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Whose Justice? Principal drivers of criminal justice policy, their implications for stakeholders, and some foundations for critical policy departures

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Abstract

An independent three-year project has recently begun to examine issues about the relationship between governance, justice, and social interests. *Whose Justice?* will address a number of questions about the criminal justice system, the way in which it is governed and managed, and whose interests it is designed to serve:

- To what extent can an effective criminal justice system also be a just one?
- What does effectiveness mean in relation to criminal justice?
- How can the various aspects of the criminal justice system work together to meet the needs of offenders, victims, the wider community and politicians in an effective and humane way?
- How should it be managed at central and local levels, to whom should it be accountable, and for what?
- What are the appropriate roles of the state, voluntary and private sectors in delivering criminal justice services?
- How should the criminal justice system relate to other areas of social policy and provision?
- What is the role of the citizen - volunteer, voter, and victim?

While the answers will be sought through research, the findings will be used -as they emerge- to instigate debate and discussion among informed audiences.

The paper will produce a model of the current policy drivers and introduce some analytical tools for assessing their implications for stakeholders. It will propose methods of critical social audit to be applied to the criminal justice system and outline some ways in which greater delegation of justice and crime control could be achieved in order to address the current problems of continuous system expansion.

Introduction

The questions posed in the article are set out below:

What are the principal large-scale trends in the justice system?
What are their consequences? What are the implications for concepts of justice and for stakeholders? What evidence of wider stakeholder attitudes is available and how might changes in policy begin to address these constructively?

In 1993, Andrew Rutherford published an analysis that identified three elements to the criminal justice system that represented different 'credos' –punishment, efficiency and care (Rutherford 1993). Two years later, Anthony Bottoms, in a benchmark article, also distinguished three conceptual fields - just deserts, managerialism, and community (Bottoms 1995). This article uses their templates as points of departure, much as Alison Liebling used Rutherford's in her review of 'late-modern' imprisonment (Liebling and Arnold 2004).

At first sight the templates yoke together distinct or even opposing principles: for example, 'punishment' and 'care' sound like opposites, but there are many contexts in which the two find themselves linked, and one of the vexing fascinations of seeking to understand current policy is the way in which they accompany one another –'tough and tender'- in so many pronouncements. Both models introduce a mediating term – 'managerialism' or 'efficiency'- that focuses on the operations of justice, reminding us that values have to be embodied before they can take effect in practice. Indeed, it is this appreciation of a working system with many stakeholders that needs to be developed more strongly, so that it can inform our understanding of contemporary justice.

The sections of the article point towards different aspects of change observable in the system, beginning with 'getting tough' on crime. It will then discuss the New Public Management (NPM) model, and the 'business-like' restructuring of the system, before considering the impact of a refurbished 'care', formulated by Bottoms as a turn towards 'the community'. It finally introduces ideas that imply a stakeholder-based audit of the system and its values, with a view to creating a more participatory system.

The elaboration of punishment

'Toughness' implies robustness, but it is also-and more significantly- a codeword for punitiveness. By 'punishment', we usually mean the infliction of pain or loss. There is now a familiar history of punitive political interventions beginning in the mid-90s that made imprisonment into a bleaker and more constrained experience, and at the same time promoted imprisonment as a punishment with a positive value, instead of merely a last resort (Downes and Morgan 2002; Liebling and Arnold 2004). Mandatory minimum sentences, including life imprisonment for a second serious offence, seven years for a third drug trafficking offence, and three years for a third domestic burglary, were introduced in an effort to overcome the implied 'injustice' of judicial discretion. Apart from these centralised changes, there have been corresponding developments across the whole sentencing field that have increased the salience of punitive measures and boosted the prison population by a quarter since 1997 (Prison Reform Trust, 2004).

The criminal justice policies followed by the UK have been widely compared to the policies of the US. Yet the hegemony of the US does not go unchallenged. The policies followed by different nations in what used to be called the 'West' are not the

same (Tonry 2004). Common characteristics in the UK-USA model of punishment do not apply to anything like the same extent in countries across Europe that share broadly similar standards of living and constitutional arrangements with the UK. For example, French policy has been described in terms of social welfare amelioration combined with renewed criminal justice intervention, bureaucratically conceived; rather than increasing imprisonment according to the so-called 'Anglo-Saxon' model, surveillance is the key tool of control (Wacquant 2001). While the UK-USA model is preoccupied with forms of segregation and ever-longer periods of 'prisonisation', the European model is restrained and 'mild', applying standards of rights that are designed to uphold standards of decency and humanity.

