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POLICE AND POLICING

... the political neutrality or independence of the police cannot withstand serious consideration. It rests on an untenably narrow conception of 'the political', restricting it to partisan conflict. In a broader sense, all relationships, which have a power dimension, are political. Policing is inherently and inescapably political in that sense.

Robert Reiner, 2000[1]

—————————————— Introduction ——————————————

For most people the sight of police officers on the streets is the most obvious evidence of the criminal justice system at work in their community. Historically, at least, the police have always been seen as a reassuring presence on the streets. Yet, as McLaughlin has recently noted:

> The police constable [also] occupies a complicated position in Britain's highly strati-fied social structure. He is supposed to be from as well as of the community but there is also a constitutional requirement of police officers to have an arm's length rela-tionship with the community. As an officer of the Crown he is not allowed to engage in politics or over-identify with any particular group or sectional interest.[2]

The police are of us and also not of us: we and they live with that duality. Police officers occupy a complex array of roles and the politics of policing is often an attempt to stress one or other of these roles to the detriment of one or other roles. Should there be more police on the streets? Should police uphold the law in all cases? Should the police have more powers or less powers? Modern polic-ing is about much more than just a reassuring presence on the streets and nei-ther is it reducible to the work of individual police officers. Moreover, modern policing often has a totalising aspect to it. In an important book, *Crime in an Insecure World*, Richard Ericson has stated: '...policing is integral to every insti-tution and relations among institutions, and it has no obvious limits. It entails a perpetual and infinite thirst for knowledge of potential harms as a capacity to overcome uncertainties and underpin security.'[3] Ericson argues that policing in

the modern world is all about the management and science of risk and that 'police power is perfected when it results in self-policing among members of the population. The liberal social imaginary of the "house of certainty" is a house of discipline and self-policing.'[4] Ericson's work is indebted to the political theorist Charles Taylor, who emphasises the fact that the sheer complexity of modern societies militates against their governability.[5] Ericson's work attempts to demonstrate how modern policing may have reached the limits of its capacity for public reassurance and crime control. 'The politics of uncertainty, conducted through the sciences of risk and in law, expresses increasing doubt about the capacity of liberal governments to govern the future and provide security. Indeed, in many quarters there is radical doubt, radical uncertainty, suggesting the ungovernability of modern societies.'[6]

It is very interesting to note how Richard Ericson, one of the world's leading criminologists, has both moved away from traditional narratives of policing and towards an analysis deeply indebted to political theory and a broader, and richer, understanding of social processes. The work of McLaughlin and Ericson is a refreshing challenge to more normative understandings of the police, which by comparison seem slightly dated and tinged by positivism, at least to the extent that they see the problems of policing as solvable and straightforward. The older narrative is giving way to the new. For example, Waddington asserts that policing is 'the exercise of the authority of state over the civil population. That authority is based on the monopoly of legitimate coercion – cops usually ask or command people to do something and those people normally comply; but if they do not, then the cops will *force* them into compliance.'[7] McLaughlin's notions of the complexity of 'multi-social' policing and Ericson's ideas about living with uncertainty and risk seem to be truer representations of the world of policing than the simple subject–object relationship offered by Waddingtion.[8]

Building on Ericson and McLaughlin, this chapter will set out three main types of underlying political supposition used to support contemporary writing about the police. These are what I shall term the conservative impulse, the Marxist critique and the community management strategy. Broadly speaking, these underlying suppositions derive from, or were originally developed in, political, as opposed to criminological, theory. This chapter will set out the basis of these three suppositions and link them to forms in existing criminological explanation. What is interesting is how each of these three underlying political suppositions conceives the relationship between the individual and the police and between the individual and the state.

