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Enlisting the public in the policing of immigration

Ana Aliverti*

Abstract:

As border policing is no longer circumscribed to external borders and increasingly performed inland, in Britain migration work relies on the assistance of a range of unorthodox partners, including the public. The unearthing of the ‘community’ as a crucial partner to police a myriad of public safety issues, including migration, begs the question of what are the implications of mobilizing citizenship for law enforcement? This paper argues that enlisting the public in migration law enforcement yields important civic by-products: it ‘creates’ citizens and citizenship. It imparts civic training by instilling a sense of civic responsibility in law and order maintenance, and in doing so it intends to recreate social cohesion across a deeply fragmented society.

Keywords: failure to report, migration policing, citizenship, Immigration Act 2014, internal law enforcement

In May 2013, the *Daily Mail* reported that nine ‘illegal immigrants’ were caught climbing down a German food tanker all covered in flour (Sears, 2013). The lorry was stationed on the hard shoulder on one stretch of the M26 near Kent, the main access road connecting mainland Britain to France via the Channel Tunnel. According to the report, the ‘Middle Eastern fugitives’ self-smuggled into Britain to the surprise of the lorry driver who claimed to be unaware of the extra load. The story was used by the British tabloid to highlight how easy it is for people to sneak into Britain without being caught and the leniency with which immigration offenders are treated by the Border Force once spotted. The newsworthiness of this story in my view lies, however, on another aspect: the involvement of passers-by in

* Assistant Professor, School of Law, University of Warwick, Coventry, CV4 7AL, United Kingdom, email: a.aliverti@warwick.ac.uk. This paper benefited from the generous and insightful comments of many colleagues. I am particularly grateful to Alpa Parmar, Leanne Weber, Ben Bowling and two anonymous *BJC* reviewers.

bringing immigration law-breaking to public attention. Indeed, the incident was originally photographed and reported to both the press and the police by members of the public who claimed that the ‘fugitives’ would be easy to spot ‘as they all looked like Casper the Friendly Ghost’. The tipoff by several members of the public prompted police mobilization and led to the swift arrest of the nine foreigners in the nearby town of Otford.

While public involvement in policing is by no means new (Shapland and Vagg, 1988, Grabosky, 1992, Zedner, 2006, Mazerolle and Ransley, 2005, Ayling et al., 2009), this story reveals interesting features of the contemporary law enforcement landscape, of which immigration enforcement is becoming a key part (Weber, 2011, 2012, 2013, Loftus, 2013, Mutsaers, 2014, Bowling and Sheptycki, 2014). In Britain, as a consequence of changes on migration patterns and the policies that followed to address those changes since the early 2000s inland immigration enforcement has gained prominence for successive governments, a marked shift from the traditional focus on external controls. Against this background and amid public discontent with incoming foreigners searching for work and a place to stay, the current Coalition government has made explicitly clear that in order to stop people from playing the system, exploiting gaps in enforcement and profiting from law-breaking the public needs to join in.

This paper examines the different forms in which the public, in general, and specific sectors have been cajoled into performing immigration policing. One of the ways in which people’s involvement is called forth is through encouraging voluntary reporting of immigration law-breaking. The second way is through the imposition of legal duties to report. While mandatory reporting of immigration wrongdoing is fairly circumscribed covering only particular individuals in position of responsibility –such as registrars and financial institutions, so-called ‘third parties’ have been co-opted to play a part in immigration enforcement indirectly through the establishment of a myriad of positive duties on pain of civil and/or penal sanctions. In the second part, the attention turns to examine this policy trend against the backdrop of increased reliance on the general public to police a myriad of

public safety issues, from national security to welfare fraud, incivilities and sexual offences. Enlisting people into law enforcement raises obvious ethical, legal and practical issues which I explore in this part of the paper.

