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## **Moving beyond punitivism: punishment, state failure and democracy at the margins**

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**Title**

Moving beyond punitivism: Punishment, state failure and democracy at the margins

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**Abstract**

Recent commentary on the punitive turn has focused on the repressive nature of criminal justice policy. Yet, on a marginalised council estate (social housing project) in England, residents appropriate the state in ways that do not always align with the law. What is more, where the state fails to provide residents with the protection they need, residents mobilise informal violence that is condemned by the state. An ethnographic analysis of personalised uses of criminal justice questions the state-centric assumptions of order that have informed recent narratives of the punitive turn. It also calls for a reassessment of the relationship between democratic politics and criminal justice by drawing attention to popular demands that are not captured by a focus on punishment alone.

**Keywords**

Popular punitivism, punishment, democracy, the state, violence, inequality, ethnography, United Kingdom

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## **Moving beyond punitivism: Punishment, state failure and democracy at the margins**

The idea of a punitive public looms large in contemporary criminal justice. Politicians regularly appeal to the public's popular demands for harsher punishment when promising to crack down on law and order. From the UK's anti-social behaviour policies to the three-strikes and you're out laws in the US, elected representatives have referenced the suffering of ordinary citizens to justify the endorsement of ever more draconian policies. The politicisation of crime control – variously labelled the 'politics of penal populism' (Pratt, 2007: 21), the 'politics of law and order' (Downes and Morgan, 2007: 201) and the 'politics of punishment' (Bottoms, 1995: 47) – has been subject to a great deal of commentary in academic scholarship (for an overview see Campbell, 2015). While the debate is far from settled, dominant narratives have tended to link punitive shifts in policy and law-making to broader crisis of legitimacy across Western democracies, including the UK and the US (Garland, 2001; Gottschalk, 2010; Simon, 2007; Wacquant, 2009, 2010, 2013). According to these views, at the turn of the 20<sup>th</sup> century, politicians are responding to widespread social insecurities among the population by amplifying their authority in the area of crime and punishment.

A central assumption underlying much of the discourse in both policy and scholarship is the claim that broader social insecurities generate popular demands for a stronger state. It comes perhaps as no surprise then that the figure of the Leviathan looms large. As Ramsay has pointed out, punitive shifts in criminal justice seem "to raise the themes of Thomas Hobbes' (1986) account of an absolutist sovereignty inaugurated by an insecure population" (2012a: 131). Hobbes' account of the Leviathan is, of course, well known: people agree to leave the original state of nature – governed by insecurity and fear – to subject themselves to a centralised authority. This requires them to give up their freedom in return for which the state offers them protection of their person and property. Hobbes' view of state law is based on an assumption that societies only function in the presence of a centralized authority that maintains and enforces order. This is an assumption that has informed ways of thinking about the state in the West (Comaroff and Roberts, 1981). Applied to the contemporary context of criminal justice, the argument is that widespread feelings of insecurity at the turn of the 21<sup>st</sup>

century have produced something akin to the state of nature, against which the state emerges, once more, as an authoritative source of order.

In this article, I analyse how the narrative of the return of a contemporary Leviathan can be challenged if the perspective of the margins is taken into account. To this end, I ask, how does an ethnographic assessment of everyday uses of “law and order” amongst marginalized groups complicate the standard narrative of a punitive public? What happens if we start from the assumption that the state is not the generative source of order, at least not if judged from the perspective of law’s subjects? And what are the broader implications of such a view for theorising the relationship between the public, on the one hand, and criminal justice, on the other? The case of a council estate (social housing project) in England provides a case in point.<sup>1</sup> Local residents often express demands for more policing and harsher punishments for local offenders. And yet, to interpret such calls for “law and order” as evidence of a popular desire for authority tout court would mean to miss an important point. Residents appropriate the state into their everyday lives, sometimes in ways that align with the law but more frequently for purposes that escape the official representatives of law and order. What is more, where the state fails to provide residents with the protection they want, residents can fall back on informal violence that gets condemned as unlawful action by the state.

