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Research Article

Contemporary Penal Policy in the United Kingdom: Crisis Governance, Judicial Doctrine and Human Rights Constraints (2024–2026)

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Abstract	Manuscript Information
The existence of institutional crisis, the legislative intervention, judicial doctrine and the supranational human rights restriction have caused a deep-rooted change in the modern penal policy in the United Kingdom. The introduction of the Victims and Prisoners Act 2024, the Sentencing Guidelines (Pre-sentence Reports) Act 2025 and the Sentencing Act 2026 will be one transformation to a variant of the penal model, which is both selective severity and controlled decarceration. Meanwhile, the jurisprudence of the UK Supreme Court, particularly <i>R v Hayes</i>; <i>R v Palombo</i> and the normative restrictions implied by the European Court of Human Rights [ECtHR] overturns the primacy of proportionality, human dignity and due process. This postulate is based on a synthesis of both empirical criminology and theories of penalty that contemporary penal policy in the UK is a form of the so-called crisis-constitutional penalty, in which punishment is structured according to institutional limitations and through multi-dimensional legalisation, instead of being ordered by a coherent criminal logic.	▪ ISSN No: 2584-184X ▪ Received: 16-03-2026 ▪ Accepted: 13-04-2026 ▪ Published: 18-04-2026 ▪ MRR:4(4); 2026: 171-173 ▪ ©2026, All Rights Reserved ▪ Plagiarism Checked: Yes ▪ Peer Review Process: Yes
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1. INTRODUCTION

Modern development of the penal policy in the United Kingdom can be considered as a radical break with coherent classical and modernist principles of punishment. Although retributive, deterrent and rehabilitative paradigms still serve as the rightful subjects of the doctrinal discourse, they do not provide sufficient information about the logic of operations of the penal system anymore. Rather, the 2024 to 2026 period demonstrates a structure-crisis shaped penal order consisting of legislative pragmatism, judicial recalibration, and supranational human rights restraints. This change might theoretically be placed in the wider context of late modern punishment as defined by David Garland, who sees a move towards a welfarist rehabilitation to a culture of control marked by risk management and punitive populism.

Meanwhile, another theory of punishment, the communicative theory, developed by Antony Duff, focuses on moral dialogue between the state and the offender, and is becoming more and more permeated by strains in the modern context. The article at hand questions the possibility of UK penal policy being defended in either of these paradigms, or whether it is a breakaway paradigm predetermined by the crisis governance.

2. Empirical Crisis and the Foundations of Penal Reform

The first background of modern-day penal policy is that of the empirical crisis of overcrowding in prisons. Statistics released by the Prison Reform Trust prove that overcrowding has taken root in the state of England and Wales, and this element has essentially changed the definition of custodial punishment. The subjective experience of imprisonment has often since become greater than the commensurate of the offence, thus amounting to a loss of the normative validity of sentencing. The structural unsustainability of the existing system is proven by the Independent Sentencing Review (2024-25) commissioned by the UK Ministry of Justice. Review cites low success of brief custodial sentences and growing use of long-term incarceration as factors generating what could be termed a regime of selective severity. This is an empirical fact that coincides with the argument by Andrew Ashworth, who holds that over-reliance on imprisonment distorts the concept of proportionality and parsimony of sentencing.

The crisis can also be interpreted in terms of a change in the Foucauldian sense, i.e., the change in modalities of power. Michel Foucault theorises punishment in terms of being a method of social control, and the modern move toward community corrections and electronic surveillance indicates a mode of switching disciplinary enclosure to diffuse forms of surveillance. So, the imprisonment crisis is not always an indication of withdrawal of the penal power but its re-organisation.

3. Legislative Developments and Managerial Penalty

The reforms that have been legislatively initiated in 2024-2026 are a pragmatic reaction to systemic pressure; however, the reforms, be it the anticipation of the correct response to address the pressures in penal rationality, reflect a radical change in the penal system. The Sentencing Act 2026 proposes new solutions to lower the prison population by releasing on early release and increasing non-custodial penalties. Here we can see the rise of

managerial penalty whereby the punishment is structured based on efficiency, risk appraisal and resource distribution.

