



‘Dragonisation’ revisited: A progressive criminal justice policy in Wales?

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Abstract

The concept of ‘dragonisation’ was the first authoritative attempt to engage with criminal justice policy in post-devolution Wales. Its central claim, that devolution created the space and conditions for progressive justice policy to flourish in Wales while remaining part of the unitary England and Wales jurisdiction, remains largely unchallenged more than a decade since it first entered Welsh criminological vocabulary. By reviewing policy developments and drawing upon empirical research, this article revisits dragonisation to assess the extent to which Welsh policy has continued to diverge from England since the formative years of devolution. The arguments presented here contribute to emerging discussions over the future of criminal justice policy in Wales and form part of a wider criminological research agenda aimed at producing fine-grained territorial analyses of criminal justice practices, including differences *within* the same jurisdiction.

Keywords

Devolution, dragonisation, justice, Wales

Introduction

Devolution has transformed the governance of the United Kingdom. The uneven distribution of powers to Northern Ireland, Scotland and Wales since 1999, as well as to metropolitan areas of England in recent years (e.g. Greater Manchester Combined Authority, 2019), has led to widening legislative and policy divergence in the United Kingdom (MacKinnon, 2015; Paun et al., 2016). One of asymmetric devolution’s most striking

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anomalies, however, is that Wales remains the only devolved nation without its own distinct criminal justice system. Despite having its own government and legislature, Wales continues to be a part of the single jurisdiction of England and Wales. This has led some, including a former First Minister of Wales, to suggest that Wales is the only common law country in the world to have an executive and legislature without its own distinct legal jurisdiction (Huckle, 2016; Welsh Parliament's Constitutional and Legislative Affairs Committee, 2012).

Montesquieu's (1748 [1989]) philosophy of the separation of powers is based on a model of functioning constitutional entities founded upon the *trias politica*: the legislature, executive and judiciary. The implication of this analysis is, to use the metaphor of a stool, that only three legs can ensure stability (Jones and Wyn Jones, 2019). By granting Wales this unique set of arrangements, the inherent instability of the two-legged Welsh constitutional settlement has fuelled growing concerns over the sustainability of the current justice arrangements in Wales. Following the passage of the Wales Act 2017, the UK Government duly established the Justice in Wales Working Group to assist the Ministry of Justice better reflect the unique arrangements that exist in Wales. Significantly, in September 2017, the Welsh Government announced the establishment of the Commission on Justice in Wales, under the Chairship of the former Lord Chief Justice of England and Wales, Lord Thomas of Cwmgiedd, to undertake the first systematic review of justice in Wales for over 200 years. Its final report concluded that the criminal justice arrangements for Wales are 'unduly complex' and recommended that legislative responsibility for criminal justice be transferred from the Westminster parliament to the Welsh Senedd (Commission on Justice in Wales, 2019: 10).

One could be forgiven for assuming that Wales' constitutional exceptionalism has made it a standout case for critical social scientists. However, despite efforts to explain the emergence of a distinct criminological policy space in Wales (Jones, 2017), few attempts have been made to assess *how* the Welsh Government has performed while operating within the single England and Wales system. The most authoritative attempt to do so emerged in 2008 when academics developed the concept of 'dragonisation'.¹ Much like the efforts made by academics in Scotland to use 'tartanisation' as a way to measure its own divergence from the policies and practices adopted in England and Wales, 'dragonisation' was conceived as an attempt to capture the emergence of a different approach to community safety and youth justice in Wales (Edwards and Hughes, 2009; Haines, 2009). At a time when New Labour in England were talking tough on crime and penal policy (Scruton, 2005), dragonisation became shorthand for the existence of a distinctively progressive Welsh Government criminal and social justice agenda *within* one part of the jurisdiction.

Unlike tartanisation, which has periodically been subjected to theoretical analysis and empirical research (e.g. Brangan, 2019; McAra, 2006; McAra and McVie, 2015), the concept of dragonisation has largely been abandoned since it first emerged in 2008. Despite this neglect, it remains *the* most authoritative conceptualisation of how Welsh Government has used its powers within a range of policy areas that intersect with the UK Government's formal responsibilities for justice. More than a decade later, dragonisation continues to linger somewhat uncritically above the Welsh debate, despite clear indications that divergence between Wales and England has narrowed (Brewster and Jones,

2019; Thomas, 2015), overwhelming evidence that parts of the criminal justice system in Wales produce poorer outcomes than the system in England (Jones, 2019), and growing interest over Wales' future role within the England and Wales system (Commission on Justice in Wales, 2019).

