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**Sensible or Senseless:
A frame analysis of the Sensible Sentencing Trust's penal
populist discourse**

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Abstract

Recently many western societies, including New Zealand, have seen a distinct change in public attitudes towards law and order. Support for more punitive forms of punishment have seen governments adopt tougher penal and judicial policies. Scholarly attempts to define and understand this phenomenon have resulted in creation of 'penal populism'. Penal populism operates as a discourse that defines the arguments made for tougher sentences, harsher prison conditions, and greater rights for victims' of crime as well as conceptualizing the intricate social conditions from which these changes are born. This research is concerned with the discursive positions used to construct penal populist discourse; the ideas which argue for punitive reform. The aim of this research is to delineate and understand the discursive resources deployed by penal populist organizations as they seek support from the public.

This research examines the penal populist discourse produced by the Sensible Sentencing Trust as a case study. The SST is New Zealand's preeminent organization dedicated to punitive reform. As a penal populist organization, the SST operate within a complex penal populist social movement; a global collectivity, where various groups and actors are bound by a punitive narrative. Frame analysis, a qualitative research method, will be used to identify penal populist discursive positions and understand their function as a resource used to elicit support from the public. The three fundamental processes of diagnostic, prognostic, and motivational framing will be identified to understand how the SST frames their discourse to produce a meaningful punitive message that resonates with the public.

This research suggests that the SST gain and retain support for their cause by adapting fundamental conservative concepts with their penal populist discursive positions. The SST act as a signifying agent, interpreting the political philosophy of compassionate conservatism and aligning conservative principles. This act of re-contextualizing conservative concepts to suit the

discursive needs of New Zealand's law and order debate translates their inherent resonance into the punitive narrative. Compassionate conservatism functions as a master frame, a conservative grammar, or algorithm that structures penal populist discourse making it strike a responsive chord with conservative members of the public. This act of framing however has potentially negative implications. The SST's framing creates an anti-liberalism frame that acts as an important discursive unit. This frame is hegemonic; seeking to dominate the national law and order conversation by casting contrary penal and judicial discourses as an adversary. This has the effect of divisively curtailing constructive law and order debate in New Zealand.

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Table of Contents

Abstract	ii
Acknowledgement	iv
Chapter 1. Introduction	1
Chapter 2. The Sensible Sentencing Trust Revealed: Structure, history and methods	6
Introduction	6
The SST: Origins and structure	6
- Origins of the SST	6
- Resources at the SST's disposal	9
- Goals of the SST	11
- New Zealand penal populism and the SST	14
- Influence of the SST on the New Zealand justice system	18
- The SST and the penal populism social movement	20
Conclusion	22
Chapter 3. Introducing penal populism scholarship	23
Introduction	23
The punitive turn	24

Defining penal populism	27
Penal populism and public opinion	30
Penal populism and the media	34
Penal populism social movement	37
Compassionate conservatism	38
Conclusion	43
Chapter 4. Research design: Understanding discursive frame analysis	45
Introduction	45
Frame analysis	46
- What is framing	46
- Frame analysis: Collective action frames and master frames	49
- Master frame extension	51
Sampling and method of analysis	53
- Sampling	53
- Analytical approach	54
Conclusion	57
Chapter 5. Understanding penal populist discursive positions:	
Diagnostic, prognostic and motivational framing	58
Introduction	58

SST's diagnostic, prognostic and motivational framing of the justice system	60
- SST's discursive positions regarding politics and legislation	60
- SST's discursive positions regarding the judiciary	63
- SST's discursive positions regarding parole	68
Victims Stories: The SST's framing regarding the victims of crimes	71
SST's framing of criminals: the alien other	76
Penal populism frame resonance	78
Conclusion	81
Chapter 6. Master frame alignment: Conceptualising the	
influence of compassionate conservatism within the SST discourse	82
Introduction	82
Compassionate conservatism as a master frame	84
Compassionate conservatism master frame alignment with penal populist frames	88
Extension of the 'erosion of core societal values' frame	93
Compassionate conservatism frame resonance and narrative fidelity	98
Conclusion	100
Chapter 7. Discussion/ evaluation: Understanding the function	
of penal populist discursive resources	102
Introduction	102

Understanding the hegemonic function of penal populist discursive resources	103
Power relationships within penal populism	106
Limitations of frame analysis	109
Conclusion	112
Chapter 8: Conclusion	113
Bibliography	118
Diagrams	
Diagrammatic representation of SST discourse frame analysis	59
Diagrammatic representation of compassionate conservatism master frame alignment	83

Chapter 1

Introduction

On the 25th of November 2010, the Sensible Sentencing Trust (SST), a penal and judicial reform pressure group, responded to the statement made by Police Commissioner Howard Broad regarding the need for the prison population to be reduced. Broad believed that the contemporary punitive model of incarceration was inappropriate and that:

"It's tempting to use prison as a minor, intermediate sort of sanction.

But the evidence seems to be that the 'university of the prison' is a fact and it exists and that we should do everything we can to avoid people going down that track.

One of the worst things that you can do for an emerging young offender is to group them together with other emerging young offenders. The whole idea is actually preventing crime in the first place" ("Police chief calls for cuts in prisons", *Stuff*, 2010)

The SST bristled at the Police Commissioners view, immediately issuing a press release deriding the comment, while calling Broad a disgrace to the police force.

"It appears that Mr Broad has totally ignored the fact that the promotion of liberal policies are entirely responsible for the escalation in violent crime that has led to the "wave of criminals in the system" that he refers to."

"Mr Broad was appointed in a bygone era by a regime with a philosophy that those who commit crime are not responsible for their actions – that it was societies fault – obviously Mr Broad has decided to fire a last salvo now his time in office is coming to an end."

"Not only does the Commissioner have a responsibility for the safety and protection of all New Zealanders he also has a responsibility as a leader to the thousands of dedicated police who serve under him. His comments on cutting prison numbers will be another nail in the coffin of an already overworked and disillusioned police force."

"Howard Broad's comments are an insult to victims of crime and his potential to do irreversible damage to the morale and good name of the police is such that he should resign immediately." (SST, "Police Chief's comments a disgrace says victim advocate", SST. 2010)

This response by the SST is a perfect and unqualified example of penal populist discourse. Penal populism relates to arguments made by various organizations, politicians and academics regarding the need for more punitive penal and judicial legislation. Within this short statement lies a rich vein of sociological meaning that distinguishes the SST and the discourse they produce. The aim of this thesis is to describe and understand discursive resources in penal populist discourse. This thesis will seek to clarify how the SST constructs a discourse that challenges the legitimacy and effectiveness of the justice system and the need for punitive reform.

Scholarship that has examined contemporary, punitive penal and judicial trends has neglected to take a precise and detailed exploration of penal populist discourse and its discursive structures. Although through penal populism theory, social scientists have conceptualized the wider political, cultural and social contexts that have allowed punitive ideas to emerge and described the substance of penal populism; an exhaustive analysis of the discourse, particularly discursive positions taken, has not been sufficiently attempted. Penal populist discursive positions are a resources deployed by the SST. As a resource, penal populist discursive positions relate to punitive concepts and the various rhetorical devices used to express them. These discursive resources not only define meaning and provide structure within penal populist organizations but also produce wider social effects, including developing and maintaining power relationships between the penal populist groups and public penal populist adherents.

The SST is an organisation defined by their ideology. Their existence, methods, activities, members, and discourse are all bound by a philosophy that seeks substantial punitive penal reform in New Zealand. The SST is committed to this ideological grievance, what they see as

a modern New Zealand justice system that is systemically unjust. They believe that their penal populist views are the solution to fix the broken system; by making laws tougher, prison sentences longer and giving victims of crime a stronger voice. To this end the SST has become a significant voice in penal reform debates within New Zealand society, gaining support from the public, the media and politicians alike.

To provide a deeper understanding of penal populist discursive resources this research will employ discursive frame analysis discussed by Robert Benford and David A. Snow (1992, 2000, 2004) and William Swart (1995). Frame analysis is a qualitative research method that conceptualises how social movements create meaningful discourse. By conceptualising the SST as a penal populist organisation within a global penal populist social movement this research can utilize frame analysis. Frame analysis can conceive how the SST's punitive narrative gains support from the public through a process of narrative fidelity, where discursive positions deployed by the SST resonate with the public owing to their faithfulness to their conservative values and beliefs. The maintenance and manipulation of penal populist discourse by the SST is influenced by wider principles and concepts derived from conservative political philosophies. Frame analysis can further understand the influence of conservative philosophies on penal populist discursive resources, especially the issue of resonance and the wider social impact of these resources on the law and order debate in New Zealand.

This thesis contains eight chapters. Chapter two outlines the SST, providing information on their historical development, policies and goals, while situating them within a wider penal populist social movement. The third chapter introduces scholarship used to understand the growth of punitive discourses and organizations. Penal populism scholarship includes research from both New Zealand and around the world. Within this chapter the work of John Pratt (2005, 2005, 2006, 2008 and 2008), Anthony Bottoms (1995), David Garland (1990, 2001) and many others will be used to describe the influence of penal populism on politics, public opinion and the media. Also included in this chapter will be a discussion regarding the complex makeup of a global penal populist social movement. This chapter will

conclude by providing background information on the political philosophy of compassionate conservatism; a conservative political philosophy that is inexorably connected to the discourse of the SST.

The fourth chapter provides an outline of the research design employed in this thesis. Discursive frame analysis, a research method used in social movement theory, will be used to describe and then understand discursive resources in penal populist discourse. This discourse will be drawn from the public communications of the SST. This chapter will provide the scope and analytical approach used in this research. The analytical approach will also be informed by frame analysis discussed by Snow and Benford (1992, 2000, and 2008) and Swart (1995). Of particular importance will be the concept of 'master frame alignment' in exploring the influence of external compassionate conservative discourse on the framing of the SST's penal populism.

The fifth and sixth chapters discuss the results of discursive frame analysis on the SST's penal populist discourse. Chapter five presents the frame analysis of the SST's discourse. In this chapter various framing techniques will be identified and explained, delineating penal populist discursive resources. Of interest will be the use of broad framing techniques that produce diagnostic, prognostic and motivation framing. These three framing features will conceptualize how the SST identify problems within the current justice system, propose solutions needed to remedy these problem, and how they motivate supporters to work with the organization to enact punitive solutions.

The sixth chapter conceptualizes the influence of the political philosophy of compassionate conservatism on penal populist discourse. Within this chapter master frame analysis will be used to understand the discursive relationship between compassionate conservatism and penal populism. This research will address the influence of compassionate conservatism discourse articulated by Theodore Dalrymple (2000, 2006, 2006, 2008) on the discourse

produced by the SST. This will help define the impact of compassionate conservative principles and concepts on the resonance of penal populist frames.

The seventh chapter develops an analysis of the results found in the two previous chapters. This chapter discusses how the influence of compassionate conservatism on the discourse of the SST elicits discursive resources that engender a form of cultural hegemony in law and order debates. This chapter discusses how penal populism utilizes adversarial, diagnostic framing to create a cultural war against a distorted notion of liberalism. Finally in this chapter the limitations of discursive frame analysis found in this research will be discussed. The eighth chapter will conclude the thesis.

The following chapter will begin by defining the emergence of the SST as New Zealand's preeminent penal populist organization. This chapter will use research conducted by John Pratt and Marie Clark (1995) to illustrate the New Zealand social and political environments that allowed penal populist sentiment to develop and the historical progression of the SST. Data drawn from the SST website and other sources will be used to outline their policy goals and wider activities.

Chapter 2

The Sensible Sentencing Trust Revealed: Structure, history and methods

Introduction

The Sensible Sentencing Trust (SST) is a political pressure group that seeks to introduce extensive punitive penal and judicial reform, including longer prison sentences, harsher more austere prison conditions and greater rights for victims of crime. The group can be considered a penal populist organisation that exists within a wider conservative, social movement dedicated to punitive reform. In this chapter I will provide an overview of the SST, examining their activities and their policy goals. This overview is divided into four sections. The first part provides a description of the SST by focusing on the organisations structure and their legislative achievements. The second section discusses the historical development of the SST. The third section analyses the methods employed by the SST to achieve punitive reform within the New Zealand justice system. The fourth section concludes the chapter by situating the SST within a larger penal populist social movement.

The SST: Organisation and structure

Origins of the SST

“The Sensible Sentencing Trust was born out of the need for justice reform and greater rights for victims. Through our advocacy and professionalism we have significantly influenced improvements in our Justice System with greater rights for victims. The activities of the Sensible Sentencing Trust have developed over the 5 years we have been in operation.

The Trust has continued its (sic) expansion into many areas of inter-agency activity. We have consolidated the organization's growing reputation as a mature, balanced and professional stakeholder in the criminal Justice System.

We believe the only way to counter the current liberally politically correct social experiment that has contributed to the escalation of violent crime is to build the Trust into a vehicle as the voice for the silent majority of New Zealanders who share our vision and aspirations" (SST Newsletter 16, 2006)

The SST was formed in 2001 by Hawkes Bay farmer and businessman Garth McVicar and his wife Anne McVicar. The impetus for McVicar to form the SST came from the prosecution of Mark Middleton. In 1989 Carla Cardino was murdered by Paul Dally, a man who at the time had been released from police custody on bail for other violent crimes. In 1999 following suggestions that Dally could be released on parole Mark Middleton, the stepfather of Cardino, stated that given the opportunity, he would like to kill Dally if he was released (*National wide Middleton protest planned*, 2001). This threat led the police to charge Middleton who was subsequently convicted and later given a nine month suspended sentence (*Middleton is a free man*, 2001). McVicar attended the trial in 2001 with his presence drawing considerable interest from the media. McVicar, angered by the guilty verdict handed down to Middleton, vocally criticised the courts and the justice system.

'When a dog on the farm goes mad and starts worrying sheep you cannot reform it. You shoot it. In my opinion Dally is a mad dog. I'm not saying shoot him. I'm saying we shouldn't let him out.' I also said we were going to hold a protest" (Chamberlain, 2006: 74).

Following Middleton's trial, protests of support were coordinated by McVicar and Otago based group 'Friends and Family of Murder Victims Inc'. These protests were held outside 64 New Zealand courthouses, where a petition supporting Middleton was collected. This petition received over 16,000 signatures. McVicar was adamant that the New Zealand public support for Middleton was a decisive message to the then Labour government that

people wanted tougher sentencing practices to prevent crime. The protest and the petition demonstrated the clarion call for punitive reform in New Zealand.

"It's not enough. I'm not a radical or a red-neck, but we don't want guys like that (Dally) walking the street. What we are doing is sending a clear signal from the public to the politicians. MPs represent the people." (*Middleton is a free man*, 2001)

In April of 2001 the SST was established as an official charitable trust that could receive donations from the public. In the first newsletter published by the SST Garth McVicar clearly stated the fundamental goal of the SST:

"I think it may be appropriate to remind ourselves that the main reason for our group existing was and is to ensure that these horrendously violent murderers never again pose a risk to New Zealand society...

I will be concentrating my efforts on ensuring that we have a **Safe New Zealand**. A safe country for our women and children and a safe destination for our many tourists" (SST Newsletter 1, 2001)

From the SST's base in Napier, regional coordinators were appointed to grow the membership, collect feedback from the public and to spread the movement's message. Rita Croskery, the mother of Michael Choy (murdered by Bailey Junior Kurariki in 2001) and supporter of the SST described the group as:

"an entirely voluntary organisation and currently the only organization that brings victims together to form a network of like-minded people who totally understand because they have 'walked the walk' I have experienced how uplifting it has been for Victims, many whom had lost hope and even in a few instances suicidal" (SST Press Release, *Statement from Rita Croskery*, 2008).

The SST has established themselves as a movement for punitive reform but also a place to support victims of crime. This support is provided through a variety of means but most importantly a voice for their stories to be heard.

From the outset McVicar and the SST leadership approached the government and other political parties with their concerns regarding the rise in violent crime in New Zealand and the effectiveness of current penal and judicial policy. The SST was given considerable access to prominent politicians from both ends of the political spectrum. Along with other like-minded individuals the SST gradually organised more meetings to discuss law and order issues. The organisation is composed of chapters in most of New Zealand's major centres. These centres operate to provide regional victim support, dissemination of the SST message and to recruit local support.

Resources at the SST's disposal

The SST has a variety of resources at their disposal. The SST regularly lobbies the government to introduce more punitive measures into the justice system. They also make submissions to government select committees on legislation relevant to their cause. Since 2001 the SST have written submissions on a number of individual pieces of legislation, including the 'Victims Rights Act' (2002), the 'Victims and Prisoners Claim Act' (2005), and the 'Criminal Proceeds Recovery Act' (2009). These submissions are usually provided by the SST although the group has also provided submissions from victims of crime. Victim's produced submissions to the 'Victims and Prisoners Claim Act' (2005) select committee. Tai Hobson, Ida Hawkins and Darren Comrie, all relatives of people who died at the hands of violent criminals, were given the opportunity to write submissions on behalf of the SST. The SST has also provided submissions from academics like American political scientist Jennifer Walsh for the 'Sentencing and Parole Reform Act' (2010) that included controversial 'Three Strikes' provisions. (SST, *Submissions*, 2010)

One of the most powerful tools used by the SST to disseminate their message is the media. The SST regularly provides commentary and analysis of penal and judicial legislation, high profile crimes and high profile criminal proceedings. The SST provides press releases on specific events that are relevant to the group (SST, *Press releases*, 2010). They are also frequently approached by the media to provide commentary. Garth McVicar as the leader of the SST has become their public face, making regular appearances on television and the radio.

Within the community the SST have organized several campaigns aimed at spreading their message. These campaigns are based around encouraging community support with events designed to bring people to the SST. The most recent campaign called "Crossroads: Safe and civilised roads for New Zealand" calls for harsher penalties for recidivist impaired drivers. The SST has organised an online petition for the community to express their desire to change governmental policy. Previous campaigns have included the "Cradle to Jail" initiative that examined the progression of young offenders into violent adult criminals. (SST, *Current campaigns, events and public meetings*, 2010)

The SST also provides resources for victims of crime as the notion of victim's rights is a pivotal component of their philosophy. On the SST website links are provided to the Parole Board and victims support groups. The SST also provides a place where victims of crime can tell their stories.

Perhaps the most controversial resource provided by the SST is the offender database located on their website. This database contains personal information on convicted criminals that is openly available for the public to access. The database is composed of three separate lists, the violent offender database, the paedophile and sexual offender database, and a sentencing tracker database that compiles data of offenders and the length of their sentence based on their crime. The 'violent offender' and 'paedophile and sexual offender' databases provide information on an offender's crime, the victims, aliases, age, gang

affiliation, parole and approximate location. The SST makes no apologies for the impact that these databases have on people who have committed these crimes:

“What some of these offenders have been convicted of doing defies belief and their actions have destroyed and impacted on the lives of thousands of innocent New Zealanders, including their own families.

We make no apologies for the impact this site may have on the Sex Offenders, they had choices - they made the wrong choice - and must now suffer the consequences of their actions” (SST, *Offenders Database*, 2010)

The information for these databases is obtained from the public and the media.

With the help of these resources, the SST has grown in support and power to become the definitive punitive voice in New Zealand’s law and order debate. The SST has claimed that this dominance has seen their membership grow to over 150,000 New Zealanders (*Editorial: Wreaking havoc with justice*, 2009). In the next section of this chapter the specific policy goals of the SST will be detailed to clarify the SST’s.

Goals of the SST

The mission statement of the SST effectively summarises their goals:

“To obtain a large base of community support, and ensure safety for all New Zealanders from violent and criminal offending, through education, development of effective penal policies, and the promotion of responsible behaviour, accountable parenting, and respect for each other at all levels of society” (SST, *Goals, Vision and Mission Statement*, 2010).

The SST believes that law and order needs to be understood as a foundation of New Zealand society, alongside health and education. From the SST website the organization describes six necessary goals that it believes reflects the urgency and importance of law and order issues. Their first and foremost goal is the protection of the New Zealand citizenry from those who

have committed violent crimes through a policy of 'Life Means Life' – where life sentences should incarcerate criminals for the remainder of their natural life. Following on from this central goal the SST believe that parole should not be an automatic consideration and only granted as an exception when it has been demonstrated that the offender is absolutely no risk to society. The third goal calls for legislation to be passed that ensures serious offenders receive the severest penalties under the Crimes Act (1961). The fourth goal would see victims of crime and their families be allowed to give input into criminal proceedings and especially sentencing lengths. The fifth goal of the SST would give juries the right to recommend sentences to judges. The final goal of the SST is to make sure that people who commit multiple crimes receive cumulative sentences instead of concurrent sentences. (SST, *Goals, Vision and Mission Statement*, 2010)

The SST has also taken positions on specific policies and areas within the justice debate. The SST advocates changing practicing guidelines for lawyers to allow them to reject representing people based on moral grounds. What the SST call the 'Cab Rank' rule would see Rule 1.02 of the New Zealand Law Society "Rules of Professional Conduct for Barristers and Solicitors" removed giving lawyers the ability to refuse clients based on crimes they find abhorrent. The SST believes that the forced representation of "clients who are utterly reprehensible, and clearly guilty to boot" is one of the reasons that has caused New Zealanders to lose faith in the justice system. The SST also believes in a sliding scale for the allocation of legal aid. This system would see legal aid awarded in smaller amounts for each crime committed. Criminals legal aid would be 100% paid for by the government for the first and second offence committed. Every additional crime would see the amount awarded drop by 10% (SST, *Goals, Vision and Mission Statement*, 2010).

The SST has taken a defiant stance against name suppression. In their opinion in an age of advanced communication technology, name suppression has become anachronistic. Also the SST believes that name suppression hurts victims of crime by not having the identity of an offender revealed. Name suppression reflects the undue protection of the rights of criminals over those of victims. (SST, *Name Suppression*, 2010)

This argument for the end of name suppression is similar to argued changes in restorative justice. The SST believes that there is a place for restorative justice but with several changes necessary. Restorative justice needs to be a post-sentence process focused on the victims of crime rather than criminals. Restorative justice should have no bearing on access to parole and needs to be combined with vigorous rehabilitation programs. The SST believes that bail should be limited to people who have not previously been convicted of a crime. Fundamentally the SST believes that restorative justice should only be used for minor criminal acts and never violent offences. Violent crimes need an appropriate and authoritative sanction to deter and punish. Restorative justice practices undermine this need for strong punitive sanctions. The SST believes that this new focus would stop the abuse of restorative justice by criminals who undertake these proceedings to reduce their sentences.

“The situation often also arises where the offender lacks the will to restore the victim's losses. They may be able to do so, but do not want to. We have been advised of some cases, where the offender does not care about the victim's wellbeing, then restorative justice cannot take place, and will only give the offender further opportunities to "rub it in" or otherwise harm the victim. Putting the victim through a restorative justice process in this situation will be extremely counter-productive.

Similarly, if the victim does not want to be involved in the restorative justice process, then they should not have to do so. There needs to be the will to go through with it from both parties, otherwise it will simply be a waste of time and energy for all concerned” (SST, *Restorative Justice*, 2010).

