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# **Influencing the Penal Agenda? The Justice Select Committee and ‘Transforming Justice’, 2010-15**

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**Keywords: Justice Select Committee, Parliamentary oversight, political influence, Coalition government, Transforming Rehabilitation.**

## **Abstract**

This article assesses the policy influence of the House of Commons Justice Select Committee, established to oversee the work of the Ministry of Justice following its creation a decade ago. The Committee has, from the outset, overseen many contentious policy and legislative developments in the penal field, although none so extensive as those introduced following the formation of the Conservative-Liberal Democrat Coalition government in 2010. Despite the newsworthy nature of its business, the Committee has, to some extent, operated in the shadows of its high-profile sister, the Home Affairs Select Committee, and has received surprisingly limited attention from criminologists and political scientists alike. Forming part of a wider investigation into the work of the Committee, this article examines the extent to which it was able to influence penal developments during the Coalition years. This period is of particular interest given that it heralded the end of the New Labour administration and welcomed the ‘fresh thinking’ of a Coalition leadership keen to emphasise its progressive attitude towards law and order. While the Committee was able to influence the direction of penal policy on several occasions this mostly occurred as a result of its proactive or niche inquiries. The Committee had less impact when conducting inquiries that assessed the government’s flagship policy agenda, however. Such findings brought into question the ability of the Committee to influence the most significant justice transformations in this era of new penal governance.

## **Introduction**

This article involves the first empirical analysis of the work of the House of Commons Justice Select Committee from 2010-15. Outlined in the introduction to this Special Issue, the period 2010-15 heralded fundamental changes to the penal landscape. The Coalition government’s ambitious reforms permeated all areas of criminal justice, including fundamental developments in probation, the courts and administrative justice. The Ministry of Justice was one of the greatest casualties of Chancellor George Osborne’s financial axe, swallowing an overall budget cut of over a third between 2010-2015. Reforms in the penal sphere reflected the commitment

to austerity and were couched in the language of streamlining, efficiency and greater partnership working.

In total, 424 Committee conclusions and recommendations (and the government response to them) were analysed.<sup>i</sup> These are discussed in terms of those inquiries that could be considered as the ‘most’ and ‘least’ influential in terms of subsequent policy impact. In addition, a news media analysis of Committee coverage during the Coalition parliament was also conducted. Taken together, this crude, although acknowledged, way of analysing policy impact provides an initial insight into the committee/department dynamics of 2010-15 and a starting point for more detailed work in this area.

In its analysis of Committee influence, this article draws on the work of Colin Hay who differentiated between ‘conduct shaping’ and ‘context shaping’ power. While conduct shaping power is fairly straightforward to measure, context shaping is indirect and can often take on invisible forms. Hay defined such power as ‘the capacity of actors to redefine the parameters of what is socially, politically and economically possible for others’.<sup>ii</sup> Hay’s concepts, of particular use in a political analysis of this nature, are true to the spirit of, and indeed build upon, Lukes’ influential three dimensions of power, while also incorporating the earlier work of Bachrach and Baratz.<sup>iii</sup>

### **The Policy Influence of Parliamentary Select Committees**

Established in 1979, there are approximately 40 Parliamentary Select Committees in the House of Commons, 18 of which shadow government departments (others are established as sub-Committees or undertake work that is more cross-cutting in nature). Select Committees have a wide-ranging remit that involves scrutiny (of the work of their respective departments), monitoring (of policy and legislative developments) and the provision of constructive ideas. Select Committees have traditionally been criticised for being weak and disorganised, with limited ability to influence the policy process. Two major reforms (the Newton Commission and the Wright Reforms) of the past twenty years have, however, seen vast improvements to the committee system.