These contrasts imply that we should look for social factors in assessing how the outcomes of justice systems come to be perceived as acceptable or not. Before we explore those factors, it is important to examine an alternative and more abstract method of analysing policies.

Thinking about justice in punishment

As several reviews have established, punishment is abstractly rationalised in several ways that are endlessly contrasted (Hudson 2003; Zedner 2004).

The **utility** of punishment is given as a justification by some commentators: sentencing is meant to protect the public, reduce offending, and so on. Utilitarianism looks at the end-products of the practice to seek a justification.

In contrast, punishment can be regarded as an expression of **sentiments**, designed to assuage feelings of loss, or functioning as an expression of some collective revulsion.

For others, justice is meant to form a **retributive** response to the offender's action, limited by principles of proportionality or **desert**. The main values associated with this criterion are precision and objectivity, the methodical application of procedures to the offence and the offender.

Some rationalisations focus on benefits for the offender, in terms of social **reintegration** or **rehabilitation**.

Critics of punishment, on the other hand, want to lay emphasis on the reintegrative potential of other procedures, including **restorative** practice towards a **victim** or the **community**

Increases in punishment imply some kind of change in the way that justice is perceived. If value choices are at the heart of such punitive preferences, they should be traceable to broad philosophical shifts among influential groups, which prioritise abstract considerations of justice. However, it is likely that a less coherent and more piecemeal process is at work, bringing stakeholders into line and regulating them by means of social practices.

Debates on principles of justice often produce conundrums that can only be decided by abstract value-choices. On the contrary, I want to suggest that opinions about just

punishment are a function of social processes that operate within the system but crucially reverberate in the wider society.

Doing justice

Different theoretical criteria for punishment are socially filtered through institutional structures and processes that influence the outcomes of decision-making. Groups can be attributed different stakes in the punishment system, some through office or occupational links, others through citizenship. All are related through social practices that give them responsibility, as well as power.

Some constituencies can be seen as assumptive guardians of particular principles of justice. At a very simple level, politicians have social expectations of criminal justice legislation; guidelines for sentencing are issued that seek to order and regulate the whole body of cases; judges declare their opinions about the reasonableness of individual punishments; probation officers think about rehabilitation; offenders, victims and witnesses bring distinctive agendas that are emerge unevenly, while around the system flows a stream of sentiments. No one group has untrammelled control over the 'justice' that emerges; it is an end-result of many different influences. There are dominant and subordinate groups and interests whose interactions control the balance of 'justice' throughout the system. While Rutherford detailed 'working credos', it is interesting to see how far these beliefs are constructed by groups in relation to other actors-not simply as expressions of values.

A recent study illustrates the extent to which awareness of social norms and practices is a major influence on the contemporary judiciary (Hough et al 2003). What the authors term 'pressures' have shaped patterns of decision-making in ways that suggest a 'cocktail' of conforming influences has been imbibed.

The judiciary in the study described how their thinking was affected by guideline judgements and ministerial pronouncements, though such messages from the centre of the system were often unclear or contradictory. In addition, their decisions were framed by their sense of public opinion. Local judiciary were well aware of local expressions of opinion in the media and elsewhere against which their sentencing might be judged. Even friends were cited as a significant audience by a magistrate who said that most thought the court's decisions were 'woefully lenient'.

While those exposed to conforming influences rarely succumbed in a 'straight' fashion, it appears the influences were powerful enough collectively to generate effects on trends in sentencing to custody. Research has consistently shown that a significant section of the public sees the judiciary as out of touch with public opinion (Hough and Roberts 2004). It has been a sense of **responsibility**, redressing that gap, which has guided the upward trend, rather than some shift in philosophy. If this is a typical pattern, it appears that stakeholder values in the criminal justice system can involve a sense of service and not simply a form of independent assertiveness; they reach out to respected and to deserving constituencies.