The Conservative Impulse

In the many volumes that have been written by criminologists about policing, little scholarship has been given over to understanding the basic functions of policing in terms of its support in conservative political theory, i.e. in terms of its *raison d'être* for preserving order, maintaining the *status quo* and defending

private property, all of which are dealt with extensively by conservative political writers. Rarely is conservative theory set out in contemporary criminological literature in regard to the basic defence of the state either. When criminologists have attempted an understanding of conservative thinking the tendency has usually been to reduce conservatism to a rather naïve and unhelpful set of social attitudes.[9] Not only can it easily be argued that all the basic functions of the police are necessarily conservative, but the political left and right largely agree that they are, and the debate concerns whether this is a good thing in its extent and the rightness of what it preserves. Roger Scruton, a leading conservative philosopher, has argued:

> The law is the will of the state, and the domestic expression of its power. And since state and civil society are interdependent, the legitimate sphere of law will be all that matters to social continuity, all that can be taken as standing in need of state protection. The law must cover all activity through which the bonds of trust and allegiance are cemented or broken. Obvious instances – the upholding of contract, the outlawing of gratuitous violence, the common essence of civil and criminal law – follow from this view.[10]

Conservative political theory upholds the values of traditional forms of social and political organisation. It sees knowledge and wisdom as being passed on through tradition. In doing this, it acknowledges that any society is more than the sum of its parts, and that issues of justice always have an intergenerational aspect. Society is understood by conservatives as functioning through a delicate mechanism of mutual adjustments which arises out of practical lived experience. In such a way, it is argued, individuals come to see the way things are done and understood. It is a tacit and intuited understanding of how society should be, which always looks backwards in time for its justification and its arguments are always historically situated. Conservative political theory posits that any understanding of how individuals ought to operate in society is learned through the day-to-day practice of living within a particular society and is always informed by historical practice.[11] Tradition and traditional ways of doing things are esteemed, as are the structures which maintain existing forms of civic life. The conception that there is value in tradition necessarily privileges a particular historical perspective, i.e. continuity is prized over change.[12]

A classical legacy

The state, in conservative thought, is the ultimate facilitator of civic order. The state's institutions are understood as allowing the functioning of civil society through the establishment of order, legal codes and a minimal level of welfare. The most important function of any conservative state is the resolution of conflict and this necessitates that the state always has sovereignty over all citizens and associations, though this sovereignty can only be secured by proper (i.e. authentic) political representation and an independent legal system and a legitimate policing

function.[13] An example of this is given by the conservative political theorist, Leo Strauss, who derived his ideas from his reading of how the Greek *polis* functioned.[14] In his book, *Natural Right and History*, he argued: 'The best regime will then be a republic in which landed gentry, which is at the same time the urban patriciate, well-bred and public spirited, obeying laws and completing them, ruling and being ruled in turn predominates and gives society its character.'[15] In advocating this, Strauss follows the Greek philosopher Plato, in upholding a moral hierarchy built on natural law and which establishes the primacy, and co-identity, of philosophical knowledge and political order.[16] The notion that a stratified society is the proper natural outcome of human history as well as the underpinning of political life is not only a political dogma but also a moral evaluation. This form of reasoning Strauss derived from Plato, but it may also be found in the work of the Roman statesman, lawyer and political theorist, Cicero, and the thirteenth-century Christian theologian and philosopher, St Thomas Aquinas.[17] Persons are not equal in conservative thought though they enjoy a technical equality before the law.[18] An ordered political society under law and policed through consent is the precondition of civic life and private property. What Rowe has argued about Plato's *Republic* might too be said of all conservative ideas concerning the role of law, and law enforcement, in the affairs of men and women:

> What Plato wants is ultimately the improvement of humanity at large; and the majority of us will require more than exhortation to push us in the right direction. The tools which lie to hand are the laws and institutions of society, by which – to a degree – our behaviour is normally controlled. Plato's political proposals consist essentially in the extension and transformation of those laws and institutions for the effective production of virtue.[19]

The defence of private property is essential to contemporary conservative political theory but its origin is in the classical period. As Cicero had argued in *De Officiis* (*On Duties*):

> ...although it was by nature's guidance that men were drawn together in communities [*congrebantur homines*], it was in the hope of safeguarding their possessions [*rerum suarum*] that they sought protection of cities [*urbium*][20] ... the chief purpose in the establishment of states and constitutional orders [*res publicae civitatesque constitutae*] was that individual property rights might be secured [*sua tenerentur*] ... it is the peculiar function of state and city [*civitatis atque urbis*] to guarantee to every man the free and undisturbed control of his own particular property [*suae rei*].[21]

Here Cicero is giving a justification for *tutela*, which means guardianship or trust. *Tutela* is best understood as an aspect of Roman Law that, in its original formulation, is concerned with the relationship between individuals, private property and the state and which sought to defend property, especially family property. Moreover, Cicero advocates the use, if necessary, of state sanctioned violence to defend public order and private property, though he is generally antithetical to the use of force.[22]

The Romans had an elaborated conception of private property which covered its acquisition, transmission and defence in law. The role of the state was to

defend private property by upholding the laws which protected it. Cicero, as a practising lawyer, made sure that the defence of private property was at the heart of his political theory.

