before, the Home Secretary struggled to navigate the shifting political terrain. He misread how societal attitudes were changing (Grasso et al., 2019) and overestimated the degree to which his departmental portfolio could be insulated from broader socio-economic forces.

This need not have proved decisive. As a political incumbent the Home Secretary still enjoyed access to significant institutional resources, but on this occasion, Whitelaw found himself governing against the tide in at least three important respects: first, Whitelaw's relationship with the Prime Minister was complex and came to be defined by conflict, cooperation and reciprocity. As we have already seen, the Home Secretary enjoyed considerable latitude to develop crime policy on his own terms, but the intricacies of penal policymaking were not really the issue here. The law-and-order debate was about political symbolism rather than policy substance (Kertzer, 1988) and while Thatcher had no direct interest in a negative outcome to the law-and-order motion, the Prime Minister did have 'skin in the game' insofar as she had repeatedly mobilized an authoritarian populism in her long-running battles with her political adversaries (Riddell, 1991).

Second, these dynamics presented a fundamental challenge to a liberal disposition towards the governance of crime (Loader, 2006). A long-standing 'hidden system' of conflict management in the build up to the party conference (Kelly, 1989) was not designed to deal with an ascendant authoritarian populism that was not 'of the system' and that burst open during proceedings (Taggart, 1996: 32); while the political lessons Whitelaw had learnt during a career that spanned the post-war consensus were now not nearly so effective as society became less deferential towards those in positions of authority, less trusting of government and expertise, and more connected to burgeoning social movements overseas (Garland, 2021; Grasso et al., 2019). In a revealing interview with *The Times* newspaper several months after the 1981 Party Conference, Whitelaw offered the following interpretation of events:

I felt I had to speak for all the workers in the field who experience every day that there are no easy answers to crime. It was terrifying to see my party suffering such total delusion. Demanding support for capital punishment from all potential candidates, shouting down those who spoke for racial tolerance. It is not in my nature to slap people down, but I felt I had to slap this kind of extremism down.

(*The Times*, 1981: 9)

While there had been important shifts in the rhetoric of law and order under the first Thatcher government, this quote indicates that Whitelaw still viewed criminal justice 'experts' as the primary stakeholders within the penal policymaking process, and clearly felt confident that, where necessary, he could rely upon his own personal authority to 'slap down' uninformed public opinion. Fast forward just 10 years and none of these political assumptions would be entertained by mainstream Conservative or Labour politicians.

Third, the defeat of the law-and-order motion highlighted the difficulty of countering a populist narrative that drew upon a fluid characterization of 'the people' and apparent majoritarian democratic support for 'tough' crime control measures (see, for example,

Bonner, 2019: 9; Brown, 2006; Roberts et al., 2003). As the Conservative Party regrouped at conference following a summer of civil unrest and sectarian tensions in Northern Ireland, Whitelaw was caught between Thatcher's strategy of mobilizing an authoritarian populism 'from above' and an emergent penal populism defined by social movements campaigning 'from below' for policy radicalism in the penal field (Pratt and Miao, 2019b). Not only was the Home Secretary expected to deal with the spill over effects of neoliberal economic policies he had personally opposed in Cabinet, but he was now under mounting pressure to accept a suite of populist penal policies which stood in direct opposition to the liberal tradition that had defined the Home Office for more than a generation (Windlesham, 1993).

Conclusion

In our view, the party conference occupies a unique institutional position at the frontier between symbolic politics and substantive penal policymaking (Faucher-King, 2005; Gauja, 2013). Moreover, our analysis indicates that the outcome of the 1981 Conservative Party Conference was not simply a *product* of a rising populist wave, but played an *active* role in the creation of a new and more punitive penal populism. The conference provided an institutional point of entry into the policymaking process for a variety of populist voices that were not 'of the system' and demonstrated, for the first time, that a populist ideology could both disrupt the prevailing liberal consensus on crime and destabilize the government's penal policy programme. In this respect, the 1981 Conference yielded a number of important symbolic lessons that re-defined what was politically possible (and hence imaginable) at this formative moment in British politics (Newburn and Jones, 2005).

If symbols are the core currency of political communication (Elder and Cobb, 1983), then the spectacle of a local councillor brandishing a pair of handcuffs from the podium, a senior Tory grandee losing his composure after being heckled from the conference floor and the symbolism of a Prime Minister refusing to support her Home Secretary at the end of a difficult conference debate made it abundantly clear to everyone in attendance, or digesting the media headlines in the days that followed, that the axis of penal power was shifting. In making this point we do not want to fall into the trap of reading history backwards from present-day concerns. At this point in time, the lessons from the law-and-order motion were largely negative. The law-and-order motion highlighted the dangers of underestimating populist voices, of appearing 'soft' on crime and the risk to Ministers of becoming too isolated from the Prime Minister, but it did not offer a positive vision for penal policymaking. Or, to put this another way, while it was apparent what this embryonic penal populism was opposed to, it had not yet matured into a substantive policy framework with a clear sense of what it stood *for*.