In 2001 the Newton Commission on Parliamentary Scrutiny called for the introduction of core tasks for committees. These included specific roles focused on strategy, policy, expenditure and performance, draft bills, pre- and post-legislative scrutiny and any public appointments

associated with their respective departments, along with a clear expectation for increased public engagement. The Commission also called for the publication of regular progress reports to increase committee accountability. While committee membership has always been cross-party, the Wright Reforms of 2010 (established to improve the procedures and relevance of Parliament) introduced the democratic election of all members by secret ballot, a process previously controlled by party Whips. Both reforms have undoubtedly resulted in a more emboldened Committee system that is now routinely associated with exposing government failings and spotlighting forgotten issues. Committees have been encouraged to shape their own agendas by adopting longer-term inquiries that investigate areas of overlooked policy. It is clear that ‘good Parliamentary scrutiny has significant potential to improve the effectiveness of government’<sup>iv</sup>, and therefore surprising that research into the policy impact of Parliamentary Select Committees is limited.

It is important to note that despite improvements to their structure and remit, committees possess restricted authority. While they have the power to call witnesses to attend their hearings and answer questions, they have no powers to block or propose legislation. The government is under no obligation to accept or evaluate any proposals put forward by committees, yet it *is* obliged to provide a formal, public response within three months of a report’s publication. Powers notwithstanding, committees provide important functions in their role as impartial scrutineers, and are able to provide far more detailed examinations of government policy (or proposed policy) than is possible in Parliamentary debates.

Literature on the influence of select committees is contested, with studies painting a mixed picture of ineffectiveness and impact. A large-scale study conducted by Russell and Benton in 2011<sup>v</sup> provides the most authoritative assessment of the policy influence of seven committees. Russell and Benton found that a large proportion of committee recommendations were neither accepted nor rejected, and that ‘soft’ acceptances or rejections were more common than absolute ones. While the authors found that committee recommendations are influential, they did, however, conclude that fewer than one in ten of the reports produced by committees could be considered as ‘agenda-setting’. Russell and Benton’s findings echo those of Hindmoor et al.<sup>vi</sup> who, in their study of the Education and Skills Committee, found that while the government rarely rejected recommendations out of hand, it did not openly welcome others. Instead, and in the majority of cases, it claimed to be already addressing the issues the Committee had raised.

Ascertaining policy impact is methodologically challenging, and debate relating to the design of appropriate means to assess committee influence continues. It is acknowledged that a basic tick box approach (where the number of government acceptances to committee recommendations are simply counted) is not in itself sufficient to ascertain influence. This approach does, however, provide a good starting point to highlight the particular climate (welcoming, neutral or critical) within which the report was received, and provides a platform from which to conduct further research. It is important to note that official government responses to select committee reports reveal much in themselves. Ministers and Ministerial teams do not wish to highlight their ignorance of a policy problem (or their inactions in dealing with it) given that any such statements are publicly released. As highlighted in previous research, the majority of government responses are therefore vague, non-committal, or provide an assurance that work is already underway. ‘Acceptances’ on paper may not necessarily result in government action, with further inspection required to ascertain the level of subsequent implementation. It is also important to consider ‘delayed influence’ as it is possible that a rejected or ‘shelved’ recommendation will be incorporated into a future policy idea at a later stage.

Research in this area has also highlighted that policy influence can manifest in both direct (conduct shaping) and indirect (context shaping) forms. Direct influence, such as government acceptance of a measurable recommendation, is relatively straightforward to trace. Yet influence can also take on indirect forms, occurring not in the immediate aftermath of a report’s publication, but feeding into the strategies of others (such as sector lobbyists, for example) or influencing subsequent media debate. The ability to influence media debate is an important test of committee impact. While the relationship between media and agenda-setting is not for debate here, it is clear that the greater the levels of coverage, the more likely a committee can hope to influence the wider climate of opinion. Some committees are adept at doing this, mastering the ability to transcend the narrow and un-newsworthy topic of ‘Parliamentary business’ (think Keith Vaz and Home Affairs, Margaret Hodge and the Public Accounts Committee and John Whittingdale and the Culture, Media and Sport Committee, for example). On rare occurrences evidence sessions become news events in themselves (who could forget Rupert Murdoch’s custard pie?). Research conducted by Kubala<sup>vii</sup> found that while coverage of select committees has risen since the late 1980s, the news media are largely disinterested in Parliamentary business, PMQs notwithstanding. Ensuring that the results of their inquiries are delivered in newsworthy packages should form a key focus for committees. After all, ‘an

unreported but authoritative report is likely to be less influential than a similar report which receives wide coverage’<sup>viii</sup>.