The final section traces a common thread that links the contemporary governance of diverse public security issues together and what this common thread tells us about the position of the public *vis a vis* the state in their responsibility for law enforcement. Aside from the obvious instrumentality of ‘enlarging the arms of the law’ (Ayling et al., 2009), enlisting the public in law enforcement ‘creates’ citizens and citizenship, an aspect largely overlooked by policing scholars. It imparts civic training by instilling a sense of civic responsibility in law and order maintenance, and in doing so it intends to recreate social cohesion across a deeply fragmented society. Migration policing is an ideal site for imparting civic values by mobilizing the exclusionary aspect of citizenship. Much in the same way that (external) border controls have an economic, material and productive function through what Ruben Andersson (2014) calls ‘illegality industry’, (internal) border controls yield similar economic, educational and civic by-products. By drawing on the burgeoning literature on criminal law, punishment and citizenship (Crawford, 1999, Loader, 2006, Zedner, 2010, Reiner, 2010, Ramsay, 2012), I argue that conscripting people into migration policing work intends to legitimize deeply contentious control powers while taking stock of the hostility and resentment of certain social sectors against incoming migrants.

Making migration policing the task of the whole community

Ten years ago in their seminal article ‘Policing migration’ (2004), Leanne Weber and Ben Bowling charted migration policing practices historically. They explained that particularly since the post-war years when migration from former British colonies shot up, ordinary policing normally involved checks on immigration status on people of ethnic minorities who either had

reported crimes or were crime suspects, passport raids on workplaces and residences, and opportunistic exercise of stop-and-search powers. These early practices were fairly unsystematic (Weber and Bowling, 2004: 204, also Vogel et al., 2009: 222). Further, migration work remained a peripheral activity and not considered to be the primary responsibility of the police. Instead, the core of migration controls was performed at the external border by the immigration service in charge of granting or refusing foreigners leave to enter and remain in the UK. As Bowling and Sheptycki (2014: 65) observe, until the late 1990s migration control was on the whole an administrative task conducted at the external border. Increasingly, however, changes in migration patterns –and consequentially in control practices– have disrupted, on the one hand, this division of labour between the police and the immigration service and, on the other, the negligibility of inland controls. In turn, these changes triggered a shift away from the administrative nature of border controls towards the penal, the expansion of the range of actors involved in migration policing, including the public, and the multiplication of ‘transversal border policing practices’ (Weber and Bowling, 2004: 199, Pickering and Weber, 2013: 94).

The plea for public cooperation in the enforcement of immigration laws through voluntary and mandatory reporting is connected to the expansion of controls inwards –from the external territorial border to the community– in line with changes in migration patterns. This policy shift was originally animated by a concern on the labour market as a magnet for illegal migration and the subsequent enactment of measures to police workplaces more effectively (Home Office, 2002, 2005, Jordan and Düvell, 2002: 171). Equally, as asylum applications started to plunge in the early 2000s, immigration policies began to focus on identifying refused applicants and overstayers leaving and working inside the community. Later on in 2006, the foreign national prisoners’ crisis further reinforced policies around identifying foreign national offenders eligible for removal (Aliverti, 2013: ch 3). Policing foreigners in breach inside the community poses a number of challenges for the state not just due to the high population to be policed and

the limited resources available for carrying out the task. More importantly, once in the country people can easily become ‘invisible’, amalgamated into the vernacular population and be difficult to trace. In Britain, the difficulties for keeping foreigners under surveillance are compounded by the lack of a national identity card scheme (Lyon, 2005, Vogel et al., 2009: 209).

Faced with these enforcement shortfalls, successive governments have pledged to ‘make the UK a hostile environment for those who seek to break ours laws or abuse our hospitality’ (Home Office, 2010: 10, also Home Office, 2007: 17, 2008: 6), by making it difficult to live and work in the country through blocking access to public and private services, and enforcing controls on the workplace (Flynn, 2005: 226). Indeed, the infamously branded ‘Hostile Environment Working Group’ was set up to request government departments to come up with ideas about how to ‘make immigrants’ lives more difficult’ (Aitkenhead, 2013). Some of them made it to the statute book in the recently enacted Immigration Act 2014. In a context of expansive and more sweeping surveillance on the foreign population within, the British public, businesses and public bodies have been targeted as valuable partners in policing work. In 2008, the position paper entitled ‘Enforcing the Deal’ (Home Office, 2008) announced the formalization of links between the now dismantled UK Border Agency (UKBA)¹ with a number of ‘unorthodox’ partners. Since then, the range of agencies encumbered with enforcement tasks multiplied: the Driver and Vehicle Licensing Agency (DVLA), the Fraud Prevention Service (CIFAS), NHS Trusts, businesses, HM Revenue and Customs, the Department for Work and Pensions, local governments, the financial sector, universities and colleges, and so on. The same policy document announced the creation of local immigration teams ‘[to be focused] on local immigration issues, community concerns, and more on prevention and early intervention’ in order to ‘increase the reach of our engagement with partners and the public,

¹ The UKBA was dismantled in April 2013 over complaints of mismanagement, secrecy and inefficiency. The Home Office reassumed crucial functions, particularly in relation to policy making. In its place, two new departments were created: UK Visas and Immigration and Immigration Enforcement. The law enforcement command, the Border Force, was created in 2012 (Travis, 2012).

replicating the well established and productive relationships enjoyed by the police service through their neighbourhood policing model' (Home Office, 2008: 12).

