



The fascination with crime

The criminal justice system

Roger Bolton:

So is there a moral basis for the legal system, or can you say that there is no moral ingredient at all in our criminal justice system?

Dr Louise Westmarland:

Well this is one of the hardest questions that the students are going to have to grapple with because one of the things that they're going to have to think about is what we mean by justice.

In other words, the justice part of criminal justice is something that has a philosophical base. It isn't simply about what happens to people in the so-called 'criminal justice system', it's also what we mean by justice. And what we mean by justice does often have a moral or ethical principle behind it. The problem is that one person's ethics and morals are not the same as another person's.

Roger Bolton:

Let's get back to Oliver James. We're going to hear from him again, and this time he talks about his own research into the criminalisation of young males.

Oliver James:

The first thing that I found when I started studying violence was that it, that it, it's very clearly an area in which, in which genes play very little role, and when I went to interview these violent men I found that they, well first of all they really didn't know why they were violent, which surprised me, in that they'd often seen psychologists and so forth, and often had good reason to think about it, and all I did was ask them very, very simple questions like, about their childhood. Like, 'What sort of child were you?', 'What sort of parents did you have?', 'Did one of your parents like you more than the other?', 'How did your parents punish you?' and they would say, to that particular question, they would frequently say, 'Well you know, nothing special, you know, normal, I had a normal childhood, so what', sort of thing. And they then give this catalogue of unbelievable physical abuse. 'Well, yeah, I used a belt, obviously, obviously, you know, if I did something wrong, then I was punished yeah'. You know, and, from their point of view, they were simply describing what was normal to them.

From my and most people's point of view, they were describing severe and frequent physical abuse. If that's your experience, it means you grow up with a very strong expectation that at any minute people are going to criticise you, attack you and physically assault you. Some of the men I interviewed, the extent to which they were simply re-experiencing the past, was, was, was almost laughable. Mostly it was more complex than that, the connection between a specific crime and their childhood experience, but not that complex, and certainly, what struck me when I interviewed these men, was how little they'd thought about it, and it came to them as a total revelation, when I would point these connections out, and, I mean, in one case, one paedophile for instance, he started off trying to rape a nurse, then he tried an old woman, and it didn't work, he couldn't get off on it, he didn't get an erection, he wasn't excited by it. Tried a schoolgirl, that didn't work, and eventually he saw two ten year old boys, and suddenly everything clicked, and he went right through with it all and obviously, there were many details of precisely what he did to these boys that were very much, things that had been done to him over a number of years by a man, in the same wood that he was doing these things to this, to these boys. They're repeating the rage and the humiliation that was inflicted on them by both their parents, not just their fathers. I mean, the mothers, their mothers frequently were depressed and irritable when they were small, and frequently hit

them a lot and, of course, the kinds of childhood, that, that produce violence are, of course, much more common in, in low income homes.

The sort of upper/middle class home that I came from is much less likely to do to the child the sort of things that produce a violent man. They produce a lot of very nasty pieces of work from the upper/middle classes, but it doesn't normally take the form of physical violence.

Roger Bolton:

Louise Westmarland isn't there a danger that Oliver James seems to be suggesting that you can have crime but no criminal?

Dr Louise Westmarland:

I suppose he's saying that there are reasons why people commit crimes, and I think that's a justifiable position to take in that there's certainly some evidence that people who are abused will go on to be abusers. Paedophilia as a crime, but if you're asking me whether their upbringing is some sort of excuse, I would say, no it certainly isn't. But society has to protect certain groups of people, and clearly, children are the most vulnerable group that we do protect, and we have to protect them from the inappropriate attentions of adults who are going to harm them, and paedophilia is one example of this. There are certain ideas around social harm and the protection of the vulnerable which we clearly have to make provision for. It's not to say that we can't define certain limits, and certainly, child sexual abuse is one of them.

Roger Bolton:

Do you think inheriting in the idea of crime is the idea of choice, of free will, that we assume, that if a crime is being committed, that the individual has some choice about committing that crime, and that, therefore, if the study of genetics were eventually to show us that people were predisposed in a significant way towards committing that crime, we might say 'Well, it's a terrible thing, but the guy couldn't help it, predisposed that way, born that way, the wrong genes, therefore he isn't a criminal'.

Dr Louise Westmarland:

Well you're asking another very big question there, and probably that's the third biggest area that students are going to grapple with. The idea that we can choose to commit a crime or not is one that's, it's just been troubling criminologists right from the start, and ...

Roger Bolton:

But the legal process, judicial process assumes that we can, doesn't it really?

Dr Louise Westmarland:

That we can ...?

Roger Bolton:

Choose.

Dr Louise Westmarland:

Well in some cases.

Roger Bolton:

It's based upon that assumption.

Dr Louise Westmarland:

Well, not always. In the 1970s and 80s, leading up to the end of the 80s, there certainly was a treatment model for people who were accused of convicted of crimes. We have people who are addicted to heroin for instance, who will come into the system, and the treatment model would suggest that people who are being driven by an addiction that's beyond their bodily or mental control are not acting with free will, and so in those cases, certainly some of them are now being diverted from the criminal justice system into treatment modes, which is kind of a way of what you're talking about.

Roger Bolton:

But society has a right to be protected. When you leave this studio now where we're recording this interview, you go home or whatever, you have a right as a member of society to be protected by society, from being assaulted, from being robbed, all of those things. And isn't there a danger that if society doesn't categorise those things as crime and doesn't hold the person who commits those actions, at least partly responsible, that actually a functioning society will just go into anarchy?

Dr Louise Westmarland:

If you take the heroin addict model, the safest thing would be to stop that heroin addict committing those crimes, and if the best way to stop that addict committing those crimes is to give him or her treatment, you could argue that what society is doing is doing the right thing.

The way to go down the anarchy road would be to continually lock them up, give them no treatment and set them back out on the streets again to do the same thing again. Whereby, if we argue that they don't have a choice, that's going to do absolutely no good whatsoever, because we can put them into prison and deter them and threaten them and everything. It's not going to make a difference.

Roger Bolton:

Finally, Louise Westmarland, when somebody starts, what do you want them to do? Do you want somebody to write down all their prejudices and all those assumptions and say, 'Question every single thing you've written down'?

Dr Louise Westmarland:

We want them to unpick certain ideas that they may already have. We want them to unpick what they think they know crime is, and what they think justice is. We want them to really become critical analysts of what crime is, and what is criminal justice.