The ethnographic analysis suggests two broader points. First, that dominant commentary in criminal justice has adopted an understanding of order that is too narrowly focused on the state. To the extent that people rely upon the state in their daily lives, it is not a Leviathan that exercises control from the top-down. On the contrary, they see the state as a personal tool that is instrumentalised according to localized logics and the demands for action that these pose. Second, by shifting the focus away from the state’s categories of order and disorder towards citizens’ understandings of the state, my analysis also invites a broader reassessment of the relationship between the public and criminal justice. Scholars have tended to see the public as a toxic ingredient in criminal justice, as the former’s punitive disposition is said to be dangerous to the even-handed workings of the latter (Zimring and Johnson, 2006: 273; Zimring et al, 2001: 207 ff.; Garland, 2014; LaFree, 2002: 883-884). Yet, if my analysis is correct, then the opposite may be the case. Instead of isolating the public from criminal justice policy making, it is precisely by integrating the views of citizens – particularly those on the margins – that a different set of demands can be heard that moves beyond a focus on punishment (Miller, 2013). My analysis then extends the call for a closer attention to the

political nature of questions of state authority and its relation to criminal justice (Barker, 2013; Gallo, 2015; Miller, 2013; Lacey and Soskice, 2015).

The data for this research is based on ethnographic fieldwork. The bulk of my fieldwork was concentrated on a large council estate of over 11,000 residents situated on the outskirts of a wealthy city in the south-east of England. Although parts of the estate have become privately-owned and gentrified today, the residents that I spent most of my time with are in a low income bracket that entitles them to social housing or to subsidised rent in the private rental sector. They are men and women, mostly aged between their early 20s and late 30s, of both white British and Afro-Caribbean descent. Many did not finish high school education and drift in and out of employment, welfare dependence and sometimes the illegal economy of heroin and crack cocaine (Koch, 2015). They are in intimate contact with the criminal justice system, as victims or as perpetrators, and in many cases as both. I spent a period of 18 months between 2009 -2011 living with families in social housing and volunteering in a local community centre, with shorter follow up visits thereafter. I followed people in their daily activities, participated in their gossip and relationships, and over time, built a view of how they interact with the criminal justice system. I also interviewed local officials and sat in various meetings on local crime control issues. The quotes that follow are based on a few recorded interviews and many more reconstructed notes I took each day following informal conversations and participant observation.

### **Criminal justice, the public and punitivism**

The public's presumed vulnerability has become a central reference point in contemporary criminal justice discourse. In the UK, this is perhaps best illustrated in the politics of law and order that became central to the New Labour government's electoral campaign in the lead-up to the 1997 elections. After 18 years out of government and four electoral defeats in a row, New Labour sought to mobilise popular support by actively re-positioning itself as a party that was going 'tough on crime and tough on the causes of crime'. According to New Labour, the most pressing issues confronting the country at that time were problems of incivilities and low level crime, referred to as problems of 'anti-social behaviour' which affected 'thousands of people whose lives are made a misery by the people next door, down the street or on the floor above or below' (Labour Party, 1995: 2). It was furthermore asserted that the system, driven by an elitist culture, had long ignored the suffering of these citizens. To put this right, the balance in the criminal justice system would be restored, swinging away from the

interests and rights of criminals and towards those of the law-abiding citizens. A view of rights was then endorsed that came to treat those who failed to live up to their responsibilities as new public enemies to be controlled and that endorsed the victim of crime as the new ‘idealized citizen’ in need of state protection (Ramsay, 2010; see also Simon, 2007).

Upon coming into power in 1997, the New Labour government implemented a plethora of policies and legislation. This process has been described by Lacey (2007), drawing upon Dubber (2001), as the expansion of police power – a hierarchical and discretionary form of power aimed at managing a population – within and beyond the institution of the police. Under the banner of ‘community’ or ‘neighbourhood’ policing’, the police were required to implement permanent ‘neighbourhood policing teams’ in designated areas and to improve high visibility and community-based policing strategies. Local authorities too came to absorb police power as they were required to set up their own units policing ‘anti-social behaviour’ and partnership agreements with other bodies, including housing associations, social services, youth services and sometimes even the churches,<sup>ii</sup> in tackling antisocial behaviour and low level crime. Finally, police power became manifest in the law itself. Most controversially, under the Crime and Disorder Act 1998, the government introduced the Anti-Social Behaviour Order (ASBO) which, as a civil-criminal hybrid, allows for the potential criminalization of behaviour deemed ‘anti-social’ by a member of the public. The ASBO is the primary example of how ‘the vulnerabilities and needs of victims [have come to] define the appropriate conditions for government intervention’ (Ramsay 2010: 268).