Private property

Roger Scruton has argued that:

> The first thing to be said is that ownership is the primary relation through which man and nature come together. It is therefore the first stage in the socializing of objects, and the condition of all institutions. It is not necessarily a product of greed or exploitation but it is necessarily a part of the process whereby man frees himself from the power of things, transforming resistant nature into compliant image. Through property man imbues his world with will, and begins to discover himself as a social being.[23]

This rather Hegelian view sees private property as the basis of all social relations, the site of self-realisation and the justification for the state, i.e. as the ultimate protector of private property and social relations. In defending private property the conservative does not so much defend wealth accumulation but the self-realisation of the individual and civil society, both of which are assured by it in turn. The state alone can defend this conception through civil and criminal legal codes, though the law is itself secured by our own personal relation to it under a system of private property. The state and the law are things that individuals can have a direct relationship with through political life. The state on this view is a personality, a corporate personality in the terms set out in conservative thought by von Gierke and Maitland.[24] It follows from this that the most basic function of the police is to uphold the prevailing system of private property relations and, in so doing, uphold the state.

Hobbes

This form of conservative reasoning found its pre-eminent expression in the work of the seventeenth-century English political philosopher Thomas Hobbes, though it should be noted that Leo Strauss always understood Hobbes as a liberal contract theorist.[25] Modern conservative theorists, such as Hannah Arendt,[26] have always looked to Hobbes' work as a starting point for their own ideas. In Hobbes, the basic problem for individuals is how they are to be preserved from the state of nature, the war of all against all. Hobbes argued that this is achieved only by a strong sovereign (from which we may infer a state) which individuals both give rise to through deliberation and, in turn, are protected by. The sovereign (state) severely punishes all those who disobey the law and if the sovereign is successful, then no individual will feel threatened, as would be the case in the state of nature. The sovereign's function is to facilitate law-abiding behaviour and civil order. Hobbes suggests in *Leviathan* that there is a vertical relationship between the ruler and the people.[27] This has been termed a 'foundational' relationship,

though that is misleading because what is really being suggested is that there is a contract between an existing society and the ruler who is outside it.[28] The hypothetical nature of the original contract supports and justifies a rule of law which is already in place. What the conservative derives from this is the political rationale that one consents to be ruled. Roger Scruton has written how '[f]ree and open contract presupposes a sufficient order, not because it would otherwise be impossible to enforce contracts [although that is true], but because without social order the very notion of an individual *committing* himself, through a promise, would not arise'.[29]

Hegel

Following Hobbes, the German philosopher Georg Wilhelm Frederick Hegel, writing in the early part of the nineteenth century, addressed the issue of wrong, which includes crime.[30] Crime is seen as an offence against the particular and general will. As with Hobbes, the issue of contract arises, but in Hegel it is more concerned with the way a person becomes individualised in society through private property. Contract is the realisation of personality in the sense that through contract and private property a person's rights become known and acknowledged by others. The criminal is the person who, through theft, denies the rights of another. Criminal punishment is therefore that which annuls crime, restores right and re-establishes the proper civic order. Again, as with Hobbes, the conservative defence of private property and civic order is to the fore. The law and its enforcement not only protect the individual but also underpin the whole idea of Man, as an abstract and universal idea. Hegel goes beyond the implied need for a force to uphold private property and civic order and gives an elaborated explanation of legal codes, courts and society's necessary policing function.[31] In Hegel, the system of law is matched to a notion of its enforcement. Hegel did not believe human societies could ever be self-regulating and saw an elaborated role for the public authority (police) in intervening in and regulating the relationships of citizens. Indeed, the public authority may even intervene in the lives of citizens even when individuals are not breaking the law if that prevents persons from imposing harm on others.[32] This is akin to the notion of the police as agents of social discipline that, among others, Lucia Zedner, following Choongh, has set out.[33]