As migration policing is increasingly a matter of local law enforcement and part and parcel of everyday police work, it is not surprising that existing information channels and networks within the community are being exploited to police foreigners within. Much in the same way that members of the public are encouraged to report ordinary crime, anti-social behaviour and terrorist activities to the police (Grabosky, 1992, Mazerolle and Ransley, 2005, Ayling et al., 2009), the Home Office's website includes a section to report immigration offences through its own site or the charity Crimestoppers on a voluntary, anonymous basis.² The former UKBA encouraged the report of immigration law-breaking through Crimestoppers, and often relied on tips off by the public to conduct enforcement visits or raids. In October 2011 during a speech on migration, Prime Minister David Cameron (2011) blatantly exhorted the British public: 'I want everyone in the country to help, including by reporting suspected illegal immigrants to our Border Agency through the Crimestoppers phone line or through the Border Agency website... Together we will reclaim our borders and send illegal immigrants home'.

Direct exhortations on the public to cooperate have taken stock of the hostility and resentment of certain social sectors against incoming migrants while instilling a sense of civic responsibility and mobilizing politically marginalized sectors into law enforcement. It has also capitalized on fragmentations within migrant communities providing some local members – including employers- with levers to threaten and control people with weak or unlawful migration status (Weber, 2013: ch 6, Bloch et al., 2014: 9). The recruitment of the public to the task was stirred by ideas on 'civic responsibility' and 'active citizenship' with currency across social policy

² See <https://www.gov.uk/report-immigration-crime> (accessed: 22 July 2014). Crimestoppers is a charity set up in 1988 by a businessman, Lord Ashcroft, to encourage ordinary citizens to report instances of crime on a voluntary basis.

making. As Don Flynn (2005: 227) explained, New Labour's concern with promoting stronger notions of citizenship and reclaiming a lost sense of belonging was in part animated by the perceived dangers for social cohesion entailed by mass migration while at the same time put to work to maximize limited resources for the supervision of newcomers. Although initially migration policing has not been an area seized in the policies and discourses linked to the new 'civic conservatism' (Ramsay, 2012: 105), the Coalition government has forcefully appealed to the assumption of citizens' responsibilities in this sphere. In doing so, a range of private and public actors have been cast into migration policing work.

In 2011, the Home Office received around 2,100 public allegations per week and it is estimated that a quarter of enforcement operations conducted in 2012 were prompted by tipoffs by members of the public. In fiscal year 2012/3, of 14,598 enforcement operations conducted 3,413 of them originated from allegations made by members of the public and other sources.³ While judged by these numbers efforts to enlist 'responsibilized private actors' (Weber et al., 2014) on migration policing have paid off, the immigration department has been harshly criticized by its watchdog and some parliamentarians for failing to act upon those allegations consistently and effectively. They claimed that in the last few years only a small proportion of these allegations (between 2 and 4 per cent) had led to enforcement action. The Independent Chief Inspector of Borders and Immigration found inconsistencies in the way intelligence was collected and used (Vine, 2011), whereas the Home Affairs Select Committee (2011: 9) protested that 'there is no point [in calling on the public to report immigration law-breaking] if the UK Border Agency does not use the intelligence provided'. Parliamentarians repeatedly highlighted the importance of feeding back to members of the public who make genuine reports about suspected abuse of the immigration system on what the result of their allegation was (Home Affairs Select Committee, 2012: 27). Those critiques led to the establishment in September 2012 of the Allegation

³ Freedom of Information request (No 27600, of 13/11/2013).

Management System,⁴ a database to record intelligence leads from the public in a consistent way and to improve success rates in enforcement action. While it is early to assess the success of the new database in achieving those goals, its creation is telling of the acute awareness of the significant contribution of the public in migration work and the keenness of the state to capitalize on the readiness of ‘responsibilized’ individuals to report suspicious others.