Lacey has described the punitive turn as one of the ‘most troubling empirical paradoxes of contemporary democratic criminal justice. For the fact is that, in many countries, criminal justice policy has been driven in an exclusionary direction with – perhaps even because of – popular, and hence literally democratic, support’ (2008: 8). Commentators have tended to understand the punitive turn as evidence of a broader crisis (Garland, 2001, Gottschalk, 2010; Simon, 2007; Wacquant, 2009; 2010, 2013). The contemporary moment in criminal justice is narrated in terms of crisis of legitimacy that governments are confronting across the Western world as they are increasingly unable to deal with social insecurities that have been unleashed in the latter half of the 20<sup>th</sup> century. For Garland, these insecurities derive from heightened experiences of crime as a normal social fact (2000; 2001; see also Young, 1999). As citizens are dealing with the predicaments posed by the daily threats of crime, they experience ontological insecurity and become more fearful of strangers, thus predisposing them to punitive sentiments. Others, including Wacquant, have criticised Garland for placing too

much emphasis on the cultural conditions of late modernity. He understands the punitive upsurge as part of a political project of the ‘remaking of the state to foster economic deregulation and curb the consequences of the diffusion of social insecurity at the bottom of the scales of class, ethnicity and place’ (Wacquant, 2013: 81). For Wacquant, it is the deliberate turn to neo-liberal policies that has unleashed social disorder and released feelings of anxiety in the general public.

Notwithstanding important differences in these scholarly accounts, they tend to coalesce around a central point: academics (and, we can add, policy makers) tend to depict a view of citizens who are in need of authoritative reassurance in the face of their own rampant vulnerability. This portrayal rings true of received distinctions between society and state that see the former as a locus of potential disorder against which the latter emerges as the repository of protection and order; hence, as Ramsay noted (2010a; 2010b), the prominence of Hobbes’ Leviathan in the current scholarship on the punitive turn. And yet, the idea of an inevitable turn to popular punitivism needs to be critically examined. For a start, institutional dynamics can and do mitigate the more punitive law making impulses that politicians may otherwise follow (Barker, 2013; Gallo, 2015; Lacey 2008; Lynch, 2011; Miller, 2013). What is more, the idea of a punitive public as a consequence of late 20<sup>th</sup> century anxieties may be overly simplified (e.g. Hutton, 2005, see also Girling et al, 2000; Roberts and Hough, 2002). Hutton (2005), for example, has noted that levels of punitiveness vary depending on what method of inquiry is used. Polls tend to invite the ‘broad narrative of anxiety, that is a story about broad patterns of crime and punishment, about worsening problems and systematic failure to deal with these’ (2005: 254). By contrast, more discursive modes of inquiry reveal nuanced narratives among the public.

In this article, I ask how the portrayal of a return of the Leviathan can be complicated if the perspective of those on the margins is brought into focus. My starting point for such an analysis is the security gap identified by Miller (2008; see also LaFree, 2002): the fact that marginalised citizens – that is to say people who live in poor and often minority-dominated neighbourhoods<sup>iii</sup> – tend to experience both high rates of victimization *and* insufficient and repressive police responses in their daily lives. This ‘dual frustration’ (Meares, 1997; Meares and Kahan, 1998) is evidenced in the case of the residents of a council estate in England. The residents have been primary recipients of the government’s punitive turn, not only as presumed victims but also as potential and actual offenders. And yet, in their daily lives,

residents appropriate local state officials; that is, they draw the police into quotidian disputes with neighbours, family and friends in ways that do not always align with the law. I argue that an ethnographic analysis of everyday uses of the police ultimately exposes the weaknesses of the state's own claim to authority (and by extension, of the scholarly accounts that have endorsed such a claim) and in doing so, calls for a reassessment of the relationship between democratic politics and criminal justice. In the following, I will develop the arguments in three steps. I will first introduce the security gap in more detail, second look at everyday uses of the police, and third turn to a closer assessment of personalised uses of law.

### **The security gap on a council estate**

During my fieldwork, I became close to Linda and Tony, a couple in their early thirties who were living alongside Linda's two daughters in a small two-bedroom socially rented house on the edges of the estate. Tony was working as a bus driver and he was also the councillor for a local independent party that had gathered much support by campaigning about crime and public safety issues (Koch 2016). One day, I walked across the estate with Alice, Linda's fourteen-year-old daughter, from their house to the bus stop. As we were walking along, Alice started telling me spontaneously about the places around us. At the corner of her street, a neighbour was stabbed last year. He had been followed by a group of young men from a different part of town, and been stabbed to death just in front of his house. Alice had been coming home from school when she had seen her street blocked off by police tape. A bit further along the main road, Alice pointed out that a van had gone on fire: her stepfather's ex-wife had heard the explosion and come out to watch. It turned out that it was arson attack. Then, again, over the other side was a part of the estate that she avoided going to altogether; her baby sister's father lived there, but the family was estranged from him. Two years ago, he had stolen her mother's dog and sold it to another resident on the estate. Alice and her family would still sometimes see the dog around the estate but Alice's mother feared that he might get violent, and so nobody did anything about it. 'Lots of stuff is happening here', she commented, 'I don't know why people still come out'.

