

Youth Justice and the Rule of Law

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Last week, I had the privilege to convene a [roundtable discussion](#) on Youth Justice and the Rule of Law at the [UK House of Lords](#) to round off the 2022/23 academic year for the Bingham Centre's Public and Youth Engagement Programme. At the event, [Lord John Bird MBE](#), [Lord Dr Michael Hastings CBE](#), [Paul Cowley MBE](#), [Shaun Pascal](#) and [David Breakspear](#) had an open and honest conversation on the intricacies of our youth justice system with an audience of mainly London youth and youth workers .

Participants had the privilege to hear from panellists with lived experience of the youth justice system with one participant stating: *'I was particularly impressed with the fact that panellists consisted of people with lived experience of the Youth Justice system and were not just "theorists".'*

Youth justice in England and Wales comprises of processes and organs used for the prosecution, sentencing, imprisonment (alongside other sanctions such as community service) and rehabilitation of individuals below the age of 18 years when charged with a criminal offence. However, it has been argued that there is [little evidence](#) that contact with the criminal justice system is an effective way to reduce crime.

The UK has the [highest number of inmates in western Europe](#) and the number of persons incarcerated in England and Wales has more than [quadrupled](#) between 1900 and 2018, with about 50% of this increase happening since 1990.

On average, the government spends [circa £50,000](#) annually to incarcerate an individual and for a child in Young Offenders Institutions, the cost rises to [£76,000](#). It is therefore questionable as to whether this is good value for tax-payers' money if the result is high rates of recidivism, given that it would, for instance, cost far less to send the child to Eton College, a £46,000-a-year institution which has produced world leaders.

Lord Michael Hastings of Scarisbrick CBE speaking at last week's event highlighted a recently published book, *That Peckham Boy* by [Kenny Imafidon](#), Co-Founder and CEO of [Clearview Research](#), in which he shared his lived experience of the youth justice system. Kenny was wrongly charged with murder two days after his 18th birthday. He was held in jail for 6 months on remand and faced a life sentence if convicted. Kenny, against all odds, became the first young person ever to take his A-Levels from Feltham Young Offenders Institution, and the case against him eventually collapsed.

The Rule of Law is foundational to democracy and remains one of the core values of the United Kingdom. Article 5 of the ECHR declares that everyone has the right to liberty and security of person and provides that no one shall be deprived of his liberty save in certain prescribed cases and in accordance with a procedure prescribed by law.

The Rule of Law behoves us to consider that a suspect is by definition a person against whom no offence has been proved. Lord Tom Bingham in his best-selling book **"The Rule of Law"**, synthesised this clearly: *'suspicions, even if reasonably entertained, may prove to be misplaced, as a series of tragic miscarriages of justice has demonstrated. Police officers and security officials can be wrong. It is a gross injustice to deprive of his liberty for significant periods, a person who has committed no crime and does not intend to do so. No civilised country should willingly tolerate such injustices.'* When decisions are made about the granting of bail or detention on remand, this Rule of Law lens provides an important guide.

The panellists also noted that [school exclusions](#) are a major pathway to youth delinquency. A [report](#) from the Ministry of Justice which reviewed the youth justice system in 2016 found that children in Young Offenders Institutions were only receiving 17 hours of education every week against an expectation of 30 hours. [EachOther](#), one of Bingham Centre's partners on the Public and Youth Engagement Programme, has produced a powerful [documentary](#) exploring the impact of exclusions on young people.

The right to education is a crucial one recognised by the UN Convention on the Rights of the Child (UNCRC), which states that children should have an education ([Article 28](#)) that enables them to explore their abilities, talents and personalities ([Article 29](#)). The United Nations Committee on the Rights of the Child has [criticised](#) the UK on two Rule of Law issues in relation to school exclusion, including the unlawful use of exclusions in matters where this is not a last resort and a lack of legal advice to those likely to be

victims of exclusion decisions.

The roundtable on Youth Justice and the Rule of Law was indeed thought-provoking. Clearly, our criminal justice system is still inundated with many problems despite the multiple stages and safeguards that have been incorporated including questioning, disclosure witness evidence, cross examination, jury trials, appeals and miscarriage of justice reviews to name a few.

I personally came away from the event challenged with the question posed by a panellist: *'How can the Rule of Law be strengthened in our society to ensure that in our Youth Justice system, a young person is innocent until proven guilty?'*

The event at the House of Lords is part of the Bingham Centre's [Public and Youth Engagement Programme](#), which is supported by the Sybil Shine Memorial Trust.

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