The renewed emphasis on the role that the general public plays in bringing law-breaking to the attention of enforcement agencies has given rise to new civic duties and new forms of liability for non-compliance (Grabosky, 1992, Mazerolle and Ransley, 2005, Ayling et al., 2009). Along the open exhortation on members of the public to report foreigners in breach of immigration rules on a voluntary basis, private and public bodies and individuals are obliged by law to police immigration inland on pain of civil or criminal sanctions. The most obvious such legal duty is that imposed on registrars to report a marriage and civil partnership if he or she has reasonable grounds to suspect that it is sham.⁵ Employers and financial institutions are equally duty-bound to supply information related to an employee or client, respectively, suspected of having committed an immigration offence upon request by the Secretary of State. Failure to abide by the request for information without reasonable excuse is a summary offence punishable with up to three-month imprisonment, a fine or both.⁶

While compulsory reporting *strictu sensu* is fairly circumscribed to certain individuals, ‘third parties’ are called forth to perform policing functions

⁴ The newly created database resembles the Australian ‘Dob-in Service’ set up in 2004. The service encourages people in the community to report immigration lawbreakers through a range of channels: in person, online, or by phone, post, or fax. See <http://www.immi.gov.au/faqs/Pages/what-is-the-immigration-dob-in-service.aspx> (accessed 23 July 2014).

⁵ Immigration and Asylum Act 1999 (s 24). In the last few years there has been a sharp increase in the number of ‘section 24’ reports by registrars: from 344 in 2008 to 1,891 in 2012. This rise was prompted by allegations of widespread abuses in the marriage/civil partnership route to attain immigration status which in turn led to targeted enforcement operations to tackle those abuses and exhortations on registrars to report them (Vine, 2013: 9).

⁶ Nationality, Immigration and Asylum Act 2002 (s 137).

through a plethora of norms which prescribe positive obligations on them. The most wide-ranging offence that hit upon uncooperative third parties is assisting unlawful immigration, which can be committed through an act or an omission, and carries a maximum prison term of fourteen years. More specific forms of criminal liability penalize employers who knowingly hire people without permission to work. Yet, third parties are more likely to be subject to civil regulatory regimes and their non-compliance dealt with through civil rather than penal sanctions. Compared to criminal proceedings, civil regimes are generally preferred because they are more effective to ensure compliance and a simpler, more expeditious and cheaper route to establish liability. The first regulatory regime on transportation companies was established in the Immigration (Carrier Liability) Act 1987 which obliges transportation companies to check passenger's travel documents and visas, and subject non-compliant carriers to fines. This regime of civil penalties was later on expanded by the Immigration and Asylum Act 1999 to cover carriers responsible for clandestine entrants and carriers which transport people without proper documentation. A similar regime is now in force for employers and educational establishments which are obliged to routinely check the immigration status of employees and students on pain of fines and termination of sponsorship licences. As well as being criminally liable for employing people without permission to work, employers are subject to a civil penalty regime under the Immigration, Asylum and Nationality Act 2006. Universities and colleges licensed to sponsor international students under Tier 4 visas have record keeping and reporting duties. Non-compliance can lead to the suspension or revocation of their license.

Part 3 of the new Immigration Act 2014 further expanded the set of actors encumbered with immigration enforcement duties. Modelled on the system of employment checks, landlords are required to inspect the immigration status of prospective tenants and deny accommodation to those who are disqualified for renting by dint of their immigration status. Non-compliance is subject to a fine of up to £3,000 per illegal lodger. Foreigners without

leave were already prevented from accessing social housing. The goal of the new controls is to facilitate the enforceability of that prohibition. If the landlord is not satisfied that the prospective tenant is legally in the country, he or she is legally required not to offer accommodation but is not obliged to report the person to the Home Office.