To express the point in the terms of a classical analysis, the institutions of justice, while upholding a form of rationality, do not completely transcend a prior ' state of nature'; their rationality also bears the imprint of particular interests and ideologies.

The conception that legal systems have a dual aspect – articulating a particular form of social life with a particular set of abstractions- has been brought out by the critical theory of Habermas (Habermas 1998; McCarthy 1998).

The efficiency drive

A second powerful driver of change has been the business model of governance, which strengthens forces of managerial control in the criminal justice system (James and Raine 1998). Its consequences for practice in public service and voluntary organisations are of considerable importance. Managerialism, in the sense of a unifying strategy for the whole of the system, was already a clear trend to Bottoms (1995). It was a major policy theme underpinning New Labour's policies from the outset (Gelsthorpe 2002).

Theorists have looked to international models in order to understand the extent to which the UK may be part of some broader change. The concept of 'new public management' (NPM) has developed as a way of interpreting movements in organisation and policy across several countries and jurisdictions. Reform is not readily predictable or uniform and the reasons for such differences can be investigated by case studies (Christensen and Laegreid 2001). A movement towards greater use of business methods and thinking is perhaps more evident in England than in the other nations within the UK where the effects of devolution have created a democratising pressure (Downes and Morgan 2002). However, it is the Thatcher government that has been associated with its originating principles and the legacy of that government in the UK is therefore interesting to explore.

Broadly, the movement encompasses a number of features: an increasing market orientation, the use of contracts, and forms of devolution. NPM leads to a diversification in control through methods of contract specification and compliance, performance targets, penalties and so on. Control is dispersed and tall hierarchies are dismantled into shorter chains of responsibility. A structure of organisational accountability replaces a simple regime of command.

However, NPM has been mounted with the primary aim of improving performance and efficiency and this aim has created pressures within NPM organisations for them to be seen to deliver: the result is a heavy dose of managerialism. In this context, managers seek to exert power, and can become powerful, provided that they can achieve corporate objectives satisfactorily.

Those who carry out the tasks lose discretion and control, unless they can wield the classical market power of taking their talents or resources elsewhere. For them, market forces operate as constraints and not necessarily as opportunities. Dedicated organisations in the public and voluntary sector which are not designed to do anything else but meet public service goals will have fewer possible options to assert themselves in a rigorously managed market (Garside 2004).

In the context of active government supervision, these trends have given rise to a relatively weak configuration of localities, with the centre imposing financial controls on the periphery. NPM favours managerial control over unpredictable local

governance. The ultimately centralising thrust of managerialism was evident to observers who analysed how the logic of NPM was applied (Ryan 2003).

In the criminal justice system, there have been numerous recent examples of the creation of NPM institutions and processes. The classic examples are the creation of the Youth Justice Board and more recently its new proposed counterpart for adults, the National Offender Management Service. Both are constituted as quasi-independent organisations with commitments to reduce offending –the primary goal of current public policy. Each is a commissioner of services, engaging in supervision and monitoring, and setting targets for the subordinate agencies dealing directly with offenders (Home Office 2004). An intermediate stage saw the creation of a National Probation Service that was clearly subordinate to a regime of national control and targets, and, like the Prison Service, will be ready to link up in the provision of 'seamless' sentences (Ryan 2003). Within the Prison Service, NPM has been introduced in the form of managerial controls such as Key Performance Indicators (Liebling and Arnold 2004). While the effects of NPM on actual prison performance remain debatable, the reforms have allowed sentencers renewed scope for believing that sentences will be –in the jargon – properly 'delivered', bringing the considerations of 'pain' and 'efficiency' neatly together. The result is to create a more active and powerful penal complex in which sentencing meshes effectively with an enlarged penal practice.

At the heart of the system, there have been important examples of efficiency initiatives: 'fast-tracking' persistent young offenders before the courts; and seeking to fill the 'justice gap' created by discrepancies in the number of 'offenders' brought before the courts and subsequently convicted and punished (Home Office 2002).