Kim Workman, the Executive director of the group ‘Re-thinking Crime and Punishment’ is a vocal critic of the SST and their punitive beliefs. Workman condemned the SST’s view on restorative justice saying that was a:

"paternalistic view that restorative justice has no place in murder cases, showing the Sensible Sentencing Trust is out of touch with the people they profess to help" (Workman, 2010)

Workman suggests that the SST's policy on restorative justice would curtail the human rights of victims of crime by removing options they have in criminal proceedings.

The most controversial policy goal of the SST relates to the implementation of the infamous American style 'Three Strikes' law. The New Zealand version of "Three Strikes" drafted by now ex-member of parliament David Garret would see criminals sentenced to an extremely long prison sentence after committing their third crime. The Three Strikes bill would force judges to impose mandatory life sentences, with a non-parole period of 25 years after an offender has committed their third qualifying offence. This law would continue on in the spirit of 'mandatory minimums' laws that have seen excessive sentence given for a variety of crimes, not just violent ones. Three Strikes provisions were also included in submissions on the 'Sentencing and Parole Act' (2010). David Garrett in a press release discussed the importance of three strikes legislation to the SST.

"In two recent high profile homicides, the alleged perpetrators each have at least three prior convictions for serious violence. It is not possible – or in fact desirable – to further identify the cases at this stage ... The identities of the alleged killers in these two cases will emerge in the fullness of time but at this stage, suffice it to say that if they are eventually found guilty, two people would have been alive now if a "three strikes" law was in force in New Zealand a month ago" (Garrett, 2007).

New Zealand Penal Populism and the SST

The origins of the SST can be traced to the incipient penal populism that emerged in the early 1990s in New Zealand. John Pratt and Marie Clark (2005) believe that four distinctive social and historical factors, that began in the 1980s and gained momentum in the 1990s, gave rise to penal populism in New Zealand and the emergence of groups like the SST. The

first factor was a growing disenchantment with New Zealand's democratic process following the 1984 election. The newly elected Labour government engaged in policies that led to substantial economic liberalisation. The subsequent turmoil and social dislocation caused by the stark departure from New Zealand's traditional welfare-state system, combined with the internal disruptions within the Labour party caused many New Zealanders to feel wholly dissatisfied by the electoral process in their society. The continued pursuit of neo-liberal economic policies by the National party, after gaining power in the 1990 election, and the social impact it caused (high unemployment, lack of social safety net etc) further eroded confidence in both the electoral and legislative processes. This disenchantment led to a citizen's initiated referendum in 1993, designed to ascertain the public's view on electoral change. 84% of people wanted a new political process, with Mixed Member Proportional system (MMP) emerging as the favourite replacement. Pratt and Clark (2005) suggest this result was not a public endorsement of support for MMP but rather a statement of disapproval of New Zealand politics and politicians.

Far from restoring public faith, the first MMP election held in 1999 galvanised New Zealand's general cynicism and negativity towards the electoral process. This electoral cynicism was exacerbated by the expansion of the government and the emergence of new political scandals from inexperienced members of parliament. This strong antipathy directed towards the traditional political apparatus led to support for, what Pratt and Clark call, "alternate modes of representation" (Pratt & Clark, 2005, 310). These extra-parliamentary movements became a focus for political support based, usually, on singular issues or ideology. Pratt and Clark succinctly summarises their operation in New Zealand society:

"It is as if the decline in trust in such a core institution of a modern democratic society then exponentially led to a proliferation of rights claimants in extra-parliamentary settings who saw the existing democratic process as an obstacle to their claims rather than a facilitator of them" (Pratt & Clark, 2005: 310).

These alternate modes of representation manifested themselves through particular issues facing New Zealand society. Pratt and Clark point to the heightened state of anxiety and a greater concentration on risk in modern societies as the furtive ground, where penal populism took root in New Zealand. The increased crime reportage produced a narrative of wildly escalating violent crime. An increase in crime did occur in the late 1980s through to the early 1990s but by 1995 and 1996 crime levels had stabilized. Criminal offences in New Zealand reached their peak in 1992 with 537, 295 crimes committed. In 1995 through to 1996 56,237 violent crimes were committed, which then dropped to 46,653 in 2000/2001 (Pratt & Clark, 2005: 305). Interestingly though, the inexorable increase of violent crime narratives persisted becoming a “unifying theme in public discourse” (Pratt & Clark, 2005: 312). This new public discourse on crime was critical of the measures in place to contend with the perceived crime problem, including the length of sentencing. From this discourse the SST emerged as an alternate mode of representation faithful to the popular narrative based on justice in New Zealand.

The new prominent public discourse on crime intensified concerns with victims and victimisation. Discourses on victimisation were transferred from predominantly feminist debates to more general, public discussions, where the concept of the ‘victim’ was radically changed – especially by early penal populist movements.

“A variety of women’s groups in the 1980s and early 1990s – for whom violent crime was understood as the product of patriarchal power – had campaigned around issues of violence and sexual assault and had been influential on public responses to and investigations of these crimes. However, as crime victimization began to receive more general attention, the concerns it generated came to be subsumed into a more general popular movement, leading to a significant shift in understandings of its causes and solutions. Increasingly, crime would be predominantly articulated by victims’ representatives as the product of wicked or irresponsible ‘others’, needing to be addressed by longer prison sentences rather than the restructuring of gender relations” (Pratt & Clark, 2005: 313)

Victims became the new authoritative voice in law and order debates, while criminals were conceptualised as the evil 'other'.

Victim's rights movements channelled their popular philosophy into political pressure through the citizen's initiated referendum. This referendum was a watershed moment in the influence of penal populist discourse in New Zealand. The referendum was a part of the 1993 General election and asked people:

"Should there be a reform of our justice system placing greater emphasis on the needs of victims, providing restitution, and compensation for them and imposing minimum sentence and hard labour for all serious violent offences?" (Pratt & Clark, 2005: 305)

91.75% of voters agreed with this statement. The result would later be used by politicians and punitive lobby groups like the SST as a justification of their penal populism. This result proved their assertion that the public of New Zealand strongly favored tougher attitudes towards crime and punishment and increased rights of victims. In 1999 the punitive forces that preceded the formation of the SST supported another citizen's initiated referendum asking the public if they would support the premise of binding referendums. This referendum would pressure the government to emplace a form of direct democracy, where people could directly influence the legislative process. The SST believe that by empowering the people of New Zealand through binding referenda more punitive measures, that reflect the public's views, would be put in place.

In this period a new form of penal expertise emerged. The decline in public respect for the New Zealand political apparatus coincided with declines in respect for the judiciary and academia. Traditional penal experts were associated with the failed penal system and thus the perceived rise in violent crime. The loss of credibility gave rise to new forms of penal expertise. Pratt and Clark describe this new expertise as:

“drawn very much on personal experience, common sense and anecdote rather than social science research. It judged penal affairs on the basis of sentence lengths, deterrence and satisfaction to victims, rather than financial costs, effectiveness as measured by reconviction rates and humanitarianism (characteristics more usually associated with criminal justice expertise). Its knowledge base was to be found on websites, pamphlets and statements in the media rather than in academic texts or research reports” (Pratt & Clark, 2005: 315)

These four developments in New Zealand marked the rapidly changing social environment in which the SST became a prominent voice in the law and order debate. The next section will discuss the influence of the SST.

Influence of the SST on the New Zealand justice system

The SST has seen some punitive justice reform in the decade since their inception. Perhaps the most profound punitive step taken in the recent legislative history of New Zealand was the passing of the ‘Sentencing, Parole and Victims Rights Act’ (2002). Pratt and Clark provide a good summary of the changes that this bill brought to the New Zealand justice system.

“Essentially, the Sentencing Act significantly increases penalties for murder and for other serious violent and sexual offences, mandates judges to take into account the gravity of the offending and the culpability of the individual and exhorts them to make more use of maximum penalties [...] The Parole Act further restricts parole opportunities for those groups of offenders and makes ‘risk to community safety’ the sole criterion for parole assessment, with victims having the right to make representations in writing or in person at parole hearings. The Victims Rights Act extends the rights of notification of decision making within the criminal justice system process as a whole to a broader category of victim” (Pratt & Clark, 2005: 305).

It is difficult to qualify or quantify the exact influence of the SST in the passing of this legislation. As the ‘Sentencing, Parole and Victims Act’ was passed early in the existence of the SST it is reasonable to suggest that more general social and political factors, like popular punitive sentiments were responsible. Needless to say the SST campaigned strongly for the

legislation and certainly heightened the presence of law and order issue in the minds of the public and politicians. When the legislation was eventually passed the SST was disappointed in what they saw as a toothless compromise of their positions and the views of New Zealanders. The trust believed that the bill ignored the mandate for punitive reform gained from the referendum on the sentencing of violent crime.

The growing political gravitas of the SST was demonstrated when two large marches demanding tougher sentencing laws were held by the organization in Auckland and a week later in Wellington in July of 2002. The timing of the 'Memorial March for Victims of Murder' was planned to coincide with the 2002 General election. The potent symbol of over twelve hundred crosses delivered to the steps of parliament, representing the violent murders between 1991 through to 2000, drew the attention of politicians from all the political parties. Then leaders of prominent New Zealand political parties, including Bill English, Richard Prebble and current United Future leader Peter Dunne all marched with the SST.

From the beginning the SST had adopted a position of political neutrality and avoided aligning themselves with any party. Leaders from the SST met with political figures to express their views on penal and judicial reform. The SST's principle of political non-alignment would gradually become tenuous later in their history with the group aligning itself with the National Party and especially the Act Party. The non-alignment principle was originally adopted to allow the SST to work with any political party. However as the SST encountered philosophical barriers between it and many of the major parties it moved to support National and Act who more closely shared their views on justice. Although the group still laid claim to this non-alignment principle a cursory glance at their discourse and their actions show that it is no longer practiced.

Recently the SST has used their prominent public profile to help victims' of crime gain restitution from the government. Parole policies have been highlighted as an example of the culpability of the government in allowing violent criminal acts to occur. The SST's assistance

to Susan Couch, the sole survivor of the 2001 Panmure RSA murder, in bringing a civil suit against the government relied on their high profile in the media and their cachet with the public. Although the civil suit was unsuccessful¹ the SST again helped the family of Karl Kuchenbecker bring a case against the Department of Corrections and the Police. The SST supported the claims made by the Kuchenbecker family that his 2008 death could have been prevented if Graeme Burton had been refused parole. Burton's extensive criminal record should have made him ineligible for parole, even under the current, lenient parole system. The SST's moral and organizational support for both of these claims against the government reflects a distinctive change in their activities that goes beyond lobbying politicians. These activities are a direct challenge to the legitimacy of the New Zealand justice system to carry out their responsibility to protect the public from violent crimes.

The SST and the wider penal populism social movement

The policy aims of the SST closely reflect the goals of other organizations operating in other societies. The shared penal populism philosophy indicates the existence of an international penal populist social movement. Similar organizations devoted to creating more punitive justice systems and advocating for greater victims' rights are common in other western societies, including Australia, the United States, Japan, and the United Kingdom. These organizations, like the SST, offer alternative modes of representation, where they lobby the government on behalf of the public's punitive beliefs. There is also a high degree of coordination between different various national penal populist organizations.

Individual penal populist organizations are uniquely attuned to the cultural and political environment of the society that they want to achieve punitive change. In the United States punitive attitudes are stronger than New Zealand and thus penal populist organizations there reflect these divergent values. Also in larger nations there are a far greater number of penal populist organizations per society. While the SST effectively dominates the New

¹ The success of Susan Couch's claim against the Corrections Department remains debatable. In 2008 the Supreme Court ruled that Couch could sue corrections, overturning a 2006 Court of Appeal ruling. However this ruling has been appealed by the Crown. (TVNZ, *Susan Couch continues bid for compensation*, 2009)

Zealand debate, expressing multiple penal populist concepts within their campaign, penal populist organizations from other larger nations usually focus on specific issues and ideas. These organizations may articulate discourse on a much more defined area of penal populism while maintaining close relationships with other groups within the movement.

The SST's close relationship with American Sheriff Joe Arpaio reflects the growing international relations between penal populist organizations. Sheriff Arpaio has become an important symbol of highly punitive justice in the United States. Arpaio has become famous for the creation of tent cities, outdoor prisons in the Arizona desert to relieve the growing prison population combined with hard-labor. Arpaio's methods have made him a controversial figure in American law and order debates. Arpaio is popular in the state of Arizona, easily winning every election for Sheriff of Maricopa County since 1992. However he is also been accused of racism, abuse of power, intimidation, financial mismanagement and civil rights violations. He is currently being investigated by the FBI (KPH.com, *Sources: FBI Investigating Joe Arpaio, 2009*). Within the SST's discourse Sheriff Arpaio is praised and in August of 2007 McVicar met with him in the United States. However the SST expressed doubts about the feasibility of implementing similar extreme penal policies in New Zealand.

Within New Zealand the SST has allied itself with other organizations that share their penal populist positions. These groups include the 'Law and Order Party NZ', 'The New Zealand Centre for Political Debate', 'Commonsense Laws', 'Citizens for Justice', and many more. Also other groups whose discourse is not strictly penal populist like the right-wing Christian organizations 'For the Sake of Children' and 'Family First' have allied themselves with the SST. In the following chapter this wider penal populism social movement will be discussed in greater detail, particularly the way scholars have interpreted its boundaries and structure.

Conclusion

The SST has developed into the dominant voice for punitive reform in New Zealand's law and order debate. As a pressure group they have effectively utilized a variety of resources to bring about their goals for a tougher, more victim friendly justice system. Perhaps the most profound tool at the SST's disposal is its discourse; the message. The next chapter will discuss scholarship undertaken to understand the proliferation of penal populist discourse. This chapter will help contextualize groups like the SST and their discourse by exploring how academics have conceived the punitive trends in modern societies.

Chapter 3

Introducing Penal Populism Scholarship

Introduction

Penal populism is a difficult concept to define. It is used as a label for contemporary punitive trends but also as an explanatory discourse for these developments. This chapter will examine penal populism as an academic discourse that conceptualises the development and motivation behind popular punitive penal and judicial policies in modern societies. Penal populism stems from Sir Anthony Bottoms (1995) 'populist punitiveness'. Bottoms used the notion of 'populist punitiveness' to explore the idea of politicians using popular punitive beliefs to their political advantage. Rising crime rates in the 1980s and early 1990s, led to a time of heightened anxiety over the state's ability to protect people and maintain stability. This coupled with the emergence of conservative political ideologies that strongly advocated neo-liberal philosophies that criticised the welfare state helped many citizens find a punitive voice. Within the United States, the United Kingdom, Australia, Canada and New Zealand, traditional political practices were challenged by this new found voice, sceptical of modern legislative processes. However this new punitive voice was also harnessed by politicians to garner electoral support. Understanding the change in penal policy and the influence of punitive voices is the primary analytical task when theorizing penal populism.

In this chapter, four aspects of penal populism scholarship will be explored. The first part of this chapter will look at competing explanations for the rise of punitive penal policy in Western nations. This will include literature that defines 'new punitiveness'; the adoption and proliferation of harsh and tough penal policy. These theories broadly illustrate penal populism, attributing the new punitive trends to unique cultural and social practices. Following from this section penal populism discourse will be discussed, with a close examination of the core thematic elements that structure the discourse. The next section will conceptualise penal populism as a social movement. Penal populism has predominantly

been theorized as a discourse but it can be also seen as a social movement. The fourth and final part of this chapter will discuss broader conservative philosophies as an extension of a penal populist social movement. This chapter will outline the political philosophy of compassionate conservatism to explore the discursive influence it has on penal populism discourse.

The Punitive Turn

The power to punish has been an important and evolving phenomenon in society. This power has been conceptualised in many different ways amongst academics and between different fields. Michel Foucault's work on punishment in "Discipline and Punish" (1977) examined the way that punishment fundamentally changed from traditional societies to modern, complex societies. The transition from sovereign forms of power, where the right to punish was embodied in a sovereign with unlimited power, to modern forms of disciplinary power that used sophisticated forms of behavioural control and surveillance, chart the emergence of a rational and detached power to punish. This Foucauldian concept of modern penal power reflects penal populism discourse. Penal populist discourse conceptualises modern forms of penal power as being detached, sophisticated and based on rational and scientific foundations.

There is a consensus amongst penal populism theorists that a punitive turn occurred in the 1970s following decades of penal policy that treated punishment with a detached, rational and scientific mindset. Crime was social problem that could be rationally understood and then solved. The modernizing process envisioned by both Weber and Durkheim, which was both rationalizing and civilising, had created a society where punishment was informed, humane, and had scientific veracity. The direction of penal policy was controlled by knowledgeable experts: politicians, criminologists, social workers, lawyers, judges and the police; within institutions designed to facilitate society's response to crime and its punishment. Penal policy was a top-down process guarded by penal elites who legitimised the state's absolute and unfettered rights in the area of crime and punishment. The obligation of the state to be the sole arbiter of the punishment of criminals was socially

enshrined. Modern penal practices would be objective – emotional responses to crime would be checked to instead reform criminals into socially valuable and acceptable members rather than an act to destroy their bodies or to produce a deterrence effect. Punishment became a correctional act designed firstly to understand the social cause of crime and then transform criminals into socially desired participants, alleviating the immediate negative consequences of crime.

The modern style of penal policy that arose in the early to mid twentieth century was conceptualised as a component of the welfare state political philosophy that largely defined western nations in that era, what David Garland (2001) called “penal welfarism”. Mick Ryan (2005) suggests that welfare state ideals designed to eradicate poverty, illness, and squalor influenced penal policy because these ‘evils’ were responsible for the majority of crimes committed. The welfare state was seen by both policy makers and the public as being solely responsible for the wellbeing of people and that this responsibility should be extended to criminals as well. Ryan points to the modest gains made post 1945 by both liberal and conservative English governments in reforming penal policy, including the abolition of capital punishment and the adoption of far more hospitable and compassionate detention practices. Similar changes also occurred in other western nations in this period. However, Ryan points to administration of penal policy, and the entire welfare state ideology, as being a top-down process, where societies were quite happy to allow select groups of people and organizations the power to dictate policy. The deferential characteristics of people in these societies allowed “politicians, civil servants, insider pressure groups and so-called ‘experts’ serving on government advisory bodies almost free hand when it came to making major policies. There was a widespread feeling among the general public that the ‘men from the ministry’ knew best” (Ryan, 2005: 140).

The top-down characteristics of western societies in the mid twentieth century was the framework that inspired change in penal policy and especially the emergence of the new punitive trends. If penal-welfarism was the old way, then the new punitiveness was a policy that philosophically completely diverged from the old. The central tenets of the new wave of punitive penal policy were longer and harsher forms of imprisonment.

“The trend towards mass incarceration ... has been accompanied not only by longer prison sentences but by penal laws that seem to abandon long-standing limits to punishment in modern societies (Brown, Brown, Hallsworth, Morrison, Pratt, 2005: xii).

The implementation of ‘three-strike’ laws in the United States, where after three consecutive convictions courts were able to impose extensive prison sentences, is a prominent example of the punitive trend which inspired similar laws in other countries. This attempt to target recidivist criminals has seen prison populations in the United States grow exponentially. Incarceration has become even more prevalent with laws that have redefined what crimes deserve imprisonment and the length that they deserve. Long prison terms had typically been reserved for violent crimes but contemporary punitive legislation has seen non-violent crimes become worthy of disproportionate imprisonment. Also in the United States the use of capital punishment has returned with many valorising it as the ultimate instrument of justice against the very worst offenders.

Simultaneously prison conditions have become more austere. Prison cells are smaller and living conditions more spartan. Many privileges and luxuries have been revoked, forms of forced labour have returned and prisons have become more crowded. These new conditions have a variety of new and ominous functions but the general role seems to be a punitive attack on those incarcerated.

“Aside from long hours of lockdown, these prisons work actively to break the spirit and the will of prisoners through sensory deprivation and psychic isolation in a kind of modern analogue to the Victorian-era treadmill, crack and dietary regime” (Brown et al, 2005: xiii).

This view is shared by Mona Lynch (2005) who describes contemporary prisons as having adopted traditional and primitive notions of enforcing pain and suffering in order to transform criminals from members of society into something akin to human waste ready to be disposed of. Prisons now function as a ‘waste management’ system designed to as cheaply and efficiently remove criminals from society. (Lynch, 2005: 66-84).

The punitive turn in penal policy also manifested itself in new forms of power that control criminals through humiliation and the curtailment of their human rights. Practices of shaming criminals like the enforced registration of sexual offenders and other schemes that reduce rights of criminals to privacy, reinforce the punitive mentality of degrading, isolating and separating criminals. New forms of surveillance, like electronic monitoring, help to strengthen the oppressive nature of contemporary penal systems. This reflects Foucault's panopticon, where ubiquitous surveillance in modern society conditions order and acceptable behaviour.

From here we can ask a basic question. What is new punitiveness? It is the implementation of penal policy that has moved away from the detached model found in modern forms of punishment. The new punitiveness is typified by long prison sentences, harsher more austere prison conditions and a return to practices of humiliation and dehumanization as penalties reflecting a perceived just and proportional response to crime. The next section will look at penal populism as a discourse that establishes reasons why modern, rational forms of punishment changed so dramatically, in both form and desired intention, into punitive penal policy.

Defining Penal Populism

Penal populism is a multi-field academic discourse that includes research from sociology, anthropology, psychology, criminology and political science. Penal populism is research that conceptualises the emergence of popular punitive penal policy in western nations in the latter part of the twentieth century – what this chapter has previously described as the 'punitive turn' or by others as the 'new punitiveness'. Penal populism can also be used as a label to identify the discourse produced and deployed by organisations regarding the need for punitive policy. In this chapter the first definition of penal populism as an explanatory academic discourse will be explored, while in latter chapters the penal populist discourse produced by groups like the SST will be detailed.



Penal populism theorists ascribe the significance of popular attitudes towards crime and punishment in influencing contemporary penal policy. Peter Joyce in "Criminology and Criminal Justice" (2009) provides a succinct definition of penal populism in the glossary:

"The terms 'penal populism' or 'populist punitiveness' were coined during the 1990s and this approach was especially directed at the rise of persistent young offenders. It denies the relevance of any social explanation for crime and emphasises the need to adopt a harsh approach towards those who carry out such actions on the grounds that they (and not the operation of society) are responsible for their criminal behaviour. It is characterised by factors that include the use of 'hard' policing methods, longer sentences and the increased size of the prison population, and harsher prison conditions. Governments following this course of action do so because they believe that the approach of 'getting tough with criminals' is viewed favourably by the general public" (Joyce, 2009: 207).

In "Elias, punishment, and decivilization" (2005) John Pratt explains new punitive trends by discussing it within the context of Norbert Elias's civilising process. Pratt believes that the punitive turn arose as a response to the civilising process that occurred in modern societies. These 'civilised' societies were characterised by the intensification and monopolistic operation of power (including penal power) by the state, the increased interdependence and heterogeneous nature of the division of labour, and the internalisation of restraint amongst individuals in a society. Elias's use of the term 'civilisation' differs from common usages, and denotes the "contingent configuration of [these] three characteristics, operating on different levels but associated with the long-term historical developments of Western societies" (Pratt, 2005: 257).