Similarly, new compulsory checks on residence requirements for opening bank accounts and issuing driving licenses necessarily place banks, building societies and the DVLA under the purview of the immigration department. While identity checks are routinely carried out on tenants, and driving licence and bank account applicants, the new requirements made those controls mandatory. Banks and building societies are obliged to check the immigration status of applicants and deny access to bank accounts to people who cannot prove regular status. The DVLA is bestowed with powers to deny and revoke driving licenses to disqualified applicants. Given the increasing importance of driving in modern societies, the tighter requirements to obtain a driving license aim at curtailing people's ability to carry out their everyday lives. Further, the new restrictions for driving will necessarily raise the prominence of traffic enforcement for inland immigration policing. According to Michele Waslin (2013: 3), restrictions to obtain driving licences by undocumented migrants in several states of the United States have led to an increased prevalence of immigration enforcement through traffic enforcement. She observed that arrests for minor driving offences have become a pretext for immigration enforcement resulting in growing numbers of foreigners being deported for these offences. In 2011, driving offences represented the second most frequent category of criminal convictions that triggered removal from the country, after drug-related offences (Waslin, 2013: 6).

In addition, the 2014 Act authorizes the Secretary of State to impose a health care levy on some (non-EU) visa holders (including students and workers) with limited leave to enter and remain upon applying for an entry clearance or an extension of leave. During parliamentary debates on the bill, some health care professionals voiced their concerns about the new charge

because it will transform general practitioners into border control agents and will risk turning people who are not able to afford the fee away.⁷

Although the implementation of these measures has not been tested yet, earlier research on migration policing in Britain and elsewhere suggests that levels of cooperation vary considerably between the actors called to do migration policing. While it may appeal to the police as a tool to pursue their own crime prevention and order maintenance goals, the task of policing foreigners is often vigorously resisted by others, like universities, customs officials and some businesses (Jordan and Düvell, 2002: 182, Pickering and Weber, 2013: 105, Bloch et al., 2014: 16). In a similar vein, we might expect differing attitudes to migration policing work across social sectors, with certain groups among whom opposition to migration in the UK is more common (specifically, older, UK-born, white, and less educated people) (Blinder, 2011: 3), more likely to take up the task.

Policing by the public beyond immigration: a nation of detectives or informers?

The diversification and proliferation of actors, and the unearthing of the ‘community’ as a crucial partner in migration law enforcement mirrors earlier developments in crime prevention policies. Since the mid-1980s policy discourses on crime prevention became allied to a ‘partnership approach’. Lorraine Mazerolle and Janet Ransley (2005: 45) explained that ‘[a] central part of contemporary police work is forging partnerships with individuals, groups and organizations’ and argue that the rise of what they call ‘third party policing’ has cast the police in a new role ‘becoming more like regulators than enforcers especially in their use of proactive compliance measures’. In Britain, Home Office policy papers repeatedly emphasized the importance of ordinary people, organizations and groups in crime

⁷ See interventions by Clare Grenada and Professor Terence Stephenson: Hansard, House of Commons, 29 October 2013: column 22.

prevention, a task which could not be left solely to the police (Crawford, 1999: 25). According to Adam Crawford (1999: 47), this ‘paradigm shift’ in crime policing was prompted by a negative public perception of the police and their lack of effectiveness in tackling escalating crime rates, together with findings that the capacity of the police to prevent crime was greatly enhanced by the cooperation and information from the public (also Bullock and Sindall, 2014: 386).

Research on crime prevention and community policing shows how crucial it is for the police to ensure trusting and strong links with residents –through informal interpersonal, loose networks or more formalized neighbourhood watch schemes- to elicit information in the investigation of criminal activity at the local level and to build confidence and legitimacy in the force (Crawford, 1998: 135, Ayling et al., 2009: 7, Tyler, 2013: 14, Jackson et al., 2013). The plea for community engagement attempts to ‘recalibrate’ responsibilities for public safety while seeking to remedy the legitimacy deficit that pervades the modern British state (Crawford, 1999: 76, Garland, 2001: 123, Ramsay, 2012). Notwithstanding critics, the rapid propagation of neighbourhood watch schemes, community policing initiatives, inter-agency partnerships and the like attests to the success of the ‘appeal to the community’ approach in gaining support among policymakers, law enforcement agencies, businesses and some sectors of the public (Crawford, 1998, Bullock and Leeney, 2013).