It is relatively easy to infer that the issue of policing in conservative theory is a straightforward issue of upholding law and order, the existing authority and the institution of private property, and that it is a view which is largely uncritical of the *status quo*. However, it would be wrong to underplay the importance of the conservative impulse as a constituent in *any* rationale for policing. The idea that contract, order and private property should be upheld would appear to be universal features of all forms of modern liberal jurisprudence and political theory. The remaining issues are not so much with the notions that conservative thought works as with their extent (in theory and practice) and how critically,

or otherwise, the basis of authority is determined. What is certain about the conservative impulse is that it has a benign conception of the state and the public authorities. It is this basic feature of the conservative impulse that is disputed in the Marxist critique.

The Marxist critique is associated with a progressive political analysis. It has a view of policing which always asks questions of authority and existing sources of legitimacy and whereas the conservative impulse looks benignly upon the state as the upholder of law and order, authority and the institution of private property, the Marxist critique is sceptical of these. It is far more concerned with the rightness of how things ought to be rather than how they are and accordingly it sees no point in defending the *status quo* when it is determined as an illegitimate basis for addressing profound issues of justice or when the *status quo* itself is the outcome of a prior unfair settlement. The Marxist critique has been especially popular in England, where it has been developed by both theorists and empirical researchers, notably in relation to the policing of race, especially 'mugging', and industrial relations disputes, such as the 1984–85 Miner's Strike, which brought the organised working class into direct conflict with the Thatcher government and the police.[34] This may be, in part, because of the type of policing employed in England. As Reiner has pointed out, in contrast to most other nations: 'A characteristic of the English police tradition is the attempted unification in the same organisation of the "high policing" function of regulating explicit political dissidence with the "low policing" task of routine law enforcement and street-level order maintenance.'[35] In England, it is therefore easier to detect a basic continuity between what Reiner terms the high and low functions of policing and essentially this is what the Marxist critique does in upholding the self-interested nature of the capitalist state.

Marx is a towering figure and his writings have informed the work of numerous criminologists and social scientists, notably since the 1960s. Indeed, his influence has been so immense that many aspects of his political and economic analysis have found their way into a great deal of contemporary criminological scholarship that would not term itself Marxist, or Marxian. This is because many of his ideas have become orthodoxy, such as the notion that the 'capitalist' state is fundamentally skewed, in an unfair way, towards those groups, and their values, that already enjoy economic and political power. Marx's own voluminous writings are open to a wide variety of interpretations but this section will concentrate upon Marxist treatments of the state, its values, and its defence, all of which underscore policing policy. Marx himself wrote almost nothing about policing, and so those who follow in his footsteps have had to infer a position, based upon his general politico-economic position. He certainly saw criminals in a negative light. He thought people who broke the law should be punished.[36]

Marxist analysis, in all its forms, shares several of the key theoretical elements used in conservative thought, especially a concern for history and for the self-realisation of persons, though the understanding of them is radically different from the analysis offered by modern conservative thinkers, such as Leo Strauss or Roger Scruton. However, unlike in conservative thought, history, as related by Marx and his followers, is concerned with a dogmatic account of economic development, related to historical materialism, and the present alienation of persons.

The laws of the capitalist state are maintained by its agents, the police. The coercive power of the capitalist state is seen as its most important function because only through this coercive power can unfair property relations be protected and existing class divisions be maintained.[37] The state is seen not to serve all but to serve only the sectional interests of the capitalist class. It should be noted that Marxist analysis is rooted in a materialist philosophical scheme which has a far more elaborated conception of the economy than in conservative thought. As David Garland has stated when discussing Marxism:

> ...'economy' – that sphere of activity which produces the material necessities of life – will always be the key locus of power in any society. Those groups which dominate in this realm will thus be able to impose their power – and the distinctive social relations which this economic power requires – on to the other spheres of social life. Consequently, the institutions of law, politics, morality, philosophy, religion and so on will tend to be forcibly adapted to fit the conditions of economic life, and will come to take on forms and values which are in keeping with the dominant mode of production.[38]