### **Studying the Justice Select Committee**

The Justice Select Committee is tasked by the House of Commons to provide critical oversight of the work of the Ministry of Justice and the Attorney General’s Office (including their non-departmental agencies and associated public bodies). This wide remit includes the more obvious policy areas of prisons, probation and the courts, but also includes the provision of oversight for the Crown Dependencies, data protection, devolution and constitutional reform. While membership of the Committee changes, it is possible to surmise an understanding of the overarching principles that guide its work. With ‘the strategic objective of raising the quality of debate on justice’, the Committee views its role:

‘... to promote objective and evidence-based debate about criminal justice policy not only within the Committee but also more widely, ... we believe that political and media debate needs to pay more attention to what works in reducing crime, rather than assessing that constantly increased spending on longer prison sentences is an unquestionable benefit to society’.<sup>ix</sup>

In common with views expressed by the wider penal reform lobby, the Committee has been critical of the narrow lens through which successive governments have viewed crime reduction - focusing on the Home Office and the Ministry of Justice - while paying less attention to the fields of health and welfare. Through successive reports it continues to stress the importance of greater investment in and uptake of non-custodial options. It has also repeatedly expressed concern about the impact of austerity on the justice system and questioned the government’s evidence base as it oversees widespread cuts to the prison service, the programme of mass court closures and the legal aid budget, for example.

Successive Committee reports underline its progressive penal values, drawing parallels with the group of elite experts, including politicians, who worked to develop liberal penal policy in the post-war period. Indeed, the Committee’s aim to create ‘a ‘safe space’ in which to foster rational and fundamental debate on justice policy’<sup>x</sup> is reminiscent of this ‘golden era’ model. Despite such parallels, it is important to note that the Committee does not operate in an idealised, post-war penal utopia. A great many of its reports demonstrate its understanding that

the justice system must modernise, streamline and make efficiency savings where appropriate. Indeed, prior to the implementation of Transforming Rehabilitation, the Committee expressed interest in the greater use of privatisation in the penal field. While it is not possible to state that the Committee is somehow ‘different’ from other parliamentary select committees, the provision of an ideological ‘mission statement’ provides a clear symbolic marker in this populist policy terrain.

The Committee produced 56 publications during the Coalition parliament (in addition to a large amount of other material including letters and responses to consultations), all of which attempted to influence the penal agenda. While not reviewing every publication, this article focuses on fifteen inquiries highlighted by the Committee as important.<sup>xi</sup> Some of the inquiries were proactive (following a scandal or pressure from campaigners or constituents), while others were more reactive in nature, reviewing government policy or providing post-legislative scrutiny, for example. Many of the inquiries fell under the broad title ‘transforming justice’, including major reports on the probation service, women offenders, older prisoners, crime reduction policies, prisons planning and policy, developments in family courts and reforms to the legal aid budget. It is important to note that other the inquiries reviewed, while not directly falling under the same agenda, were also conducted during a period of unprecedented cuts to the justice budget. They included inquiries on the Freedom of Information Act, EU proposals for data protection, the *Capita* interpreter contract, the doctrine of Joint Enterprise, the legal situation in relation to missing persons and the presumption of death, the impact of legal aid reforms on mesothelioma claims, manorial rights and the Crown Dependencies of Jersey and Guernsey.