All these changes mean that as agencies respond to an environment of contracts and targets, there is a pressure to streamline and simplify practice, to thin out goals, and to marginalise 'poor business' that does not carry a sufficient budget, or is too costly to engage with. The investment that does enter the system is to be welcomed, but for those practitioners who have been allowed in the past to be creative and responsive the changes can be restrictive. Unless the elements of good practice are evaluated, codified and fully costed, there is a risk that they will be sacrificed at the altar of 'efficiency' savings (Pollitt 1993).

Communitarianism

A third communitarian theme has replaced the liberal strand that Rutherford envisaged in the 90s. The influence upon policy of American communitarian theory is clear (James and Raine 1998; Gelsthorpe 2002). The discourse of rights has been yoked to its partner term 'responsibilities' in ways that serve to echo the relationships of disciplined families and social groupings modelled on them. Indeed the classic exemplar is a faith community with dense networks of social exchange and control. Ideally, each individual has a place in a system of obligation and respect that is closely meshed, and, above all, personal, so that departures from accepted norms bring shame and are to be avoided for that reason.

Because it is the young who rebel, parenting is therefore a cornerstone of the new community. Public policy therefore seeks to promote and disseminate advice on how

to reward good behaviour and deal with bad behaviour. More significantly, the introduction of Parenting Orders makes adequate parenting compulsory. Critics such as Crawford (2003) have identified the authoritarian features of some of these innovations.

A parallel solution to the deficiencies of immediate social networks is to build personal support, by means of mentoring and advice schemes that draw on volunteer involvement. Social capital theory has flourished as a way of grasping how disadvantaged individuals can become more resilient to the risks of despair and how a myriad of breaches in the social fabric can be repaired. Sure Start and other funded support schemes form practical expressions of the theory.

Tellingly, the foundation for mentoring has been an ideological confidence in the redeeming power of personal support, and very little substantial evidence has been deployed in its favour (Shiner et al 2004). What mattered was the conviction that the right advice and understanding would serve to put offenders on a new path. The creation of Offender Panels involving lay volunteers in the implementation of plans for young offenders, albeit minor ones, has been inspired by a similar confidence in the common sense of ordinary people. Yet research by Shiner and colleagues on the mentoring projects funded by the YJB has shown that even constructive relationships can be tenuous and far from straightforward.

In this way of thinking, breaches of obligation to the law have to be addressed as if they were breaches of obligation to the family and community. Hence restorative principles are accepted based on dialogue and understanding among immediate networks rather than mechanical enforcement and punishment. For several reasons, it is a protean animal to evaluate. However, the evidence base for restorative justice is arguably stronger in terms of its acceptability to participants than in terms of its capacity to reduce offending (Miers 2001). This conveniently suggests a rationale which appears communitarian – the degree to which it is popular in the communities where it is adopted. Nonetheless, it is likely that there will continue to be 'business efficiency' controls on the application of the restorative model. Crawford (2003) has argued that a business model controls the discretion assigned to community forms of representation such as Youth Offender Panels. An expansion of restorative justice as recently proposed by the government could find itself constrained by managerialist considerations of effectiveness (Miers 2004). Stakeholder communities will therefore struggle to escape the bonds of control placed on their roles, unless they can negotiate a more explicit delegation of power from the centre.

Overview of current policy

An overview suggests that current criminal justice policy in the UK consists of three primary strands.

Fig. 1 Strands in contemporary criminal justice policy

Policy strands	Key examples	Core value
A punitive strand	Mandatory sentencing; tougher prisons	Pain/denunciation
A business strand	Reducing the Justice Gap; YJB; NPD; NOMS	Efficiency

A communitarian strand	Parenting Orders; Sure Start; Children's Fund; Restorative Justice; Mentoring	Moral and social improvement

The famous slogan 'tough on crime and tough on the causes of crime' has not proved sufficient for New Labour; it has also demanded an injection of efficient modern government. Hence we see a managed expansion not only of punishment but of ameliorative measures. Much of the relationship between the two is unclear, in that although the causes of crime have been located in families and communities, for older offenders and the more recalcitrant, the punitive strand has predominated. Indeed there is a potential for confusion, as the emphasis on responsibilities means that simple disobedience to legal orders invites even more ominous levels of sanction.

