

# Justice matters: eclectic, dynamic, contradictory

Richard Garside reflects on the constructive tensions helping to shape this new initiative

Of the various intellectual precursors and practical influences that have shaped the development of Justice Matters, three stand out as of particular importance.

First, the Centre for Crime and Justice Studies' ongoing analysis of the penal system under the Labour governments and the current coalition has uncovered the relative growth in expenditure and the expansion in the scope, scale and reach of criminal justice institutions and agencies. The lack of any clear evidence of impact as a result of this growth suggests that much of the additional expenditure has been squandered, so supporting a cost-effectiveness argument in favour of downsizing.

Second, critical criminological and social harm perspectives have highlighted the harmful impact of criminal justice practice and drawn attention to the panoply of harms experienced in society that are either addressed inadequately by criminal justice practice or are outwith its institutional focus. These perspectives have offered an additional dimension to the argument in favour of downsizing criminal justice: specifically the notion of criminal justice as a source of social injustice, rather than a means of achieving justice. They have also prompted the strand of Justice Matters thinking aimed at building policy and practice alternatives to criminal justice that are more just, inclusive and effective.

Third, certain perspectives from critical political economy have shaped the Justice Matters focus on transforming policy and practice. In particular, they characterise welfare and criminal justice as related and complementary means by which the

social antagonisms of contemporary societies are managed and regulated. This places in doubt the desirability and efficacy of, for instance, merely shifting criminal justice caseloads into the welfare system and points to the importance of transforming current policy, practice and broader social relations.

In summary, the Justice Matters initiative draws on a number of influences – pragmatic, empirical, theoretical, philosophical – and a range of different intellectual fields. This mixed heritage has led to a refreshing eclecticism and a welcome dynamism. It has also resulted in some significant internal tensions and potentially contradictory positions. Understanding these tensions is important in helping to shape the delivery of an initiative intended to foster real world change. That is the purpose of this article.

## Why downsize criminal justice?

The Justice Matters initiative promotes, in the words currently on the project pages on the Centre for Crime and Justice Studies website, 'an across the board reduction in the social footprint occupied by criminal justice'. In concrete terms:

*This means fewer arrests; fewer prosecutions; fewer prisoners; fewer probationers. It also means fewer criminal justice workers, whether police officers, judges and magistrates, prison and probation officers or others.*

We put to one side, for now, the implications of an across the board downsizing of criminal justice and consider a prior question: why downsize? There are a number of

different answers to this question, reflecting the various intellectual precursors and influences on Justice Matters. We might say that criminal justice should be downsized because it is:

1. Economically costly, or
2. Ineffective and/or not as effective as other policy and practice responses, or
3. The cause of harm and injustice, or
4. Irrelevant to addressing the harms members of society experience.

These different justifications are not necessarily mutually exclusive. Criminal justice might be both economically costly and the cause of social injustice. On the other hand, it is more difficult to argue that it can be both ineffective and irrelevant. To say that criminal justice is ineffective implies that it might, at least in principle, have an impact, something that is denied by claims of irrelevance.

Clarifying the reason for downsizing criminal justice is important because of the practical consequences that flow from it. The systematic execution of all convicted law-breakers would be a striking means of downsizing criminal justice, were cost considerations the key driver. The reign of terror unleashed might, incidentally, also enhance the effectiveness of criminal justice by radically disincentivising law-breaking activity. Less drastically, many individuals currently in prison could almost certainly be more cost-effectively held under house arrest; policed through a greatly expanded electronic monitoring programme. The substitution of expensive court cases by so-called 'summary justice' would be cheaper. It might also justify a reduction in the number of courts and judges.

What makes all of these proposals unlikely to feature as Justice Matters-inspired prescriptions to downsize criminal justice is in good measure their inherent unsavouriness. This is another way of saying that they would be the cause of much harm and great injustice. Indeed, the importance attached to reducing the harms and injustices of criminal

justice is one of the key distinguishing features of Justice Matters; something that sets it apart from a rather more conventional cost-cutting programme much beloved of government ministers. This has important practical implications, not least of all because it leaves open the possibility that, properly done, downsizing criminal justice might not, in aggregate terms, be cost saving at all. Addressing an individual's housing, welfare and health needs in a comprehensive manner might be substantially more costly than containing him/her in prison.