The aim of this article is to revisit dragonisation and address the neglect of this concept more than a decade since it first entered Welsh criminological vocabulary. The article's review of documentary sources, policy developments and empirical research helps to chart the emergence of dragonisation and critically assess the extent to which Welsh policy has continued to be 'progressive' and 'distinct from England' since the early years of devolution. By returning to dragonisation, the article contributes to a more critically informed discussion on Welsh research and policy at what is an important juncture in debates about the future sustainability of the unitary England and Wales jurisdiction. Beyond the Welsh context, this article adds to a growing number of studies aimed at producing a 'more fine-grained' territorial analysis of criminal justice policy and practice (Brangan, 2020; Buchan, 2020; Buchan and Morrison, 2018; Garland, 2018: 13; Lynch, 2009; Morrison, 2011, 2017; Reiter et al., 2018). Unlike macro-level studies, this research agenda is less likely to produce superficially persuasive but simplistic narrative accounts that draw neat but misleading binary distinctions between nations. Instead, it seeks to explore localised forces governing and shaping penal policy. Given Wales' continuing involvement in the England and Wales system, this includes research seeking to explore policy differences *within* the same jurisdiction/system where, as explained by Stenson and Edwards (2004), the differences can often be greater than those that exist *between* nation states (Barker, 2009; Brewster, 2017, 2020; Goldson and Hughes, 2010).

Devolution, 'new governable spaces' and progressive policies

Welsh devolution in 1999 radically transformed Wales' role within the England and Wales criminal justice system. The initial transfer of executive responsibility for many areas of social policy – such as health, education, social services and housing – afforded the newly established Welsh Government a significant degree of autonomy over social policy domains that were key to the UK Government's strategy on reducing crime and tackling offending. This includes the area of youth justice and community safety where early New Labour reforms had led to the establishment of 'new governable spaces', such as local Youth Offending Teams and Community Safety Partnerships, which relied heavily upon the involvement of devolved services to help redefine policy problems and develop 'locally' informed responses (Goldson and Hughes, 2010: 218). The potential policy tensions of the new constitutional settlement were baked into Youth Offending Teams with core professional staff being drawn from services accountable to different governments: social services, health and education being the responsibility of Welsh government; while policies and practice directions for probation and police were determined by the UK Government.

The practical implications of devolution forced the UK Government into recognising that criminal justice arrangements in Wales, despite remaining part of the same jurisdiction, were no longer the same as England's. In 2006, a joint report published by the

National Offender Management Service, the Welsh Government and Youth Justice Board vowed to take full account of what it described as ‘the different Welsh perspective’ that had emerged since 1999 (NOMS Cymru et al., 2006: iii). No longer an anonymous part of a single jurisdiction, Wales was now being spoken of because of its distinctiveness *within* the ‘unitary’ system (e.g. Welsh Government, 2007).

Buoyed by its new powers in policy making, devolution created a palpable sense of optimism about what Welsh Government could achieve. At the very heart of this was the belief that Welsh solutions could now be applied to the social problems faced by Welsh communities. Writing shortly after the Assembly had completed its first full term, Chaney and Drakeford (2004: 123) remarked that devolution had already led to the development of ‘indigenous Welsh policies’ purposively designed to address the needs of Wales. Central to this belief was that Welsh devolution had enabled government policies to be aligned with Wales’ own political and social attitudes; the modern contours of which had been shaped to a significant extent by the country’s industrial past and the influence of the labour and trade union movement, which have historically been reflected by high levels of support for the political left. Although the nature of the electoral system that operates in the Welsh Parliament means that it is difficult for any political party to govern alone, the centre of political gravity, if defined in relation to election results, has consistently been on the centre left with Welsh Labour being the largest party in every Senedd election since 1999 (Awan-Scully and Lerner, 2017).

Welsh Labour policy within the first decade of devolution led to characterisations of it being more ‘progressive’ than that of New Labour in Westminster. The ‘clear red water’ agenda (Davies and Williams, 2009; Morgan, 2002), a phrase attributed to former First Minister Rhodri Morgan, claimed to represent the principle of progressive universalism and the practice of measured distancing from the Third Way philosophy (Giddens, 1998) that animated New Labour in England. Edwards and Hughes (2009) identified a ‘resilient Fabianism’ in the political culture within which the communitarian ideals and practices of Welsh community safety were practised at the time. Welsh Labour, which was beginning to rebrand itself in contradistinction to both New Labour and the machine politics of Old Labour, established a coherent policy agenda. Drakeford (2010: 142), at the time a social policy academic working as a special advisor to the First Minister, outlined five principles which guided Welsh social policy: the rejection of a ‘small government’ narrative and the reassertion of the positive role government can play in addressing common problems; a commitment to progressive universalism rather than targeted, means-tested approaches; the relationship between the individual and state being characterised by citizenship rather than consumerism; equality of outcome, rather than merely equality of opportunity; and pluralism in the practice of policy development, with an emphasis on participation. Criminal justice policy, insofar as it could be developed without full powers in this domain, was to be aligned with these core principles.