The Victims and Prisoners Act 2024 turns the penal policy towards a victim-based approach, increasing the expressive aspect of punishment, but introducing the risk of the intrusion of populist sentiment into judicial adjudication. Nicola Lacey has proposed that these developments indicate the politicisation of criminal justice in which penal policy is increasingly responsive to popular feeling, rather than to any sense of principle.

In the same vein, the Sentencing Guidelines (Pre-sentence Reports) Act 2025 aims to foster consistency by limiting the consideration of individual traits. This is consistent with formal equality, but subservient to individualised justice and has been termed by Lucia Zedner as the preventive turn in criminal law, as risk management replaces moral judgment.

4. Jurisprudence and Doctrinal Integrity of UK Supreme Courts.

Despite such developments, the judiciary has been a hotspot area of resistance and acculturation. The *R v Hayes*; *R v Palombo* case, as decided by the UK Supreme Court, portrays the efforts by the Court to err on the side of doctrinal rectitude, not to mention fair labelling in respect to complex criminal offenders in the financial market. The Court restores the rule of law when it disagrees on expanding criminal responsibility.

This court office can be construed in accordance with the communicative theory as espoused by Duff that identifies the morality of punishment as a form of censure that is founded on common norms. However, this paradigm is challenging considering the increasing role of an institutional constraint in sentencing decisions. Courts have started viewing prison conditions to be an important issue, and in doing so, have taken into account that punishment is not just an abstraction of law, but it is a lived experience that revolves around systemic realities.

5. Human Rights Constraints: ECtHR Jurisprudence

European Court of Human Rights jurisprudence places a lot of burden on the domestic penal policy. Formal detention in inhuman or degrading conditions concerning the first and third articles of the European Convention on Human Rights [ECHR] is forbidden; states are obliged to make sure that the conditions of the prison meet the minimum standards of decency.

The cases like *Vinter v United Kingdom*, *Murray v Netherlands* and *Ananyev v Russia* uphold the theory that the punishment should have a realistic possibility of rehabilitation and it should not subject the prisoners to degrading treatment. These principles put into question the legitimacy of overcrowded prison conditions in the UK and create the need to review sentencing practices.

Strasbourg jurisprudence also has an impact on Articles 5 and 6 that safeguard the rights of liberty and fair trial. The growing trend towards the use of remand detention and criminal delays present a fundamental constitutional challenge, and the conflict with efficiency and due process in modern penal policy.

6. Preventive Penalty and Public Order

Quite the contrary trend is observed in how protest related offence is dealt with. The trend of ever rising concept of preventive penalty, as the case of *R v Hallam* explains, is

apparent in the sentencing of climate activists when a process seemingly defines the need to penalties in order to deter future interference.

This is done in accord with the analysis of the preventive turn by Zedner but it also introduces the highest constitutional question of the guard of fundamental rights. The imposition of severe sentences due to non-violent behaviour is a sign that a shift towards securitisation is underway in which certain behaviours are securitised as systemic risks which receive extraordinary treatment.

7. Penal Effectiveness and Empirical Criminology.

The empirical criminological studies give important understanding on the workability of current penal practices. Research has always shown that short jail terms are not effective in preventing repeat offending and the proliferation of recall systems has led to a rise in the population of prisons.

It is possible to explain the inability of punitive policies to be discarded despite evidence to the contrary by analysing the culture of control as described by Garland. The formation of penal policy is influenced by both empirical evidence and pressures reduced by politics and opinions of the masses which creates a knowledge-practice gap. This conflicting situation highlights how difficult it is to enact evidence-based reforms in a democratic system.

8. CONCLUSION

Modern penal policy in the United Kingdom is described as having a state of crisis, hybrid and constitutional restraint. Law legislative reform, judicial doctrine, empirical data and human rights imperatives have created a penal system which is both flexible and diffuse.

This dynamic is represented by the notion of crisis-constitutional penalty, showing how much punishment is being increasingly institutionalised in terms of the constraints and multilevel legal supervision of it. The future of the UK penal policy will rely on whether it can express a consistent normative framework which balances efficiency, justice and human dignity. In the absence of such a structure, there is a danger of the system being left in an indefinite system of reactive management, which will be more of necessity than of principle.

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