

Participatory Democracy and Criminal Justice

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Abstract This essay asks if there is a role for an active public in ratcheting down the harsh politics of crime control in the United States and the United Kingdom that has led to increased use of the criminal law and greater severity in punishment. It considers two opposing answers offered by political and legal theorists and then begins to develop a participatory democratic framework for institutional reform.

Keywords Punishment · Citizen participation · Democracy · Restorative justice · Criminal jury

Introduction

Is there a role for an active public in ratcheting down the tough-minded politics of crime control in the United States and the United Kingdom? Political and legal theorists offer two opposing answers. On the one hand are *insulationists*, such as Nicola Lacey, Philip Pettit, and Franklin Zimring, who advocate removing certain criminal justice issues that impact incarceration rates from public influence. They endorse penal policy boards that would take issues such as the permissible size of the prison population and guidelines for appropriate sentencing off the legislative agenda, thus providing insulation from public influence. A contrasting conception comes from *integrationists* like John Braithwaite, Nils Christie, and Howard Zehr, who see lay citizen involvement as an integral part of a framework that fosters the right kind of criminal justice dialogue and essential for building a network of support for non-punitive programs. They advocate criminal justice institutions that integrate public participation so that citizens consider hard questions, face suffering human beings, and share responsibility for outcomes.

This essay argues that the insulationist approach has practical and normative difficulties that reveal advantages of the integrationist model. We need to rethink some core

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