It is against this backdrop that dragonisation first entered the vernacular of Welsh criminology. A comparative concept that was to become shorthand for a more ‘progressive’ approach to policy in Wales, dragonisation also captured the possibility for meaningful intra-national differences between Wales and England to emerge while the single jurisdiction remained formally intact. This progressive approach, unlike the stance taken in Whitehall at that time, was intelligence-led and evidence-based (Carr, 2018). Although

originally applied to community safety (Edwards and Hughes, 2009), dragonisation was to become more closely associated with Welsh Government's youth justice policy (Field, 2015; Haines, 2009).

The foundations of Welsh Government's (2000) perspective on 'children first' emerged within its *Extending Entitlement* policy which aimed to create a social contract with young citizens (10–25 years) that would grant them universal rights of access to services. Unlike the approach taken in England – which was targeted, conditional on good behaviour and placed responsibility upon individuals to access key support services – the emphasis of *Extending Entitlement* was placed firmly upon providers to make services accessible and deliverable (Drakeford, 2010). The *All-Wales Youth Offending Strategy* in 2004 further reinforced the view that a divergent course *within* the single jurisdiction was being taken in Wales. At the heart of Welsh Government's (2004) approach was a commitment to treating young people as 'children first and offenders second'. For Drakeford (2010: 145), the values underpinning the strategy represented a 'very different direction' to the one taken by New Labour. While academics poured criticism over the UK Government's 'punitive' approach to children in conflict with the law in England (Goldson, 2005; Scraton, 2005), the All-Wales strategy was credited with helping to shape a different policy context and contributed significantly to the notion that a 'Welsh experiment' in progressive youth justice policy was well underway (Drakeford, 2010: 151).

The claims made by those responsible for dragonisation were to be significant for the discipline. More than a decade since the concept entered criminological currency, dragonisation continues to be used as shorthand for a distinct and divergent approach to justice policy in Wales. However, while the UK Government has continued to recognise the effects of devolution, and at least claims to be aware of Welsh Government's growing influence in Wales, academic criminology continues to lag behind. Although efforts have been made to chart Wales' emergence as a distinct unit of criminological analysis (Jones, 2017), little has been done to assess *how* Welsh Government has used its considerable autonomy. The lack of academic activity in this area raises some pertinent questions. For example, to what extent were the claims for dragonisation an accurate assessment of Welsh Government's approach? Was Wales' approach to youth justice policy as progressive and divergent as its proponents argued? At a time when the future of criminal justice powers in Wales is subject to intense discussion, what can academics *now* learn from that decade-old debate? Moreover, as a comparative concept, how can dragonisation contribute to our understanding of criminal justice practices *within* the same system as well as wider debates on comparative research agendas? These questions are duly considered in this article.

Methodology

In this article, dragonisation is analysed in terms of both how it is described and performed. Fergusson's (2007) useful distinction between rhetoric, codification and implementation informs the approach taken to policy analysis in this article. It should be stated at an early stage that a simplistic comparison of the gap between 'rhetoric' and 'reality', important as that is, is not the main point being made here. Rather, rhetoric performs a

narrative function in terms of sense-making and helping to develop common understandings and values that can be shared between academics, policy makers, practitioners and their respective audiences. Of central concern here is the way in which dragonisation, although originally concerning community safety and youth justice policy, was mobilised by its architects and policy makers. The views of research participants are used to consider how the concept of dragonisation was devised and how it has been deployed, while exploring whether such claims to a progressive and distinctive Welsh approach to policy were justified.

The article is based on a literature review, documentary analysis of policy documents and original empirical research. The research project conducted by Musgrove (2018), based on eight semi-structured non-anonymised elite interviews (Lancaster, 2017), explored the meanings and implementation of dragonisation. The interviewees comprised four academics who were engaged closely with Welsh criminal justice policy and practice; two members of Youth Justice Board Cymru; a former Youth Offending Service manager, who played a pioneering role in establishing the Bureau model of diversion; and a Welsh government minister. The participants were offered the opportunity to be interviewed on an anonymous basis, but all were content to be identified.

