

Communities of fear: justice or therapy?

Dolan Cummings argues that 'community involvement' may be less democratic than it sounds.

Community involvement in the criminal justice system sounds innocuous enough. Inclusive, participative, democratic even; the sorts of things of which we are all supposed to approve. But a moment's thought about what those things might actually mean when applied to criminal justice reveals that the issue is more problematic. And neither the idea of community involvement, nor the most basic objections to it, are particularly new. A 1978 Nacro report on this subject made an arresting allusion between "the involvement of the community in criminal justice" and the mob demanding the crucifixion of Jesus Christ (Hodgkin, p. 41).

The notion of community involvement immediately raises questions about objectivity, impartiality and due process. When a defendant's liberty is at stake, it is crucial that the criminal law operates without prejudice. Whatever community involvement might mean, then, it can't be allowed to compromise the essentially abstract and impersonal nature of the criminal law. Of course, in a democratic society the law must ultimately be accountable to its subjects. A second and countervailing image referred to in that Nacro report is the "knock on the door", the arbitrary and unaccountable actions of the police in authoritarian

movement as a different version of this: bringing sentencing power back to the community, to the people involved, reaffirming the sense of community" (Freiburg, 2001).

This sounds progressive, but what does it mean to 'reaffirm' a sense of community? Over the past generation, the meaning of community has changed in important ways. In a recent paper (2005), leading restorative justice advocate Martin Wright refers to an argument made by the criminologist Nils Christie in 1977 (around the same time as the Nacro report cited above) to the effect that people have a right to deal with their own conflicts rather than having them 'stolen' by professionals. At that time, this would have made sense as part of a radical, broadly left-wing critique of the state, premised on the idea that strong, working-class communities are capable of resolving disputes without recourse to the authorities. This model of community is largely a thing of the past, however. The militant working-class community (or 'baying mob' if you prefer) has largely given way in the political imagination to the 'fractured community' in need of external support.

The clearest indication of this is the fact that calls for community involvement come not from 'communities'

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regimes. It is striking, however, that such concerns play little part in arguments for community engagement today.

Indeed, current attempts to make the criminal justice system more responsive to the needs of victims, for instance, threaten to short-circuit democratic accountability by privileging a particular interest group which can hardly be expected to be objective. The introduction of victim's advocates in murder and manslaughter trials is one example of how direct involvement, in this case of victims in particular, can skew things. Not only is it unfair that, as is implied, some offenders should be punished more severely than others because the same offence affects the respective victims differently, but this places an undue burden on victims and their families, who must now fear that if they don't put on a good show of emotional devastation, the offender will be given a more lenient sentence. Nonetheless, the trend seems to be for more rather than less of this sort of thing.

While the language of 'community involvement' remains much the same as in the past, then, its meaning is profoundly different today, and is rarely as democratic as it sounds. There is a long tradition of populist disdain for the rule of law, an attitude associated with the *Daily Mail*, characterised by the complaint that the legal system puts 'the rights of criminals' before the needs of the community, and by calls for minimum sentences for certain kinds of offences, for example. One advocate of restorative justice acknowledges that, just as this right-wing populism expresses a frustration with an apparently distant legal system, "it may be possible to see the restorative justice

themselves, but from policy-makers and NGOs. Moreover, instead of challenging the legitimacy of the existing criminal justice system, as Nils Christie did, they demand that communities are included in that very system. Rather than a concern that the criminal justice system should be more accountable to clearly-defined and robust communities, the current trend seems to be driven by a desire to generate a sense of community, where one is currently lacking.

The idea is that because people are worried about crime, and especially about the more general disorder that is traditionally neglected by the criminal justice system, this is an issue that can bring communities together and give them a sense of purpose, and perhaps just as importantly for policy-makers, bring them into some kind of relationship with a state from which they otherwise feel estranged. As Ben Rogers (who also writes in this issue) of influential think tank IPPR puts it: "If you are concerned to boost local collective capacity, either as a means of reducing crime, or with an eye to any of the many other benefits of associational life, then a good way of doing it is through engaging people in initiatives aimed at reducing crime or repairing the harm done by crime" (Rogers, 2005). But vibrant social life cannot be so easily conjured into existence.

Again, it is worth asking what is meant by community. Does it matter what brings people together, as long as it brings them together? Perhaps it does. Shared anxiety about crime and disorder is likely to foster a different sort of 'community' than shared class interest, for example. While the intention of



In this context, 'community' is cast as a means of surveillance, a resource for essentially traditional state agencies. This is not the 'natural policing' of a healthy community, so much as a community held together by mutual suspicion, and constantly deferring to the authorities.

What do communities get out of their involvement? Those who feel frustrated by the facelessness of the traditional criminal justice system, and the sense that their participation as victims or witnesses makes them no more than cogs in a machine, may welcome the opportunity to express their feelings, and indeed to be treated with a little more respect. Involvement in the criminal justice system may well provide "an emotionally satisfying outlet for people who may otherwise feel anxious or helpless" (Freiburg, 2001). But it is questionable what any of this has to do with community, much less justice.

Community involvement in the criminal justice system as it is currently conceived is neither about genuine democratic accountability nor genuine civic renewal. Instead, it threatens to subordinate justice to the therapeutic-political goals of a political class that is acutely conscious of its distance from the public, and thus seeks to engage them not as a public, but as anxious individuals. There is little danger of this approach leading to vigilantism or mob rule (if only!), but it does threaten to erode trust even further, and to fuel the authoritarian politics of suspicion and containment.

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community involvement is in part to foster trust, a focus on crime necessarily involves suspicion, perhaps especially of groups deemed to pose a threat to 'the community' (Prior, 2005). 'Antisocial youth' is the paradigmatic case in Britain today. Even if the intention is to help those young people thought to be 'at risk' of getting involved in crime, the very act of characterising them as such institutionalises distrust.

Advocates of community involvement often make the point that when the public are more involved in the criminal justice system, they actually favour less rather than more punitive treatment of offenders, often preferring community-based alternatives to prison. Equally, though, it is invariably pointed out that 'community punishment' is not a soft option. Britain's first 'community judge' David Fletcher, based at the Community Justice Centre in Liverpool, explains the advantages of this approach thus: "Unlike a normal court, which gives an order and sends them on their way, I see them regularly and I know if they are breaking the order" (Fletcher, 2005).

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