Where this paper takes forward Bottoms' analysis is in arguing that New Labour have gone beyond the field of concepts and established a triad of policy imperatives that engages with social developments in a more profane sense. In particular, the punitiveness that Bottoms saw as intrusive, or merely short term, has been thoroughly incorporated in current policy. The 'signal themes' of New Labour legislation identified by Gelsthorpe (2002), in which 'managerialism' and the 'community' featured, were inflected by punitiveness. A conception of three similar strands – punitiveness, modernisation and communitarianism- appears within a recent paper on victim policy (Jackson 2003). This policy engagement has formed a trajectory carrying risks and opportunities that we can now observe concretely.

Looking in from the outside

Each strand has been identified by a renewal of, or a shift of power towards, the penal complex, or to managers of various kinds, with destabilising consequences for other stakeholders in the system. To go beyond the parameters of current policy also requires looking at how stakeholders on the fringes of the system view its operations. If the strands of policy appear relatively clear-cut, the connections between the system and the stakeholders who lie on its periphery are less well understood.

At first glance, fringe stakeholders appear collectively, as the 'public' - a grand concept that is a natural, if not unproblematic, starting point. In a recent review, Mike Hough and Julian Roberts have collated existing research about confidence in the criminal justice system internationally. Linking public misinformation with the media coverage of crime, they trace a consistent story of public ignorance and misunderstanding which affects confidence.

'A relatively consistent pattern has emerged across jurisdictions: people who have more knowledge of the system express more confidence.' (Hough and Roberts 2004b p37)

They note that the police emerge as the most dependable part of the system and the courts as the least dependable (Hough and Roberts 2004a and b). Recent research in the UK reports the same pattern. Evidence from a MORI survey and the BCS indicates that here is greater confidence in the local system than in the national system and it may be that the national press play a part in influencing opinion by highlighting alarming incidents of threat, failure, and unjustified lenience (Page et al 2004).

The methodology of the mass survey gives comprehensive results but what the answers mean still needs unpicking (Johnstone 2004). The 'confidence' issue in broad-brush survey questions is constructed on the same lines as the 'fear of crime' research and possesses the same limitations of relevance. Like fear, confidence is a subjective personal attitude that carries a bundle of hypothetical implications. Confidence is associated with predictable, consistent and controllable events and not simply with values and norms. So, for example, in expressing an opinion about their 'confidence' in an institution, some people may support its values but be less confident than they will be achieved; others may have more fundamental reservations about its values.

Within these limitations, the first key finding is a lack of confidence in the court system, which indeed is the subject of widely expressed dissatisfaction internationally. Major failings lie in its cost, inefficiency, unfairness, lack of accountability, and isolation. A second key point is that the research conducted in the UK shows greater confidence in local than in national systems, suggesting that breaking down research questions may be more productive than keeping them general. Moreover, there is a need to look at sections of the audiences and at the different situations and contexts in which opinion is registered.

A significant example of the need to examine opinion in detail is given by the findings of research on the views of minority ethnic groups. Minority groups are more likely to express worries about crime than majority groups and they are more likely to be victims of racially motivated crime (Salisbury and Upson 2004). According to survey evidence, their confidence in the criminal justice system still appears to be close to that of other groups (Page et al 2004). However, the views of black people are more critical: Hough and Roberts (2004b) report evidence that the proportion of adults who recall being "really annoyed" by the conduct of a police officer in the last few years was twice as high for black respondents. Such survey findings need to be set alongside other evidence that poor relations with the police lead accused young people from minority groups to defy the system by failing to plead guilty, increasing the likelihood of more severe sentences (Hood 1992). There are paradoxes and disparities in evidence about public attitudes that need to be properly explored.

A new approach to public attitudes should be based on rethinking the extent to which law itself promotes genuine communication. The deficiencies of a legal order, however well-meaning, that imposes obligations upon its subjects not only to obey its commands but also to 'normalise' their behaviour have been criticised by theorists such as Habermas (1998). He warns that the stereotypical treatment of vulnerable or oppressed groups by a normalising law overlooks inequalities that develop beneath the surface of social interaction. His idea of a 'proceduralist' paradigm of law presents an alternative that regards the participation of citizens in public communication as a vital contribution to the clarification of substantive justice. It is a participatory notion of community that offsets the impulse for control embedded in official versions of communitarianism. By seeking to engage citizens in discussion, listening and responding, this foundational version of community dialogue amounts to far more than a popularity test or a form of consumerism passing for 'public voice'(Arnstein 1969; James and Raine 1998).