A purposive sampling strategy (Barratt et al., 2015) was used to select key informants for the interview: the participants were chosen on the basis of their direct involvement in shaping and delivering criminal justice and related social policies or because they had conducted research in the area. The interviews were based on a guide which explored six areas: identification of the key features of dragonisation; the gap between policy rhetoric and implementation; the extent to which principles of dragonisation were embodied in the Swansea Bureau model of diversion (Haines et al., 2013; Evans et al., 2017); the relationship between UK Government, Welsh Government, Youth Justice Board Cymru and the London-based Youth Justice Board of England and Wales; the prospects of devolving criminal justice functions to Wales; and the future of dragonisation. The semi-structured format of the interviews allowed the researcher to explore areas that had not been anticipated in the drafting of the original questions. Nevertheless, the overall structure of the interviews lent itself to thematic analysis of data (Braun and Clarke, 2006).

Dragonisation revisited: Substance and symbolism

Criminal justice policies, agencies and systems are arguably more than the sum of their functions. They are typically invested with symbolic significance, reflecting the proclaimed values of the state or nation. Field's (2006) rich account of the *Cours d'Assises*, for example, analyses the role-play of French legal process in relation to the country's Republican values and wider political culture. The symbolism of criminal justice has proven to be particularly important in nation-building projects. In pre-devolution Scotland, for example, the Children's Hearings System – which in 1968 marked a radical welfarist departure from the more punitive youth justice system south of the border – is described by some politicians as the 'jewel in the crown' of the Scottish criminal justice system (cited in Morrison, 2017: 15). Meanwhile, the ebb and flow of tartanisation in youth justice has been charted critically. The period between 1995 and 2007 witnessed a period of 'detartanisation' (McAra, 2006) as New Labour discourses penetrated north of

the border. Since then, it is claimed, coinciding with the rise of the SNP as a party of government, there has been a process of ‘retartanisation’ and a move towards a philosophy of ‘compassionate justice’ that is reflective of the values of Scottish civic culture as represented by the dominant policy elite (McAra and McVie, 2015: 270–272). It is important to acknowledge, however, that comparisons between Scotland and Wales are likely to highlight more differences than commonalities in terms of their respective constitutional settlements and powers as well as contrasting histories. On the latter point, Nairn’s (1981 [2015]) interesting conceptual distinction between ‘historic’ and ‘non-historic’ nations informs his account of the respective institutional architectures in pre-devolution Scotland and Wales.

Given Wales’ historical and continuing involvement in the England and Wales jurisdiction, dragonisation arguably performed an even greater symbolic role at a time of major constitutional change in Wales. Having been rendered invisible as part of a unitary England and Wales system for the best part of 500 years (Jones, 2013, 2017), the notion of a dragonised approach to community safety and youth justice helped to delineate the emergence of a distinctive Welsh policy as well as forming part of a much wider political project aimed at differentiating Wales from England, or perhaps more accurately a differentiation between Welsh Labour and New Labour (Chaney and Drakeford, 2004; Drakeford, 2007). Given Wales’ invisibility within criminological analyses and research (Jones and Wyn Jones, 2019), for its architects dragonisation was used to remind policy makers that the arrangements in Wales were now different and that a set of distinctive social policy principles operated there.

Professor Gordon Hughes, Cardiff University (GH): When I’ve used dragonisation, it’s been about saying that there might be differences. Adam (Edwards) and myself felt in our work on community safety, and on youth crime prevention especially, that Wales did have a stronger social democratic element to its beliefs, practitioners’ beliefs, and I’d include politicians as well, than was the case in much of England . . . dragonisation being that we don’t want to incarcerate kids, we want to emphasise rights rather than risks.

In addition to the identification of a social democratic ethos pervading Welsh policy and practice (Chaney and Drakeford, 2004; Davies and Williams, 2009), dragonisation was also used as a way in which to provoke debate. This is particularly significant given England’s hegemony in debates across the jurisdiction as well as the fact that UK Government has struggled to come to terms with devolution and the differences it has brought to policy in Wales (House of Commons Justice Committee, 2009; Jones and Wyn Jones, 2019). Dragonisation was,

GH: . . . a wakeup call, we think, to English academics who often assumed Wales was, well they didn’t even mention Wales, they just spoke about youth justice in England. Wales fell off the end.