### **Policy Influence**

The Department outright accepted 68 (16%) of the Committee’s 424 conclusions or recommendations. It implicitly or partially accepted 51 (12%), neither accepted or rejected 134 (32%), implicitly rejected 71 (17%) and outright rejected 51 (12%). It failed to respond (in any form) to 49 (12%). Outright rejections - along the lines of ‘the government rejects’ - were fewer in number than implicit rejections where it was clear that the government disagreed, but had avoided providing a hostile response. Although challenging to gauge whether such results constituted effective work on the part of the Committee (as there is nothing to compare it to), it is interesting to note that the findings are broadly consistent with Russell and Benton’s

analysis of the Home Affairs Select Committee during the 1997-2010 period (which until 2007 included the justice brief).

Given the space constraints of this article, only certain inquiries are discussed here. These include an analysis of those considered to be most and least influential, along with a synopsis of the coverage they received in the national print media. Four out of the fifteen reports could be considered as conduct shaping, resulting in action from the government in the form of a further review or the publication of draft legislation. Research was conducted to qualify the nature of any government action taken, although this was only possible where the Committee's recommendation was measurable.

*Most Influential: Joint Enterprise, Presumption of Death, Women Offenders and Mesothelioma*

The below examples demonstrated the Committee's clear 'conduct shaping' credentials: pressuring the government to publish new policy guidance, kick-starting a sluggish policy agenda and delaying controversial plans. These different forms of influence are to be commended and illustrated the important work that the Committee undertook. It was regretful, therefore, to uncover a number of wasted opportunities where the government provided short-term action that did not result in longer-term change.

The Committee's inquiry into the common law doctrine of joint enterprise in 2012 was prompted by concerns expressed by campaigners and victim's groups. The doctrine, a form of secondary liability, is often used in murder cases, and allows more than one person to be charged and convicted of the same crime without requiring proof of a direct involvement. The Committee received evidence from a range of parties who highlighted its inconsistent application, disproportionate use against young persons and complexity for juries. In its final report, the Committee called for the enshrinement of the joint enterprise doctrine in statute to ensure better clarity for all involved in the criminal justice system, the creation of clear guidelines for prosecutors and greater clarity of the number of people charged under the doctrine each year. Of its six conclusions and recommendations, the government accepted two, rejected one, and ignored three. While it refused to consult on the new legislation proposed by the Committee, it accepted the recommendation for the Director of Public Prosecutions to create guidelines for prosecutors on handling joint enterprise cases and promised that the CPS would look to collect data on the number of joint enterprise cases in future (a number previously unknown). New guidelines were duly published, and data on the number of cases involving



joint enterprise were published by the CPS in 2012 and 2013. The CPS has not, however, published updated figures since this date.

The inquiry into the presumption of death in 2012 was another proactive endeavour. The Committee was prompted to investigate the situation following correspondence from constituents (an issue growing in prominence following media coverage of the high-profile disappearance of Claudia Lawrence in 2009). Receiving evidence from a wide-range of campaign groups and activists, the inquiry concluded that families of missing persons suffered not only emotionally and financially, but also from a ‘legislative patchwork of bewildering complexity’ and an unacceptable lack of information from authorities (including police, lawyers and financial institutions). The government accepted seven of the Committee’s ten conclusions and recommendations and duly published better guidance to help families navigate the law. The Committee also called for two legislative changes; first to allow families to obtain a certificate of presumed death, and second to create the legal status of ‘guardian of the affairs of a missing person’. Both recommendations are now enshrined in law (The Presumption of Death Act 2013 and, following a government consultation, the Guardianship (Missing Persons) Act 2017), although it is important to note that both Acts started as a Private Members Bills and not legislation originally put forward by the government.