A process of decivilization occurred in contemporary society that saw a reversal in these characteristics. Firstly the authority of the state has fragmented under neo-liberal political philosophies. Scepticism has arisen over the state's capabilities in handling crime while simultaneously anger has arisen over the exclusion of the public from the governance of penal policy. Efforts have been made to empower citizens and make penal institutions more transparent and accountable. Secondly, the interdependence and heterogeneous nature of society has changed; where new social formations preoccupied with the dangers and 'risks'

that come with this social disintegration and unpredictability have encouraged increased fear and anxiety of crime. Thirdly the combination of these two reversals has led to a decrease in self-restraint of citizens. People, no longer content to allow bureaucracies and elites to handle crime, became more vociferous in their challenges and apply far more scrutiny to traditional sources of penal power. As people became more involved in criminal matters, ideas questioning the true length of prison sentences and the right to parole became prominent, especially the perceived gulf between the court imposed prison term and the actual time served. The decivilization process thus repealed core penal structures and replaced them with a framework highly reminiscent of penal populism. In this sense Pratt believes that contemporary Western societies are destined to institute penal populist discourse by their own design. (Pratt, 2005: 256-271)

The social configuration of late modernity is also identified by David Garland (2001) as being instrumental in producing punitive penal changes. He believes that the “distinctive patterns” in modern society of an increased awareness of risk, a more popular punitive attitude, and scepticism of traditional penal power “brings risks, insecurities, and control problems that have played a crucial role in shaping our changing response to crime” (Garland, 2001: viii). Garland discusses the importance of exploring these focal cultural conditions, what Simon Hallsworth call the “seeds of penal excess” (2005: 239), as the centrepiece for understanding new punitive trends. Differences between national punitive views and beliefs are the result of unique historical, geographical and cultural features. However Garland sees the underlying formations of modernity, and the cultural concerns it produces, as the framework that assists the rise of punitive practices.

David Garland in “Punishment and Modern Society” (1990) traces the rationale behind these new punitive practices. Garland’s thesis regarding the emergence of the new punitiveness resembles that of Pratt and Hallsworth but most closely follows George Herbert Mead’s work in “The Psychology of Punitive Justice” (1918). For Garland, punitive practices allow the public to express rage and aggression against criminals in a socially acceptable way.

“The righteous indignation which society’s members feel towards the criminal aggressor is, in effect, a cultural sublimation of the self-assertive and destructive hostilities, which lie behind social cooperation and competition” (Garland, 1990: 64).

The effect of this sublimation of the public’s anger is seen in the creation of social solidarity derived through the shared hostility towards the criminal enemy. However the creation of solidarity from emotional aggression runs the risk of promoting penal and judicial policy that prevents a dispassionate view of crime. David Garland suggests that those people who hold intense punitive views exhibit the same destructive qualities found in religious zealots.

“And while deep religious commitments can form the basis for a stable social order, it can give rise to intolerance, repression, schismatic division and bitter social conflict” (Garland, 1990: 77-78).

Within Pratt’s, Hallsworth’s, and Garland’s work an established penal populism framework begins to emerge even without the term being explicitly used. Contemporary penal practices have taken steps backwards, embracing views that violence can be justified against the worse criminals. Consequently the punitive turn is identified as, in one form or another, a retaliation against the perceived failure of modern societies, especially welfare-state goals and ideals. Both Pratt and Hallsworth believe that this retaliation is caused by social processes fuelled by popular participation, something previously missing in penal policy governance. The tenor of the arguments made by Pratt and Hallsworth suggest that the greater involvement of the public in penal policy is based on ignorance and fear; two emotive responses generated through an inescapable process of social change. From here it is necessary to explore the role of public opinion in theorizing penal populism. Its prominence is obvious but it too has been conceptualised in a variety of ways.

Penal Populism and Public Opinion

Understanding the influence of public opinion on penal populism discourse requires that the word ‘populism’ be considered. Mike Hough, David Indermaur, Julian V Roberts and Loretta J Stalans (2003) believe that the word ‘populism’ is value-laden and nuanced. They contrast two accepted meanings that ‘populism’ signifies. The first meaning signifies that if

something is 'populist' it is a responsive approach, based on the genuine concerns and beliefs of the public. The second signifies approaches that are popular and fashionable. This second meaning connotes popular approaches that are not well thought out and rather undertaken merely for the fact that they are popular (Hough et al, 2003: 3-4).

The word 'populism' is exclusively used in the second negative sense within the term 'penal populism'. Thus the term 'penal populism' suggests that public opinion regarding law and order is exploited by politicians through populist ideals. However some authors like Mick Ryan (2005) have seen potentially positive aspects of populist influences in the rise of punitive penal policy. Although public involvement does have populist characteristics, particularly the rhetoric that challenges the authority of penal experts and elites, this can actually be seen as a more democratic shift within the processes of the state – something more common in late-modern societies. This new democratized influence is possible through a public that is better educated, has easier access to knowledge and lines of communication, and wants to be more heavily involved within the state process. Instead of working within the typical framework of political institutions, these new voices are heard through "ad hoc groups which, more often than not in modern times, cut across party lines and operate on politicians directly through the media" (Ryan, 2005: 144). For Ryan 'penal populism' is not the reason for the punitive turn per se. Rather he suggests that fairer and more enduring democratic practices have allowed for greater public participation.

Again within Ryan's democratized penal policy thesis we see that public opinion challenges the legitimacy of penal experts and elites. This challenge lays the blame for the rise in violent crimes at the feet of those who have been in control of the penal system and the subsequent failure of their policies. John Pratt (2008) believes that modern penal system lost legitimacy by ignoring the beliefs of the public which in turn allowed new punitive policies to become prominent.

"A system of power will lose its legitimacy when it is exercised in a manner that contravenes, exceeds, fails in or departs from existing conventions and expectations. When this happens, a legitimacy *deficit* emerges between the dominant and the subordinate groups and begins to undermine the existing power structure and the authority of its dominant members" (Pratt, 2008: 366).

Pratt goes on further to recognize the power of scandals to undermine systems of power. Shocking and scandalous events, where all the norms and expectations of the current system are breached, delegitimize power structures and those invested in them by producing a decline in trust. In order for the system to regain legitimacy it realigns so subordinate and dominant groups have more equitable influence, thus rebuilding trust.

The renewal of penal systems, for Pratt, occurs because political forces bow to public opinion, reducing the influence of 'liberal elites' – the identities that came to represent the failure of the system. The traditional voices of penal policy were insufficient in representing the public, allowing new groups to emerge in the 1990's and become the voice of the public. These groups, who spoke for victims and the public, took up the cause of punitive policies to "control crime through more punitive sanctions ... [and] to 'rebalance the criminal justice system' – to take penal power away from criminal justice elites and return it to 'the people'" (Pratt, 2008: 369).

Penal populism discourse represents the moment where, as Pratt would describe, the "legitimacy gap emerges" and the subsequent realignment of penal systems in contemporary Western nations. However this does not account for why large portions of the public choose punitive policies. According to Hough et al the common trend within public sentiment is that penal policy is too lenient. However the accuracy of this belief, as a reflection of personal views behind the rise of penal populism, is questionable.

Most people have inaccurate views regarding the severity of the sentences handed down by the courts (Hough et al, 2003: 21). Amongst the public there is little awareness about sentencing practices and crime rates. Rather the public hold numerous misconceptions, in varying degrees of inaccuracy, about the penal system. A majority of scholars point to empirical evidence that shows that in Western nations crime rates were dropping well before new punitive policies were enacted and that imprisonment rates have dramatically risen, well out of step with the decline in crime. For instance between 1996 and 2006 in New Zealand, the imprisonment rate rose from 130 per 100,000 people to 188 per 100,000 people (Pratt, 2008: 365), despite aims by the Labour government to reduce the prison

population. This trend is echoed in other Western nations, where the perceived rise in crime and the benefits of punitive practices are not reflective of empirical evidence.

Furthermore the salience of crime as a social problem has increased. This has amplified the presence and volume of the punitive voice in penal reform debates. Hough et al point to statistics from the United States where the perception of crime being the *most* important social issue rose from 5% in 1993 to 31% in 1995 (2003: 22-23). Penal populism became more prominent as the fear of crime increased, although this rise can be accounted for by the rise of penal populism itself. Nevertheless actual views and beliefs regarding crime rates, appropriate prison sentences and wider penal policy implications are far more diverse than the contours of penal populism would suggest.

“[A] significant body of research, using subjects from many countries, [...] demonstrates that [polls] fail to capture the subtleties and flexibility of public attitudes towards the sentencing of offenders” (Hough et al, 2003: 21).

The composition and form of public opinion on crime is complex to say the least. Undoubtedly some of these views are often inaccurate and misinformed in comparison to those who work within the penal system. Perhaps penal populism is based on public opinions that are misguided and fearful. However it would be remiss to suggest that the modern form of rational punishment was without its own problems and that penal populism and new punitiveness displaced a completely fair and just system. Foucault in “Discipline and Punish” (1977) suggests that the emergence of modern disciplinary power created hidden asymmetrical power relationships. The true function of disciplinary power to regulate behaviour through surveillance, to create docile bodies, conceals the non-egalitarian character of modern forms of punishment. For Foucault, modern punishment represented by the prison was a component of a wider system of unequal power, operated under the authority of medicine, psychology and other forms of scientific knowledge (Foucault, 1977).

However what seems quite obvious is that public opinion was in itself instrumental in delegitimizing modern penal power and allowing punitive policy to emerge. Whether this is a

positive, democratised shift or a negative, populist, and misguided movement depends on which argument people want to believe has the most validity. In my view it is arrogant to be dismissive of all popular attitudes directed towards modern institutions like the justice and penal systems. To call this change a simple, populist phenomenon unfairly characterises the influence of public opinion. Undoubtedly a degree of cynical populism plays a part, but to suggest that it defines this democratic change undermines the need for more public responsibility and control within governmental institutions.

Penal populism discourse implies that the de-legitimizing process was negative; a rejection of the rational and humane rules of modern society based on incorrect notions of the beliefs held by the public. Pratt writes that ultimately penal populism became paradoxical in its aims by basing itself in public attitudes that rejected the authority and credibility of penal systems while simultaneously investing more responsibility and demanding far more oppressive power to punish crime from that same system. The public attitudes that drive penal populism simplified and misrepresented crime so much so that the problem of crime could be solved by a simplistic penal system; where 'common-sense', 'anecdotes' and 'folklore' displaced rationality and expertise (Pratt, 2005: 266). This contradictory influence reinforces the complexity that these varied beliefs systems have. This complexity is even more pronounced by the inability to truly articulate the vast array of interwoven belief and value systems that define penal populism. However public opinion, as the key component of penal populism, has helped to change policy by making it far more punitive.

Penal Populism and the Media

"No explanation of penal populism would be complete without a discussion of media influences on the public" (Hough et al, 2003: 76)

The influence of the media in disseminating penal populism is difficult to understand as it too can be widely interpreted. The practice of shaping how the public understand issues of penal policy and crime gives the media considerable power; how this power is exercised remains debatable. Largely, interpretations of the media's involvement in penal populism are seen in a sceptical manner. Hough et al suggest that the media interprets penal

practices in three distinct ways that conform to penal populism discourse. Firstly media organizations over report and devote too much attention to crime, over representing and overstating the problem. This misrepresentation prompts the public into believing that overtly punitive penal policy is the only solution to the crime epidemic. The second technique is the framing process that media organisations utilize in order to present their interpretation of crime and penal issues. The episodic nature of modern media formats, especially television news, represents crime as a singular event and does not provide detailed context or the importance of other social factors. This misrepresents crime further by negating the wider social influence by portraying it as a one-off, individual act of deviance. The third influence is that the media provides a form of communications that favours punitive attitudes. The media is a cultural institution whose interests lie in maintaining current social arrangements and representing “a singular force for promoting conservative ideology” (Hough et al, 2003: 77).

Penal populism discourse suggests that the media facilitate punitive ideas and exacerbate the phenomenon of a misinformed democracy. Mike Nellis (2005) explored the relationship between penal populism and the media in his article on electronic monitoring in England and Wales. Nellis believes that the language employed by media outlets reporting on new forms of penal technology like electronic monitoring were often slanted in attempts to overplay the punitive benefits of ubiquitous satellite surveillance. The media took the lead from the government and promoted a futuristic, ‘prison without bars’ narrative that portrayed electronic monitoring in a manner consistent with accepted punitive ideology. The media also equally promoted criticism against electronic monitoring; labelling it an ineffective substitute for more prisons. In the case of electronic monitoring, the media intensified punitive desires of the public, while excluding conceptions that this technology could benefit prisoners by allowing easier rehabilitation and integration into communities. Any notion that new forms of technology could humanise penal processes, making them fairer and efficient were discarded in order to dispel unpopular ideas of being soft on crime. Nellis laments that this collusion between the media and governments in the implementation of new penal technology is the foundation of punitive trends.

“[The media] has been used, discursively, to erode confidence in merely humanistic interventions ... and in that sense alone it has arguably contributed to the birth of the

punitiveness, because the incremental removal of the ethical constraints traditionally supplied by humanism tends to unleash the atavistic" (Nellis, 2005: 180).

Katja Franko Aas (2005) believes that penal populism (actually all types of populist discourse) is a form of knowledge that resonates within popular culture because it opposes expert forms of knowledge. Modern forms of communication are badly suited for distributing complicated, scientific discourse so consequently simpler narratives and knowledge are privileged.

"Complex explanatory narratives tend to be compressed into shorter, instantly understandable messages and pieces of information" (Franko Aas, 2005: 152).

Franko Aas sees this as a 'crisis of narration' where traditional penal narratives are displaced by a complex and formalised vocabulary of crime combined with an emotive, condensed conception of crime produced by the media. The combination of these two new expressions of penal knowledge again misrepresents the scope and wider social meaning of crime and its punishment. Franko Aas theory is unique in that it challenges the reflexive strain between expert, scientific knowledge and emotional, public sentiments within penal populism debates. Instead of irrational forms of popular knowledge challenging rational penal practice it has been the combination of the two that have led to the increased punitive society we live in.

David Green (2009) believes that the proliferation of media and communication outlets in late modern societies has led to an environment where people have become consumers of knowledge who can pick and choose information that simply reinforces their own belief systems. Green sees the media as a device that feeds punitive values while stifling complex penal discourse. People can draw upon "congenial" messages that reflect their political position; this has an aggravating effect where messages and ideological viewpoints become adversarial and penal debates become polarized. The polarized debate constrains honest discourse which in turn strengthens the misinformed quality of the public.

Penal Populism as a social movement

The ubiquitous nature of social movements has led to what some theorists believe is a modern 'movement society'. A social movement is:

“one of the principal social forms through which collectivities give voice to their grievances and concerns [...] by engaging in various types of collective action [...] that dramatise those grievances and concerns and demand that something be done about them” (Snow, Soule, Kriesi, 2003: 1).

The complex, interrelations between groups, organizations, and individuals that create and utilize penal populism can be considered a collectivity – a modern penal populism social movement. The various relationships between the public, the state, and the media in the deployment of penal populism can be measured and understood by theorizing it within a social movement framework. This framework conceptualises the punitive turn in society as the successful realisation of many of the goals of penal populism discourse. Thus the penal populism movement is bound by a penal populism discourse. These relationships are complex but social movements theories provide a unique tool in understanding how these entities frame punitive ideology and enhance its deployment.

As a social movement penal populism is not bound to the confines of a singular nation-state. Estella Baker and Julian V. Roberts (2005) discuss the globalizing aspects of penal populism. They point to how penal populism emerged in England and the United States then gradually spread to other Western nations. Although each nation developed penal populism that suited their own unique history and cultural systems, there were undeniable themes, indicating the shared global presence of penal populism discourse. This globalized trait means that while penal populism has a homogenising effect on penal policy it can also at the same time produce idiosyncratic, jurisdictional formations and structures. As a social movement, penal populism operates as a broad overriding framework for the global mobilization of penal populism discourse.

Conceptualising penal populism as a social movement allows tools and ideas associated with this branch of sociology to be used to understand this dynamic discourse. As a social movement, penal populism is subject to global forces that influence it in unpredictable

ways. To then understand penal populism as a discourse, these global influences have to be considered as a fundamental component, shaping the signifying work of the local organisations and their inherent discursive structures. In the final section of this chapter the political philosophy of compassionate conservatism will be discussed. This discussion will provide the background for a prominent global conservative discourse that profoundly effects the international penal populism movement, the operation of individual penal populist organisations, and the shared discursive structure within penal populist discourse.

Compassionate Conservatism

On writing about the philosophy of compassionate conservatism, Canadian journalist David Frum wrote that “the phrase itself is wonderful” because “it combines the left’s favourite adjective with the right’s favourite noun creating an almost irresistible popular appeal” (Kuypers, Hitchner, Irwin, Wilson, 2003). Compassionate conservatism is unlike orthodox conservative philosophies in that it is defined by a concern with the welfare of people in society. Traditional conservative philosophies tend to be critical of state intervention in the lives of people, especially the implementation of ideological policies that impose governmental involvement in areas of society where they do not belong. Within compassionate conservatism a role for the state in the wellbeing of the people is envisioned but not through direct forms of intervention.

The critical theme in compassionate conservatism is that the government’s role in helping the poor should be one where it encourages independence and self-sufficiency. Compassionate conservatism expresses a belief that government policy should remove barriers that prevent people from being able to help themselves and escape poverty. Michael Gerson, a former speech writer for President George W Bush finely stated this position:

“Compassionate conservatism is the theory that the government should encourage the effective provision of social services without providing the service itself” (Schaefer Riley, 2006)

This is contrary to what compassionate conservatism believes liberal ideology has done to help the vulnerable. Good intentions aside, liberalism has enforced dependence on welfare state systems. Those who claim to be compassionate conservatives reject the monopoly that liberals claim to possess in wanting to help the poor. Compassionate conservatism decries the liberal social experiment that they believe has exacerbated the problems of poverty in society.

It is difficult to know the exact origins of the term ‘compassionate conservatism’. Doug Wead, a US historian and advisor to George H. W Bush is often credited by conservatives for coining the phrase from a speech he gave in 1979 entitled “The compassionate conservative”, where he stated that conservatism should be motivated by compassion and that a free market place was the best environment to help the poor. Others in the compassionate conservative philosophy have claimed that the term was popularized and fully developed by Marvin Olasky in his books “The tragedy of American compassion” (1994) and “Renewing American Compassion” (1996). The term itself became prominent in American politics after its extensive use in the 2000 Presidential Election by George W Bush. Those that adhere to the philosophy have a strong belief in the moral standing and importance of compassionate conservatism. This conviction stems from the Christian faith, especially the idea of original sin. Compassionate conservatives believe that people are born sinful and naturally want something for nothing. Because of this it is necessary for a compassionate political system that does not support this inclination. Compassionate conservatism is heavily tied into Christian thought and is often used as an intellectual basis for welfare programs and charities run through churches instead of government.

As a political doctrine, compassionate conservatism has been used to attack liberal ideology while at the same time promoting conservative concepts. The nature of the ‘compassion’

component within the discourse is ambiguously stated. Compassionate conservatism is set apart from other conservative discourses through an overt claim of possessing compassion. Yet, in itself, this claim is spurious as it is never precisely defined as a characteristic that compassionate conservatism solely possesses. Nevertheless those who claim to be compassionate conservatives have discussed the philosophy in regards to a number of areas concerning poverty; including education, health, immigration and law and order. In the United States, compassionate conservatism discourse contains several themes. These themes are used as a template, structuring the philosophy and setting the tone for others conservatives to follow. In the article "Compassionate Conservatism: The Rhetorical Reconstruction of Conservative Rhetoric" the authors identify ten common themes within compassionate conservatism: justice and fairness, entrepreneurship, universal opportunity, freedom of choice, responsibility, character, tolerance and inclusion, faith, moral leadership and American idealism (Kuypers et al, 2003).

Themes of justice and fairness, entrepreneurship and universal opportunity all speak to a political system that reduces barriers to personally achieved success. Fundamentally the greatest barriers articulated within compassionate conservatism are government bureaucracies and the systems of welfare. Within the theme of freedom of choice a similar anti-government sentiment is discussed with the benefits of limited state involvement emphasized. The theme of responsibility is an extension of the anti-welfare, pro-limited government themes discussed above. The notion of welfare reducing responsibility, where people are unable to pull themselves up from their own bootstraps is a pervasive conservative theme. Alongside the theme of responsibility, character is a defining trait that compassionate conservatism wants to instil into society. The theme of character relates to an essential component of a person's disposition, where values and morals are respected. Tolerance, faith and moral leadership all focus on the importance of traditional values in producing a society that has true compassion for the poor. These values are invariably derived from Christian thought. The theme of American idealism can easily be altered to suit the needs of any nation. Indeed the patriotic claims and nationalistic rhetoric made within compassionate conservatism can be universally found within the compassionate conservative discourse.

Outside of American politics compassionate conservatism has slowly become an important discourse in other Western nations. Compassionate conservatism in Britain has seen similar themes to the American discourse expressed. The idea of helping the poor by removing governmentally imposed obstacles and supporting personal responsibility are universal ideas within compassionate conservatism. However the Christian influence of compassionate conservatism is usually downplayed in the British version (Dickson, 2009). This would suggest that compassionate conservatism is discursively flexible and interpreted to suit the social context of other societies. The recent 2010 general election that saw David Cameron and the Conservative Party elected is an example of a victory for compassionate conservatism. David Cameron has described himself as a “modern compassionate conservative” or similarly a “liberal conservative”. Some of the main compassionate conservative principles that the David Cameron government has said that they will stand for include education, welfare and prison reform, support for marriage and family, tax relief for the poor and tougher immigration laws.

The intellectual heft for compassionate conservatism in Britain comes from academic like Theodore Dalrymple. The compassionate conservatism of Theodore Dalrymple is exceptionally important in this research as it fundamentally influences the penal populist discourse produced by the SST. This idea will be discussed later in this thesis. Theodore Dalrymple is a pen name for Anthony Daniels, a British psychiatrist, journalist and academic. Various conservative figures have defined Dalrymple’s philosophy as compassionate conservative. Dalrymple developed his compassionate conservative outlook from working in a Birmingham prison hospital, allowing him to analyze the “social pathologies” of our time (Belian, 2006). In an interview with Paul Belian, Dalrymple discussed his various positions. The main themes include the negative impact of the welfare state, the defence of high culture and refined aesthetics, the pervasive influence of moral relativism and intellectual dishonesty in society, and decline in responsibility and accountability.

Compassionate conservatism has been criticized by people from both ends of the political spectrum. The common complaint lies in compassionate conservatism being labelled a vacuous and empty political message; one that employs rhetoric and slogans to make conservative concepts more palatable for people with moderate political beliefs. Left leaning critics see compassionate conservatism as thinly veiled conservatism orthodoxy that offers empty platitudes through a notion of compassion for the poor. This is summarized by Bill Clinton who described the message of compassionate conservatism as “I want to help you. I really do. But you know, I can’t” (Dickson, 2009). Critics on the right have derided compassionate conservatism for actually moving away from conservative values and increasing government intervention.