### Downsize what?

The Justice Matters call for 'an across the board reduction in the social footprint occupied by criminal justice' brooks two main, mutually exclusive, interpretations: an equal and proportionate downsizing of all criminal justice institutions and agencies (the same percentage reduction in police and probation officers for instance); or a variable downsizing of different parts (a smaller police force contrasting, for instance, with an unchanged, or possibly larger, probation service).

A commitment to downsizing criminal justice *proportionately* faces a fundamental problem: there is no single criminal justice *system* to downsize. Rather, criminal justice is a loosely connected ensemble of institutions and agencies, marked more by their different histories, diverse geographical boundaries, distinct working cultures, discrete operational practices and divergent bureaucratic interests than by their purported common purpose. The concept of a criminal justice *system* is an ideological one. Its widespread use as a term means that recourse to it is sometimes unavoidable. It is, though, mystifying and unhelpful as a starting point for a critical project such as Justice Matters.

A focus on the *variable* downsizing of different criminal justice institutions and agencies therefore makes sense conceptually. It also offers a more fruitful starting point for a concrete programme of activity. For one thing, it opens up the possibility of alliances with groups championing a downsizing agenda in

relation to *specific* criminal justice institutions or practices: the discriminatory use of police stop and search practices, for instance, or the unnecessary imprisonment of children or people with mental health or substance misuse problems. These groups might balk at signing up to a generalised downsizing agenda, while being happy to collaborate on one that accords with their specific focus.

For another thing, it allows the development of a more nuanced perspective on the complex dilemmas involved in reshaping the various agencies and institutions of criminal justice and opens the way for creative partnerships with groups who on the face of it are in favour of enlarging criminal justice. For instance, women and girls across the world, including in the United Kingdom, face a tsunami of male violence, intimidation and denigration on a daily basis. Campaigners emphasise the importance of sustained preventative and educational work to tackle this problem. They will also point to the failings of the police and prosecuting authorities to deal promptly with male violence, sometimes with tragic consequences for its victims. A downsizing agenda should be open to the possibility that some criminal justice agencies need to be more present, more proactive, in relation to some forms of harm. Put differently, a law-governed society and the effective operation of criminal justice agencies are not necessarily inimical to the achievement of social justice. Indeed, they can be central to it.

### Less criminal justice, more welfare?

The Justice Matters initiative, to quote again from the current wording, promotes a 'rethinking of policy and practice – for instance in housing, education, health, social security and employment – so that many current criminal justice responses are not required at all'. The aim is 'a sustained change in the way that problems currently managed by criminal justice are dealt with'. This is in keeping with a common argument found in criminology, as well as among some columnists,

campaigners and activists, that criminal justice responses to social problems have, in the United Kingdom among other places, increasingly displaced more broadly-based social policy agendas. The policy challenge is therefore to rebuild more inclusive, just and effective social policy responses, displacing criminal justice responses in the process.

Though superficially attractive, such an approach does have conceptual and empirical weaknesses, with important practical implications. Empirically, the evidence for the criminal justice displacement of social policy is far from clear. UK government expenditure on welfare, health and education grew significantly in the 30 years to 2010, for instance. By contrast, proportionate spending on law and order changed very little. Conceptually, juxtaposing criminal justice and social policy responses tends to downplay the ways in which social policy and criminal justice are complementary means of regulating the existing social order, rather than being opposing realms of social justice and coercion. Order can be maintained in ways that are more inclusive or more exclusionary. Addressing a drug addict's welfare, housing and health needs is an inclusive response in the way that imprisoning him is not. But both social policy and criminal justice perform complementary functions in maintaining, not transforming, the underlying social arrangements that give rise to such problems.

This tension between the better management of underlying social problems and the social transformations needed fundamentally to prevent their emergence in the first place is one that the Justice Matters will continue to wrestle with and is unlikely to resolve. Indeed a constant engagement with this, and other, tensions should be seen as productive of the dynamic and creative process the Centre for Crime and Justice Studies initiated in 2013 with the establishment of the Justice Matters initiative. ■

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