The women offenders inquiry of 2013 sought to review progress five years after the publication of the Corston Report (a government-sponsored inquiry into the particular vulnerabilities of women in prison). Another proactive project, the Committee critiqued government progress on women’s penal policy which had virtually disappeared from the policy agenda following a sustained period of Ministerial focus during the final years of New Labour. Among its thirty-three recommendations and conclusions, the Committee called for more visible Ministerial leadership and the publication of an immediate strategy for progress. The government accepted (or implicitly/partially accepted) sixteen out of the Committees thirty-three conclusions and recommendations. However, its largely defensive response refuted the Committee’s conclusions that it treated women in the penal system as an ‘afterthought’, and disagreed with the Committee’s recommendation that it should commission women’s services separately in future. The government made no commitments to protect the extremely popular network of women’s community centres (utilised by many women serving community sentences) once they were moved to the control of private offender management companies in 2015, arguing that market forces would determine their future.

Disagreements notwithstanding, the inquiry undoubtedly refocused government thinking on this issue with action commencing during the inquiry itself. Tangible progress came in the form of the publication of a six-page strategy document outlining government visions for women in the criminal justice system. Responding to the Committee's criticism that it did not consider women's penal policy as a priority, the government promised to publish yearly progress reports, although this occurred just once in 2014. In addition to the publication of the strategy, the Ministry of Justice established a high-level advisory board which included membership from key stakeholders in the women's penal field. While its first leader, Justice Minister Helen Grant, was not in post for long, the advisory board has weathered the Ministerial merry-go-round to keep women's penal policy on the political agenda. Changes in the penal field notwithstanding, the Committee's inquiry certainly revived this stagnant policy area to ensure a renewed focus on women, although it is regretful that no 'updates' have been published since 2014 with the current Ministerial focus hard to ascertain.

The Committee's inquiry into mesothelioma claims in 2014 was prompted by the Government's decision to apply sections 44 and 46 of Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2014 to mesothelioma claims as well as other personal injury claims. The planned effect of these sections was to remove the capacity of successful claimants to recover certain costs from the losing party. This was particularly contentious in the case of mesothelioma, a disease caused by exposure to asbestos. The Committee concluded that the government's review of mesothelioma claims (the consultation prior to its decision to apply LASPO reforms to such cases) was not prepared in a thorough manner and recommended that it commission a further independent review of the risks involved. Crucially, the government's response to the Committee was delayed due to a judicial review on the matter. Consistent with the views expressed by the Committee, the High Court overturned the government's decision and ruled that mesothelioma claims should operate on a pre-LASPO basis. While the government did not explicitly act on any of the recommendations made by the Committee, it is clear that its inquiry, in conjunction with the judicial review, ensured that the government halted its plans. Keen to demonstrate its commitment to mesothelioma sufferers, however, the government went on to introduce new reforms in the Mesothelioma Act 2014.

#### *Least Influential: Manorial Rights, Legal Aid and Crime Reduction Policies*

The Committee had less influence following those inquiries that the government considered to be too niche or where it called for a pause or re-think of the overarching penal agenda. On

several occasions the Committee was informed that it would not be cost-effective to implement its recommendations (or that they were simply not a priority); the government also refused to pause to reconsider its most contentious policy proposals.

The Committee's inquiry into manorial rights (rights which are retained by lords of the manner when the land became freehold, including sporting, hunting and fishing rights and the right to hold markets) in 2015 was prompted by the coming into effect of new provisions in the Land Registration Act 2002 which required landowners to claim their rights to land by virtue of a register. The deadline in 2013 prompted 9,000 registrations and resulted in thousands of unsuspecting homeowners having claims made on their land or properties. The Committee received many representations which called for the abolition of manorial rights (viewed as a feudal throwback) or a review of the law in this area. The Committee refused to take a stance, but instead recommended that the Law Commission should undertake research to ascertain whether the law relating to manorial rights should be abolished or retained, and whether legislation could address any compensation rights if it was amended. The government did not recognise the issues raised by the inquiry as causing a significant issue, and while thanking the inquiry for investigating, viewed further research or a fundamental review of manorial rights as 'disproportionate'. In a time of scarce resources, the government made clear that its main focus was on the implementation of the Transforming Rehabilitation agenda.