A scenario for the future

A stark vision derived from critics like Downes and Morgan (2002) and Tonry (2004) identifies movements in the UK system that are probably irreversible in the foreseeable future. According to Tonry, the main drivers are populism and cultural tastes for penal severity. Severity has been a legacy of penal tradition in the UK (Pratt 2002). The rhetoric of severity also has been articulated with a tradition in justice that has possessed strong lay and local elements of intervention. The rhetoric of clampdowns is used in ways that associate system governance with a 'local sheriff' rather than with a rule-bound civil servant. In the US, those traditions have been developed through elective systems for judicial office in ways that highlight the importance of vote-winning and 'big ideas'. The politicisation of UK crime policy is evident in the parties' competition to be 'tough', so there is a political alliance between populist justice tendencies and the politics of continual initiatives and legislative action to impose punishment.

The interlocking dynamics of punishment and efficiency can be maintained over long periods. The punitive mindset is compatible with a wide range of operational principles, including the bureaucratic rationality of the efficient state (Zedner 2004), which offers itself as a compliant means to achieve prescribed ends. For Tonry (2004), there is little realistic prospect that self-regulation by the system will diminish the appetite for punishment.

The only sure thing is that we can expect intervention, not inaction. The compulsion to intervene means that doing nothing is never an option, and the consequence is an energetic interaction and interfusion of initiatives as the system expands.

The main worry must be that system expansion will mean diminishing returns.

- Insisting on action in every case increases costs substantially; so, for example, the relative costs of Referral Orders in non-serious offences have been remarked upon (Newburn et al 2002)

- Threatening imprisonment for non-compliance brings inevitable risks of escalating severity: for example, breaches of Antisocial Behaviour Orders could lead to escalating rates of imprisonment (Ashford and Morgan 2004)

- More generally, the growth of community penalties has made them attractive options for dealing with offenders who might have been fined or even discharged (Carter 2003)

- There are concerns that an expansion of offending programmes in the prisons is failing to exert the desired effect on reconviction rates (Cann et al 2003; Falshaw et al. 2003; Friendship et al 2002)

- Increased spending on the punitive complex detracts from the available budget for preventive measures (Morgan 1999)

This scenario involves more and more 'tail-chasing' as the impact of one set of changes runs its course and another bout begins. It suggests a perpetual crisis of legitimacy which will only stimulate further shifts and innovations (Garland 2001).

A stakeholder audit

One way out of the crisis may be to consider how far the elevated notion of 'independence' in the justice and court system still resonates with public discourse in any significant way (Bottoms 1995). The whole weight of opinion across the political spectrum is to decrease the isolation of the system and to increase the extent to which it is accountable. When we see inquiries, inspections and commissions, it seems that 'independence' is becoming more a property of those who are outside the system rather than the people within it. This shift turns the pattern of legitimacy upside down, since the independence of the system has been a key part of its historical justification.

Instead, it may be that the restructuring of the formal system based on reconsidering functional **principles** would begin to address contemporary doubts by opening up each aspect to scrutiny. A critical audit based on social values could identify stakeholders who would benefit from change.

Fig. 2 Stakeholder principles in a renewed criminal justice system

Principles	Main stakeholders
Objectivity	All
Transparency	All
Representation	The parties
Fairness	The parties
Effective decision-making	Managers
Proportionate cost/time	Managers
Problem solving including restoration	The parties and their communities
Preventive or crime reduction function	General social interest
Minimum of pain	Offender

It is vital that agreed principles are applied to systems of justice so that current failings and new reforms can each be properly assessed and any defects of justice can be avoided (Crawford 2001).