Beyond simply distinguishing Wales from England in order to initiate a more constitutionally literate debate, it could also be argued that dragonisation was based on

genuine, not just imagined differences. In youth justice, the ‘Welsh experiment’ was closely related to a *Children First* philosophy (Drakeford, 2010: 151), an approach based on a set of practices developed originally in the 1980s in England, but which became increasingly salient in the Welsh social policy context in the formative years of devolution (Drakeford, 2001; Haines and Drakeford, 1998). The sense that dragonisation can be used to describe a different approach being taken in Wales was entirely justified according to senior professionals working in this area.

Dusty Kennedy, Director of YJB Cymru (DK): I think some of it was rooted in the statements within the 2004 All Welsh [Youth] Offending Strategy, which famously said *children first and offenders second* and it had the UNCRC reference in it and I believe it had *Extending Entitlement* referenced in it as well.

Dr Sue Thomas, Programme Manager YJB Cymru (ST): For me, dragonisation is a term that’s been used very specifically to indicate that there’s a different approach to youth justice in Wales than in England, and that really the whole dragonisation thing if you like, comes from devolution in Wales and the space that afforded, for the Welsh government to look at things differently. For example, by adopting the UN Convention on the Rights of the Child.

Professor Howard Williamson, University of South Wales (HW): . . . it’s about developing a distinctive Welsh approach to public policy. And certainly, that’s been the case since devolution, really, in terms of trying to develop a distinctive approach to youth justice.

Professor Kevin Haines, University of Trinidad and Tobago (KH): The starting point for the difference between Wales and England goes back to *Every Child Matters* and *Extending Entitlement*. They’re both youth strategies. The Welsh one and the English one . . . So, *Every Child Matters* isn’t really about every child mattering at all. . . . actually what it says is that all children have the same opportunities, opportunities being the key word. And then it goes on to say that if you break the law you will have those opportunities taken away from you. Well, for a start, all children don’t have the same opportunities. In England, your access to the opportunities that are available are entirely down to how much money your parents have. If you come from even a relatively modest background you can’t afford access to this wonderful range of opportunities that theoretically exist. So, in Wales, *Extending Entitlement* says all children have access to ten universal entitlements. And the entitlements are very broad ranging.

The reality, of course, was – and is – more complex. Despite the rather generalised claim that the responses in England were ‘punitive’ and those in Wales ‘progressive’, there is – and always has been – good practice within England (Thomas, 2015). Indeed, the origins of the *Children First* philosophy and the diversionary practices developed by Swansea Youth Offending Service were partly based on the pioneering work undertaken in Northamptonshire in the 1980s (Kemp et al., 2002; Thomas, 2015). While all histories are vulnerable to partisan revision, the claims to an indigenous progressive Welsh approach to youth justice failed to reference its true lineage and downplayed the degree of policy transfer. This point is developed further below.

DK: There are kind of clichéd ways of looking at it . . . Wales ‘children’s rights, lovely’, England ‘punitive, nasty’.

GH: Depends how we define dragonisation. If it’s something that’s distinctly Welsh then I’d say no, but only in part, because it’s in Wales, and indeed I don’t imagine he’s still around, but the great practitioner, the leader of the great Swansea approach is a chap called Eddie Isles. Very much a wherever possible keep the kids out of the system. There might be equivalent Eddie Isles’ in other parts of Britain.

Professor Mike Maguire, University of South Wales (MM): . . . there probably are areas in England that are more ‘dragonised’ than some areas in Wales.

Central to dragonisation was that it conceptualised an emerging *national* approach to youth justice in Wales. However, notwithstanding the existence of beacons of good progressive practice in localities such as Swansea (Haines and Case, 2015), other areas of Wales were better known for their regressive practice. As Maguire observes, the ‘claims and reality of dragonisation are very different from each other’. Muncie (2011), advancing his ‘illusions of difference’ thesis, highlighted the case of Merthyr Tydfil where custodial sentencing of children was the highest in both Wales and England. Although dragonisation purports to speak for the whole of Wales, the ‘new governable spaces’ that had emerged in community safety and youth justice might have presented reliable units of analysis that allowed for the differences *within* Wales to be more accurately reflected (Stenson and Edwards, 2004). The acknowledgement of ‘local variation’ in the form of different practice cultures and leadership styles represents a more nuanced reading of youth justice practice where Youth Offending Teams enjoy considerable autonomy (Thomas, 2015: 215). Maguire comments,

MM: There are around 15 different YOTs in Wales, or something like that, and then they all have their own little cultures and mysteries. If you took a sample, or took all of the Welsh YOTs and marked them on a dragonisation scale, I don’t know how you’d construct that, and took a random sample of 15 from England, you’d find that the Welsh ones would be much more dragonised than the English ones. But within that you get quite a lot of variation. It’s not a black and white answer.