The conclusions of those inquiries that fell under this banner received a relatively high level of resistance from government. In 2011 the Committee undertook pre-legislative scrutiny of the government's proposed reform of legal aid. The government claimed that it was putting a much-needed end to the 'compensation culture' and that the reforms would result in greater effectiveness and efficiency. The Committee called on the government to assess more fully the likely impact of the reforms on litigants as well as public expenditure before it embarked on implementation. Of the thirty-four conclusions and recommendations, the government outright accepted just one, and rejected (implicitly or explicitly) seventeen. It stated that a large proportion of recommendations or conclusions (fifteen) were already being worked on independently to the Committee's inquiry. Demonstrating its intention to press ahead with the agenda and ignore the Committee's recommendations, the government published a draft format of the Legal Aid, Sentencing and Punishment of Offenders Bill on the *same day* as its official response to the Committee. It was clear that despite the Committee's requirement to undertake pre-legislative scrutiny, the government would not be halted in its tracks.

The report with the highest number of outright or implicit rejections (32 out of 55) was the Crime Reduction Policies inquiry of 2014. It represented, in many respects, an early audit of the Coalition government's proposals for Transforming Justice (assessing the government's approach to cutting crime, including the areas of governance and contract management, community safety, prisons and probation). Among its wide-ranging recommendations, the Committee called on the government to implement better measures to understand variances in re-offending rates, to rectify prison overcrowding, to provide an adequate assessment of the risks involved in implementing the Transforming Rehabilitation reforms and to establish an independent and authoritative body to evaluate the effectiveness of its crime reduction policies. The government's response to this major piece of work by the Committee (encompassing two separate reports) was largely negative, and did not reflect the conciliatory nature of most other responses. Its defensive tone signalled that while it was perhaps willing to make small-scale policy amendments following niche inquiries, it was not in the business of accepting Committee criticism in relation to more fundamental policy transformations.

### **Influencing the Media Agenda?**

While crime and punishment is a constituent part of the daily news diet, coverage of the Justice Select Committee pales in comparison. A comprehensive news media analysis demonstrates that between 2010 and 2015, the Committee's inquiries (all 56) were referenced 114 times in national UK newspapers. Of this figure, 67 articles were directly influenced by a report's publication (referenced in the headline or providing the main content of the article, for example). This is somewhat unexpected considering the newsworthy and often contentious subjects that the Committee investigates. It is also comparatively less than coverage received by the Home Affairs Select Committee during the 1997-2010 period (which received an average of 17 report-related articles per year versus the 13 received by the Justice Select Committee).<sup>xiii</sup> The majority of coverage highlighted the Committee's headline findings that were the most critical of government. It is perhaps therefore unsurprising that the greatest levels of coverage were in the left-leaning quality press.<sup>xiii</sup> Such newspapers – with a long interest in social justice issues – were able to use the Committee's critical reports to attack the government's penal record. It is regrettable, therefore, that they also failed to follow up on some of the government's inactions.

The inquiry into joint enterprise was by far the most newsworthy in the sample, mentioned in twenty-seven media articles spanning 2012-2015; the longest coverage from any single inquiry. Most articles referred to individual case studies which highlighted the doctrine's unfair or inconsistent application. The inquiry into probation was mentioned twelve times, with articles focusing on cuts to the probation budget (which were putting safety on the line) and the increasing levels of red-tape faced by probation officers. Articles covering the prison inquiry (nine in total) similarly focused on cuts to the justice budget and its impact on levels of self-harm and suicide on the custodial estate. The inquiry into the Capita interpreter contract garnered particularly hostile coverage towards the government, with the actions of the Ministry of Justice deemed as shambolic, and costing the taxpayer millions of pounds. The women offenders inquiry also received less coverage than expected (covered in just seven newspaper articles), an unexpected situation given the newsworthiness attributed to female lawbreakers. Finally, given the newsworthy nature of (and previously uncovered) issues covered in the presumption of death inquiry, it is noteworthy that the report received limited coverage, with only five news articles dedicated to its publication.