Alice's words spoke of a local topology of danger that she associated with the neighbourhood she had lived in almost her entire life. As I discovered over time, Alice's experience was not unusual. Young girls and boys growing up on the estate learned that the place they lived in was full of hidden dangers, or, as Alice put it, 'lots of stuff is happening here'. But Alice's words were not just a statement about victimization that she may fear at the hands of a

neighbour, a group of men or her mother's ex-partner. It was also a reflection of the police's inability to keep residents safe from crime. Take the example of local drug dealers. Many residents felt that the police were failing to do anything about local drug dealers who were trading heroin and crack cocaine on street corners and from certain houses (called 'drug dens') on the estate, and exposing nearby residents to the threat of street violence, and a politics of intimidation and fear. For example, when I asked Tony, Alice's stepfather, about the stabbing that had occurred on his street, he explained to me that the murdered man had been a local drug dealer who many residents on the street had repeatedly complained about to the authorities. They wanted to get him evicted from his house. The authorities' failure to intervene was evidence of the police's lack of interest in the neighbourhood and the people: 'They don't care about us here', was a sentence I frequently heard people say.

People's complaints about the lack of policing may come as a surprise given the New Labour government's initiatives. Indeed, the police were a highly visible actor on the estate: in the early 2000s, a permanent police station was opened at the heart of the estate next to the main pub, the community centre and shops. The estate was also given its own neighbourhood policing team, with officers frequently patrolling the streets by foot, bike, car, helicopters or even on horses. CCTV cameras and mosquitos<sup>iv</sup> had been installed in prime spots. But most of the police's attention was focused on local youth (see also Squires and Stephen, 2005). ASBOs were given to young men, both black and white, on account of their disorderly behaviour and they were often subject to curfews, injunction orders and random stop-and-searches. Early on, I became privy to what that meant: in my host family, a white English family with four children, Tyron, a fifteen-year-old, was regularly stopped and sometimes searched by the police. The police would tell him that he risked getting an injunction order for acting 'like he was in a gang' – that is to say, for walking around with a group of teenage friends in ways that appeared threatening to the authorities (Kieron's explanation was that it was down to them wearing their 'hoods up' which meant that their faces could not be easily seen). Tyron knew that an injunction order would restrict his movements in the neighbourhood and his freedom to associate with others. A potential criminal record would also place his family's tenancy in jeopardy as it constituted a valid ground for eviction from a socially rented property.

For many residents, then, the police's lack of care did not refer to an outright absence of the law and order on the estate. It was rather a reflection on the police's failure to deal with

pressing problems of crime as residents experienced them in their daily lives: ‘They criminalise kids for being kids and meanwhile, they do nothing about serious crime’, Mandy once said to me in frustration. Mandy was a local resident in her thirties who found that the police’s failure to intervene with problems of drug dealing on her street ended up having horrendous consequences on her life: a few months earlier, Mandy (and her neighbours) had called the police about a drug den on her street. Mandy was worried that her teenage son would get involved with drug dealing as he had started spending time outside the flat and was sometimes seen in the company of people she considered to be untrustworthy. Eventually, her fears came true: one night, Mandy heard a knock on her door, and when she opened, she was dragged into a car by two masked men. It turned out that her son had an outstanding debt with a drug dealer that he was unable to pay. Instead of her son, Mandy was driven to a cash machine and forced her to withdraw two hundred pounds. For Mandy, the police’s failure to do anything about the drug dealing before things escalate was evidence of their hypocrisy. It stood in stark contrast to their heavy-handed approach to young people who she, and others, related to as their sons, their children’s friends and neighbours.

In short, we can see how the security gap was experienced on a council estate in England: residents like Mandy, Tyron and Alice were vulnerable both to being the victims of serious crime and to becoming the targets of police harassment and control. It is in this context, then, that we can understand residents’ statements that they are very ‘anti-police’, that the ‘police can’t be trusted’ and that the ‘police are pigs’. Sometimes, people also portrayed the police as being on the same side as criminals, and complained that they were all part of the same problem (see also Caldeira, 2002 on this point). But negative attitudes towards the police did not preclude residents from engaging with the police on their own terms. On the contrary, as I got to know people more closely, I also became aware of the various ways in which residents appropriated local officers into quotidian dispute situations with their family members, neighbours and friends. To understand these often overlooked aspects of citizen-state interactions, I will now turn to a closer ethnographic assessment of some of these incidents. My point is that it is in these moments that more personalised uses of “law and order” come to the fore.