The big assumption here is that the dominant economic class, the capitalist class, will go on to maintain its economic dominance through the domination of non-economic arenas in the superstructure, such as law, culture, politics and education. Moreover, it will achieve this straightforwardly due to the overwhelming determining power of the economic base.[39] Since all things in the world are derived from the economic base, the police may be said to straightforwardly function as part of the apparatus that maintains the capitalist class in its structurally dominant position.[40]

Marxist Criminology

In Criminology, Marxism had enjoyed some limited support in the early part of the twentieth century, especially with William Bonger,[41] but it was the 1970s that witnessed a resurgence of interest in Marxism from mainstream theorists like Bill Chambliss, Bob Fine, Colin Sumner and Ian Taylor.[42] The 1970s witnessed an unprecedented level of Marxist scholarship in social and political history, much of which focused on law and punishment, and which had an impact in sociological and criminological circles at the time.[43] It is also worth noting the work of Stuart Hall's Centre for Contemporary Cultural Studies at Birmingham University in the 1970s, which drew heavily upon the continental Marxist tradition. It emphasised Marxist thinkers, especially Antonio Gramsci, and utilised

the concept of hegemony. In the *German Ideology*, Marx had argued that the ideas of the ruling class were always the ruling ideas of the day and Gramsci developed his ideas in relation to a form of Marxist scholarship, indebted to Lenin, which rejected economic determinism and tried to understand the processes of capitalist ideological domination. Gramsci had been concerned with how the 'ruling class not only justifies and maintains its dominance, but manages to win the active consent of those over whom it rules'.[44] Later Marxist thinkers, using the concept of hegemony, sought to address the issues of how consensus is maintained in an unequal class society and how people become alienated from their true interests. Consequently, they tend to focus upon issues of culture, including the media. This emphasis upon the work of Gramsci is particularly pronounced in Criminology with Sumner's classic *Reading Ideologies*.[45] The publication of *The New Criminology* in 1973 witnessed a movement away from both 'orthodox' Criminology and Sociology.[46] It also broke with the 'orthodox' Marxist tradition of the time, which had aligned criminals with the lumpenproletariat and those persons sapping the revolutionary spirit from the working class. *The New Criminology* was prefigured in its revision of the way Marxist criminologists understood criminals by earlier work in political theory, notably by Draper and Hirst.[47] Before the 1970s, Marxism had given little attention to criminals. Marxism had always had a very moral tone in relation to crime and *The New Criminology*, in Sumner's words, made 'the central accusation ... that the creative, human, element in deviant behaviour had been neglected at the expense of economic determinism'.[48] This shift of focus within Marxist scholarship ushered in a new way to understand criminality and there was an explosion of work which emphasised the role of policing in repressing the working class. It also always had an eye on politicising the working class through its writings on the unfairness of policing and the oppressive nature of capitalist social relations: it is a shibboleth of Marxism that one cannot disentangle political action and scholarship, and that the one should seek to reinforce the other.[49]

This renewed interest in the work of Gramsci and the idea of hegemony at Birmingham found a ready reception in the sociological and criminological analysis of the time in Britain. Phil Cohen wrote *Policing and the Working Class City* from a Marxist perspective which is indebted to Gramsci.[50] Cohen argued that the British police force were part of a wider educational state system. The police were said to be arbiters of deviance and administrators of a juridical ideology of crime. In other words, the police have both expressive and repressive functions, derived from their place in the overall structure of the capitalist state.[51] The police are the organisation which has the task of 'imposing the elements of a properly capitalist urban discipline in the name of public propriety'.[52] In the same collection, Bob Fine summed up the issue thus: 'It is only when we view the connection between the form and the content of bourgeois law that its class character becomes apparent.'[53] This form of Marxist analysis sees the police as maintaining an unfair system of law and property relations. They are nothing less than agents of *capitalist* social control. The movement away from understanding criminals in terms of Marx and Engels' *The German Ideology*, i.e. emphasising the

non-revolutionary aspects of the lumpenproletariat (which contains the criminal classes) and towards an understanding of law and policing in terms of their hegemonic aspects, was transformative for Marxist criminological analysis. It allowed Marxist criminologists to ask broader questions relating to the structure of society and to contextualise, rather than merely censure, criminal activity and policing.