The rules of newsworthiness dictate that unless committees are dealing in controversial issues they are likely to be overlooked by the media. Yet here presents the conundrum. The Justice Select Committee oversees a department which is tasked with one of the most contentious policy briefs in government. Indeed, nothing gets the right-leaning press in more of a spin than the government's perceived inactions on law and order. Yet empirical analysis reveals that Justice Committee business was of almost no interest to such publications (and of relatively little interest to left-leaning publications also). It is recognised, once again, that while the subject of crime has unparalleled newsworthiness, the development or indeed scrutiny of crime policy does not. Much like the department whose work it oversees, the Justice Select Committee cannot expect to automatically receive media coverage, despite its institutional advantage. And so while the ability to shape the context of media coverage remains an important part of this picture, it makes sense for the Committee to pursue more direct forms of political influence.

### **Influencing the Penal Agenda?**

Reviewing approximately one third of the Committee's output during the 2010-2015 Parliament, this article does not attempt to make substantive conclusions about the overall level of policy influence that it was able to exert. It is, however, fair to say that the Committee was

unable to exert influence in every inquiry reviewed, and the results of this research are therefore consistent with those of Russell and Benton, who stated that fewer than 10% of committee reports could be considered as agenda-setting.

A major critique relates to the wording of Committee recommendations (asking for specific action) and conclusions (stating an opinion). The combination of recommendations and conclusions in long, single paragraphs made it challenging to ascertain what specific action the Committee desired, and allowed the government - in a vast number of cases - to dodge the key point/s. Recommendations were far fewer than conclusions, and given the fact that the government was under no obligation to respond to each point, this felt like a wasted opportunity. While the number of outright rejections to recommendations and conclusions was low, their vague wording paved way for a large number of equally vague 'non-responses', indifference or provision the official line. Furthermore, the limited measurability of the Committee's recommendations meant that there was no clear way to trace whether the government had acted upon them or not.

Critique notwithstanding, it is clear that the Committee did have traceable 'conduct shaping' impact in a number of areas. In the fields of joint enterprise and the presumption of death, the Committee persuaded the government of the need to introduce new guidelines and legislative reforms. The women offenders inquiry kick-started government action and led to the publication of an official strategy as well as the establishment of a Ministerial working group. These proactive inquiries, undertaken following concerns raised by campaigners, can be viewed as agenda-setting. The longevity or continuation of such influence must be questioned, however, when considering how long the by government 'honoured' its promises, a situation exacerbated by the Ministerial merry-go-round in the Ministry of Justice. While there is evidence of sustained action in some cases (such as the publication of guidance still accessible via the internet), other action was short-term despite promises to the contrary. The Committee often fell victim to short-term 'sweeteners' and its influence must be measured in terms of its ability to apply long-term pressure. It is clear that more follow-up work in the form of correspondence or inquiries (which it often undertakes) is required.

The Committee exerted less impact following those inquiries that were considered to be too niche (with the government refusing to commit resources) or too critical of the government's own agenda. The government responses to inquiries conducted towards the end of the Parliament (encompassing the topics of crime reduction and prison policy, for example) were

certainly more political in nature and framed in the new rhetoric of Transforming Rehabilitation. These more combative and dismissive responses brought into question the ability of the Committee to engage in ‘context shaping’ in relation to the most significant justice transformations. One could question whether the Committee was deliberately undercut in such instances (on the grounds that ideas were against the dominant ideology or that ‘government knows best’), or whether government preparedness to act on recommendations was influenced by its commitment to austerity. It seems that the answer is, unsurprisingly, a mixture of both. In its responses to the Committee, the government routinely mentioned its desire to cut unnecessary spending (in the case of the legal aid budget, for example), but it was also clear that it paid little attention to Committee findings on many occasions (rejecting conclusions while signalling its intention to press ahead with its policy and legislative agenda).