This complaint from traditional conservatism is a valid point that arises when trying to assess the relationship between compassionate conservatism and other conservative philosophies. Although there is a high degree of thematic overlap between compassionate conservatism and generic conservatism the central premise of compassion for the poor sets compassionate conservatism apart. However the vagueness and variability of the way that both compassionate conservatism and general conservatism are articulated makes the process of comparing the two difficult. Through compassionate conservatism multiple themes are conveyed. When compassionate conservatism is interpreted within a specific context some themes are emphasized, some are ignored, while others are modified or changed. These re-contextualization changes the discursive relationship compassionate conservatism has with basic conservatism. Conservatism is itself a broad term that encompasses many different ideas. This further complicates understanding the relationship that compassionate conservatism has with other conservative philosophies if we have to consider separate notions like paternalistic conservatism, neo-liberalism, or neo-conservatism etc.

Compassionate conservatism engages in a very general interpretation of conservative philosophy. Compassionate conservatism shares with conservatism notions of pragmatism, human imperfection, authority and prosperity. This tendency also occurs in the

understanding of the word liberal. Instead of identifying the vastness and nuisance of the history and meaning within liberalism, compassionate conservatism discourse uses the word as code for a variety of concepts they disagree with. Within compassionate conservatism the word liberal is a pejorative that signifies welfare, big government, high taxes, permissiveness and immoral behavior. The liberal philosophy is distorted within the compassionate conservatism discourse. The generalization of the word liberal or the more cynical distortion of the word, also takes place wider conservative philosophies.

Conclusion

The emergence of punitive practices is theorized in a number ways, although a majority of these explanations reflect the basic concept of penal populism. The departure from rational penal practices to punitive punishment has occurred because of the increased relevancy of public opinion on issues of law and order. These public views have radically changed in the late twentieth century with a pronounced dissatisfaction. The primacy of expert knowledge has been replaced with misconceptions based on notions of common-sense and anecdotal evidence. This is the basis for a misinformed democracy where simple and vocal ideology has altered the trajectory of political responses to penal and judicial policy. Undeniable issues regarding crime and the appropriate response have been dispensed with in favour of cynical attempts to manipulate and exploit the public through political strategies that function to gain electoral support. Modern media institutions effectively collude with political forces to reinforce penal populism ideas with the public.

David Garland writes that within penal populism scholarship there needs to be more theoretical attempts to generalise the multiple facets of penal and judicial reform. By doing so, this would allow for patterns of wider social change to be described and understood as the force that produces and reproduces punitive attitudes and in turn penal policy (Garland, 2001: vii-xiii). The ultimate benefit of penal populism discourse is that it explores how modern penal and judicial systems have been de-legitimized by the growing importance of

punitive public expressions. The power of collectivities, like the penal populism movement, to challenge power structures based on a shared ideology is apparent in all conceptions of the changes that have occurred in penal policy. In the next chapter the research design of this thesis will be discussed. This chapter will describe how discursive frame analysis will be used to interrogate penal populist discourse produced by the SST.

Chapter 4

Research Design: Understanding Discursive Frame Analysis

Introduction

This chapter provides an overview of the research design used in this thesis. The aim of this research is to understand the discursive resources deployed by penal populist movements as they seek support from the public. In the previous chapters penal populism was defined as both an academic discourse used to explain contemporary punitive trends as well as a label for a discourse deployed by actors in support for increased punitive legalisation. The SST was identified as New Zealand's pre-eminent penal populist organisation that deploys this punitive discourse. In this research the SST's discourse will be examined as a case study of penal populism discourse, where frame analysis will be used to delineate and understand inherent discursive resources. Penal populist discursive resources will be defined as the various rhetorical techniques and themes that generate specific meaning in the area of punitive penal reform.

This research poses the following two questions:

- 1) How does the SST construct penal populist discursive positions within their discourse?
- 2) How does the political philosophy of compassionate conservatism articulated by Theodore Dalrymple influence penal populist discursive resources, particularly in creating frame resonance?

In order to delineate and understand the discursive resources within penal populism discourse, discursive frame analysis will be utilized. Discursive frame analysis, a qualitative

research method, will be employed to identify various framing techniques within the penal populist discourse of the SST. Conceptualizing the SST as a group within a wider penal populist social movement organization (SMO) allows frame analysis to develop an understanding of these varied and complex discursive resources.

This research will conceive the relationship between penal populism and compassionate conservatism as one that follows a master frame – collective action frame relationship. Master frames are a theoretical component of frame analysis, which seek to clarify how discursive resources within broad, generic ideology are interpreted and adapted by a SMO. The interpretation and adaptation of a master frame by a SMO influences the resonance of derivative movement specific frames. In this research compassionate conservatism is a broad, generic master frame that influence the derivative penal populist collective action frames. The discursive relationship between the two discourses is engendered by the SST as a signifying agent, reinterpreting and re-contextualising compassionate conservatism to suit the discursive needs of their penal populist discourse. This chapter will expand on discursive frame analysis, providing an outline of this method and master frame analysis. This chapter will also include the scope of this research and the analytical approach undertaken in the research.

Frame Analysis

What is framing?

Framing is a general concept used to understand the way in which a SMO interprets events, characters, themes, and ideology into a coherent, logically and temporally structured discourse (Snow, 2004). Framing is an interpretive process where a SMO creates meaningful discourse that can be used to perform certain functions. SMO's are viewed by scholars who use frame analysis as "signifying agents" who are "actively engaged in the production and maintenance of meaning for constituents, antagonists, and bystanders and observers"

(Snow et al, 2000: 613). In this process a SMO creates meaning or “frames” their discourse by including or excluding knowledge, defining the movement’s primary grievance and proposing appropriate solutions.

The concept of framing was conceived by Erving Goffman (1974) and has since been extensively modified and deployed by sociologists, psychologists, anthropologists and others in the humanities to understand the process where discourse is constructed and manipulated. The basic referent for the frame concept has remained consistent over time and between different fields as an:

“interpretive schemata that simplifies and condenses the “world out there” by selectively punctuating and encoding objects, situations, events, experiences, and sequences of actions within one’s present or past environment” (Snow et al, 1992: 137).

Framing processes engaged in by social movements focus attention on specific ideas and knowledge that the movement is interested in. Instead of social movements being based on pre-existing ideologies, these groups are continuously constructing and maintaining ideology; signifying meaning and structuring their discourse to suit their needs. Framing is a dynamic process, where a SMO will regularly frame and reframe their discourse. This means that it is also a contentious process as a newly framed discourse can be contradictory or even antithetical to previous frames.

The notion of a ‘frame’ is used to conceptualise the way groups organise their discourse by binding ideas and other discursive elements together to convey a larger idea or argument.

“[Frames function] as articulation mechanisms in the sense of *tying* together the various punctuated elements of the scene so that one set of meanings rather than another is conveyed, or, in the language of narrativity, one story rather than another is told” (Snow, 2004: 384).

Thus framing is a discursive process that enables social movements discourse to be explored. At their core, framing techniques have three interpretative tasks. Firstly cultural frames have a *diagnostic function* that focuses blame or responsibility of an issue. The second is a *prognostic function* that articulates or proposes a solution to the diagnosed problem. This prognostic frame is also seen in movement's ability to interpret the failings of opponent ideologies, especially if opposition ideology is the perceived cause of the problem. Finally the third task is the *motivational function* of framing. Here framing is used to create a compelling account for why collective action is needed or as Robert Benford and David Snow put it, to supply the "rationale for engaging in ameliorative collective action" (Benford, Snow, 2000: 617).

Cultural frames resonate with the people who social movement are trying to recruit support from. Framing techniques employed by these movements appeal to people by connecting to values and belief systems.

"Successful movements must appeal to the existing beliefs of their target audience. If movements offer frames which do not resonate, or strike a chord in the culture in which the would-be movements hopes to operate, then activists must attempt a difficult and long-term challenge of re-educating the target population to adopt new values beliefs which will resonate with the movement frame" (Fisher, 1997).

Frame resonance is closely connected to narrative fidelity (Benford, Snow, 2000) and frame alignment (Benford, Rochford, Snow, Worden, 1986). Narrative fidelity speaks to the ability of a narrative or a frame to gain resonance by remaining faithful to values, beliefs and ideas held by people in the community. Frame alignment refers to the interpretive process where a SMO aligns and transforms their frames in line with the values and beliefs of a community. Frame alignment is undertaken to increase the frame resonance of a discourse.

The concept of a frame has relevance to this research because the SST is an organisation within a penal populist social movement that engages in framing. The SST acts as a signifying agent producing and maintaining their own unique form of penal populist discourse. This discourse is carefully shaped to provide a concise and meaningful message that articulates the need for punitive penal reform in New Zealand. The SST uses framing to interpret the state of the justice system in New Zealand by interpreting crime statistics, legislative changes, personal stories, judicial decisions and criminal narratives produced by the media and the public - all the punctuated elements of penal reform in our society into a coherent, meaningful discourse.

Framing performs an important mobilising function for a SMO. Framing is undertaken so that a SMO can help achieve the goals of the organisation. The ability of a potentially framed discourse to captivate and motivate either the general public, adherents to the group, or full members of the SMO, is the impetus behind this process. Framing produces a call to arms, a challenge to fight against societies problems and correct those injustices.

Frame Analysis: Collective Action Frames and Master Frames

Frame analysis is a qualitative research method that consists of numerous theoretical approaches used by different scholars. This research project will be informed by the frame analysis method employed by Snow and Benford (1992, 2000, and 2004). The concept of a 'master frame' is crucial in understanding the connection between a SMO like the SST and the philosophy of compassionate conservatism. Snow and Benford provide a succinct definition of a master frame:

"Master frames are to movement-specific collective action frames as paradigms are to finely tuned theories. Master frames are generic: specific collective frames are derivative. So conceived, master frames can be construed as functioning in a manner analogous to linguistic codes in that they provide a grammar that punctuates and syntactically connects patterns or happenings in the world" (Snow & Benford, 1992: 137).

A master frame and a collective action frame share the same function but on different scales. They provide both structural and mobilising functions but crucially a master frame influences a movement's collective action frames. In essence a master frame 'frames' collective action frames.

Compassionate conservatism can be understood as a "master algorithm" for the penal populism of the SST – "colour[ing] and constrain[ing] the orientations and activities of the movement" (Snow & Benford, 2000: 618). Snow and Benford identify a number of master frames that have in their opinion sufficiently broad interpretive scope. These include civil rights frames, injustice frames, hegemonic frames, cultural pluralism frames, environmental justice frames, and return to justice frames (Snow & Benford, 2000: 619). Compassionate conservatism is similar to these ideologies in that it too has broad interpretive scope. The key to an ideology being a master frame is its applicability to more than one SMO. The master frames mentioned by Snow and Benford all have this quality; they have all influenced a number of movements, each with their own grievance. Compassionate conservatism is not uniquely applicable to the SST. The conservative values that it espouses influence a variety of organisations outside the rubric of penal populism.

This research will examine how the penal populism employed by the SST is discursively derived from compassionate conservatism, although this relationship may be more complex than this. This complexity requires a theoretical framework that is adaptable; one that is flexible and can be used for a variety of discourses and SMO's. A form of discursive frame analysis based on the notion of a master frame – collective action frame relationship has this adaptability. This form of frame analysis can also conceptualise the influence of compassionate conservatism on the interpretive process undertaken by the SST. As a master frame compassionate conservatism effects the signifying work of the SST. Understanding the signifying work of a movement like the SST will allow this research to conceptualise the how penal populist themes gain resonance from broader philosophies like compassionate conservatism.

Master frame extension

To this end William Swart (1995) discusses the signifying work involved in utilizing a master frame. Swart believes that because social movement organizations operate within their own unique historic context, specific collective action frames have to be reinterpreted and thus re-contextualized. Signifying agents interpret a master frame, transforming its meaning to suit the social movement organization (Swart, 1995: 469). This adaptation or transformation of a master frame is undertaken to create resonance with culturally important values held by the larger community. These values that compose a master frame can be aligned with the ideological framework of a social movement organization, allowing for these movements to co-opt the culturally potent ideology held by the community.

The analysis of master frames requires insight into the frame alignment process. Snow et al define frame alignment as:

“the linkage of individual and SMO interpretive orientations, such that some set of individual interests, values and beliefs and SMO activities, goals, and ideology are congruent and complementary” (Snow, Rochford, Worden, Benford, 1986: 464).

This process highlights the importance of master frames as it operates as a scheme of interpretation that helps to define the goals and grievances of a SMO. The alignment of a master frame with collective action frames clarifies the signifying work undertaken by an organisation like the SST.

Swart points to the way Sinn Fein were able to adapt principles of self-determination and anti-imperialism produced by Woodrow Wilson and the League of Nations in the early 1920s in order to address their grievances in Ireland. At the time these ideas gained more and more importance within Europe, holding sway over the public and their leaders.

“These propositions found cultural resonance within the historical situation in Europe during 1918 and served as master frames guiding Wilson's reform movement” (Swart, 1995: 472)

Sinn Fein transformed the generic notions of universal rights, self-determination and anti-imperialism in a process of master frame alignment. Swart believes that Sinn Fein interpreted these master frames in a way similar to Benford and Snow's frame extension method, where:

“the symbolic boundaries of the master frame [were extended] in order to make it coincide with the movement's unique historical situation, interests, or objectives. From this perspective, the master frames constructed within the universe of discourse opened by the League were rhetorically extended by Sinn Fein leaders in order to make them more applicable to the Irish situation and to ensure that the Irish question would be considered under the auspices of the League”(Swart, 1995: 472).

This extension of these master frames within the alignment process could be seen within Sinn Fein's promotion of the idea of “British-Prussianism”. In order to connect the notion of British dominance over Ireland and the abrogation of their right to self-determination with the broader ideas explored by the League of Nations, Sinn Fein adapted the frames developed by the League regarding the imperialistic endeavors of the Prussian Empire to reflect the actions of Britain in Ireland. The notion of “British-Prussianism” is an example of the re-contextualized interpretation of a master frame done within the alignment process. This framing process was identified by Swart as ‘frame extension’ where:

“master frame extension involves the adaptation or extension of the symbolic boundaries of the master frame in order to make it coincide with the movement's unique historical situation, interests, or objectives” (Swart, 1995: 472).

By extending the meaning of an idea presented in the self-determination master frame, Sinn Fein were able to exploit an idea that alone had little resonance with the people of Ireland but when reinterpreted in a way that would exhibit great cultural potency became a powerful rhetorical tool.

Sampling and Method of Analysis

Sampling

The focus of this research is the SST's penal populist discourse made available from their website - <http://www.safe-nz.org.nz/> . The data collected from this website includes the 24 SST newsletters published biannually since April/ May 2001, crime statistics gathered from Statistics New Zealand, New Zealand Yearbooks, Census data, and the New Zealand Police, texts regarding the goals and policies of the SST, submissions to parliament, a short documentary produced by the SST called "New Zealand – A land fit for crime – why?", and press releases. These sources of the SST's discourse were downloaded from their website for the purpose of this research. All of this data is freely available to the public.

The primary source of the SST's discourse is the newsletters made available to the public. These newsletters are published biannually and distributed to members of the SST and posted on the website. Newsletters 18 through to 24 are available in PDF format, while the others can be viewed on the website. All of the newsletters were copied and printed off to make the research process more convenient. These newsletters contain small pieces based on specific issues raised by the SST and are usually between 10 to 12 pages long. A variety of writers contribute to the newsletter, some members others sympathetic to their cause. The newsletter contains letters and comments from the public and statistical data that is used to back up their claims. These newsletters also contain information on how to donate to the SST and also details of events promoted by the group.

Another important source of the SST's discourse was found in the press release section of the website. Of note were a collection of articles written in the media about the SST. In particular an article by the magazine *North and South* called "Mr Sensible" by Jenny Chamberlain, which discusses the founding of the SST, their ideology and the influence of their founder Garth McVicar. This article along with several others are available to be

download in PDF format and are of particular interest with the parts where the SST has directly contributed. Articles and other forms of discourse that have been produced by writers, academics and others not affiliated with the SST but have been made available on the SST website will not be included in this research as it is not representative of the groups self-produced discourse. Additional historical information on the SST will be sourced from newspaper articles. Some articles also provide useful commentary on the SST, their activities and their philosophy.

Analytical Approach

The analysis in this research will identify the discursive resources in penal populist discourse by answering the two questions posed at the start of this chapter. The first results chapter will discuss the framing within the SST's discourse. Various framing techniques and features will be identified to conceptualize the diagnostic, prognostic and motivation framing undertaken by the SST.

The analysis of the SST's penal populist discourse in this research will be informed by two theoretical positions, discursive frame analysis and penal populism theory. The frame analysis used in this research will be based on the work of Snow and Benford (1992, 2000, and 2008) and Swart (1995) discussed earlier in this chapter. The delineation of penal populist narratives in the SST's discourse will be influenced by the work of theorists like David Garland (2001) and John Pratt (2008) discussed in chapter two.

The analysis of the SST's discourse using discursive frame analysis is complicated. This complexity arises from frame analysis as a research method that is far from unified or systematic. There is no completely defined frame analysis method. The employment of frame analysis in other research is undertaken in an intuitive approach to derive frames and framing techniques or features from within a discourse. Swart's illustration of frame alignment by Sinn Fein is an example of an analysis based on a close reading of the

respective discourses involved. The narrative components are derived from the discourse based on wider knowledge of the movement, the themes that they are interested in and the effect of master/ collective action framing theory. In this research a similar approach will be undertaken by analysing penal populism and compassionate conservatism narratives. This approach to frame analysis will invariably produce a somewhat subjective analysis based on the interpretation of qualitative data.

The first step in utilizing discursive frame analysis is deriving the various penal populist strands within the discourse produced by the SST. Penal populist theory, discussed in chapter three, familiarised the narrative that is produced by penal populist organisations like the SST. The narrative concept is developed from Riessman's (2008) view of a narrative as a "contingent sequence", where ideas and events are linked together in a meaningful sequence and pattern. This narrative concept reflects the frame concept used in this research, allowing thematic elements within the discourse to be extracted and understood (Riessman, 2008: 5). Effectively themes within penal populist narrative can be conceptualised as penal populist frames. Thus narrativity is a framing process; an articulation mechanism that ties together the punctuated elements of a scene to convey meaning.

The development of a punitive narrative operating within the SST's discourse identifies specific penal populist collective action framing features or techniques. As all of the discourse produced by the SST is of a penal populist nature further steps were taken to identify key penal populist framing techniques that could be used to further delineate their argument, creating useful analytical categories. The detection of these framing techniques is based on the work of Snow and Benford (2000) who discuss several framing techniques employed by SMO's like the SST. The key features of 'counter-framing', 'experiential commensurability' and 'empirical credibility' shapes the frame analysis of the SST's discourse.

'Counter-framing' refers to discourse that attempts to refute contrary or oppositional discourse or those who articulate these discourses. 'Experiential commensurability' refers to framing that connects discursive positions to the real life experiences of the public. Finally 'empirical credibility' is a term that describes framing that utilizes quantitative to increase the credibility discursive positions. This analysis and identification of penal populist framing techniques will be detailed in the following chapter. This research will help contribute to the penal populism academic discourse.

The narrative within compassionate conservatism will also be developed to delineate important discursive positions. The political philosophy of compassionate conservatism was chosen owing to Garth McVicar's statement that the SST is based on the philosophy of Theodore Dalrymple. Further research also revealed Dalrymple's close relationship to the SST acting as an almost ideological mentor. Dalrymple is identified as a compassionate conservative theorist (Chamberlain, 2006: 73). Owing to the variable and disjointed nature of compassionate conservatism discussed in chapter two, the development of its narrative used in the analysis will come solely from the discourse of Dalrymple. Dalrymple's proximity to the SST and the more robust intellectual character of his compassionate conservatism makes his work the most relevant to this research

Understanding how the compassionate conservatism narrative is aligned with the penal populist narrative is a difficult task, requiring an intuitive analysis rather than a systematic approach. By comparing the two narratives it becomes clear that there are extensive substantive similarities. Shared themes derived from the SST's discourse and compassionate conservatism will be the basis for analytical categories in this research. The differences and similarities presented in the two narratives are the subject of the analysis in this research. These shared frames are augmented by similar framing techniques.

How this difference is accounted for in the alignment of a master frame to collective action frames is through the concept of frame extension discussed by Snow and Benford (2000),

Snow, Rochford, Worden, and Benford (1986) and Swart (1995). Swart's example, provided earlier in the chapter, of master frame extension is the basis for the use of the concept in this research. The discursive method developed by Swart will be used to understand the frame alignment process between compassionate conservatism discourse with penal populism discourse by the SST. The development of shared frames will be continually refined in this research to answer the questions posed at the start of this chapter.

Conclusion

A discussion of the framing processes within the SST's penal populist discourse will take place over the following two chapters. Prominent examples of the SST's discourse will be included in the analysis to back up the arguments made in the research. These examples will be textual sources, reflective of the penal populist narrative. The analysis used in this research needs to move beyond the superficial meaning of penal populist discourse and understand how the discourse is constructed, manipulated and maintained. All of the framing techniques will be analysed to go deeper than the meaning presented within the SST's discourse and extract the role that framing plays. The following chapter will outline the framing process used by the SST to structure their penal populist discourse. This chapter will delineate the framing undertaken within penal populist discourse and identify the core diagnostic, prognostic and motivational framing discursive positions.

Chapter 5

Understanding Penal Populist Discursive Positions: Diagnostic, prognostic, and motivational framing

Introduction

In this chapter the diagnostic, prognostic and motivational framing within the SST's penal populist discourse will be explored. These core framing tasks identify the drivers of violent crime, while proposing solutions through substantial punitive penal reform. Through the use of discursive frame analysis the SST's discourse will be examined to identify discursive resources that perform diagnostic, prognostic and motivational framing. Identifying and understanding penal populist discursive resources involves delineating collective action frames within the discourse and then conceptualising their function.

The SST act as a signifying agent; interpreting the occurrence of violent crime through a precise punitive narrative. The construction of this punitive narrative is the framing process undertaken by the SST. This allows the organisation to interpret events, characters, settings and themes regarding crime in New Zealand and then construct a meaningful penal populist discourse. Thus the framing undertaken by the SST is selective and deliberative; adopting and adapting some ideas while excluding or refuting others. The framing process utilized by the SST creates a discourse comprised of various discursive positions that are methodically assembled to elicit support from the public. These penal populist discursive resources resonate with the public in order to increase the support for punitive reform. Figure 1 illustrates the framing carried out by the SST. This diagram clarifies the framing undertaken by the SST and the construction of diagnostic, prognostic and motivational discursive positions.