The Marxist critique is now an established theoretical stance within Criminology. Its emphasis on structural and economic inequality and the role of policing in maintaining it has spawned some of the most influential work in Criminology over the past 30 years. It has also had a huge effect upon policing practice and the way we understand policing.[54] However, to assent to its overall conclusions about crime and policing, and not merely to note some of the points that it makes, requires one to believe in a Marxist analysis of the economy and nature of social structures which many believe to have been largely discredited. Therefore just as some elements of the conservative impulse have become orthodoxy, such as the belief that private property needs to be defended, the Marxist critique has given us new orthodoxies, such as the notion that policing, at least in part, is about maintaining the *status quo*. It should be noted that elements of the Marxist critique have entered Feminist analysis and, latterly, Green Criminology. However, in the past 20 years a far more pragmatic notion has taken hold of Criminology, that of devising an effective *community management strategy* for the irreducible policing issues that are thrown up by all modern societies.

Community Management Strategy

The community management strategy is not a straightforward focus upon real-world policing issues so much as an analysis informed by the implementation of communitarian ideas, within policy and criminological analysis. New forms of policing, including the use of wardens and PCSOs (Police Community Support Officers) who work with local people, may be seen as 'part of a wider move to engage ordinary people in running their own communities. This evolving process is predicated upon an active citizenry – it may be possible to manage and police public space without the active support of ordinary people but it is unlikely to be successful. The idea underpinning these developments in the management of public space is partnership.'[55] The concern for community relates, approximately to the post-*After Virtue*[56] concern, by political theorists, to frame 'the common good'.[57] It was a critique of the limited government liberalism that marked the Thatcher and Reagan era, which had tended to downplay the role of community contexts and stress the culpability of individuals in the criminalisation process. It focused upon the notion that communities have common social purposes and it displayed optimism about the ability of the police, working in collaboration with citizens, to have an impact upon crime levels – something

Bill Clinton made much of in his administration. However, some writers have claimed that it is unrealistic to ever assume high degrees of social and political homogeneity in terms of the values espoused in complex contemporary societies.[58] Communitarianism typically eschews grand narratives, like those found in Marxism, in favour of understanding the dynamics of specific communities and it focuses upon developments in practical policing which have an incremental impact upon crime levels. Alasdair MacIntyre has outlined exactly what Communitarianism aims to do when he writes in terms of 'an account of the good which is at once local and particular – located in and partially defined by the characteristics of the *polis* – and yet cosmic and universal'.[59] The communitarian account emphasises a community management strategy based on a partnership between community and police that relies on the public not only to report crime but also to work with the police to develop a 'sense of community' and thereby undermine crime formation.[60] It is based on a high sense of community engagement. Moreover, police success is evaluated in terms of its ability to respond to community values and priorities and not simply in terms of its ability to control crime. However, as McLaughlin has argued: 'Community policing approaches are [also] inherently undemocratic because the police define the parameters of the debate for other agencies and the community is conceptualised as just another resource to be used in the officially defined fight against crime.'[61]

It has also stressed the role of social control in late modernity as part of the policy package aimed at promoting the common good. As David Garland has noted:

> ...the development of late modernity reduced the extent and effectiveness of 'spontaneous' social control – which is to say, the learned, un-reflexive, habitual practices of mutual supervision, scolding, sanctioning, and shaming carried out, as a matter of course, by community members. The current wave of crime prevention behaviour tries to revive these dying habits, and more importantly, to supplement them with new crime control practices that are more deliberate, more focused, and more reflexive.[62]

Unlike the conservative impulse, or the Marxist critique, its main concern is with the day-to-day management of criminal activity and police effectiveness, gauged in terms of the common good. It also underscores the need for citizens to act with a high degree of social responsibility.[63] The notions that strong communities are the best basis for tackling social alienation and crime, and that the state should promote communal life, have infused policy discussions on both sides of the Atlantic for over two decades now. However, some criminologists, notably Gordon Hughes, have mistakenly taken the communitarian concern with past ways of organising communities, along with its positive view of social control, to be evidence of neo-conservatism. This is profoundly mistaken as neo-conservativism derives its inspiration from past ways of organising societies, whereas communitarians seek to develop new forms of social organisation.[64] Rather, Selznick makes the better point that, in practice, communitarian ideas

are usually blended with existing liberal values, in which case they 'treasure liberal values and institutions, but also take seriously the promise of community and the perils of ignoring the need for community'.[65] The overall aim that Selznick has in mind is the development of a political and social environment better able to address the profound issues affecting crime formation. However, David Downes has argued that the inability to properly fund the police and other agencies has often led to increased levels of juvenile crime and school exclusions.[66]