### **Conclusion**

As this article has demonstrated, conduct shaping is a key part of political influence. But, as argued by Hay, it cannot alone provide the complete picture of power dynamics. The related, although less powerful, concept of advocacy (the championing or promotion of a particular issue) must also be considered in this context. While both are important components of the ‘influence’ equation, one holds more immediate and observable agenda-setting potential. Considering such concepts in relation to the work of the Justice Select Committee – for the very first time - is therefore a useful endeavour. The conclusions of this research reveal that the Committee was most effective in conduct shaping as a result of its smaller, proactive inquiries. It failed, however, to exert context shaping power in relation to the government’s overarching penal agenda, where critical comments were largely met with resistance. Such findings highlight that in this era of new penal governance the Justice Select Committee is just one player in a growing policy network. While it is certainly able to exert forms of political power not available to others (including the ability to exert ‘soft’ power), the government is now accountable to a vast array of service providers who are contracted to administer the penal landscape on its behalf. The Committee must remain robust. As a key network player its attempts to influence or, in the words of Hay, ‘refine the parameters’ of penal policy (one of its key stated objectives) must continue, of crucial importance in this populist policy sphere. Small-scale changes, including greater clarity of the observable government action that it requires along with a capacity to monitor long-term progress, would undoubtedly improve this endeavour.

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- <sup>i</sup> Responses were coded as: accept, partially/implicitly accept, neither accept or reject (including already underway), partially/implicitly reject/non-answer or reject.
- <sup>ii</sup> Hay, C. (2002) *Political Analysis: A Critical Introduction* Basingstoke: Palgrave, p185.
- <sup>iii</sup> For classic discussions of the role of power in the political process see Bachrach, P. and Baratz, M. (1962) 'Two Faces of Power' *The American Political Science Review* 56:4 947-952, and Lukes, S. (2004) *Power: A Radical View* Basingstoke: Palgrave
- <sup>iv</sup> Institute for Government (2015) *Select Committees under Scrutiny: The Impact of Parliamentary Committee Inquiries on Government* London: Institute for Government.
- <sup>v</sup> Russell, M. and Benton, M. (2011) *Selective Influence: The Policy Impact of House of Commons Select Committees*. The Constitution Unit: UCL. See also Russell, M. and Benton, M. (2013) 'Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons' *Parliamentary Affairs* 66:4 772-797
- <sup>vi</sup> Hindmoor, A., Larkin, P. and Kennon, A. (2009) 'Assessing the Influence of Select Committees in the UK: The Education and Skills Committee, 1997–2005' *Journal of Legislative Studies* 15:1 71-89.
- <sup>vii</sup> Kubala, M. (2011) 'Select Committees in the House of Commons and the Media' *Parliamentary Affairs* 64:4 694-713.
- <sup>viii</sup> Natzler, D. and Hutton, M. (2005) 'Select Committees: Scrutiny a La Carte?' in P. Giddings (ed.) *The Future of Parliament* Basingstoke: Palgrave, p97.
- <sup>ix</sup> House of Commons Justice Committee (2015) *The work of the Committee in the 2010-15 Parliament. Tenth Report of Session 2014-15. HC 1123*
- <sup>x</sup> House of Commons Justice Committee (2015) *The work of the Committee in the 2010-15 Parliament. Tenth Report of Session 2014-15. HC 1123*
- <sup>xi</sup> As above.
- <sup>xii</sup> Russell, M. and Benton, M. (2011) *Selective Influence: The Policy Impact of House of Commons Select Committees*. The Constitution Unit: UCL, p39.
- <sup>xiii</sup> The Independent dedicated the most amount of coverage to Committee reports (38 articles), followed by the Guardian/Observer (27). The right-leaning Telegraph had nineteen articles, the Daily Mail eight and the Times seven.