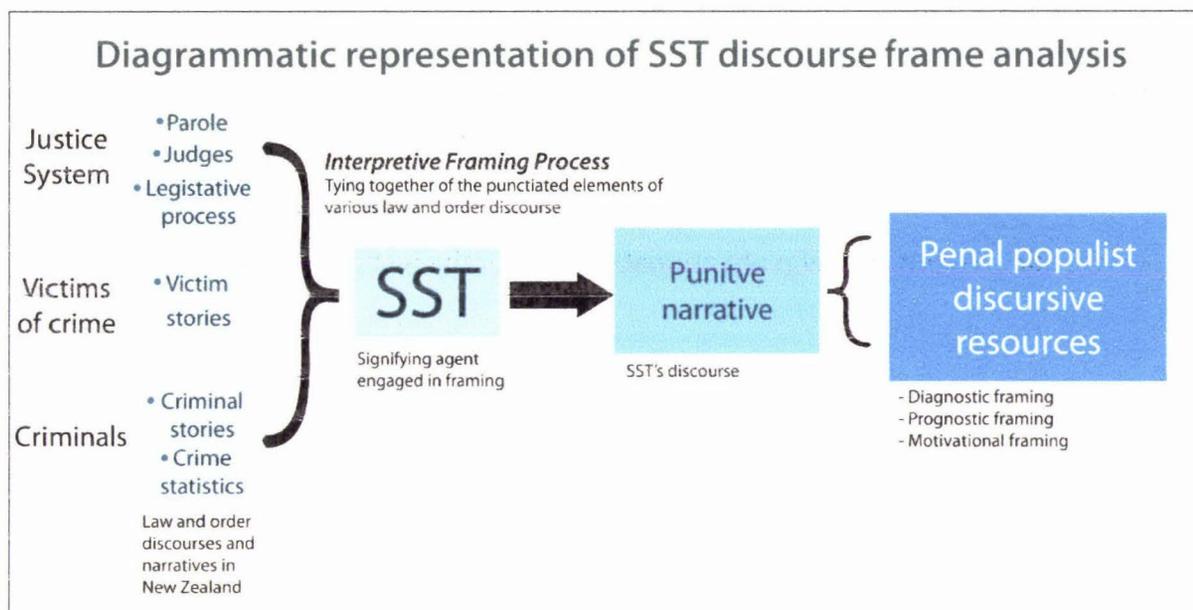


Figure 1: Diagrammatic representation of the framing undertaken by the SST. The SST interprets law and order discourses and then creates a discourse with a singular penal populist meaning. This penal populist discourse is composed on diagnostic, prognostic and motivation discursive resources.

The SST's penal populist discourse is composed of three primary categories used to conceptualise the rise in violent crime and the limitations of the justice process. The first category can be broadly understood as the New Zealand justice system. This encompasses the wider justice apparatus in New Zealand, including the penal system, the judiciary and the police. This notion of the justice system also includes various political structures surrounding the enactment of penal and judicial legislation. The second category is the victims of crime. The third category relates to criminals. These thematic categories are not conceptualised as disparate characters but are rather intricately interwoven within the penal populist narrative.

This chapter is divided into four parts. Parts one, two and three will discuss diagnostic, prognostic and motivational framing as they relate to the SST's respective discourses of the

justice system, victims of crime and criminals. The fourth part of this chapter will discuss how penal populist discursive positions are framed to create frame resonance.

SST's diagnostic, prognostic and motivational framing of the justice system

“Once we had a justice system that people believed in. When someone was wronged, we thought the law would put it right. But today, while violence escalates, the victims of crime are increasingly left to fend for themselves. Justice is melting away and ordinary New Zealanders seem powerless to do anything about it.

SST is constantly hearing from respectable, law-abiding citizens who through no fault of their own have become unwilling participants in our Criminal Justice system. It is a system more focused on meeting the needs of the criminal than considering or respecting the needs of the victim. It is little wonder public confidence has been lost” (SST Newsletter 15, 2006)

Within the SST's discourse, the New Zealand justice system is carefully framed to convey the notion that it is systemically unjust and unable to reduce high levels of violent crime. This unjust justice system has helped increase violent crime by emplacing a culture that is permissive and too tolerant of criminal behaviour. The central theme that frames the SST conception of the justice system is that all New Zealanders are victims of the failed justice system. This frame potentially sets up the justice system as a villain and an adversary. Snow and Benford classify this form of framing as 'adversarial framing', a form of framing that delineates good and evil and establish protagonists and antagonists (Snow et al, 2000: 616).

SST discursive positions regarding political influences on the justice system

The SST's early framing of the justice system and its political influences was fairly conciliatory; indicating that the SST believed punitive reform could be achieved through the traditional democratic political process. This early discourse stated that the lenient justice

system was responsible for the rise in violent crime. However this responsibility was limited to certain policies regarding the length of sentencing and the place of victims of crime in criminal proceedings. The SST maintained that it was politically non-aligned and that it would work with any political party. Their wish for the main political parties to incorporate their central sentencing policy of 'Life Means Life' indicates their intention to work within the system.

“Over the next month we will meet with all the political parties to enlist their support in helping us get the final draft of the legislation passed into law. If we can get all the parties to incorporate Sensible Sentencing aims into their own manifesto we will have a good chance of winning the battle without actually having to go to war.” (SST Newsletter 1, 2001)

The final statement in this passage is a telling prelude to the eventual shift in the framing of the SST. The statement suggests that the SST had anticipated the likely need in changing the framing of their discourse from a conciliatory approach to all-out ideological war; typified by adversarial framing.

The early framing of the SST's discourse was particularly designed to influence the 'Sentencing and Parole Bill' (2001). The SST newsletter published in July/ August 2001 described meetings with the main political parties and the support they had for the inclusion of more punitive sanctions in the bill. The SST framed the progression of the bill as one where the government and other politicians were finally listening to the public's desire for tougher sentencing and parole laws. The only negative comments made by the SST were directed at Matt Robson of the Alliance party who, according to the group, did not share their views. Robson was described as the “most liberal of the liberal” and that the meeting they had was “pretty much a waste of time” (SST Newsletter 2, 2001). This was an early example of the polemical stance the SST developed regarding contrary views of the direction of the justice system and an example of adversarial framing.

The eventual enactment of the 'Sentencing, Parole and Victims Rights Act' (2002) was heavily criticized by the SST. As discussed in chapter two the criticism of the legislation was based on its perceived lenient content. This was a pivotal moment for the SST that saw an abrupt change in the framing of their discourse.

"The problem [...] is we now have MMP but the Government either listens to vocal minority groups or the entrenched bureaucracy manipulates policy that the silent majority have no say in. Consequently we end up with the chaos we have at present. A defunct Law and Order and Justice System and a population that has no clear idea on what the future holds for each of us, let alone our country" (SST Newsletter 7, 2002)

The notion of the justice system being systemically unjust was solidified when the idea emerged that punitive reform could not happen if the political process was corrupted by the same systemic bias.

"Some Judges and most politicians by not taking ownership and changing the system are no better than the vested interest groups who are making huge amounts of money out of this criminal gravy train" (SST Newsletter 6, 2002)

The SST framed their discourse to suggest that the government had abdicated its responsibility to enact the reform demanded by the public. Worse, politicians had abetted criminal behavior by allowing the justice system to be continually liberalized, typified by the passing of a weak 'Sentencing, Parole and Victims Rights Act' (2002).

This framing by the SST of political influences on the justice system has continued to be favourable to legislation and political messages that are discursively similar to their own, while being highly critical of contrary messages. The SST discourse negatively portrayed the 'Victims' and Prisoners Claims Act' (2005), which they described as a "pathetic attempt to pacify the public outrage at compensation being awarded to prisoners for some factious (sic) abuse of their "Human Rights"" (SST Newsletter 13, 2005). The SST framed the enactment of this legislation as a black day for victims' rights that would allow criminals to claim compensation for alleged abuse of their rights, while preventing victims' from making

similar claims. The SST claimed that this legislation demonstrated that some politicians are more interested in the rights of criminals than those of the victims’.

“The question must be asked: “Whose side is the Government really on, victims or criminals?” (SST Newsletter 13, 2005)

Adversarial framing regarding the political influences on the justice system is an important diagnostic discursive position undertaken by the SST. The SST’s use of adversarial framing potently identifies liberal politicians as the fundamental cause of the failure in the justice system. The SST discourse diagnoses the rise in violent crime as a consequence of liberal politicians who enacted a progressive “social experiment” through a justice system defined by lenient legislation. The adversarial approach also functions to contort and twist differing penal attitudes through inflammatory rhetoric. The notion of a systemically unjust and corrupt justice system caused by imposed liberal ideology provocatively frames opposing beliefs expressed by some politicians. A similar discursive phenomenon occurs in the SST’s framing of the courts and judges.

SST discursive positions regarding the judiciary

“This is just another sad reflection on our Courts and Judges that have not only allowed – but in my opinion encouraged New Zealand’s sad – but speedy – decline from one of the safest countries in the western world to now being one of the most violent” (SST Newsletter 17, 2007)

Adversarial framing is evident in the framing of judges and the wider judiciary. The SST discourse is critical of the perceived lenient performance of judges and their rulings. The questioning by Garth McVicar of the late Justice Herons ruling regarding the case of Taffy Hotene (SST Newsletter 6, 2002) was one of the first instances of discourse that framed a judge’s ruling as being irresponsible, unjust and out of step with the views New Zealanders. In 1992, Hotene was convicted of the assault and rape of three Wanganui women. Hotene was sentenced for twelve years by Justice Heron and was paroled after eight years.

Following his release, Hotene murdered Auckland journalist Kylie Jones as she walked home from work (Wanganui Chronicle, *Murderer dies in Wanganui prison*, 2009). The SST believes that the short sentence coupled with the short eligibility period for parole, awarded by Justice Heron, is responsible for Kylie Jones's murder. Judges have been criticized for not challenging short sentencing guidelines that have limited deterrence value and are typically framed as being in collusion with other penal elites for maintaining the unjust nature of the justice system. In the May 2006 newsletter the views of an unnamed police officer, simply named "Police Officer X", reflected the low opinion that the SST hold for the New Zealand judiciary.

"When criminals are convicted, the pathetic sentences handed down by some ivory-towered judges (whose inadequate grasp of life's realities must be seen and heard to be believed) is a major stress for police. Day after day those judges are telling criminals that what they are doing is not as bad as the police (and the victims for whom they act) are making out . . . "And anyway, as your lawyer has explained: 'it isn't really your fault!" (SST Newsletter 15, 2006)

Along with the criticism of liberal politicians, judges are framed by the SST as being out of touch with the views of the New Zealand public. This theme is repeated throughout the discourse that those charged with the responsibility to maintain the justice system have ignored the 'sensible' views of the people. The notion of an independent judiciary is rejected in favor of one where judges and their rulings need to be accountable to the opinions of the public and groups like the SST.

The adversarial framing of judges and other figures within the justice system closely resembles what Snow and Benford call 'counter-framing', where a SMO frames their discourse to refute opposition discourse. Counter-framing specifically targets the efficacy and logic of solutions proposed by opposing movements (Snow et al, 2000: 617). The use of counter-framing both accents the diagnostic claims made by a movement while strengthening the prognostic claims. The SST use counter-framing in their discourse to attack the beliefs that they see as contrary to punitive reform. Differing beliefs held by academics, judges and politicians on the justice system symbolize, for the SST, the counter-

movement that stands against needed reform. By articulating the failures of divergent solutions, the SST, reinforce the wider failings in oppositional ideology while strengthening their own penal populist explanations.

The SST's employment of counter-framing is an extensively used discursive technique. One recent example acutely represents the deployment of counter-framing. The use of counter-framing against the Chief Justice Sian Elias represents the deeper ideological undercurrents of their discourse producing potent diagnostic and prognostic framing. Inspired by a speech given by the Chief Justice to the Wellington branch of the New Zealand Law Society in July of 2009, the SST pilloried comments made on penal reform and the influence of populist politics on the justice system. In the November 2009 newsletter the SST described the New Zealand justice system as being controlled by a "criminal friendly element" that has "seized control of the whole process". Sian Elias and her beliefs were framed by the SST as an example of this reality.

"The recent speech from the Chief Justice Sian Elias saying that there was too great a focus on Victims of crime and suggesting that 'executive amnesties' should be considered is the sort of nonsense that has helped the criminal justice industry to evolve" (SST Newsletter 22, 2009).

Garth McVicar went further in challenging Sian Elias, even calling for her resignation as Chief Justice.

"It is important for the victim to heal, feel like justice has been done. To do that they need to be involved in the whole justice process. The victims' views need to be heard loud and clear. For a top judge to make a comment like that is outrageous. It's a kick in the guts."

It's corrupt. I think she is totally on the wrong track. She should resign, if that's what she thinks, because it will be difficult for her to continue in her job." (Dominion Post, 2009)

The SST suggested that Sian Elias's discussion around executive amnesties and the true benefit of victim participation in the justice system epitomizes the influence of liberals and liberalism in the justice system and the source of its failures.

Sian Elias's speech, entitled "Blameless Babes" was made as a part of the 'Annual Shirley Smith Address'. Her speech was inspired by Smith, a female pioneer in the New Zealand legal system, who opposed punitive sanctions as a reflexive response to increased levels of violent crime, instead advocating the need to better understand the social reasons behind crime. Elias proposed a number of points regarding the justice system, including the influence of populism on the law:

"We have seen the rise of popular anxiety about crime that has led to calls for increasingly punitive sentences, and which has led to fixation with management of risk and marked intolerance when risks come about, as risk always does from time to time" (Elias, 2009: 2)

The lack of benefits for extreme punitive sanctions is also argued:

"The more punitive sanctions for those who commit serious offences have not made our communities safer. Although recorded crime has decreased during the last ten years, violent offending has risen by 31%" (Elias, 2009: 3)

Elias also states how justice should be pursued in New Zealand; as an impartial and fair response rather than one that seeks retribution:

"Two of the most important legal thinkers of our time have described the procedures of criminal justice as having been designed to "turn hot vengeance into cool, impartial justice". Cool, impartial justice is not getting very good press these days" (Elias, 2009: 4)

Elias sees the "re-personalization" of the justice system as a counter-intuitive and counter-productive development. Elias questions how far the New Zealand justice system should go in supporting victims' rights in criminal proceedings before this begins to undermine fundamental legal tenets of the system. Although Elias does advocate fairer victim

representation she rightly points out that it can go too far. Finally Elias discusses executive amenities:

“My last suggestion may be controversial. I do not know whether it is practical or politically acceptable, but I think it needs to be considered. We need to look at direct tools to manage the prison population if overcrowding is not to cause significant safety and human rights issues. Other countries use executive amenities to send prisoners into the community early to prevent overcrowding. Such solutions will not please many. And I am not well placed to assess whether they are feasible. But the alternatives and the cost of crowding need to be weighed” (Elias, 2009: 14).

Sian Elias’s argument is vastly different to the account constructed by the SST in both substance and tone. While her opinions are well considered and measured, derived from an informed and intimate understanding of the law, the SST’s portrayal is provocative and misleading. The counter-framing reduces the views made by Elias into a caricature, a distortion that the SST can deploy to cast their opposing opinions in a far more respectable light. From this constructed representation of Elias’s work the SST are able to provide a more persuasive refutation of her positions. Opposing discourses are re-interpreted by the SST to provide a more convenient target. The use of ‘counter-framing’ and its success as a discursive tool may relate to how culturally believable it is to those penal populist adherents in the public. Certainly people who share the SST’s ideology may be inclined to accept the movement’s portrayal of judges, like Sian Elias, as proof-positive and demur from being objective and critical of the conceptions produced within the discourse.

The courts and the ruling made by judges have been used by the SST to justify the negative influence that detached penal elites have had in the justice system. Counter-framing works to diagnose the liberal mindset of judges as the cause of increasing violent crime trends. Counter-framing also allows the SST to propose punitive solutions through rejecting liberal and lenient rulings that would not only prevent crime but also reflect the will of the public.

Like the courts, the parole board has become a target for the SST to pinpoint the influence of liberal policies on the decline in the effectiveness of the justice system.

SST discursive positions on parole

“Parole mocks justice, deceives the tax payer, does little to rehabilitate criminals and re-traumatizes victims” (SST Newsletter, 2009).

In more recent discourse produced by the SST parole has become the face of the failed New Zealand justice system. The SST believes that parole should be abolished in all forms and that criminals should serve their entire court ordered sentence (SST Press Release, August 2007). Adversarial framing undertaken by the SST has painted parole as the leading cause of the decline of the justice system; creating more and more victims by allowing the premature release of violent offenders. In the April/ May 2007 newsletter Garth McVicar stated an unequivocal account of the SST’s view on the problems of parole and how it should be administered in New Zealand. He writes that:

“Parole used to be a privilege – not a “right” but since 1984 parole has progressively become more liberal, the 2001 Parole Act means most offenders actually spend less time in jail now with most released back into the community after serving only a fraction of their Judge given sentence – many with dire consequences. Parole is now a “right” and criminals and their criminal lawyers know it” (SST Newsletter 17, 2007).

McVicar goes on to say that because of the liberalization of parole, many high profile crimes have been committed, including those by Graeme Burton, William Bell, and Taffy Hotene. This framing draws attention to the real-life failure of liberal parole policies. The SST connects the notion of the unwarranted protection of the rights of criminals as the cause for some of New Zealand’s most horrific crimes.

As a symbol for the wider failings of the justice system, parole has been used to delegitimize current penal structures. The SST uses examples of prominent criminals who have committed violent crime whilst on parole. Recently, the 2007 murder of Karl Kuchenbecker,

by recidivist criminal Graeme Burton, has been used to demonstrate the failure of parole and the irrevocable damage it can cause. The SST believes that Burton's violent criminal record should have made him ineligible for parole thus preventing him from murdering Karl Kuchenbecker. The SST believes that the abolition of parole or the implementation of stricter parole guidelines would have stopped Burton. (Reid, *Distraught families set to sue*, 2010)

The SST has used this case and others like it to justify their position on parole. In a manner similar to Pratt's notion of the way scandals undermine the legitimacy of power structures (Pratt, 2008: 367), these parole scandals are deployed by the SST to undermine both parole and the ineffectual justice system that administers it. These tragic events de-legitimise the parole process by plainly illustrating the danger that this flawed system poses.

The SST deploys a highly simplified conception of parole.

"Anybody reading all the spin and propaganda surrounding parole in recent days could be forgiven for thinking there is only one ingredient worth considering in the whole parole debate - the criminal - the volunteer who had a choice and made a deliberate conscious decision to commit crime.

All of the articles I have read from various so called experts have all raved on about the benefits of parole and how terribly cruel and harsh longer sentences are.

These so called experts have forgotten one key ingredient in this debate - the victim - the one person who had no choice." (SST Press Release, July 2007).

The SST believes that parole has no place in society because it focuses solely on the welfare of criminals and not the victims. The SST believes that once a person commits a violent crime they must lose all the benefits and rights from living in a civilized society. Like the SST's conception of judicial rulings their notion of parole is highly inaccurate and deployed specifically for an audience who will find it culturally believable. In reality parole is a complex process that balances the safety of the public with the rights of a criminal, and the

inherent need to facilitate their release back into public. The importance of successfully catering for reintegration back into society is structured by strict rules to prevent reoffending. Although reoffending does occur it is a small proportion of the prisoners released. The current parole process also does allow victims to play a significant role in the release of prisoners. (Watt, *What is Parole*, 2008).

The SST frames their discourse to provide a very clear and succinct prognostic solution to the problems they see with parole. By rejecting the perceived liberalization of parole the SST believe that a far more punitive framework should replace it, which would offer a more effective measure against crime. In the case of parole the SST believes that it should be restricted or abolished completely.

“Realistically the whole touchy-feely criminal justice system needs a total overhaul to stop innocent citizens becoming victims of career criminals (86% of criminals re-offend within 5 years) and parole is only a small part of this but it is where the Sensible Sentencing Trust believes we must begin” (SST Newsletter 17, 2007).

Furthermore the SST believes that the entire parole process, including the parole board, need to be held accountable for the damage that it has caused within New Zealand society. Parole has become a persuasive symbol of the wider systemic failure of the justice system.

“Why is it that no one is held to account when such errors of judgment are made? [...] [W]hen mistakes are made within our Justice and Parole system no one is personally held to account. These are mistakes that cost innocent people their lives and are preventable. People within our Justice/Parole system must be held accountable for their decisions and actions otherwise nothing will change” (SST Newsletter 21, 2009).

Notions of the need for accountability within the justice system are a basic prognostic framing technique used within the SST’s penal populist discourse.

The SST’s focus on parole has become a prominent part of their discourse, enabling the group to finely attune the diagnostic and prognostic framing function of the discourse. This

type of framing makes the failures of parole more real to the public by plainly illustrating the human cost rather than by anecdotal or statistical evidence. This in turn gives validity to the more theoretical assumptions made about the liberal failure of the justice system and the solutions needed to correct it. This shift in the SST framing has become possible owing to the increased use of victims stories within their discourse, an important discursive resource of the SST's discourse that will be explored next in this chapter.

Victims Stories: The SST's framing regarding the victims of crimes

In the SST's discourse, victims of crime are framed in two ways. The first method of framing vividly delineates the destructive experience faced by victims of crime and their abandonment by the justice system. This framing of the victims conveys the idea that violent crime occurs regularly in New Zealand society, is arbitrary and physically and emotionally destructive. The use of graphic stories documenting the experience of victims has become a regular tool for the SST to utilize in framing crime as a commonplace, random and violent phenomenon. The second method of framing involves linking this idea with the SST's punitive philosophy. The SST believes that victims have been abandoned by the justice system when violent offenders are released due to liberal sentencing laws and parole. The justice system also fails victims by not providing suitable financial and emotional assistance. A central goal for the SST is the granting of special victims rights that would give them greater representation in the courts and access to emotional and financial support. This belief is seen in the November 2007 newsletter:

"Victims of violent crime feel abandoned and ignored by the justice system. It is the very people who are the most hurt and most vulnerable who are the most neglected. Care for victims is passed from Police to Victim Support to the Crown Prosecutor to Corrections and the Parole Board with varying degrees of failure at every step [...] this process leads to victims and the community becoming alienated from our Criminal Justice system" (SST Newsletter 17, 2007).

The use of victim's stories reflects Snow and Benford notion of 'experiential commensurability' (Snow et al, 1992: 141). Experiential commensurability frames discourse in a way that removes the situational distance an event or an idea might have, allowing it to be more real and less abstract. As most people fortunately do not experience the impact of violent crime it becomes necessary for the SST to frame victim's stories in such a way that violent crime is seen as a destructive phenomenon that could easily occur anywhere in our society. The dramatic depiction of violent crime is far more stirring and psychologically abrasive way to promote a discursive position as opposed to dry statistical information or ideological points; making the human face that the SST place on their message an effective framing feature. Experiential commensurability provides both a diagnostic and prognostic framing function.

The use of graphic victim's stories as a discursive resource was a gradual development. One of the earliest uses of victim's story was included in the November/ December 2001 newsletter, where the experiences of a Mrs. McKenzie of Taranga were described. A letter published by the SST detailed the murder of her husband, Noel, and her resentment regarding the justice system for seemingly placing the rights of the criminals who committed the crime over her rights. The letter has two parts. The first part painstakingly provides the details of the murder of Noel McKenzie. The crime is told in story-like way.

"It was 5 am on a Thursday morning, the rain was falling softly and my husband Noel and I were tucked up in bed, safely we thought, after all is there anywhere safer than in your bed in your home?

