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This spectacle has no place in a civilised land

We make fools of ourselves and demons of children by trying small boys for rape

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What sort of people are we? In every sense, this is the question we've been asking ourselves during the election. We listen to our politicians and we make a choice that's more philosophical than we're inclined to admit, contentedly thinking we don't really do philosophy this side of the channel. We tell ourselves that we just want Britain to be great, or we're more concerned about freedom — or we think we can have both, and we focus on hospital wards or on the strength of the pound and the glittering towers in the City.

But what sort of people are we, really? And where's the best place to find an answer to a question like that? In recent weeks, perhaps, it hasn't simply been in the polling booths — it's been in Court 7 at the Old Bailey, too.

This famous old institution is built on the site of Newgate prison. In the past judges would enter it clutching bright coloured posies to ward off the stench from the cells down below. Many unfortunates, including the quite young, were sentenced to death in courtrooms that still exist. Opposite its great doors, in the 19th century, stood a scaffold where men and women were strangled in public.

In Court 7 in recent days, however, we have watched a modern folk tale unfolding before our sheepish eyes. Two very small boys and a little girl of 8 have been playing out, according to the determined strictures of a grand prosecution, a distressing drama of innocence and abuse. Yesterday the little boys were convicted of attempted rape.

But when a witness in a rape trial at the Old Bailey says she's been telling fibs to get a bag of sweets from her mum, or her attacker says he doesn't know what sex is, there's a worrying risk of going virginously wrong, so that we make fools of ourselves and, worse, demons of damaged children.

Mr Justice Saunders clearly tried this desperate case with kindness and sensitivity, warning that the evidence of a child was not the same as the evidence of an adult; they couldn't be judged in the same way. What mattered more, we may surmise, was what the three children said in the days after the incident, to their families and to the police. So what, then was the point of the Old Bailey trial — and how did it encourage the truth?

The jury, in the end, did their duty. But that doesn't let the rest of us off the hook, and it certainly shouldn't ease the dilemma for our new coalition Government. Put bluntly, we've been witnessing a spectacle that

has no place in an intelligent society: very young children do not belong in adult criminal courts. They rarely belong in criminal courts at all.

In Northern Ireland and in Scotland they have moved away from our addictions to juvenile punishment almost unnoticed and their world has not fallen in. In the place of criminal courts and state prosecution for the young, their youth conferences and children's panels bring youngsters and communities together. Young offenders and their victims, families and police, social workers and teachers meet and work together in ways that no prison or magistrate could ever achieve. Acceptance of wrongdoing and recompense are central. Plans for the future are devised and monitored. Victims are consulted and respected.

The murder of James Bulger and, more recently, the tormented little boys in the Edlington case, were terrible examples of youthful cruelty; naturally some behaviour must lead to prosecution. But we need to keep this in the strictest proportion. We need to be more mature than to design a system of youth justice around the barbarism of the most extreme cases. "You show me yours and I'll show you mine" litters every playground in the country. When did we forget?

Millions of people are being invited to see David Cameron's fresh administration as a promising start, as an agent of progressive reform. Impossible to imagine just two weeks ago, there's a palpable sense today that the mantle of modernity may have shifted. Let's see if this is true: let's see if we dare do now what Labour was too spineless to manage. Let's see if the new Government can face down the madness of a criminal justice arms race that packs our courts with youngsters without making any of us the slightest bit safer — and without making any of them taller citizens for the future. Let David Cameron and Nick Clegg seize the courage to bring us a great and generous reform.

Fifty years ago, when I was a child at a provincial primary school, not knowing what rape was or imagining the walls of the Old Bailey, my tweedy, farmer's wife teacher taught me that you shouldn't finish an essay with the words that began it; she said that if you did this it meant you hadn't made any progress. But Mrs Lynch was a kindly woman who never raised her voice to us, not once in anger, and I expect she'd have made an exception for now: what sort of people are we?

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