### **Everyday uses of the police**

In her ethnographic study of everyday policing in the township of Soweto in South Africa, Julia Hornberger (2009; see also 2013) observes a process that she refers to as the

‘welfarisation of the police’. Township residents, in particular women, routinely draw the police into marital disputes on a routine basis (see also Merry, 2003). Hornberger suggests that long-term dependence on the welfare state has paved the way for more intimate interactions between citizens and the state in other realms of social life, including everyday dispute situations. Her observation that people appropriate the state into their daily lives is relevant beyond the case of South Africa. In a predominantly Afro-American neighbourhood in Philadelphia, for example, Alice Goffman (2009; 2014) has recently shown that shifts towards more punitive policing styles, and the threat of confinement that this brings particularly for young black men, have also created a social fabric in which family members, girlfriends and neighbours deploy the police’s power to suit their own ends. They use the threat of police arrest and of incarceration more generally to exercise pressure and social control over those who are close to them. Likewise, on council estates in England authors have noted that residents have always drawn the state into their everyday disputes with neighbours and ways of accessing welfare, both in the past and present (Rogaly and Taylor, 2009: 108; see also Damer, 1986; Miller, 1988).

In a similar manner, on the council estate where I lived and worked, high levels of suspicion in, and mistrust for, the police force, did not stop residents from engaging law enforcement officials in the pursuit of personal goals. I was first made aware of this while listening to a conversation that took place between two women, Tracey and Kate. Tracey and Kate were local women in their thirties who raised their teenage sons as single mothers. Tracey was running a successful informal drop-in centre at the community centre that offered informal advice and assistance to residents on a range of matters. On the day in question, Kate recounted an episode from when Luke, her then fifteen-year-old son, turned her life into ‘a living hell’. One evening, Luke had started swearing in front of his six-year old brother and being rude to his mother and even threatened to smash her TV. The two started arguing in the house but Kate had finally ‘lost it’ with him: ‘If you wanna fight, you and me will do it in the street’, she shouted at him and dragged him out of the house. In the meantime, Luke had phoned 999 (the police’s emergency number), claiming domestic violence because ‘he was scared I would beat him up’. When the police turned up, the two had indeed been fighting on the street. Kate told the police that she wanted to ‘get him done for criminal damage’. The police took the boy to the police station but no charges were issued. ‘After that, he went to live with his dad for two years, and now he’s a lovely boy, we get on so well’, Kate smiled.

Kate was telling Tracey this story by way of giving her advice: Tracey herself was experiencing problems with her own teenage son at the time who had recently dropped out of a college course, started drinking and failed to contribute rent payments to his mother's house where he was staying. Kate was firm: 'Kick him out of the house', she instructed Tracey, 'and call the police if he comes back!' Indeed, a few weeks after the conversation between the two women had taken place, Tracey did ring the police when her son came home in the early hours of the morning and was banging on the front door: she reported him for 'vandalism'. Her son left before the police arrived but Tracey was satisfied that she had managed, as she said, to 'shit him up'. Over the following months, I became aware of the ways in which residents used law enforcement officials in various ways to handle quotidian dispute situations with their children, kin members, lovers and next-door neighbours. For example, a woman called the police to report her next-door neighbour for cannabis consumption. It later emerged that her next-door neighbour was actually her partner and she had reported him in the midst of an argument. In another situation, my neighbour's daughter, a sixteen-year-old girl, reported her mother's partner for staying at their house. The man in question had been banned from the house as part of a bail order. I learnt later that the girl had called the police after she had fallen out with her mother over the girl's suspected pregnancy (which turned out to be a false alarm).