Local delegation

A connected strategic path is to open up the ground marked out tentatively by current advocates of 'community' and to infuse these initiatives with a demonstrative vigour and reach that is impossible under pure NPM. There are various proposals for a revived community justice and for local participation. Stakeholders are seen as central to the community justice movement in the USA, where community justice experiments have been a response to the centralisation of justice, as well as attempts

to resolve concrete local problems (Chicago Assembly 1995; Sviridoff et al 1997; Berman and Feinblatt 2001; Mansky 2004). The recent experimental North Liverpool Community Justice Centre draws on this example. Proposals for new procedures such as conferences or circles have been put forward by restorative justice advocates such as Braithwaite (2003). The creation of 'community law support programmes' would systematise the delegation of power in terms of justice as well as policing and crime prevention.

A delegation of justice would imply placing limitations on the role of centralised courts and bringing about a proliferation of tribunals or systems of hearing for handling less serious disputes. Only the courts would sentence to imprisonment and the gates between the two spheres would be vigorously regulated and policed. Involvement in the deliberative process can be powerful in educating members of the public about the responsibilities of justice.

Currently, a range of initiatives, like 'reassurance policing' (Singer 2004), seek to engage local publics. It should be possible to broaden the 'policing/crime prevention' role presently devolved upon communities and agencies, one which certainly went beyond responsibility for tasks such as technical surveillance and target hardening, and began to include filling gaps in service provision, problem-solving, and conflict management, while easing that burden of responsibility as far as the courts were concerned. 'Community law support programmes' could mean more Sure Starts and fewer Street Crime Initiatives led by the centre. It might mean that 'community law support programme' banners would be painted onto the doors of projects started under other auspices. The work of the voluntary and community sector would be meaningfully integrated by its inclusion in local programmes, rather than disappearing into the small print of plans made by a National Offender Management Service. In this way, the operation of local forums like Crime and Disorder Partnerships would be widened to take on tasks of neighbourhood reconciliation and community justice - not simply interagency consultation.

Crucially an effective delegation of decision-making would need to introduce more opportunities for demonstration and discussion of practice and ideas. A major obstacle to progress in increasing democratic participation has been ignorance of a kind exploited by an irresponsible press and media. Consultation initiatives have foundered on the rocks of misinformation and suspicion based on citizens' distance from a powerful centre (Hough and Roberts 2004a and b). Yet people in diverse and deprived communities can show an awareness of crime that is far from simplistic (Roberts et al 2003; Scheingold 1995). What are needed are more tool-kits that show communities how their members can administer justice and prevent crime without falling into the traps of populist punitiveness and control. Voluntary associations, given the right funding, can provide a means to overcome the fissiparity of the local. There are also proposals that would extend the reach of participation to regional and national levels (Johnstone 2004). A participatory system carries risks of becoming fractured or undermined, but, as Ryan (2003)'s history has demonstrated, it presents a more candid scenario than elitist models from the past that hid uncomfortable truths.

The obstacles to this prospective venture remain powerful. While there may be a continuing crisis of legitimacy, existing policies can be adjusted to meet contingencies or revamped to attain wider goals. Current commitments can be

modified as long as they are repackaged as restatements of the original ones. Reformers need to be adept in identifying stakeholder values that allow discussion about future changes to be promoted. It is this realism about stakeholder values, rather than appeals to abstract values, that can alter the terms of debate.

Conclusion

Finally, certain key points deserve repetition. They concern the importance of key tasks:

Assessing the relationship of forces and interests across the criminal justice system;

Identifying the main drivers of policy while at the same time seeing their impact on stakeholder values and interests;

Disaggregating public opinion and examining it concretely and situationally for different groups;

Recasting the principles of the criminal justice system in terms stakeholders can identify with while looking beyond the traditional ideology of system independence;

Exploring community justice through delegation of justice and community law support programmes, based on participatory principles.

This article has set out some of the ideas that can be developed, modified and expanded in the programme of research, dialogue and discussion called *Whose Justice?* Using a stakeholder analysis, the project, based at the Centre for Crime and Justice Studies, School of Law, King's College London, will examine key trends and aspects of change, especially the commissioning of services, decisions on prosecution, and the treatment of victims. It remains for criminologists and other stakeholders to make their comments on what is a preliminary outline of important issues that demand more extensive examination.

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