I was awoken by a noise; upon listening as we all do I thought it was just a house noise. I lay back down snuggling into my husband Noel when I noticed a figure in the hallway. I sat up quickly, the fear I felt you could never imagine, I shook my husband, "Noel - Noel there is someone in the house." I turned the side light on hoping it would make him leave, he did not. He came into our bedroom with two knives and before my very eyes stabbed Noel repeatedly fourteen times.

I threw myself on the floor and waited, any minute now this stranger will come around the bed and do the same to me, I lay on the floor terrified, traumatized, waiting, it all went quiet, I slowly raised, trembling with fear, there on the floor lay my lover, my best friend, my life partner asking me to please help him as the life blood slowly drained out of him. My husband had no chance to defend himself. Could you, half asleep." (SST Newsletter 3, 2001)

The letter continues describing Mrs. McKenzie's disbelief that those who murdered her husband received \$90,000 in damages after they were assaulted in prison. She believes that this is indicative of a justice system that cares little for the victims of crime and actually rewards criminals. The justice system fails to recognize the pain caused by the crime, particularly the emotional cost it took on her and her family. The SST's use of these stories to frame their discourse relies on connecting the emotional and compelling account of an innocent family destroyed by an act of cruelty to the deficiencies of a liberal justice system that cares more about criminal's rights than those of victims.

The SST has ratcheted up the use of victims stories, including even more graphic depictions of violent crime. In a letter published in the April/ May 2007, Kevin McNeil provides a startling account of the murder of his mother Lois by the Whetu TeHiko.

"Mum was suffocated by her own sweatshirt, had her cheekbone fractured, her jaw and neck broken, most of her ribs broken, then there was the attempted sexual violation, why did this happen? I would like to know why this and other trash within our society can commit offence after offence and only be given a slap on the wrist from the system that is in place to protect us all." (SST Newsletter 17, 2007)

The framing in this passage links the horrendous level of violence committed with the notion that the justice system is unable, and almost unwilling, to do anything to stop it. The letter describes how TeHiko was given a short manslaughter sentence of only six years. This sentence in the eyes of the SST does not come close to reflecting the severity of the crime.

The framing in this letter also has two additional characteristics indicative of the wider SST's framing of victims. The first is a call to arms that encourages victims of crimes to unite and to actively challenge the inadequacies of the justice system.

"I ask all victims to unite, the power from this would prove overwhelming in the fight for the rights of victims, we cannot do this as a single entity but collectively we have more power and push to effect change than the current political regime/ dictatorship that currently exists.

I am sure the New Zealand public would support our plight, if aired more by the media and with the work SST are doing, through public meetings and lobbying parliament."
(SST Newsletter 17, 2007)

The connection between the plight of victims with the public reinforces the commensurability function inherent in victim framing. The discourse calls the public to help victims of crime; it encourages them to come together in a common goal of addressing the injustice of our system. The pain and suffering of the victims of crime is connected to the public, reinforcing the notion that all New Zealanders are victims of a systemically unjust system.

Experiential commensurability framing is perhaps the most vivid and effective form of motivation framing within the SST's discourse. Victims' of crime and the public of New Zealand are challenged by the SST to take ownership of the justice system; taking control away from penal elites. As discussed earlier all New Zealanders are framed as victims' of the justice system. Thus it becomes incumbent of the New Zealand public to take responsibility and exercise their legitimate ownership of the justice system.

"I am now convinced it is up to ordinary people like you and I to take ownership of this situation, to step out of our comfort zone and stand up to be counted! The future of our young generations depend on the decisions you and I make NOW" (SST Newsletter 6, 2002).

The second framing characteristic is the stark contrast provided between the victims of crime and criminals. Victims are framed as being vital and innocent members of the community. The crimes committed against them are framed as being arbitrary and an assault on the tranquility of average New Zealand existence.

“Mum was simply at her place of work preparing for the new school term when this lowlife happened to walk by. It happened to mum; it could quite easily have been any other unsuspecting member of the public.” (SST Newsletter 17, 2007)

This is opposed to criminals who are framed to reinforce an almost alien quality they possess in our society. The language used to describe victims contrasts their place in society with the victims of crime. While victims of crime are discussed as important members of the community, mothers, fathers etc, criminals are positioned as the outsiders; a foreign menace that needs to be separated and removed from society.

The use of victim's stories has a profound effect on the signifying work of the SST and production of penal populism discourse, changing the identity of those articulating penal populist frames. In a sense the SST express their message through the stories of victims. The line between the SST as a defined penal populist organisation and the public who share similar punitive beliefs is obscured when these stories are employed. This change has the effect of making the SST become less of a defined organization and more of a popular response to the rise in violent crime; allowing the SST to position itself as a popular reaction by the public to the problems in a justice system rather than a pressure group with a political agenda. Within these stories similar discursive positions are taken, which reinforces the wider penal populist narrative. However the negotiated identity of the penal populist articulators gives these penal populist narratives more credibility as they are driven by public and experiential consent. This certainly could be seen as a positive aspect of the SST, where victims are given a strong voice for their stories to be heard. To gain a clearer understanding of the way the SST frames victims' of crime some consideration of the framing of criminals is necessary.

SST's framing of criminals: the alien other

Criminals are framed to suggest that they have consciously abandoned the desire to live peacefully in New Zealand and obey the laws. Discourse regarding criminals treats them as non-human, possessing a complete disregard for their actions and the effect it has on the community. From the outset the SST's use of this framing was a critical part of their discourse. As discussed in chapter two the SST was founded following the 1999 prosecution of Mark Middleton after he threatened to kill Paul Dally, the man who murdered his stepdaughter Karla Cardno. The SST supported Middleton after he stated the he wanted to:

"tie Dally upside down to a tree, "cut off his balls and shove them down his throat", and kill him over three days" (New Zealand Herald, 2009).

The SST's support of Middleton is an intriguing discursive position as it, at a glance, does not conform to the group's penal populist narrative. Although Middleton was convicted of threatening Dally he was not framed like other criminals. Rather Middleton became a folk hero to the SST and its supporters, someone that represented the anger and frustration of victims in New Zealand. The SST framed Middleton as a symbol for the collective anger of New Zealanders directed towards the failure of the justice system. Dally however perfectly conformed to the SST's concept of criminals as animals. The SST accordingly framed their discourse regarding Dally, painting him as a destructive menace. Middleton was framed as a hero representing victims within our justice system; someone who was justified in issuing such an outrageous threat, while Dally was duly framed as a pariah. The differing framing of Middleton and Dally reinforces the notion of criminals as inhuman by contrasting the two criminal acts. This framing suggests a degree of flexibility in the articulation of the SST's message.

The framing of criminals in the SST's discourse frequently employs language that emphasizes an inhuman quality that the group wants to convey.

“When the word “punishment” is mentioned the P.C. brigade start screaming “offenders rights”!! “Human rights”! We believe human rights are for human beings. Some of the crimes these vermin commit are beyond “human.” (SST Newsletter 9, 2003)

This framing can be seen in discussions surrounding many of New Zealand’s most notorious criminals, including William Bell, Graeme Burton, and Bailey Junior Kurariki. Demonizing criminals has become a discursive tool used to generalize all criminals in New Zealand. The prospect of rehabilitation is summarily dismissed by the SST as a manipulative ploy on the part of criminals to be granted early release from prison.

Surprisingly the framing of criminals by the SST seems to produce motivational framing rather than diagnostic framing. In law and order debates, casting criminals as antagonists by using adversarial framing would seem an appropriate discursive tool. This apparent conclusion would serve the discourse by logically diagnosing the cause of crime; allowing the ideological claims within the discourse to be easily communicated and understood. However the SST’s frames criminals to *support* the diagnostic and prognostic claims it makes regarding the wider justice system. Although the discourse does reinforce negative perceptions of criminal, painting them as the evil other and as villains – a common trait of adversarial framing – it does not engender a diagnosis of the wider failings of the justice system. The SST’s focus is on attaining punitive reform but within their discourse the villains that they are trying to expose are not criminals but the justice system itself. The SST’s diagnostic framing attributes the rise in violent crime not to criminals but to the failed liberal, justice system. Criminals are ancillary, the product of the broken system or a component of a wider process where ideology is the real villain.

Discourse regarding criminals is used to help render within the public’s imagination the ideological claims made by the SST. Criminals are used as vibrant discursive tools that help emphasize the notion of the deterioration of justice in New Zealand society. The example of Shane Hoko, who murdered Jennie Hargreaves on the 3rd of December 2001, indicates their

complex discursive task within penal populist framing. Jennie Hargreaves murder is sadly recounted by her mother in the May 2009 newsletter. At the end of the passage Val Hargreaves states:

“Violent men like Shane Hoko show no compassion and should not be released back into our communities and that is why I am supporting the ‘Three Strikes Law’ that is proposed” (SST Newsletter 21, 2009).

The passage primarily is concerned with the need for parole reform. Like other victims stories the endless pain of the victims of crime is connected to the need for punitive reform. Criminal framing in this passage is also used to emphasize the need for reform. This passage connects Shane Hoko, a man who committed this terrible crime while on parole, a man who has no compassion, with the need for tougher criminal laws, like the three strikes laws. Shane Hoko is conceptualized to reinforce the wider penal populist argument made by the SST. The framing that conceptualizes criminals as appalling, non-human entities helps to motivate the public to support the SST in their goals and thus to accept the need for punitive reform. The negative framing of criminals encourages New Zealanders to support the SST and accept the claims they make – even claims that offer extreme solutions.

Penal Populist Frame Resonance

The resonance of an argument relates to its ability to encourage support for the movement and its beliefs. In the case of the SST the ability of a frame to resonate lies in its effectiveness in conveying the notion of the failed, liberal justice system and to then elicit support for punitive reform. Frame resonance will be more deeply explored in the following chapter, particularly the way penal populist beliefs gain resonance through appealing to more general conservative positions held by the public. At this point more basic framing used by the SST to generate resonance will be discussed. In order to provide credibility to their argument the SST relies on the use of statistical evidence and the accrued integrity of

prominent members of the movement. Snow and Benford call these two forms of framing, empirical credibility and credibility of the frame articulator. These two forms of framing are considered techniques that attend to the resonance or effectiveness of the framing of a discourse (Snow et al, 2000: 619-621).

Within the SST's discourse the use of empirical credibility is used to quantifiably justify both the rise of violent crime in New Zealand as a result of the failed liberal justice system and the popular support for punitive reform or conversely the lack of faith in the current system. Use of empirical credibility is seen in the May 2009 newsletter where the faith of New Zealanders in the justice system was measured. The public were asked the question "Do you think that the sentences given to our criminals are too lenient?" with 90.2% saying yes, 6.2% saying no, and 3.6% saying that they don't know (SST Newsletter 21, 2009). These statistics are used to reinforce the SST's claim that the public want harsher, more punitive sentences. Empirical credibility seems to be self-serving; designed to reinforce the SST's punitive narrative. The question, "Do you think that the sentences given to our criminals are too lenient" is highly loaded. Also the lack of raw data from the original source makes the validity of these statistics questionable. Empirical credibility gives the discourse, and its diagnostic and prognostic claims a skin-deep appearance of empirical legitimacy. This is in line with Snow and Benford's notion of empirical credibility where:

"The issue [...] is not whether diagnostic and prognostic claims are factual or valid, but whether their empirical referents lend themselves to being read as "real" indicators of the diagnostic claims" (Snow et al, 2000: 620)

The SST's discourse also gains credibility through the popular support of prominent members of the movement. The positive public perception of many members of the SST can be understood as form of credibility gained from those who articulate penal populist frames. Snow and Benford explain this form of framing:

"Hypothetically, the greater the status and/or perceived expertise of the frame articulator and/or the organization they represent from the vantage point of potential

adherents and constituents, the more plausible and resonant the framings or claims”
(Snow et al, 2000: 621)

Garth McVicar, the founder and national spokesman of the SST has generated credibility in the area of penal and justice reform. Besides regularly commenting on law and order issues he is also respected by many other important voices in the debate. He has travelled with government delegations on fact finding missions regarding law and order issues (SST Newsletter 15, 2006) and in 2006 was ranked 32nd most powerful person in New Zealand by the Listener magazine. The magazine described him as:

“THE GO-TO GUY WHEN THE TALK turns to getting tough on crime. For a Hawke’s Bay farmer with no previously known moral convictions, McVicar has built a national profile with impressive efficiency since founding the Sensible Sentencing Trust five years ago in protest at the recidivism of violent offenders. He and his team, including wife Anne, have firmly put longer sentences, victims’ rights and less lenient prisons on the justice reform agenda. The Corrections Minister even took McVicar with him to Europe earlier this year. Not that the current government has accepted all the trust’s ideas – but if National gets in next time, lookout” (Welch, 2006).

McVicar’s relationship to the discourse of the SST allows it to borrow the credibility he has developed. Other notable SST members include former Members of Parliament Stephen Franks and David Garrett, and Sir Russell Pettigrew. The credibility of a frame articulator may also work in the opposite way in reducing the resonance of the SST’s penal populist discursive positions. The recent resignation of David Garrett from parliament following the revelations of previous criminal acts, including identity theft, made many of the penal populist claims he made, especially support for ‘Three Strikes’ legislation, seem hypocritical. Garrett’s indiscretions may have reduced the credibility of the SST and their discourse in the eyes of the public.

Conclusion

The penal populist framing employed by the SST is simple and effective in emphasizing the need for punitive reform in the New Zealand justice system. It can be called simple because it conveys a singular, straightforward message through constant repetition and the deployment of specific framing techniques. The need for punitive reform is concisely articulated through various forms of diagnostic framing. The SST identifies systemic liberalism within New Zealand society, and fundamentally the justice system, as the major cause for violent crime. Through extensive prognostic framing the SST proposes an equally simple solution to correct this problem. The need for punitive reform is stressed by the SST within their discourse. Derived from the diagnostic and prognostic claims made in the SST's discourse, motivational frames encourage support and ameliorative action from the public.

The failed New Zealand justice system and the liberalism that underpins it is the central frame that permeates the SST's penal populist discourse. This theme is the primary message that the SST seeks to communicate to the public. Victims of crime and criminals are framed to support the SST's main organizing anti-liberalism theme. In the next chapter this fundamental penal populist frame will be more deeply explored. The chapter will focus on how the SST's primary discursive frame is itself influenced by broader conservative philosophies. In the rubric of discursive frame analysis this chapter will discuss the influence of the master frame compassionate conservatism on the derivative penal populist frames produced by the SST.

Chapter 6

Master Frame Alignment: Conceptualising the influence of compassionate conservatism within the SST discourse

Introduction

"I have never understood the liberal assumption that if there were justice in the world, there would be fewer rather than more prisoners." (Dalrymple, *Cradle to Jail*, 2006)

An analysis of the SST's penal populism reveals the influence of a variety of conservative discourses; none more so than the political philosophy of compassionate conservatism. Within the rubric of frame analysis this influence can be conceptualised as a master frame – collective action frame relationship. In chapter four master frames were defined as broad, generic frames that “colour and constrain” the derivative collective action frames of a SMO's discourse. In this sense compassionate conservatism is a master frame that has substantial influence on the SST's penal populism. This relationship is intricate, with compassionate conservatism effecting the signifying work of the SST, while also simultaneously being adapted and transformed by the movement itself. The utility in focusing on this relationship between master frames and collective action frames is that it can elaborate the frame resonance of penal populist discourse.

This chapter will illustrate this master frame – collective action frame relationship by comparing and contrasting the respective narratives within compassionate conservatism and penal populism. In this research, framing concepts proposed by Snow and Benford (1992, 2000) and developed by Swart (1995) will conceptualise the discursive relationship between compassionate conservatism and penal populism. Figure 2 provides a diagram of this process.

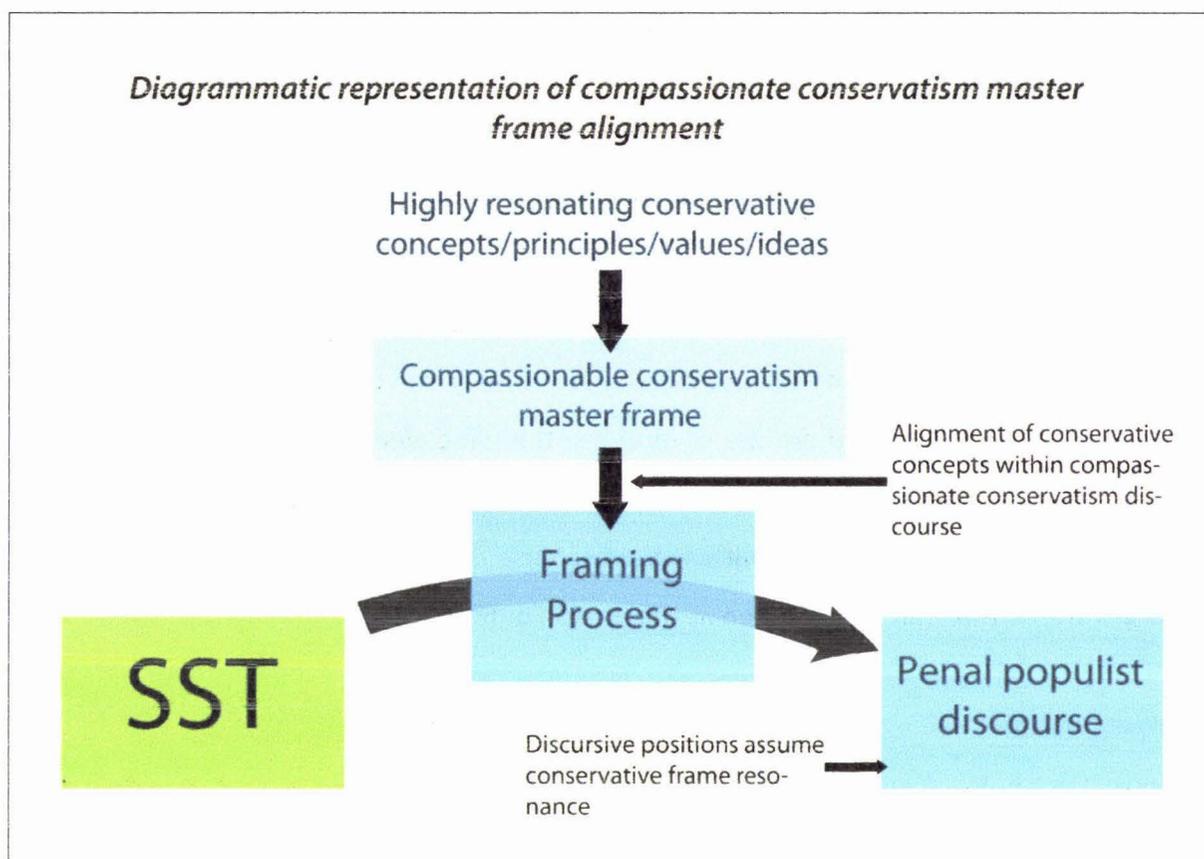


Figure 2: Compassionate conservatism's frame alignment by the SST acting as a signifying agent

Of particular importance to this chapter will be the central penal populist frame of a systemically unjust justice system, underpinned by liberal ideology, as the fundamental cause of violent crime in New Zealand society. This fundamental frame was identified in the previous chapter. A comparison of penal populism and compassionate conservatism articulated by Theodore Dalrymple (2000, 2001, 2006, and 2008) will clarify their discursive relationship. To complete the master frame – collective action frame model, consideration will be given to compassionate conservatism's mobilizing potency; its capacity to mobilize penal populist supporters into action. This will be done by understanding the flexibility that compassionate conservatism has in having an elaborated linguistic and ideational code and also its narrative fidelity. This chapter will begin briefly by outlining the connection between Theodore Dalrymple's compassionate conservatism discourse and the SST's penal populism.

Compassionate Conservatism as a Master Frame

Compassionate conservatism, like the penal populist discourse produced the SST, follows a reliable narrative structure. Like penal populist framing, thematic elements can be considered individual frames linked into a meaningful arrangement through a narrative structure. The delineation of the compassionate conservative narrative undertaken in chapter three indicates that there are several key thematic elements. The rejection of the welfare state, the erosion of societal values, and the adoption of a range of conservative principles are fundamental frames within the discourse, bound together through a central, organising frame that can be described as a rejection of liberalism.

Thodore Dalrymple's compassionate conservatism reflects the framing used within the wider body of the political philosophy, manifesting the core organising frame that rejects liberalism in favour of conservative principles. Dalrymple's compassionate conservatism goes beyond the realm of law and order and extends into areas of mental health, drug use, the family, the state, and academia. As it is not devoted to law and order issues and instead discusses a variety of social problems, compassionate conservatism can be labelled a broad and generic master frame

Dalrymple's relationship with the SST suggests that there is a definite connection between the compassionate conservatism and the penal populism of the SST. Garth McVicar credits Dalrymple's compassionate conservatism in influencing the philosophical foundations of the SST. In the "North and South" article, Dalrymple's work is recognized as being an important inspirational source for the SST's creation. The article discusses how McVicar's ideological motivation to form the SST came from reading Dalrymple's "Life at the Bottom: The Worldview That Makes The Underclass" (2001).

"When he read 'Life at the Bottom', McVicar found his philosophical home. "It was very exciting. I was reading it at night in bed and nudging Anne, telling her things he'd

written and using a highlighter to mark sections. [Dalrymple] is a guiding light for me. He's like us, except obviously he's at a much higher level — we see ourselves as social reformers for New Zealand" (Chamberlain, 2006: 73).

McVicar identifies Dalrymple's passionate conservatism as a "guiding light" and a basis for the movement's discourse. On October the 16th 2006 Dalrymple arrived in New Zealand as a part of the SST's "Cradle to the Jail" tour. While in New Zealand Dalrymple lectured in a number of New Zealand centres and stayed with McVicar at his Riverland farm in the Hawkes Bay.

The connection between the origins of the SST's discourse and Dalrymple's passionate conservatism strongly implies that the political philosophy acted as the amniotic fluid for the movement's penal populism. In Dalrymple's "Life at the Bottom" there is a chapter entitled 'What Causes Crime' dedicated entirely to crime in New Zealand.

"Such a society – prosperous, democratic, egalitarian – should be virtually free of crime, if the commonplace liberal explanations of criminality were true. But they aren't, and New Zealand is now almost as crime-ridden as its mother country ... This fact is of great theoretical interest, or ought to be: it is an overwhelming refutation of the standard liberal explanation of crime" (Dalrymple, 2001: 196).

This passage reiterates the connection between Dalrymple's discourse and New Zealand law and order issues; the subject of the SST's discourse.

As part of the "Cradle to Jail" tour organised by the SST, Dalrymple was invited to New Zealand to discuss matters of penal and justice reform. As a guest of the SST, Dalrymple was described as a:

"morally courageous, outspoken and controversial opponent of the modern day excuse driven, soft on crime mentality; he promotes an unconventional but well-researched view that criminals commit crime for two main fundamental reasons; they choose to and that an army of social workers and liberal bureaucrats have allowed

crime to flourish and have created an underclass to ensure its survival" (SST, *Cradle to Jail*, 2006).

In the "Cradle to Jail" essay, Dalrymple points to two factors responsible for the growing rise in violent crime in New Zealand. The first is the reduced control and discipline of children in New Zealand society.

"It was as if the whole society [New Zealand] had given up trying to maintain order, it had become fearful of its own children.