As has been suggested, exaggerated claims were made for the dragonisation of youth justice. In 2009–2010, around the time that the concept first emerged, the custody rate for children in Wales was actually higher than the England and Wales average. During this same period, the regions of south west, south east, north East and east of England all recorded a lower custody rate than Wales (Youth Justice Board, 2011). For some senior practitioners, including key advocates of dragonisation, the Welsh Government’s youth justice policy never quite achieved its full potential.

KH: This was a staggeringly amazing piece of work that was sadly not properly implemented. Very poorly understood. I would go around asking groups of practitioners from all sorts of different organisations, not just YOTs. I sat for a

while on the Wales Youth Justice Advisory Panel and the membership of that changed and I raised *Extending Entitlement* in one of the meetings. Nobody had heard of it. That is an appalling testament to the lack of attention to policy promotion, let alone implementation. Had it been properly implemented it would have transformed the experience of growing up for children in Wales.

HW: The late Peter Clarke, the first Children's Commissioner for Wales, talked about Wales being characterised by all flagships and no fleet. There are a million policy documents, vast numbers of very slick looking policy documents produced by Welsh Government that sort of separates it from England, and they say all the right things, and they're good documents, but delivery is appalling.

DK: . . . there is often an expectation that once policy is set, all the soldiers will get in line and march in that direction, but it doesn't quite happen like that.

Nevertheless, despite the suggestion that youth justice policy in Wales faltered in the years following the introduction of *Extending Entitlement*, Welsh policy contributed to some tangible benefits, particularly in relation to diversionary work. Between March 2009 and 2019, for example, the number of Welsh children in custody fell by 83%. This compared to a decline of 66% in England (Youth Justice Board, 2020). Although some of the claims being made about the 'Welsh experiment' were exaggerated and overlooked intra-Wales differences (Drakeford, 2010: 151), devolution was responsible for creating a unique set of opportunities for policy makers. As argued by Rees and Morgan (2001: 91), in Welsh devolution's formative years, this included allowing key actors to 'capitalise on the opportunities' offered by greater accessibility to government officials. Devolution also helped provide a protective cover for a 'radical' approach to youth justice in Wales: Williamson explained how Edwina Hart, a Welsh government minister, was able to provide 'a sort of umbrella or a cushion to keep most ASBOs on the other side of Offa's Dyke'. Welsh Government's commitment to a different approach helped to secure real change in Wales, including the development of Youth Justice Board Cymru.

MM: I remember people arguing about . . . a lot of the very radical things that the Welsh youth justice people did. They managed to do it under the radar because it was done through civil servants and practitioners . . .

Eddie Isles, Former Chair of YOT Managers Cymru and Manager of Swansea

YOS (EI): In Wales we had much stronger immediate access to ministers within Welsh Assembly Government. We were able to operate within an enormous circuit and at times covert political methodology, really, which pushed the agendas that we were seen to be able to place, where the Youth Justice Board in London and the Ministry just couldn't ignore it. It certainly wasn't just an illusion, it wasn't just rhetoric, there were some really big hits and what would probably be the sustainable one was the Youth Justice Board Wales, really.

Perhaps the greatest contribution made by dragonisation is that it provided a policy framework for an entirely different approach across Wales. For Drakeford, moreover, the binary assumption about dragonisation underlying the 'rhetoric and reality' question is

one that downplays the important role that rhetoric and language play in shaping policy and practice. The institutional legitimacy given to the framework thus helped to ensure that a structure was in place to allow for good practice to proliferate throughout Wales. These points were outlined by Kennedy and Drakeford.

DK: Once you have that framework and that foundation, the ability for, not something to start like the Bureau [in Swansea] because it's quite likely that Bureau-like things are happening in local authorities in England, but the ability for them to proliferate has become accepted practice. I think that needs the foundation of the policy. In Wales we have the situation where every local authority and youth offending team working with the police has something like the Bureau or in Cardiff they have triage and its accepted as national policy. It's like, that's the way things are done. In that sense, dragonisation, or again it's a bit of a clumsy term, in that sense any policy relies, or the implementation of any policy relies, on that framework being there.

Mark Drakeford, AM and Cabinet Secretary for Finance (MD), who subsequently became First Minister: It certainly has a rhetoric but there's nothing wrong with rhetoric. The way the question was put makes it sound as though having a way of talking about things isn't important, but I think it is important. The way we talk about things shapes the way we think about things, and the way we think about things shapes the way we act on things . . . I don't believe it's just rhetoric. It's made a genuine difference in reality in the lives of young people and in any case, having a rhetoric which describes what you want to do is something important in itself.