It is also important to note that while party conferences often possess considerable 'soft' power, they lack formalized decision-making authority. Conference motions are advisory and in this context populist politicians did not yet command sufficient institutional resources to shape the political agenda or overrule the decisions of political incumbents (Farrall et al., 2016). Rather, the 1981 British Conservative Party Conference was an important first step in fracturing a liberal disposition towards punishment and the

rehabilitation of offenders as conceived by the architects of the post-war consensus. The challenging and rejection of the 'old order' was, here again, one of the first steps taken in the forging of a more radical approach to these topics (Farrall and Hay, 2010). The conference floor had taken control of a key part of the existing agenda, and Thatcher was content to let that happen. Her failure to respond to the difficulties Whitelaw found himself in sent a powerful message to the party members on the floor of the conference hall and in Westminster.

Of course, the scale, scope and reach of populist policies will always depend, to a significant degree, upon the strategic calculations of individual policy actors and the gradual transformation of broader macro-structural forces. However, it is also clear from the analysis presented here that the intersection between populist ideology and punishment was shaped by political conflicts *between* actors with varying types and amounts of power (Goodman et al., 2017). Power, which was constituted within, and ebbed and flowed through, a variety of the institutional settings. These conflicts matter. Politics is a structured process, and these policy legacies continue to cast a long shadow over how and why contemporary societies punish.

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References

- Barker V and Miller LL (2017) Introduction to the special issue on the state of the state. *Theoretical Criminology* 21(4): 417–421.
- Bonner MD (2019) *Tough on Crime: The Rise of Punitive Populism in Latin America*. Pittsburgh, PA: University of Pittsburgh.
- Bottoms AE (1995) The philosophy and politics of punishment and sentencing. In: Clarkson C and Morgan R (eds) *The Politics of Sentencing Reform*. Oxford: Clarendon Press, 17–49.
- Brown EK (2006) The dog that did not bark: Punitive social views and the 'professional middle classes'. *Punishment & Society* 8(3): 287–312.
- Campbell MC (2018) Varieties of mass incarceration: What we learn from state histories. *Annual Review of Criminology* 1(1): 219–234.
- Campbell MC and Schoenfeld H (2013) The transformation of America's penal order: A historicized political sociology of punishment. *American Journal of Sociology* 119(4): 1375–1423.
- Canovan M (1999) Trust the people! Populism and the two faces of democracy. *Political Studies* 47(1): 2–16.
- Canovan M (2002) Taking politics to the people: Populism as the ideology of democracy. In: Mény Y and Surel Y (eds) *Democracies and the Populist Challenge*. London: Palgrave, 25–44.

- Conservative Party (1981) *Conservative Party Conference Blackpool 1981: Verbatim report of the platform speeches*. London: Conservative Party.
- Daily Express* (1981) Willie is howled down. *Daily Express*, 14 October, 5.
- Daily Mail* (1981) Whitelaw in a furious clash. *Daily Mail*, 14 October, 10–11.
- Elder CD and Cobb RW (1983) *The Political Uses of Symbols*. New York: Longman.
- Evans B (1999) *Thatcherism and British Politics, 1975–1999*. Stroud: Sutton.
- Farrall S, Burke N and Hay C (2016) Revisiting Margaret Thatcher's law and order agenda: The slow-burning fuse of punitiveness. *British Politics* 11(2): 205–231.
- Farrall S and Hay C (2010) Not so tough on crime? Why weren't the Thatcher governments more radical in reforming the criminal justice system? *British Journal of Criminology* 50(3): 550–569.
- Faucher-King F (2005) *Changing Parties: An Anthropology of British Political Party Conferences*. London: Palgrave.
- Gamble A and Wells C (1989) *Thatcher's Law*. Cardiff: University of Wales Press.
- Garland D (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.
- Garland D (2021) What's wrong with penal populism? Politics, the public, and criminological expertise. *Asian Journal of Criminology* 16(3): 257–277.
- Garnett M and Aitken I (2002) *Splendid! Splendid! The Authorised Biography of Willie Whitelaw*. London: Jonathan Cape.
- Gauja A (2013) *The Politics of Party Policy: From Members to Legislators*. Basingstoke: Palgrave Macmillan.
- Goodman P, Page J and Phelps M (2015) The long struggle: An agonistic perspective on penal development. *Theoretical Criminology* 19(3): 315–335.
- Goodman P, Page J and Phelps M (2017) *Breaking the Pendulum: The Long Struggle over Criminal Justice*. Oxford: Oxford University Press.
- Grasso M, Farrall S, Gray E, et al. (2019) Thatcher's children, Blair's babies, political socialisation and trickle-down value-change: An age, period and cohort analysis. *British Journal of Political Science* 49(1): 17–36.
- Grzyb M (2021) Penal populism: Negotiating the feminist agenda. Evidence from Spain and Poland. *European Journal of Criminology* 18(6): 836–854.
- Guiney T (2018) *Getting Out: Early Release in England and Wales, 1960–1995*. Oxford: Oxford University Press.
- Hall S (1979) The great moving Right show. *Marxism Today*, January: 14–20.
- Holmes M (1985) *The First Thatcher Government 1979–1983: Contemporary Conservatism and Economic Change*. Brighton: Wheatsheaf.
- Jennings W, Farrall S, Gray E, et al. (2017) Penal populism and the public thermostat: Crime, public punitiveness, and public policy. *Governance* 30(3): 463–481.
- Kavanagh D (1996) British party conferences and the political rhetoric of the 1990s. *Government and Opposition* 31(1): 27–44.
- Kelly R (1989) *Conservative Party Conferences: The Hidden System*. Manchester: Manchester University Press.
- Kertzer D (1988) *Ritual, Politics and Power*. New Haven, CT: Yale University Press.
- Koehler J (2019) Penal (ant)agonism. *Law and Social Inquiry* 44(3): 799–805.
- Loader I (2006) Fall of the 'platonic guardians': Liberalism, criminology and political responses to crime in England and Wales. *British Journal of Criminology* 46(4): 561–586.
- Loader I and Sparks R (2016) Ideologies and crime: Political ideas and the dynamics of crime control. *Global Crime* 17(3–4): 314–330.