In interviews with police officers and other law enforcement officials, many complained that cases such as Tracey's were evidence of people treating them as if they were 'personal assistants' and that they were drawn into 'cat-and-mouse games' (see also Reynolds, 1986). For them, the situation was a distraction from what they considered to be their 'real' policing priorities and some officials even mentioned that they were a 'waste of police time'. The police's starting point was the assumption that residents' uses of the police constituted unreasonable or even illogical behaviour because it did not fit with their own expectations of appropriate uses of the authorities. But the situation looked different from the point of view of residents. Take the example of Tracey: she justified her decision to call the police on her teenage son by saying that she had wanted to 'shit him up', something that was also mirrored by Kate, who spoke of teaching her 'son a lesson'. Tracey was clear that she simply did not want to tolerate her son's disrespectful behaviour anymore. Further, she had been worried about what the neighbours might think of the late night banging on her front door and she did not want her son to implicate her in any more gossip. Tracey's explanations show that she did not call on the police to enforce any legalistic order. While residents like her may invoke an

official language of ‘vandalism’, ‘criminal damage’ or ‘breach of bail conditions’, these were ways of framing personalised disputes as they sought to punish an unruly son, to exercise control over an ex-partner, or to take revenge on a parent whose behaviour one did not approve of.

To sum up, the pattern that emerges from these incidents is one of localised disputes into which police officers are drawn in ways that do not easily correspond to the state’s own categories of law and order but rather to more situational and localised logics of conflict. This, however, is a picture that is omitted in the meta-narratives provided by criminologists and sociologists of crime which have tended to start from the assumption that the state is a generative source of order. With this in mind, I want to turn now to the cases that were introduced at the beginning, namely situations of danger where residents do not consider the police to be an appropriate ally for protection. It is in these situations that people come to express punitive sentiments for harsher punishments of offenders that mirror the responses of informal – and often outright illegal – violence that they fall back on to protect themselves.

### **State failure**

While residents appropriated the police in everyday dispute situations, we saw above that in many instances involving more serious experiences of victimisation, the police were believed to be widely inefficient. This meant that residents could be more reluctant to call on the police in situations involving acute or more serious situations of threat. The point is illustrated in the following case. Vera, a woman of Caribbean descent in her early forties with three children, had called the police after her pet cat had been taken and killed by a fighting dog. The owner of the dog was a local teenager called Dayne who was well known to the police for his ‘anti-social behaviour’, that is to say, his involvement in petty crime, although many residents also believed that he was a local drug dealer (something that the police did not focus on). Vera subsequently gave a witness statement in court that resulted in Dayne receiving ASBO that banned him from entering certain places of the estate, including where his family and friends lived. The day after the court hearing, residents stopped Vera on the streets: ‘It took me hours to do my shopping’, she recalled, ‘because everyone congratulated me for speaking up’. However, the tables turned when Vera left for a short holiday. In her absence, her house and front yard were vandalised and someone had spray-painted ‘grass’ on the front door. Neighbours confirmed Vera’s suspicion that the attack had come from Dayne’s family. This time, Vera decided that she would not go back to the police. She

explained: 'I don't wanna do nothing, I am scared. I don't want to call the police anymore'.

In this instance, Vera decided to abandon police involvement half way through the process. As the dispute with the neighbour took on more threatening dimensions (as Dayne's family had become involved), her trust in the police's ability to act as an ally faded. When asked why she did not want to involve the police, Vera just looked at me and said: 'What for! They won't do anything and even if they do, it won't help me'. Vera's decision in this situation was to withdraw and to 'keep her head down', as she said, something that was also evident in the way residents like Alice or Mandy responded to predicaments of danger. But not everyone chose that course of action. In fact, as people let me into their lives, I frequently encountered that the opposite could be encouraged. For example, I saw Tracey giving advice to Pete, an older resident in his sixties who, for reasons he claimed were unknown to him, had become prey to vicious behaviour from his neighbours. They had intimidated him through a series of incidents, including making threatening remarks on the streets, uprooting the flowers that Pete had planted in his front yard, poisoning his hedge with bleach and most recently, they had left a mug outside his front door that had 'twat' written in large letters across it. Tracey, who felt sorry for Pete, advised that he call the police but quickly added that if they failed to help him, he should come back to her. Then, she added with a smile directed at Kate, who happened to be in the room: 'If the law won't finish them off, we will. We'll go round to their house and tell them that we're from the big families on the estate and that they can't fuck with us!'