In Britain it has sometimes been allied with the 'new realism' in the Labour Party, beginning with Neil Kinnock and developing under Tony Blair.[67] The community management strategy, in policy terms, is built upon a collaborative approach to policing, which is reflected in legislation such as the Police and Magistrates' Courts Act 1994 and the Police Act 1996, both of which focus upon police authorities as part of the managerial accountability process. The political point here is that in using the term 'accountability', those who advocate the community management strategy are focusing upon the notion of the police as performing a public service for the common good. The spread of communitarian ideas coincided with a convergence in policy thinking between many in the senior ranks of the police and those at the top of the governing Labour Party, as Barry Sheerman MP has pointed out.[68] Nevertheless, this 'new realism' had support right across political parties in Britain. Who now could talk about policing without reference to communities and their values? Police and citizen are increasingly focused upon the same ends and engaged in similar practical defences of communal life.[69] The Crime and Disorder Act 1998 was allied to the Crime and Disorder Strategy, which set out local priorities, targets and performance measures. The task of crime fighting went local under the Blair government and the Crime and Disorder Act 1998 gave responsibility for crime and disorder to the local authorities, who were expected to work in collaboration with the police.[70] The Crime and Disorder Act 1998 emphasised the participation of communities and took seriously the issues faced by women and ethnic minorities, among others. The intellectual shift away from understanding policing as separate from the local community and towards a more collaborative and communitarian understanding of the relationship between citizens and police officers has established a more fluid relationship between the police and the policed. Moreover, as Bayley has noted,[71] the values and practices of the police in a communitarian model of policing always relate directly to the context of the given community, and the Crime and Disorder Act 1998 emphasised this in the British example. Beneath the Crime and Disorder Act 1998 lies a much deeper reorientation of the democratic principles that inform policing away from crime control alone to the broader embrace of community problems.[72] Following the Crime and Disorder Act 1998, the whole thrust of policing became premised upon community partnership and engagement. The necessity of an active citizenry has altered the face of policing practice a great deal. Indeed, as Zedner has pointed out: 'Private citizens also fulfil important policing duties as special constables, neighbourhood watch coordinators,

members of citizen's patrols, and as participants in community-based crime prevention programmes.'[73] However, Reiner has made the counter point: 'The police are becoming part of a more varied assortment of bodies with policing functions, and a more diffuse array of policing processes, within and between nation-states. Police officers can no longer be totems symbolizing a cohesive social order which no longer exists.'[74]

The community management strategy seeks to develop a positive relationship between the public and the police in order to tackle crime and build strong communities. However, political theorists, such as Gutmann and Wallach, have pointed to the dangers of its implicit majoritarianism, especially in a multicultural context.[75] It is easy to see that policing priorities and social values are contested and, by extension, to understand how certain groups, in the minority, could feel themselves excluded from the basis of policing in the community in which they live. Political liberals, notably Ronald Dworkin,[76] have attacked the communitarians' lack of any serious consideration of rights, especially for minorities. The leading political theorist John Charvet has made the point that 'communitarians affirm one general principle: each is to follow the norms of his society'.[77] Charvet's work underscores the might of the majority view and the inability of individuals to resist the general view of the community. The community management strategy is undoubtedly right to link effective policing with the development of partnerships between the community and the police, and yet a narrow appeal to 'community' settles nothing in a modern multicultural society. No modern multicultural society can ignore the development of shared values if it is to successfully organise itself. The problem for contemporary policing is that to be engaged in both crime-fighting functions and the development of positive community values, which foster the common good, is to be continually involved in a discussion about which of these two elements is the more important.