- Loader I and Sparks R (2017) Penal populism and epistemic crime control. In: Liebling A, Maruna S and McCara L (eds) *The Oxford Handbook of Criminology*. Oxford: Oxford University Press, 98–115.
- McNeill F (2019) Contesting probation in Scotland: How an agonistic perspective travels. *Law & Social Inquiry* 44(3): 814–821.
- Mény Y and Surel Y (2002) *Democracies and the Populist Challenge*. London: Palgrave Macmillan.
- Moffa M, Stratton G and Ruyters M (2019) Parole populism: The politicisation of parole in Victoria. *Current Issues in Criminal Justice* 31(1): 75–90.
- Moffitt B (2020) *Populism*. Cambridge: Polity Press.
- Newburn T (2007) ‘Tough on crime’: Penal policy in England and Wales. *Crime and Justice* 36(1): 425–470.
- Newburn T and Jones T (2005) Symbolic politics and penal populism: The long shadow of Willie Horton. *Crime, Media, Culture (Canadian Ethnology Society)* 1(1): 72–87.
- ONS (2020) Labour market statistics time series: Unemployment rate (aged 16 and over, seasonally adjusted). Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatistics> (accessed 28 April 2021).
- Phillips ND and Chagnon N (2020) ‘Six months is a joke’: Carceral feminism and penal populism in the wake of the Stanford sexual assault case. *Feminist Criminology* 15(1): 47–69.
- Pratt J (2007) *Penal Populism*. London: Routledge.
- Pratt J and Miao M (2019b) The end of penal populism: The rise of populist politics. *Archiwum Kryminologii* 41(2): 15–40.
- Pratt J and Miao M (2019a) Risk, populism, and criminal Law. *New Criminal Law Review* 22(4): 391–433.
- Reiner R (2017) Political economy, crime and criminal justice. In: Liebling A, Maruna S and McCara L (eds) *The Oxford Handbook of Criminology*. Oxford: Oxford University Press, 116–137.
- Riddell P (1991) *The Thatcher Era: And Its Legacy*. Oxford: Blackwell.
- Roberts JV, Stalins LJ, and Indermaur D, et al. (2003) *Penal Populism and Public Opinion: Lessons from Five Countries*. Oxford: Oxford University Press.
- Rubin A and Phelps MS (2017) Fracturing the penal state: State actors and the role of conflict in penal change. *Theoretical Criminology* 21(4): 422–440.
- Sartori G (1970) Concept misinformation in comparative politics. *American Political Science Review* 64(4): 1033–1053.
- Seeds C (2019) Historical modes of perpetual penal confinement: theories and practices before life without Parole. *Law & Social Inquiry* 44(2): 305–332.
- Shils E (1956) *The Torment of Secrecy: The Background and Consequences of American Security Policies*. Glencoe, IL: Free Press.
- Sozzo M (2016) Democratization, politics and punishment in Argentina. *Punishment & Society* 18(3): 301–324.
- Taggart P (1996) *The New Populism and the New Politics: New Protest Parties in Sweden in a Comparative Perspective*. London: Macmillan Press.
- The Times* (1981) What now for the ever-loyal lieutenant? *The Times*, 16 December, 9.
- Todd-Kvam J (2019) Bordered penal populism: When populism and Scandinavian exceptionalism meet. *Punishment & Society* 21(3): 295–314.
- Whitelaw W (1989) *The Whitelaw Memoirs*. London: Aurum.
- Windlesham L (1993) *Responses to Crime: Penal Policy in the Making. Vol. 2*. Oxford: Clarendon Press.

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