More than a decade since dragonisation entered criminological discourse, the views of those instrumental in its development can help us understand the concept's strengths and limitations more clearly. Although good practice certainly existed in Wales, the failure to take full account of intra-national differences across Wales as well as evidence of good practice in England raises doubt over its central claim that a *more* progressive set of policies existed in Wales (Thomas, 2015). Notwithstanding these limitations, the symbolic significance attached to dragonisation certainly played an important role in proclaiming the values of the newly established Welsh Government and, crucially, captured the *potential* for progressive policy initiatives to flourish while remaining part of the single England and Wales system. Indeed, the symbolic significance attached to dragonisation perhaps offers the best explanation as to why the concept has endured and why it extended beyond community safety and youth justice to become a narrative about Welsh Government's entire approach to justice policy. The presumption that a progressive approach still exists in Wales means that dragonisation has become something of a yardstick for analyses of Welsh policy, including areas that extend beyond those that gave rise to its emergence.

Stuttering progress(iveness) and conceptualising inter-system differences

If the first decade of devolution was marked by progressive rhetoric and promises of a distinctively divergent policy agenda in Wales (Chaney and Drakeford, 2004; Davies and

Williams, 2009), the decade that followed was markedly different. Despite devolution continuing to offer opportunities for policy innovation, divergence between UK and Welsh governments narrowed in the years following dragonisation's emergence. Research into substance misuse policy, for example, found that a lack of capacity within Welsh Government's policy-making machinery had contributed to a decline in policy innovation (Brewster and Jones, 2019). This is underlined by the fact that the number of Welsh Government civil servants fell by 12% between 2009 and 2019 (Welsh Government, 2020). The United Kingdom's decision to leave the European Union has further compounded these problems as officials are pulled away from existing portfolios to work on preparations on the Welsh dimension of withdrawal.

UK Government austerity and cuts to Welsh Government budgets since 2010 have further contributed to the limits placed on progressive policy development in Wales. In particular, opportunities to launch all new 'Welsh' policies or services have been few and far between; instead, devolved governments have been forced to spend a considerable amount of their resources on simply trying to mitigate the effects brought by austerity (Alston, 2019). The result is, in marked contrast to the first 10 years of devolution, Welsh Government's approach has become less visible, despite evidence of a quiet but continuing 'resilient Fabianism' such as removing the sanction of imprisonment for non-payment of council tax; extending voting rights to some Welsh prisoners; legislating to remove the defence of 'reasonable punishment' for common assault on children; extending the franchise to 16- to 17-year-olds; and, unlike England, continuing to fund Education Maintenance Allowance for 16- to 19-year-olds.

Arguably, the *most* significant obstacle to promoting policy divergence over the last decade is what has made Wales such an exceptional case study: the constitution. Although Welsh policy makers enjoy a considerable amount of autonomy over key planks of social policy (Jones and Wyn Jones, 2019), officials are still unable to influence many of the key drivers that shape policing and criminal justice in Wales. This has meant that Welsh Government officials are unlikely to 'advance more liberal or progressive' approaches when confronted by UK Government control over key policy areas (Brewster and Jones, 2019) and have frequently been thwarted in their efforts to alter the direction of UK Government criminal justice policy (e.g. Wales Online, 2013; Welsh Government, 2018). In some cases, Welsh Government has even rolled back progressive policies that intersect with the Home Office and Ministry of Justice's criminal justice responsibilities. One such example includes the decision to strip away automatic priority need status for homeless prison leavers in Wales; this, despite Welsh Government's policy being described by HM Chief Inspector of Prisons (2014: 6) as an approach that 'sets Wales apart from England' in respect of the provision of resettlement support for those leaving prison.

Wales' continuing involvement in the single England and Wales system means that its relationship to England and to UK Government justice policy remains structurally determined. This rather anomalous situation does mean that a rekindling of the spirit that once gave birth to dragonisation – to capture intra-system policy differences between Wales and England – can help to provoke further criminological research on Wales. Any future research has the potential to offer unique insights and contribute to a much wider set of emerging criminological developments and academic debates.