Jean Charles de Menezes: Assumptions behind a Blunder

We have seen how political theorists have tried to develop practical models of the world and how those models have, in turn, impacted upon policing theory and practice. However, the world, unlike the models, is a messy place where things do not always follow the paths predicted by theorists. Yet sometimes this messiness can result in light being thrown on the assumptions about the nature of policing that are ordinarily hidden from our view. On 22 July 2005 Jean Charles de Menezes, an innocent working man, was killed by police officers in Stockwell underground station. The police officers were involved in counter-terrorism work. The killing was a horrendous error and at one level could be treated as a regrettable operational blunder. However, at the time of the killing, the nation, especially in London, was at a heightened state of alert after a series

of terrorist outrages and Jean Charles de Menezes was mistaken for a terrorist suspect. He apparently looked like a Muslim from the Middle East, though he was actually Brazilian.[78] As McLaughlin has noted:

> The clinical nature of the SAS-style killing and the police rationalization of the need to 'test' the new counter-terrorism protocol touched a raw nerve. ... Human rights groups warned that providing the police with SAS-style 'licence to kill' was adding to the climate of public fear rather than providing public reassurance.[79]

The de Menezes killing threw the relationship between the police and government and the news media under the spotlight.[80] It also highlighted, and accentuated, the distance of senior police personnel, who had become prominent public figures, from the general public, whom they serve.[81] Moreover, it demonstrated how the twenty-first century is one where policing is prioritised as the site of arguments over human rights, democratic values and the nature of cosmopolitan citizenship.[82] As Sivanandan has argued, after the bombings of 7 July 2005 the civil liberties of non-white citizens were compromised and the promise of multiculturalism gave way to the alienation and victimisation of large numbers of non-white British citizens.[83]

So what does the work of McLaughlin and Sivanandan teach us about the conservative impulse, the Marxist critique and the community management strategy? In terms of conservative political thought there is support, as we have seen, in Cicero for state sanctioned violence to maintain public order. After terrorist outrages this may be legitimate. In Hegel, the conservative can find support for the regulation of citizens because there is a limit to the ability of citizens to regulate themselves. A conservative position therefore could give support to the police tactics employed against terrorism, which resulted in the de Menezes killing. Marxists could feel vindicated that the killing demonstrates how a coercive capitalist state functions and how the operational deployment of police officers to Stockwell was evidence of both the state's monopoly of power and its willingness to use force. However, the community management strategy is challenged most by the de Menezes killing because the whole notion of defending a community was thrown wide open. What community? Whose values? The questions are not simple ones in a world-city like London. The de Menezes killing also highlighted the criticisms made about the police setting agendas. The managerialism of the police was exposed, with senior police officers seemingly unaware of life on the streets but rather concerned with their own policy directives and procedures. New Scotland Yard seemed removed from the practical community life it policed. Most of all, the criticisms made by Gutmann and Wallach about the neglect of minority points of view in a communitarian scheme seemed to ring true. After the terrorist outrages the police force did not consider the fact that racial profiling meant that not all citizens were policed equally. Jean Charles de Menezes looked Islamic (though actually Brazilian) and this highlighted for many Londoners that they too were potential victims of mistaken identity; that they were not equal citizens. A practical policing issue was really, at heart, a political consideration.

Main Summary Points

- Conservatives believe that an ordered political society, under law, which is policed through consent, is the precondition of civic life and private property. Accordingly, the most basic function of the police is to uphold the prevailing system of private property relations and, in so doing, uphold the state.
- The Marxist view of policing is sceptical about state authority and other existing sources of legitimacy, such as private property. Marxists see the capitalist state as fundamentally skewed, in an unfair way, towards those groups, and their values, that already enjoy economic and political power.
- Bob Fine has expressed a Marxist view of law: 'It is only when we view the connection between the form and the content of bourgeois law that its class character becomes apparent.' Marxist criminologists have stressed the class nature of policing.
- The Communitarian account of policing emphasises a community management strategy based on a partnership between community and police. It relies on the public to report crime and it measures police success in terms of its ability to respond to community values and priorities.

Questions

1. What are the agreed functions of the police?
2. Should the police be more concerned with crime control or community values?
3. What can we learn about policing from the political theorists of the past?

Suggested Further Reading

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