Tracey was joking when she said this, although she did take pride in the fact that she was from a well-known Afro-Caribbean family whose members were active in the church, community centre and in running the local pub. But underlying her joke was a reality where the use of informal networks was routinely mobilised in situations of danger (see also Girling et al, 1998). Similar to the moral economy of violence described by Karandinos et al (2014) in a poor Afro-American neighbourhood in Philadelphia, residents expected their friends and kin to act as allies against threats, expectations that could be instrumentalised in the pursuit of illegal force. For example, Ray was a local resident in his fifties who had fallen out with his next-door neighbour, a well-known local drug dealer. Ray decided not to call the police after his neighbour had threatened his wife and his kids on numerous occasions because he suspected that his neighbour worked as an 'informant' for the police. The word 'informants' was frequently used by residents to refer to people who were considered to be immune from police intervention, presumably because they had bought off the police in exchange for

information. On this occasion, Ray had instead mobilised his mates ('all big blokes', as he said to me) to come around one evening and to threaten his neighbour with their presence, including threats with a baseball bat. 'I could've gone to prison for it', he told me, 'but at least I would've known that my family is safe'. For Ray, the risk of criminalisation was counter-balanced then against the protection that he needed to offer to his family to keep them safe.

The point to emphasise is that it was precisely when deciding whether to call on official intervention that punitive sentiments could be expressed. The state's ability to inflict violence became a desirable quality as it was imagined as a threat that could be used as leverage against an enemy (see also Kennedy, 1994; Brooks, 2000; Meares, 1997; Meares and Kahan, 1998). For example, Vera and many other residents were of the opinion that ASBOs lacked 'teeth' – the threat of corporal punishment, boot camps and forced labour would all be more adequate forms of deterrence than a civil injunction order. Residents also frequently complained that they wanted *more* policing on their streets. Others heavily criticised the fact that members of the neighbourhood policing team, chiefly the Police Community Support Officers<sup>v</sup>, lacked full policing powers, calling them the 'plastic police'. Sometimes, demands for more punitive measures could take on the form of localised activism, as illustrated by the grassroots politics of a local political party that Tony Smith, Alice's step father introduced above, was a local councillor for. The party had managed to mobilise electoral support by going tough on local criminals where the authorities had failed to intervene, organising pickets outside individuals' houses, collecting CCTV evidence, patrolling the streets and threatening suspects (Koch 2016). When commenting on these activities, Tony once said to me: 'Our world is a world where you do or get done. If we don't do it to them, they do it to us, we live in that kinda world. But the people in law they don't understand that you can't solve a problem by being all wishy-washy: middle class liberalism, it's the bane of our life'.

### **Conclusion: democracy, punitivism and social order**

An ethnographic analysis of quotidian interactions between citizens and the state on an English council estate speaks of the ways in which state officials are drawn and sometimes expelled from daily dispute situations that define everyday life in the neighborhood. This, however, is a picture that is omitted in the dominant commentary in criminology and the sociology of crime where an emphasis on the top-down and autocratic nature of punitive policies foreshadows an understanding of the less obvious, more banal but nonetheless

important interactions between officials and citizens on the margins. Thus, my analysis has shown that people frequently appropriate the state in their everyday disputes with neighbors, kin, lovers, and children in ways that do not easily align with the law. In these situations, law enforcement officials are mobilised as a personal tool for exercising social pressure, retaliation and instantaneous punishment. But there are other cases where reliance on law enforcement officials is discouraged; especially in situations of more serious threat, residents tend to withdraw from official intervention, sometimes in favour of mobilising their own informal networks for protection. It is precisely in these moments that punitive demands for a stronger state come to the fore as residents contrast their own reliance on what is often unlawful (but in their eyes necessary) violence with the state's failure to protect them from personal threats.

The picture presented here poses a puzzle. It does not fit with dominant narratives of the Leviathan that see the state as a generative source of order that citizens draw upon for the protection of their safety and that of property. From such a perspective, it seems illogical to say that citizens on the margins may involve the police in less serious, more quotidian dispute situations but mistrust the forces of law and order where threats to their safety may be more serious and acute. Ramsay (2012b) has critiqued the image of the Leviathan in debates on the punitive turn. For him, the penal laws enacted in the name of protecting an insecure public cannot be indicative of state authority in the Hobbesian sense: this is because 'to justify...penal laws by reference to the security benefits of the vulnerable is an admission of defeat for Hobbes' sovereign' (2012b: 216). Or, to put it slightly differently, law makers and politicians admit their own lack of authority when they assume that the law's representative citizen is characterised by their vulnerability – something that Hobbes saw as being a central feature of the state of nature that the state was meant to eliminate in the first place. My analysis speaks to Ramsay's point by demonstrating that from the perspective of law's subjects too, the return of a Leviathan may be a myth. For the residents on the estate, the state is at best a personalised ally, and at worst as a public enemy, whose visions of order do not fit easily with the everyday reality of those on the margins.