Within the field of comparative penology, recent studies have emphasised the need to move beyond ‘broad-brush’ macro-level analyses of penal practices that tend to aggregate nations together (Garland, 2018: 14). Brangan’s (2020: 3) assessment of the political geography of comparative penology underlines the need to move beyond ‘grand narratives’ and the use of large-scale units of analysis, including Scandinavia and the United States, to enhance our understanding of national penal practices. By disaggregating criminal justice practices in Wales and England, dragonisation can be understood as forming part of what Garland (2018: 14) calls ‘second generation’ studies that seek to decentre our units of criminological analysis. A greater focus on the unique arrangements that exist in Wales can encourage critical social scientists to go beyond national differences to explore variation *within* the same system or nation. It can be no coincidence that two of dragonisation’s pioneers, Edwards and Hughes, led calls more than a decade ago for comparative criminologists to radically decentre their units of comparative analysis. Buoyed by the emergence of ‘new governable spaces’ in England and Wales, Goldson and Hughes (2010: 218) argued that the decision to take the nation as the unit of analysis ‘becomes highly questionable’ when we consider the extent of the variation that takes place *within* jurisdictions. Indeed, Stenson and Edwards (2004: 228) concluded that the differences *within* the same system can often be greater than the differences that exist *between* nation states.

By building upon existing work in this area (e.g. Goldson and Hughes, 2010; Goldson and Muncie, 2006; Stenson and Edwards, 2004), a new wave of research studies on Wales can help scholars contribute to a more critical comparative criminological agenda. While drawing upon broader attempts to decentre criminological analyses (e.g. Brangan, 2020; Brewster, 2017), Wales can be utilised as a case study by academics to make sense of the differences present *within* nations. This may well include the differences within jurisdictions that enjoy some form of regional devolution or decentralisation such as the autonomous communities of Spain and regions of Belgium. What is of interest here is how municipal and regional governmental structures can use local democratic mandates to develop criminal justice policies and practices that diverge from the centre.

As we enter the third decade of Welsh devolution, a rekindling of the rhetoric and spirit that animated dragonisation can help develop a more critical understanding of Welsh justice policy and practice. In the wake of the Commission on Justice in Wales’ report, this may well include contributing to future debates on the shape and direction of Welsh criminal justice policy. By taking the unique arrangements that exist in Wales more seriously, academics can also seek to contribute to a more critically informed criminological debate on comparative research agendas and the significance of intra-national policy differences. Taken together, these developments can help to ensure that Wales is no longer submerged within Anglocentric analyses.

Conclusion

It could be argued that for many years, dragonisation has been an ‘empty signifier’ (Levi-Strauss, 1987) in the sense that widely held ideas about Welsh values could be projected on this national symbol. This quality of amorphousness means that it has become a symbol around which people can mobilise without always needing to define

the term too precisely. While the accounts cited in this article raise doubts over whether Wales really adopted a *more* progressive approach than England, dragonisation has provided Welsh practitioners and policy makers with a framework to pursue distinct approaches to policy while offering academics a rhetorical device to think more critically about Welsh criminal justice policy within the highly anomalous constitutional arrangements described here.

Dragonisation's endurance owes much to the belief that an alternative system in Wales *could* be possible. This prospect is one that has become more tangible in recent years as the problems within Wales' current system are laid bare (Commission on Justice in Wales, 2019; Jones, 2019; Newman, 2019). At a time when politicians in London and Cardiff grapple with the Commission on Justice in Wales' recommendations, a rekindling of the original spirit of dragonisation can help to ignite a more vibrant debate over the future of Welsh criminal justice policy and its relationship to Westminster. Recent political disruptions to the political consensus, such as the Welsh Brexit vote and other manifestations of electoral volatility, may also call into question the representations of Welsh social attitudes as described by Drakeford (2010). If, post-Thomas Commission, there is an opportunity to inscribe Welsh values in a new Welsh criminal justice system, it is not certain that such values would necessarily represent a 'progressive turn'. The results of the Welsh General Election in 2021 may well provide some indication of the likely direction of travel.

Finally, the rewards for building on the foundations laid by dragonisation's architects more than a decade ago can include contributing to wider criminological research agendas. As 'second generation' studies help to underline the benefits of a more refined approach to comparative scholarship (Barker, 2009; Brangan, 2020; Brewster, 2017; Garland, 2018: 14; Reiter et al., 2018), a second wave of research studies on Wales' role within the England and Wales jurisdiction can ensure that wider criminological research agendas reflect the fact that Welsh devolution has already radically modified an 'England and Wales' system once regarded as monolithic. Whether further modifications or more radical changes take place will depend on the future of Welsh devolution and wider constitutional relationships on these islands.

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Note

1. The earliest reference to ‘dragonisation’ dates back to 2008 and a presentation delivered by Steve Carr and Adam Edwards titled ‘Dragonisation? Governing Anti-Social Behaviour in Post-Devolution Wales’.

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