And I don't suppose that I have to elaborate on the likely future of a society that fears its own children, or at least enough of them to retreat indoors when they come out to play.

At this point, no doubt many will retort that the children in question have experienced a terrible upbringing: quite so, but whose fault is that? It is not as if we lacked all knowledge of what kind of arrangements were most likely to provide children with a decent start in life; rather, we systematically refuse to draw the obvious practical conclusions from that knowledge and pretend that anything goes. We reap what we sow" (Dalrymple, *Cradle to Jail*, 2006)

The second factor in the rise of violent crime is the justice systems complicity in allowing children to become criminals.

"Let me conclude by mentioning an episode that I think is full of sinister import for the rule of law in New Zealand, namely the passing with indecent haste retrospective legislation exculpating politicians from electoral wrongdoing. By this means, they no doubt unwittingly turned themselves into accomplices of the criminal fraternity: for make no mistake about it, the criminally-inclined are alive to every hypocrisy committed by the law-abiding, and use it, albeit dishonestly, to justify their own behaviour. If the proximate cause of crime is the decision to commit it, this is important.

All in all, New Zealand appeared to me to exhibit the same moral frivolity disguised as care and social concern as my own dear country, Britain. I can only hope that I am entirely mistaken. After all, I was in New Zealand for only a couple of weeks.”
(Dalrymple, 2006)

Within the “Cradle to Jail” essay, Dalrymple produces two primary compassionate conservative frames. Firstly he discusses the erosion of traditional values; New Zealand society’s “moral frivolity” and its impact on increased levels of violent crime. The second is the rejection of premise that the government or the state can adequately contend with the rise in violent crime. These frames are underpinned by the idea that systemic liberalism has allowed New Zealand society to deteriorate and these two conditions to arise.

The SST organized the “Cradle to Jail” specifically to introduce Dalrymple’s discourse to New Zealand. The SST succinctly describes Dalrymple’s philosophy in the November 2006 newsletter.

“[Dalrymple] argues that modern Western views tend to minimize individuals’ responsibility for their own actions and undermines traditional, values thus contributing to the formation of a vast underclass afflicted by endemic violence, criminality, sexual promiscuity and drug abuse” (SST Newsletter 16, 2006)

This passage seems to reinforce the idea that Dalrymple influenced the SST and the production of their discourse. Discursive positions found within Dalrymple’s compassionate conservatism are strikingly similar to those found within the SST’s penal populist discourse. Dalrymple’s close involvement with the SST would suggest that his work was used by the organization as the intellectual basis for their discourse. Dalrymple’s compassionate conservatism reflects the general conception of the philosophy discussed in chapter three. It can be conceived as a populist political philosophy, which fundamentally reinforces conservative values and principles. The discourse articulated by Dalrymple also expresses the same thinly veiled notion of compassion to make the discursive positions discussed more palatable. The next part of this chapter will elaborate the frame alignment process,

where Dalrymple's discursive positions within the compassionate conservatism master frame are symbolically extended by the SST.

Compassionate Conservatism master frame alignment with penal populist frames

Snow and Benford believe that a master frame operates like a "master algorithm", influencing the framing of a derivative discourse. A master frame provides the discursive rules and boundaries for movement specific frames. Compassionate conservatism articulates a strong opposition to the welfare state, reflecting discursive positions within the SST's discourse. The notion of the welfare state as an effective political and social system designed for the well-being of the people is rejected in compassionate conservatism. The belief in the welfare state's capacity to create an egalitarian society, free of poverty and squalor, through the redistribution of wealth is denied by compassionate conservatism (Dalrymple, 2001: 134-143). Compassionate conservatism differs significantly from other conservative philosophies in its criticism of the welfare state. It focuses on the idea that the welfare state breeds dependency on welfare systems, providing little or no incentive to find work. The benefits of the welfare state become addictive, enslaving the underclass into a state of dependence.

"This way of life is akin to drug addiction, of which crime is the heroin and social security, the methadone. The latter, as we know, is the harder habit to kick, and its pleasures, though less intense, are longer lasting" (Dalrymple, 2001: 77).

While other conservative discourses have pointed to the economic burden of the welfare state and its tendency to ameliorate hardship without dealing with the structural qualities of poverty and inequality, compassionate conservatism concerns itself with the impact it has specifically on people and their place within society. The criticism of the welfare state is based on the idea that it curtails the ability of the people to be responsible members of a society. This conception of the welfare state is vividly stated by Dalrymple:

“Yet nothing I saw – neither the poverty nor the overt oppression – ever had the same devastating effect on the human personality as the indiscriminating welfare state. I never saw the loss of dignity, the self-centeredness, the spiritual and emotional vacuity, or the sheer ignorance of how to live I see daily in England” (Dalrymple, 2001: 143).

Dalrymple believes that the welfare state’s creation of the underclass is one born out of the “poverty of the soul” rather than material poverty (Dalrymple, 2001: 144).

Compassionate conservatism criticism of the welfare state is one of methodology not sentiment. The welfare state represents a myriad of failures in modern western societies, where the methods deployed to help the poor, or what Dalrymple calls the underclass (Dalrymple, 2001), are ineffective or exacerbate social problems. The failed methods are instituted by intellectual and social elites, equipped with liberal ideology, who have used the power and reach of the state to interfere in areas of society where they do not belong. The intervention in the economy, the family, and the use of social security safety nets have all produced contemporary societies unable to truly assist the underclass, elevate their lives and alleviate their suffering.

Within the SST’s penal populist discourse there is no specific rejection of the welfare state. However the discourse does reject the same inherent methods that the SST believes exists in the justice system. The welfare state methodology symbolises what the SST believe is wrong with the New Zealand justice system. The SST extends the symbolic boundaries of the welfare state to help frame their discourse, emphasizing flaws that they believe have allowed violent crime to explode in New Zealand. This can be conceived as an example of master frame extension. The welfare state symbol is re-contextualized to make it *complementary* and *congruent* to the New Zealand law and order debate.

In order to use the symbol of the welfare state, the SST frames their discourse to emphasize the methods articulated by Dalrymple that have failed to ameliorate poverty and squalor. The SST frames these methods through the production of a unique discursive position that can be conceptualised as David Garland's (2001) 'penal welfarism'. The concept of penal welfarism relates to the structure of contemporary Western justice systems. Within the penal welfare justice systems, power rests with penal elites: politicians, judges, academics etc, while public input is minimal. This rationale within penal welfarism is designed to make the justice system have a correctional quality that would transform criminals, rehabilitating them and returning them to responsible members of society. This notion of penal welfarism is believed by the SST to be the defining characteristic of the New Zealand justice system.

The SST soundly rejects the penal welfarism based justice system. The SST's framing attributes penal welfarism as the cause of violent crime; particularly the undemocratic practice of power, where penal elites promote and protect the status quo. The SST believes that this current system is on "life support" because of the way it has been run by successive governments, bureaucrats and academics (SST Newsletter 20, 2008).

Examples commonly pointed to by the SST are lenient sentencing practices that are focused on reducing the prison population rather than protecting the community. They believe that:

"Sentencing should reflect society's abhorrence to such crimes. The community delegates the task of sentencing to the courts and they respond to the widespread public concern to such horrific brutality. Inadequate sentencing undermines the value of human life. Not only does it show contempt towards the surviving relatives, it sends out a disastrous message to society regarding the state's attitude towards killing. Sentences do not meet public expectations and confidence in our justice system has diminished" (SST Newsletter 19, 2008).

The SST's framing identifies sentencing policies that have been perpetuated despite the views of the public. Sentencing practices are indicative of a penal welfare based justice system that has not only failed but operates contrary to the opinions of New Zealand

society. This framing conveys a perception that the justice system is preoccupied with maintaining positions of power and the integrity of liberal dominance. Thus the SST framing expresses the idea that the penal welfare justice system is illegitimate and contrary to wellbeing of society because of the power held by liberal penal elites.

In Dalrymple's compassionate conservatism, blame is apportioned for the plight of the underclass to the welfare state policies orchestrated by the "liberal intelligentsia". Dalrymple's attributes effete, intellectuals for the decay of modern societies. The denial by the elites of the failure of the modern welfare state is indicative of intellectual dishonesty. Dalrymple suggests that it is not the economic policies of the welfare state that creates an underclass but rather the mentality of passivity - the "poverty of the soul" and the lack of personal responsibility that the welfare state produces (Dalrymple, 2001: viii-ix).

This is a critical point in understanding the relationship between the SST's penal welfare concept and the welfare state symbol. This underlying mentality of the passivity of the underclass and its sustenance by liberal elites exists as an organising frame of both discourses. Violent criminality is created and maintained by the penal welfare justice system; a system that is corrupted and made ineffectual by penal elites who actively support and maintain systemic liberalism.

The alignment of compassionate conservatism can be further understood in Dalrymple's work on relativism. Dalrymple suggests that intellectual, moral and cultural relativism employed by liberal elites in the welfare state has had devastating effect in maintaining an underclass. This relativism mitigates personal responsibility and even glamorises the underclass. In a chapter entitled "How Criminologists Foster Crime" from Dalrymple's 2001 book *Life at the Bottom*, it is explained that liberal scholarship that frames modern conceptions of crime gives criminals an intellectual justification to offend.

“It is impossible to state precisely when the *Zeitgeist* changed and the criminals became a victim in the minds of intellectuals: not only history but also of an idea, is a seamless robe” (Dalrymple, 2001, 209).

The perceived notion within liberalism of society as an oppressive force, leads to a belief that criminals are themselves the victims and are not responsible for their own actions. If the dominant and pervasive liberal perception of society, as a corrupt and scrupulous villain, influences the minds of criminals, it does so by effectively justifying the crimes they committed. Dalrymple suggests that liberalism condones criminal behaviour by emplacing an ideology that sees criminals as victims of a corrupt society. This means that responsibility for crime is shifted from the criminal to the state.

Dalrymple deplores the permissive attitude taken over the true responsibility over the underclass by elites:

“[...] it is important to remember that, if blame is to be apportioned, it is the intellectuals who deserve most of it. They should have known better but always preferred to avert their gaze. They considered the purity of their ideas to be more important than the actual consequences of their ideas. I know of no egotism more profound” (Dalrymple, 2001: xv).

The disapproval of intellectual, moral, and cultural relativism that is symbolised in the welfare state similarly operates within the SST's conception of the justice system. Soft and easy sentencing practices that deflect the responsibility are one of a number of aspects of the justice system riddled with this relativism. Penal elites who employ this relativism do so to excuse violent crime through permissive policies like short sentences, or early parole. This in turn allows criminals to continually re-offend as the onus on them to be responsible is non-existent.

The transformation of compassionate conservatism to align with penal populism retains the underlying ideology of compassionate conservatism but drops the overt concern with the

underclass. The SST's penal populism discourse is very similar to the compassionate conservatism discourse, albeit without the compassion. The next section will explore how compassionate conservatism and penal populism developed a like belief in the decline in core societal values.

Extension of the 'erosion of core societal values' frame

Both compassionate conservatism and penal populism express a belief that contemporary societies have seen an erosion of core societal values. Within the context of penal populism, the erosion in tradition societal values has contributed to the rise in violent crime. The distinct discursive similarities in these frames suggest that this notion is extended by the SST to suit the context of the New Zealand law and order debate. This belief expressed within compassionate conservatism reflects general conservative discourses and is concerned with the place of the family in society, civic responsibility, respect for traditions and authority, personal responsibility, and freedom from the state.

Within compassionate conservatism, modern western societies have become permissive. The decline of core values that created social stability has been replaced by the 'cult of the self' mentality. This compassionate conservatism frame is predictably articulated by Dalrymple in both his general discourse and discourse specifically related to crime. Within societies that have embraced liberal notions of, social justice, multiculturalism, and post-modernism, an expulsion of moral structures that held these communities together has occurred.

The decline in respect for authority is, according to Dalrymple, a fundamental example of this moral erosion endemic in western societies. Dalrymple contrasts the need for zero tolerance policies on crime, harsh punitive measures, against the current laissez faire attitudes towards criminal justice as a sign of a society where respect for intuitions of

authority has disappeared (Dalrymple, 2001). Dalrymple believes that liberal ideology creates a reflexively negative portrayal of institutions of societal authority, like the police and the courts. Within compassionate conservatism proponents of liberalism are presumed to believe that the police function:

“to defend the social order: and since the social order is widely held to be responsible for the poverty of the poor, it follows that the police are in part responsible for that poverty. They are a part not of the criminal justice system but of the social injustice system” (Dalrymple, 2001: 233).

The policy of zero tolerance is countered by a policy of “zero-intolerance”. This support for highly lenient penal policy is prescribed without any authentic justification but instead the baseless faith in the liberal thesis in that the institutions of authority are truly to blame for high levels of violent crime.

Single parent households, divorce, de facto coupling, and alternative family structures are all strong compassionate conservatism claims of a decline in traditional societal values. Dalrymple sees the new face of the family at odds with traditional structures and an important cause in the growing crime rates. This too was a function of liberals who:

“called for the destruction of the family as an institution. The de-stigmatization of illegitimacy went hand in hand with easy divorce, the extension of marital rights to other forms of association between adults, and the removal of the fiscal advantages of marriage. Marriage melted as snow in sunshine” (Dalrymple, 2001: 254).

Dalrymple goes on further to state the effect that the dissolution of the centrality of the family had on these societies.

“The destruction of the family was, of course, an important component and consequence of sexual liberation [...] It resulted in widespread violence consequence upon sexual insecurity and in the mass neglect of children, as people became ever more egotistical in their search for momentary pleasure” (Dalrymple, 2001; 254).

This compassionate conservatism focus on the decline of the family is present in Dalrymple's work with the SST. Dalrymple points to what he calls 'grazing' as a symptom of the decline in the traditional family. Without an appropriate family environment, children have no boundaries that curb their desires. Grazing occurs when children simply eat food directly from the fridge instead of a meal with the family at the table. This means that:

"their appetite [becomes] the sole determining factor of what and when they eat. As they grow older and move into wider society they continue letting the state of their appetite command their every action, but now their appetite has changed. They see a car or a young woman and let their cravings control and dictate their actions" (SST Newsletter 17, 2006).

Dalrymple believes that the reinstatement of the traditional family should be made a priority in order to correct the crime problems that now exist in New Zealand. Dalrymple suggests that providing tax breaks to incentivize families that have both mothers and fathers.

The SST explicitly links the destruction of the traditional family to the increase in violent crime New Zealand has experienced.

"Over the last 30 years past and present Governments have destroyed the basic but essential ingredients of a well-balanced society - the family unit.

The social vandalism and outright thuggery that has been promoted by policy makers and adopted by even weaker politicians has been catastrophic for New Zealand. Now they wonder why we are having a blow-out in the prison populations!" (SST Newsletter 17, 2006)

The SST believes that family values need to be reintroduced by the government as a core part of New Zealand society.

"In my opinion the type of leadership New Zealand needs would immediately reintroduce the concept of good family values, good morals and get rid of Sue Bradfords proposal to ban smacking, introduce the strap and cane back into our

schools and compulsory National Service for ALL school leavers" (SST Newsletter 16, 2006)

The SST opposition to the anti-smacking bill, support for corporal punishment, and the reintroduction of National Service all reinforce their desire to retain what they see as long-established practices associated with traditional families.

At the end of the April/ May 2002 newsletter the SST leaves an interesting afterthought that captures the discursive similarities between compassionate conservatism outlook of an erosion of morality and their penal populist concept.

"As a nation we must move towards individual responsibility, accountability, respect and discipline, we must encourage our people to take control of their own lives. Before we can begin to turn these horrific Violence Statistics around we need to admit that the liberal social experiment of the last 30 years has been a dismal failure. There is no such thing as a "free ride", our rights need to be earned, not automatically given. I still believe that we must stay focused on the tip of the iceberg - the worst Violent Offenders. "Life must mean whole of Natural Life" for this category of offender. If the consequences for Murder was Natural Life, many apprentice criminals would not follow their "heroes" and "mentors"" (SST Newsletter 6, 2002)

Understanding the decline in morality thesis requires understanding the solution proposed by both compassionate conservatism discourse and the SST's discourse. Within the SST discourse painstaking consideration is taken to point to the underlying causes of the erosion of morality as the cause of crime, not New Zealand society itself. The SST frames their discourse to emphasize this point, directing attention towards liberal ideology and away from the societal institutions.

Dalrymple's discourse walks a fine line dismissing and attacking certain social structures, like governments and the justice system, while also calling for these institutions to be respected. For compassionate conservatism it is not the recognizable structures, the institutions of the

state, like the police, the courts, or the government that are the cause for the increase in violent crime but rather the underlying liberalism that exists in New Zealand and other western societies. The SST articulates a position where the societal institutions, like the courts and the penal system, are portrayed as suffering from the illness of liberalism. Although these institutions are frequently criticized in the SST's penal populist discourse their fundamental place in society is not challenged rather the liberal concepts that have corrupted them.

The SST's framing of the New Zealand Police reflects this adaptive discursive position. The SST frequently praises the police for their work protecting New Zealand. Unlike other penal and judicial institutions, which occupy the SST's adversarial framing, the police are usually free from attacks. In the introductory chapter the criticism directed at Police Commissioner Howard Broad was one of the few examples of the SST negatively framing the police. Yet in this example the adoption of a flexible discursive structure is clearly used. The criticism is directed towards Broad and specifically deflected away from the police. The special treatment towards the police allows the SST to again specifically direct blame to underlying liberal ideology and not New Zealand society. This treatment may also reflect the conservative desire to restore respect for an authority figure like the police.

Dalrymple's compassionate conservatism seems to underpin the SST's fundamental anti-liberalism frame discussed in the previous chapter. Dalrymple articulates discursive positions that are distinctly similar to those within the SST's discourse. The promotion of liberalism by elites and the disastrous consequences born from this practice are both pervasive frames within the two respective discourses. Earlier in this chapter this research suggested that Dalrymple's compassionate conservatism acted as the amniotic fluid, the discursive primordial ooze for the SST's penal populist discourse. The fundamental anti-liberalism frame developed from anti-liberal positions discussed within compassionate conservatism discourse. In the final part of this chapter this research will conceptualize the importance of this master frame/ collective action frame relationship as it relates to the creation of frame resonance for this fundamental anti-liberalism frame.

Compassionate conservatism, frame resonance and narrative fidelity within penal populist discourse

Snow and Benford discuss 'frame resonance' as relating to issues of effectiveness or mobilizing potency of the framing proffered by a movement (Snow et al, 2000: 619). The resonance that a master frame possesses influences the resonance of derivative, movement specific collective action frames. A master frame that resonates highly with the public lends its resonance to derivative frames, or conversely a master frame that poorly resonates will provide little resonance. The frame resonance of compassionate conservatism is extended to penal populist discourse as discursive positions are aligned by the SST. But this does beg the question of how compassionate conservatism gains resonance in the first place.

Compassionate conservatism discourse possesses an 'elaborated linguistic code' that gives it a high degree of mobilizing potency. An elaborated code refers to speech that is syntactically flexible and open to wider meaning. An elaborated linguistic code refers to the words and terms used within a discourse that are general and relatively non-specific in their meaning. An elaborated linguistic code can be contrasted to a 'restricted code' that yields rigid speech and is highly particularistic regarding meaning (Snow et al, 1992: 139-140). A restricted code would include idiosyncratic words and terms, highly specific to an area of knowledge. An elaborated code can also refer to discourses that are more universal in the ideas expressed. This universality gives a discourse more resonance and potency because it can apply to many different discourses and contexts. An elaborated code is inclusive in allowing people of different cultural and ideological beliefs to tap into the discourse.

In both senses compassionate conservatism can be considered to have an elaborated code. The SST's use of a 'conservative vocabulary' exemplifies the influence of a compassionate conservatism elaborated linguistic code. Throughout the SST's discourse the words

'accountability' and 'responsibility' are regularly used. These words are commonly found in Dalrymple's compassionate conservatism. The word 'liberal' is frequently deployed in both discourses showing the shared linguistic code. Also the term 'politically correct' is regularly used within both compassionate conservatism and penal populism. The use of a conservative vocabulary can be considered an example of an elaborated code because these terms convey broad and general meaning. A term like 'politically correct' is used indiscriminately within the SST's discourse to articulate a very general disapproval of perceived liberal influence. These terms are interchangeable between various conservative discourses, including penal populism.

This ideational universality within compassionate conservatism is restricted to conservative concepts and principles. However these conservative concepts are so interpretively varied that this gives compassionate conservatism vast conservative concepts to draw from. The 'conservatism' in compassionate conservatism connects it to the mobilizing potency and cultural capital of conservative philosophies. As suggested earlier in this chapter when compassionate conservatism is aligned by the SST, the 'compassionate' concepts are excluded in favour of the broader conservative concepts. The overt concern with the underclass, that distinguishes compassionate conservatism, is eschewed by the SST when adapting the discourse. Thus the process of master frame alignment used by the SST draws primarily from the conservative discursive positions, adapting themes from compassionate conservatism that have more universality and more cultural resonance.

Important to this idea of compassionate conservatism gaining resonance through the cultural capital of broader conservative ideologies is the concept of narrative fidelity. Narrative fidelity or 'ideational centrality' relates to the faithfulness a narrative within a discourse has with the fundamental, personal stories and ideas held by a community. Snow and Benford eloquently define narrative fidelity as occurring when:

"the frame strikes a responsive chord in that it rings true with extant beliefs, myths, folktales, and the like" (Snow et al, 1992: 141).

Compassionate conservatism is faithful to conservative values and beliefs, striking a “responsive chord” with conservative members of the public. The faithfulness to conservatism is evident within the SST’s derivative penal populism. This conservatism within both discourses speaks to the narrative fidelity that they possess.

The narrative fidelity of penal populism can be measured by appreciating the frame alignment of compassionate conservatism. Narrative fidelity speaks to the notion of a story or a discourse striking a ‘responsive chord’ with people through faithfulness to values and ideas held by a community. Compassionate conservatism discourse produces a narrative that unifies various conservative concepts, ideals and values. Support for conservative values and beliefs held by the sections of the public give compassionate conservatism frame resonance. Combined with a linguistic and ideational structure conducive to eliciting conservative frame resonance, compassionate conservatism becomes a discourse that strikes a ‘responsive chord’. The alignment of compassionate conservatism discursive positions, equips penal populist frames, especially the pervasive anti-liberalism frame, with frame resonance. This is narrative fidelity at its most basic level. The re-contextualisation of compassionate conservatism, the process where frames are made complimentary and congruent plainly illustrates the relationship, where penal populist frames develop from more fundamental and popular conservative frames. Penal populist discursive resources strike a ‘responsive chord’ because they are based on and influenced by fundamental conservative discursive positions.

Conclusion

The alignment of the compassionate conservatism to the SST’s penal populism can be conceptualised as a master frame – collective action frame discursive relationship. Compassionate conservatism is an essential discursive resource deployed by the SST, that influences their diagnostic, prognostic, and motivation framing by providing the anti-liberalism frames with frame resonance. The SST aligns compassionate conservatism with

their discourse through the processes of frame extension. This has the effect of emphasising the notion that systemic liberalism within the justice system is responsible for the dramatic rise in violent crime. This frame becomes the primary discursive unit that structures the SST's discourse. In the next chapter a broader analysis of the compassionate conservatism influence on discursive resources in the SST's and penal populism. This chapter will address the broader implications of this master frame – collective action frame relationship. It will also examine problematic issues regarding the study's use of frame analysis as a research method.