In light of these criticisms, perhaps it is time to adopt a different understanding of social order, one which does not start with the primacy of the state. Such is the perspective adopted by anthropologists who have questioned dominant narratives of the state as an entity that sits above society and dispenses order from the top-down (e.g. Fuller and Benei, 2001; Grisaffi,

2013; Pratten and Sen, 2007; Sharma and Gupta, 2006; Spencer, 2007). In places as diverse as Brazilian favelas (Caldeira 2002), South Africa townships (Hornberger, 2009; 2013) and Nigerian neighbourhoods (Cooper-Knock and Owen, 2015), anthropologists have shown that people negotiate what is often a violent and discriminatory police force by appropriating it into their own efforts to maintain order and everyday social relations. But such processes are not limited to the global south. At the urban margins in the US (Goffman 2009; 2014) and the UK (Rogaly and Taylor, 2009; Damer, 1986; Koch, 2014), people call upon the police in ways that do not map easily onto the state's own categories of law and order. In so doing, they not only expose the state's failure to act as a harbinger of civilization and progress against an allegedly disorderly society. They also question the state's ability to command authority over its subjects.

If my analysis is correct, then adopting a different view of social order has implications that go beyond the particularities of the case study presented. Here, I want to limit myself by pointing at the ways in which they invite a reassessment of the relationship between the public and criminal justice. There has been a tendency in recent commentary to see criminal justice and the public as a toxic mix. Precisely because the public's punitivism is said to be dangerous to an even-handed criminal justice system, interstitial layers of bureaucracy are said to be needed between the public and the criminal justice decision making process. As Zimring and Johnson have written, 'where there is a "professionalization of punishment" not only are punishment decisions removed from direct democratic control but the criteria for making such decisions are regarded as involving principles that require professional judgement' (2006: 273; see also Zimring et al, 2001: 207 ff.; Garland, 2014; LaFree, 2002: 883-884). Yet, there are reasons to caution against calls for 'professionalization'. In a situation where masses of people already feel removed from what they experience as a distant and hostile system, excluding these same people as populist from further from public debate is likely to increase deep-seated disenchantments with their elected representatives (Koch, 2016; Lerman and Weaver, 2014). Even worse, such a move would validate further shifts to technocratic and managerial modes of decision-making that, according to some scholars at least, have hollowed out democracy of its substantial meaning and resulted in a 'post-democratic' state (Crouch, 2004; Ranciere, 1998).

A more fruitful starting point may be to acknowledge that questions of state authority and its relationship to criminal justice are always bound to be political and hence far from inevitable

or simply given (Barker, 2013; Gallo, 2015; Miller, 2013; Lacey and Soskice, 2015). Such is the suggestion made by Miller (2013) who argues that paying attention to the views of at risk populations can help to ‘reconfigure our understanding of the democracy and crime punishment nexus because it redirects our attention to the political demands of those most at risk of violence as well as a whole host of other social inequities’ (2013: 300; see also Miller 2015). My analysis pushes the point. On a council estate in England, the residents are not uniformly punitive. Rather, their demands for harsher punishment of local offenders reflect a reality of high victimization by both crime and criminal justice. What is more, everyday forms of reliance on law enforcement officials speak of the ways in which residents strive for a more accountable state, that is to say, a state that is amenable to the lived realities of those on the margins. Instead of seeing punitivism as an aberration of late 20<sup>th</sup> century, we may then begin to ask in what kinds of situations people come to demand more law and order and how these situations are mediated by structural factors and inequalities. Likewise, rather than trying to keep punitivism in check, a more fruitful starting point may be to look for alternative demands that remain unacknowledged by focusing on punishment alone. And perhaps most radically, instead of looking for authority in the state, we should be wondering what other social norms and logics continue to exist and what limits these pose to state-centric visions of order.

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<sup>i</sup> The names of the estate and of residents have been changed to protect anonymity.

<sup>ii</sup> Partnership agreements with the church include the so-called “holy alliance” between local authorities, the police and churches. Church members called “street pastors” are dressed in uniforms and patrol the streets to assist the police in detecting anti-social behaviour and crime.

<sup>iii</sup> Debates on minority and race relations have been more central to the US than the UK where poor neighbourhoods tend to be racially mixed and relations between white British residents and minority ethnic and racial groups often run deep (e.g. Rogaly and Taylor 2009).

<sup>iv</sup> Mosquitos are devices that let out a high pitch sound that only young people are supposed to hear. They are used in public areas to stop young people from congregating.

<sup>v</sup> Police Community Support Officers (PCSOs) are uniformed civilian members of police support staff. They are non-warranted but are provided with limited police powers.