

## Glossary

### **Attorney General**

the principal law officer of the Crown who is responsible for the Crown Prosecution Service.

### **Autopoiesis**

a biological term used to refer to a socio-legal theory which analyses communications within systems such as law.

### **Bifurcation**

in relation to youth justice this denotes a two-pronged policy whereby the majority of offenders are diverted from prosecution and the minority are prosecuted and punished.

### **Cardinal proportionality**

non-relative proportionality where the overall level of punishment is addressed.

### **Cautioning plus**

a form of cautioning (official warning by the police) which included voluntary participation by the young offender in a preventative programme.

### **Censure**

the process of public denunciation and reproof of an offender's criminal behaviour.

### **Culpability**

blameworthiness in relation to criminal wrong-doing.

### **Deterrence**

using punishment to deter the general public from offending (general deterrence) or to deter offenders from re-offending (special or individual deterrence).

### **Discretion**

the power of the sentencer or other official to make a choice of processes or outcomes available.

### **Doli incapax**

a Latin phrase meaning 'capable of wrong'. Currently this refers to children under 10 years of age in English law.

### **Felony**

formally (until 1967) an offence more serious than a misdemeanour.

**Governance**

governance has different meanings in different contexts. It refers generally to the exercise of power more widely than that covered by the term 'government'.

**Humane containment**

the minimum use of custody, the minimum use of security necessary to protect the public and normalisation.

**Incapacitation**

preventing reoffending by removing offenders from society through the death penalty, imprisonment, or other means.

**Indictable offences**

an offence that may be tried on indictment, that is, by jury in the Crown Court. Some indictable offences are triable either way (see below).

**Just deserts**

the term used to refer to punishment calculated in relation to the culpability of the offender. It is an outcome justified on retributivist principles.

**Less eligibility**

the principle that conditions inside prison must be worse than outside prison for the deterrent effect to operate.

**Misdemeanour**

formerly (before 1967) any of the less serious offences.

**Moral panic**

a term used to denote a theory developed to explain the way in which an incident triggers a generalised and disproportionate public concern about a social issue or penal policy.

**New Managerialism**

using strategies and techniques from the private sector in the management of punishment in the public sector, focusing on the most efficient use of resources, for example, using Key Performance Targets, Key Performance Indicators, and league tables.

**New Penology**

an approach which is concerned with risk-management, using actuarial data to predict and manage risk and which focuses on categories of offenders rather than individuals.

**Normalisation**

using the same standards in prison which are applied to the lives of offenders in the community as far as possible, within the constraints required by imprisonment, so that prisoners are able to lead as normal lives as possible apart from their loss of liberty.

**Ordinal proportionality**

an amount of punishment which is proportionate to culpability in terms of parity between offenders committing offences of similar gravity, and such that the relative severity of punishment reflects the seriousness-ranking of offences.

**Out-sourcing**

the management technique of tendering part of an organisation's work or services to an external provider.

**Paramountcy**

principle in law relating to children this refers to the principle that the welfare of the child shall be paramount in the making of decisions about the child's upbringing.

**Parsimony principle**

using the most economical means of punishment, to impose the least severe punishment necessary to achieve the objective of crime reduction.

**Populist punitiveness**

the increased punitiveness of governments to attract public support.

**Prisonisation**

the forms of adaptation of individuals and groups to prison life.

**Privatisation**

the transfer of state functions or services to the private sector.

**Protective sentencing**

sentencing with the aim of reducing the likelihood that the offender will cause harm to the public by offending in the future. The form such public protection takes may be incapacitation through imprisonment.

**Prudential disincentive**

a penalty which is designed to deter an individual from offending.

**Quantum**

the amount of money awarded as compensation or imposed as punishment.

**Racism**

exclusionary practices based on assumptions about racial hierarchies, which see the qualities of social groups as fixed.

**Rehabilitative ideal**

using treatment and training in custody or in the community to rehabilitate individuals so that they can contribute to society.

**Restorative justice**

an approach to crime and disorder which focuses on the restoration of harmony between the victim, the offender, and the community.

**Retributivism**

the theory of punishment which links punishment to the desert of the individual and which matches the severity of the punishment to the seriousness of the crime.

**Ring-fencing**

specifying a proportion of a budget which can be used only for particular purposes.

**Summary offences**

offences that can only be tried before magistrates. Most minor offences are summary offences.

**Three Strikes laws**

mandatory minimum sentencing schemes in the United States aimed at repeat offenders where the third sentence mandates 25 years to life in prison.

**Triable**

either way offence a crime that may be tried either as an indictable offence or as a summary offence.

**Utilitarianism**

a philosophical approach which sees individuals as motivated by the pursuit of pleasure and avoidance of pain and uses this to devise policies which maximise the greatest happiness of the greatest number.

**Utilitarian theories of punishment**

the use of punishment to reduce or prevent crime through deterrence, incapacitation and rehabilitation.

**White collar crime**

non-violent crime committed for financial gain in commercial situations or in relation to personal finances.