Chapter 7

Discussion/ Evaluation: Understanding the function of penal populist discursive resources

Introduction

This chapter will discuss the penal populist discursive resources explored in chapter five and six. In chapter five the discursive resources within the SST's penal populist discourse were described. This chapter identified a fundamental anti-liberalism frame that attributes blame to the rise in violent crime through the influence of systemic liberalism within New Zealand justice system. This frame acts as a discursive unit, structuring and organising the diagnostic, prognostic, and motivational framing in the discourse. In chapter six discussions surrounded the discursive influence of compassionate conservatism, articulated by Theodore Dalrymple, on this central penal populist frame. Conceptualised as a master frame – movement specific collective action frame relationship, compassionate conservatism is aligned by the SST. This has the effect of instilling inherent compassionate conservatism frame resonance in the SST's penal populist framing. This is done through a process of narrative fidelity, where penal populist discursive positions remain faithful to conservative values and concepts held within New Zealand society.

This chapter will examine the function of frames articulated within penal populism. The first section will discuss the hegemonic function of penal populist discursive resources. This hegemonic effect will be further explored through the Foucauldian concept of power/discourse, to better understand the frame resonance of penal populist discourse. This chapter will conclude by addressing the limitations of frame analysis encountered in this research.

Understanding the hegemonic function of penal populist discursive resources

Framing within the discourse of the SST is indicative of a wider social phenomenon, where opposing ideologies have entered into a state of warfare. Provocative, incendiary, and divisive rhetoric produced by opposing political ideologies has greatly intensified rivalries between popular discourses. Within the penal populist discourse produced by the SST, conservative framing is designed to instigate a 'cultural war'. This term has received considerable currency in American political discourse, where within discussions regarding key social issues, the notion of a 'cultural war' has been used to define the struggle between contrary political positions. The cultural war concept has been used particularly by right-wing politicians to describe the socio-political struggle between liberal and conservative influences on American society.

This concept of a cultural war closely relates to the notion of "cultural hegemony", which involves:

"the production of ways of thinking and seeing, and of excluding alternate visions and discourses" (Marshall, 1998: 272).

The concept of hegemony is most closely associated with the Marxist sociologist Antonio Gramsci. Gramsci suggests that within a culturally diverse society, one class with a fixed set of specific ideologies can dominate other classes. A cultural hegemon frames the universality of their ideology allowing it to become accepted societal norms. These norms may have an appearance of benefiting all of society but actually function exclusively to serve the ruling class.

Within Gramsci's hegemony the notion of an intellectual 'war of positions' conceptualised the strategic manoeuvres for which Marxism could become the dominant ideology. A 'war of positions' entails supporters possessing the dominant intellectual voice in society, extolling the virtues of ideology, like socialism, in order to achieve class consciousness.

Gramsci believed that through political activity power was fundamentally attained and maintained. The ultimate achievement of cultural hegemony is a complex process, where the steps taken must appear natural and inevitable. In society power is constituted by dual or dyadic oppositions – the violent revolution and the intellectual war of positions, force and consent, violence and persuasion. Cultural hegemony is concerned with the domination of the intellectual dyad of power. For Gramsci intellectual and moral leadership is necessarily linked with hegemony. Intellectual and moral leadership is responsible for manufacturing the ‘moment of consent’, the historical point where societal systems are changed through the voluntary will of the public.

Moving away from a strictly Marxist concept of cultural hegemony the framework can be applied to describe the culmination of conservative influences on the SST’s discourse through the creation of hegemonic discursive resources. Benedetto Fontana remarks that:

“It is ironic that today hegemony, developed by Gramsci in order to further the goals of socialist revolution, lives on as a theoretical and conceptual term while the mass and popular movement for which it was originally developed no longer exists”
(Fontana, 2008: 84)

Gramsci’s hegemony can be adapted to understand the promotion of conservative discursive positions through the SST’s discourse. The intellectual battle between conservative values and liberal values played out in penal populist discourse demonstrates the efforts by movements, like the SST, to initiate a war of positions and to recreate society with a new, dominant conservative ideology. An adaptation of Gramsci’s hegemony concept is a necessary conceptual step as the SST’s framing is directed towards a war of positions and not violent revolution i.e. the establishment of the moment of consent. A public group like the SST, located within a modern, stable society with stable political structures can only be concerned with the institutionalized construction of consent.

Thus the attainment of conservative cultural hegemony requires movements, like the SST, to demonize contrary ideologies. The creation of a cultural war from within the SST’s

discourse is a consequence of adversarial framing. The use of adversarial framing, a diagnostic discursive resource, does more than identify liberalism as the cause of violent crime; it has the effect of making liberalism appear as a villain, an enemy of New Zealand society. The fundamental anti-liberalism frame that permeates the SST's penal populism clearly functions as a form of adversarial framing. This conservative frame operates to engage a war of positions against perceived liberal hegemony within the justice system.

The SST can be conceptualized as an intellectual and moral leader in New Zealand law and order debates, the organizers of consent and persuasion. This notion reflects Pratt and Clark's (2005) belief that the SST emerged as both an alternative point of penal expertise and also an extra-parliamentary movement. The creation and management of a penal populist discourse that strategically opposes traditional penal expertise indicates the intellectual leadership quality they possess. The SST's discourse conceptualises the inherent immorality of the justice system, which has the effect of making their alternate approach appear moral. Gramsci believed that the intellectual war of positions was necessary to achieve societal change through influencing civil society. The power of civil society to then influence the political hemisphere of society meant that the attainment of cultural hegemony was fundamental. The hegemonic interests of the SST lay in this desire to significantly influence the legislative process in concern with penal practices. By dominating the civil discussion or the public law and order debate this political influence has been extensively achieved.

Hegemonic discursive resources deployed by the SST reflect Pratt's (2008) notion of how traditional penal expertise was replaced by penal populist expertise by the former's loss of legitimacy in the eyes of the public. Pratt suggests that the tacit consent given to penal elites to exercise control over the justice system waned when penal populist discourses challenged their legitimacy. Pratt's notion of legitimacy reflects the hegemonic character of traditional penal discourses and the opposition raised by discourses produced by movements like the SST.

“Legitimacy revolves around a set of expectations about a particular system of power can produce and how effective it is [...] Those who hold power must demonstrate their capacity to use it effectively and the existing power structure must be seen to serve the general interest, rather than that of the powerful” (Pratt, 2008: 366)

The strategic manoeuvres undertaken by the SST’s effectively undermines the existing power structure based on traditional penal discourse, attacking the legitimacy of traditional penal expertise. The SST question the effectiveness of traditional penal structures and the intent of penal elites in furthering their own interests, which has the effect of de-legitimising their position of power.

Penal populist adversarial framing motivates the public to counter current liberal penal and judicial structures. Framing that conceptualises the justice system as a villain serves to polarise New Zealand’s law and order debate. The SST and penal populist adherents are pitted against penal elites who seek to maintain the current system that has allowed violent crime to increase. Fundamentally the penal populism of the SST heightens tension between different cultural beliefs by proposing that oppositional discourse is responsible for the failed justice system. This is the hegemonic character of penal populist discursive resources. By denouncing alternative penal discourses as the cause of violent crime, penal populist arguments offer a decisive moral claim that draws people to their cause. The next part of this chapter will elaborate how the hegemonic function of penal populist resources deployed by the SST, motivates adherents by controlling penal populist meaning through the unequal distribution of power.

Power relationships with penal populism

Foucault’s concept of power can help develop the relationship between penal populist discursive resources and their frame resonance. Foucault’s discussions on the evolving power to punish in society in “Discipline and Punish” (1975) is topically significant to this

research. However of more importance to the notion of frame resonance is the relationship between discourse and power, particularly the power produced from the ability to deploy a knowledgeable discourse. For Foucault power is a “character of a network; its threads extend everywhere” (Layder, 1995: 102). It is not a commodity that can be possessed by a person or a class. Rather power is a force binding people, social practices and discursive knowledge; forming a multitude of diverse social relationships. Foucault sees the operation of power and the relationships that it produces as a quality of system where identity is constituted. Foucault interprets a subject as a “nodal point” existing within a power network, which intersect with various discourses (Layder, 1997: 130). The Foucauldian concept of power is complex and dynamic. It has particular import for this research, as the character of Foucault’s notion of power can clarify the complex power relationships between different components of the penal populism social movement, including penal populist discursive positions.

Within the penal populism movement a number of power relationships exist. This research has focused on the relationships between the SST, their framing and penal populist discourse. The discourse of compassionate conservatism has also been explored as a profound influence on the SST as a signifying agent. The concept of narrative fidelity has been further used to conceptualize the relationship between the SST, the public and the resonance of penal populist discourse. All these relationships are power relationships.

Narrative fidelity is the best way to conceptualize the complex power relationships that constitute the penal populism social movement. The process of narrative fidelity engenders power relationships between the SST, the penal populist discourse, compassionate conservatism and public penal populist adherents. The notion of the public in this research relates specifically to those people in New Zealand society who hold conservative beliefs and are inclined towards ideas expressed in compassionate conservatism discourse. The ‘public’ are not a homogenous group who all uniformly respond to conservative penal populist discursive positions. Naturally many people would disagree with many of the SST’s

positions. Those people in the public who have conservative beliefs support the penal populist arguments because they are disposed to them.

These power relationships that constitute the wider penal populist social movement reflect Foucault's concept of power/discourse. Power/discourse refers to the employment of discourse creating power relationships. The ability to use a knowledgeable discourse empowers the person or group articulating the discourse. The relationships that represent the penal populist social movement can be considered power relationships because the SST deploys the penal populism discourse; a specialized knowledge that empowers the SST, while subordinating the public. The power relationship between the SST and the public created by penal populist discourse is asymmetrical and fluid.

The SST, as the signifying agent framing the discourse, acts as a locus for the creation of penal populist meaning. The SST functions as the intellectual penal populist leader within New Zealand's law and order debate. They are the manufactures of consent, granting them power through creating and wielding penal populist discourse. Their framing specifically involves producing discursive positions that tap into and manipulating the public's furtive imagination regarding crime. In the fifth chapter these resources were documented and described. Discursive resources controlled by the SST produce diagnostic, prognostic and motivational framing. However the power in this relationship fluctuates as the SST is also beholden to the moment of consent, which only the public who share punitive values can give. The SST seeks the consent of the public and is bound by their support. The employment of penal populism discourse and the creation of frame resonance through narrative fidelity is a power relationship between the SST and the public. Narrative fidelity forces the framing of discursive positions that will satisfy the public adherents. This means that the power to define penal populist meaning is at different points shared, negotiated and contested.

The distribution of power in this relationship is further complicated by the articulation of compassionate conservatism, where conservative discursive positions are aligned to produce the very frame resonance that facilitates the power relationship between the SST and the public. Compassionate conservatism, as a master frame, establishes the discursive boundaries of derivative penal populism giving it power over the production of penal populist framing. But it is the SST, as a signifying agent, who works to re-contextualize these discursive positions, making them complementary and congruent to the New Zealand law and order debate. Compassionate conservatism is a fundamental component of this relationship between the SST and the public but the power it possesses is also fluid and negotiated. The hegemonic function of the SST's discursive resources rests in the culmination of compassionate conservatism infusing frame resonance within the SST discourse.

Penal populism cannot be conceived as a monolithic discourse that alone defines the activities of an organization like the SST. Penal populist discourse functions in conjunction with different penal populist subjectivities, composing a wider social movement. This movement is defined by various actors, including the SST and its members, and different layers of discursive knowledge bound together through the exercise of fluid and asymmetrical power relationships. Appreciating the character of these power relationships is a difficult task as they are unpredictable and dynamic. The final part of this chapter will address the problems of developing conclusions regarding the SST and their signifying work from their discourse alone. This part will discuss the limitations of frame analysis as a form of discourse analysis.

Limitations of frame analysis

Hank Johnston (1995) on frame analysis methodology discussed the concept of the 'black-box' to demonstrate the limitations of frame analysis in elaborating the signifying work of a frame articulator. The 'black-box' represents the creation of frames within a person's mind.

Johnston believes that no researcher can truly understand the processes that occur in the black-box of the mind. Traditional frame analysis relies on inferential assumptions about these mental processes. The reliability of frame analysis is called into question when researchers draw conclusions from these assumptions away from discursive evidence found within the discourse. To this end Johnston advocates a “text-dependent” micro analysis of a SMO’s discourse to provide a systematic, reliable, and unbiased analysis of the movements framing.

However difficulties arise from drawing reliable conclusions from the discourse alone because invariably a discourse is more than the sum of its parts. An extra dimension of complexity is added when considering the influence of different frame articulators and various social conditions. This reflects the complex relationships that make-up the penal populist movement, including the relationship between the SST and penal populist discourse. A range of contextual factors within and outside the movement influence the framing of penal populist discourse. The influence of these factors cannot be determined solely from the discourse.

Appreciating these discursive influences and fully understanding the creation of penal populist meaning would require a detailed and exhaustive study of the movement and the entities that compose it. Even appreciating the identity of the signifying agents within the SST is difficult. Does Garth McVicar or other prominent members influence the production of the groups discourse? What precisely motivates and structures the process they use to frame this discourse? The organisation of a dynamic social movement constituted by various power relationships limits a discourse based analysis. To truly clarify the framing undertaken by the SST a different qualitative method that would investigate the influence of individuals in the articulation of the penal populist discourse would be required. A form of ethnography, where members of the SST would be asked to discuss their beliefs and how they frame those beliefs could prove a useful line of research in the future.

Frame analysis is also limited in its capacity to qualify the power that penal populist discursive resources have over the public. Frame analysis is used in this research to explore how penal populism discourse functions as a resource, engendering a power relationship with the public through discursive knowledge and narrative fidelity. But this idea is somewhat speculative in proposing the distribution of power in this relationship. To qualify the power aspects of this discursive relationship would require a different methodological approach. Again an ethnographic analysis that explored and detailed the actual relationship between the SST and the public would be able to qualify the distribution of power. Any qualitative method that measured something as fluid and nebulous as 'power' (especially Foucault's notion of power) would itself be a difficult task and would invariably produce contestable results. This raises the question of the success of the SST in gaining support from the public through the employment of penal populism. It is impossible to measure this success from the discourse alone. Yet from the SST's prominence and legislative success discussed in chapter two it is reasonable to suggest that their position as the dominant signifying agent, forging penal populist meaning is an accurate assumption in this analysis.

The scope of frame analysis lies in its ability to conceptualize the function of penal populist discursive patterns through the exploration of reoccurring discursive patterns. Penal populist discursive positions reflect those found in other research undertaken on penal populism. Because there is a consistent penal populist discursive structure, one that strongly resembles other conservative philosophies, it is possible to make accurate assumptions based on framing theories like master frame – collective action frame relationship regarding the signifying work of the SST and penal populist adherents. Penal populism structures are reliably reproduced between different social contexts. This means that the influence of individuals and contingent social factors does not change the underlying discursive structure; the punitive narrative of penal populist discourse. Understanding other signifying influences may help complete the picture. The picture painted through frame analysis does produce important insights into the discursive structure of discourse produced by penal populist organizations.

Conclusion

It is not enough to describe and explain the function of penal populist discursive resources. To understand penal populist discursive resources requires conceptualising the wider social effect and how an organisation like the SST uses them to gain power within New Zealand's law and order debate. Penal populist discursive resources attack opposing philosophical positions. This hegemonic effect is a fundamental characteristic of the SST's penal populism. This chapter has tried to address how dynamic penal populist discursive resources influence the wider law and order debate. The analysis of the discourse provides a unique way to understand how punitive penal trends have emerged in New Zealand and other similar societies. This analysis could direct future study of groups like the SST to gain a deeper and richer understanding of how people who hold punitive beliefs actively engage in the construction of discourse.

Chapter 8:

Conclusion

In the introductory chapter this thesis began with a statement made by the SST expressing their outrage at Howard Broad's comments regarding the need to reduce New Zealand's prison population. The statement conveyed their disbelief that Broad would suggest leniency towards convicted criminal. The organisation believed that this was indicative of the liberalised justice system that protected the rights of criminals over the safety of the public. This liberal influence, in the eyes of the SST, has created a justice system that is simultaneously incapable of countering violent crime in New Zealand and unwilling to instigate necessary punitive reform. This research suggests that the statement made by the SST was an example of penal populist discourse. With this statement in mind this research set out with a simple aim: to delineate and understand discursive resources deployed by penal populist organisations as they seek support from the public.

This research began by providing the context needed to describe and understand penal populist discursive resources. In chapter two the SST were described as New Zealand's dominant penal populist organisation. From the beginning the SST courted attention through impressive demonstrations of their political and public clout. Unlike any other penal reform organisation, the SST provided New Zealand with a resounding punitive message that helped institute legislation; increasing the length of prison sentences and bringing about greater rights for victims. The message put forward by the SST became the focus of this research.

The third chapter introduced attempts to conceptualise punitive trends in modern society. Penal populism was conceived as a multi-disciplined discourse used to explain why some western societies had instituted punitive penal and judicial practices. Penal populism scholarship suggests that punitive change occurred when public opinion de-legitimized

rational, and dispassionate penal structures. The perceived rise in violent crime gave alternative discourses impetus, while a more mobilised and democratised public gave penal populist ideology the ability to question traditional and top-down penal and judicial power structures. Fundamentally this chapter clarified the philosophical boundaries of the punitive narrative employed by penal populist movements. The identification of this narrative allowed for themes to be conceptualised as penal populist frames. Chapter four discussed the analytical approach taken in the research. Frame analysis was elaborated as the method in which penal populist discursive resources would be identified and conceptualised. Snow and Benford's method of frame analysis guided this research.

Chapter five of this research identified the core discursive positions found within penal populist discourse articulated by the SST. Penal populist positions are reproduced through a punitive narrative. Structure imposed through narrativity makes the SST's discourse meaningful by binding various ideas, ideologies, themes, characters and events into a singular, coherent argument. The punitive narrative acts as a framing device; an interpretive schema that condenses conservative penal and judicial thought. Diagnostic, prognostic and motivational framing help define the punitive narrative. Diagnostic framing identifies systemic liberalism as the cause for the increased levels of violent crime in New Zealand. Diagnostic frames particularly focus on the permissiveness of the justice system. The SST believes that the permissive, liberal justice system is responsible in allowing the epidemic of violent crime our society faces. Prognostic discursive positions articulate solutions to the deleterious systemic liberalism by proposing punitive reform. Finally motivational frames impress upon the public the urgent need and moral righteousness for punitive reform. An examination of the diagnostic, prognostic and motivational framing produced by the SST indicates that a fundamental anti-liberalism frame supplies the discursive structure to penal populist discourse.

This process of creating a meaningful penal populist discourse is important for understanding the way an organisation like the SST gains support from the public. By producing a narrative that contains penal populist discursive positions, the SST can deploy

an argument that resonates with the public. The effectiveness of this discourse in resonating with the public is enhanced by techniques – framing features – that function to both clarify penal populist meaning and justify the organisations arguments.

Chapter six of this research discussed how penal populist positions are adapted from compassionate conservative concepts. The connection between the SST and the compassionate conservatism articulated by Theodore Dalrymple indicates that conservative concepts influence penal populist discursive positions. This research suggests that the penal populist anti-liberalism positions emerged from conservative thought that rejected liberalism imposed by ‘elites’ and the moral relativism and intellectual dishonesty that preserves it. The erosion of traditional moral structures in society, a key component of the anti-liberalism frame, is also present in compassionate conservatism. The SST act as a signifying agent, creating meaning by selectively interpreting conservative concepts to fit into their narrative. Thus conservative concepts are adapted by the SST in a process of frame alignment. Conservative concepts expressed within compassionate conservatism are aligned through a process of frame extension, which functions to reinterpret these ideas to suit New Zealand’s law and order context.

The frame resonance of penal populist discourse is primarily derived from its narrative fidelity. The discursive relationship between penal populism and compassionate conservatism engenders frame resonance because conservative values are translated through to the message expressed by the SST. Penal populism is in every respect carefully crafted and manipulated by the SST to generate meaning that connects with the conservative members of the public. Every idea is carefully framed to remain faithful to deeper conservative values held by penal populist adherents. Penal populism deployed by SST is a resource precisely used by the organisation to recruit support

This research is of significance because understanding the discursive relationship between the SST and compassionate conservatism discourse explores the implications of hegemonic

discursive positions, particularly regarding the quality of the general penal and judicial discourse. How New Zealand reacts to the continued problem of violent crime while balancing the rights of victims, the public and criminals is of great societal importance. This discourse requires responsible and measured arguments that would work towards a fairer and more effective justice system.

This research suggests that the SST's penal populism does not conform to this necessary standard. The adversarial nature of penal populist framing condemns all discourses that differ from their punitive narrative. Penal populist discourses not only reflexively dismiss alternate viewpoints it distorts them. Penal populist framing is hegemonic; the SST's discourse functions more effectively as a tool to attack 'liberal' penal and judicial views than an argument that could make New Zealand a safer country. This is a crucial point. The SST in their attempts to create a discourse that resonates actually hinders the law and order debate. Penal populist discursive resources may help the SST gain support but ultimately reduces the chance of successful reform by being divisive.

The significance of this research lies in illuminating the asymmetrical nature of the power relationship between the SST and the members of the public who adhere to penal populism or are inclined to conservative concepts. The power contested between the SST and the public penal populist adherents is complexly distributed. Although the SST requires the consent of the conservative public their position as a signifying agent allows them to manipulate the tone and course of the conservative punitive message. This power that is exercised to create a popular and resonating discourse intensifies the highly conservative discursive positions, particularly the destructive hegemonic discursive positions. Chapter five charted the development and increased use of adversarial diagnostic framing. The SST's penal populism became more antagonistic and provocative as they became more prominent and powerful in New Zealand's law and order debate.

As the SST have created a self-serving discourse that functions more to bolster support for their organisation rather than creating a credible conservative penal reform argument, the power the SST possess to define penal populist meaning continuously drags conservative attitudes towards extreme punitive positions. This research can help qualify this effect and, in the case of the SST and penal populism, the consequences of unequal power relations based on discursive knowledge. By building on Foucault's notion of power/discourse this research shows that the SST's power over the public to define conservative penal reform meaning reduces the likelihood for fair and constructive discourse.

In the end the points made by Howard Broad about the need to reduce the prison population is something that could reasonably be debated. Yet the SST is compelled by their stringent and rigid punitive narrative to attack this differing opinion without engaging in a debate that could draw reasonable solutions. The idea of being sensible is intrinsic to a group who have the word in their very name. However what could be at all sensible about producing discursive positions that summarily rejects alternative law and order philosophies. Invariably tackling violent crime will require sensible conservative and sensible liberal reform ideas. Unfortunately in their attempts to ply support through hegemonic framing the SST lock themselves into a decidedly nonsensical mode of operation. This reality will continue to prevent meaningful progression in New Zealand's now fractured law and order debate.

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