These ideas and practices have had purchase beyond the ordinary policing sphere. The government’s counter-terrorism strategy, ‘CONTEST’ places community-based approaches at the heart of the preventive strand. The need for engaging communities –especially Muslim ones- to prevent radicalization and the indoctrination of young British Muslims was one of the painful lessons of the 7/7 London bombings, carried out by home grown Al-Qaida supporters (Briggs, 2010: 972). Community-based strategies seek to increase the flow of information coming from the public about terrorism threats, prevent the spread of fundamentalist ideas, and ensure respect and trust in the police. As Basia Spalek (2012: 40) noted, ‘[l]ike traditional forms

of crime, the governance of “new terrorism” reflects broader developments in governance, whereby responsibility and accountability for preventing terror is increasingly focused towards local levels, whilst at the same time centralized control in terms of resources and target setting is maintained’. This is just one aspects of a broader trend towards the elision of ordinary and counter-terrorism policing, of low and high policing, a move warily monitored by policing and security scholars concerned with its creeping implications, particularly, the risk of normalization of exceptional powers, restrictions on civil liberties and deterioration of community-police relationships (Brodeur, 2007, Parmar, 2011, Bowling and Sheptycki, 2012: 116).

In a similar vein, the spread of immigration enforcement duties –and concomitant civil and criminal liability for non-compliance- on a myriad of private and public actors coincides with the emergence in recent years of failure to report offences in other areas. Reporting obligations bind the regulated sector in the context of money laundry and terrorism legislation. Financial institutions are obliged to disclose suspected terrorism financing and money laundry. So too are people who in the course of their employment believe or suspect that a financial terrorism offence has been committed.⁸ Broader still is the offence in section 38B of the Terrorism Act 2000 which obliges ordinary people to disclose information which might be of material assistance for preventing or punishing terrorist acts and punishes non-cooperative individuals with up to 5 years imprisonment. Despite the low prosecution rates for all these offences and doubts on their effectiveness to aid law enforcement in the prevention and repression of the substantial offences, mandatory reporting is called forth in other areas (Walker, 2010, Ashworth, 2014). Following the revelation of historic sexual abuses involving public figures, a similar reporting obligation has been proposed to bind individuals in position of authority and to criminalize their failure to report child sexual abuse (NSPCC, 2014: 7).

⁸ Respectively, Proceeds of Crime Act 2002 (ss 330, 331) and Terrorism Act 2000 (ss 21A, 19).

This discernible trend in policy making offers an opportunity to think anew about the ethical, practical and legal issues involved in conscripting the public in law enforcement. In turn, it calls for an examination of the appropriateness of prescribing a similar policy solution to a range of diverse governance issues. While it may be legitimate to assign an active crime preventive role to certain individuals in specific situations (obvious candidates are adults responsible for the welfare of vulnerable people who are at risk of suffering serious harm), a broader general obligation to report law-breaking appears more questionable (Wallerstein, 2012: 50, Ashworth, 2013: 56). As Peter Glazebrook (1962: 316) argued in attacking the now repealed offence of misprision of felony, while the existence of a moral duty to report a crime is contentious, even more so is a legal duty to do so. Even if a moral civic duty to report a crime and a legal duty not to obstruct police investigations are justifiable, should there be a legal duty to assist the police? These questions become thornier as we move away from serious, *mala in se* crimes to the terrain of regulatory offences. While instrumental law enforcement considerations behind compelling people to report serious offences may outweigh countervailing reasons (based on autonomy, privacy, etc.) (Wenik, 1985), those considerations carry less weight in relation to other instances of law-breaking, like immigration wrongdoing (Ayling et al., 2009: 70).

Even in the absence of a legal duty to assist migration enforcement, turning residents into unpaid and untrained migration officers poses a number of difficulties, not least because of the demands that comes with the task. Given the complexities in determining lawful immigration status, imposing such duty on ordinary citizens carries the risk of intervening on speculative basis and heightens the jeopardy of false accusations.⁹ Determinations of alienage and lawful status are likely to be dictated and mediated by racial,

⁹ The embarrassing finding that the former Immigration Minister, Mark Harper, had hired a person without 'proper papers' illustrated the complexities involved in determining legal status. As Baroness Smith of Basildon put it during debates on the immigration bill, 'If the Immigration Minister can so easily get it wrong, how can the Government possibly think that each and every landlord in this country [...] is qualified to act as an immigration official?' (Hansard, House of Lords, 10 February 2014: Column 421).

cultural and class stereotypes –like ‘looking foreigner’, having a ‘foreign sounding’ name, speaking broken English or without an English accent, etc.- (Smith, 1996, Pham, 2008). ‘Being on the look-out’, unencumbered with reporting obligations has also the potential to undermine trust within the vernacular population and jeopardize police-community relations contributing to social fragmentation and reinforcing already existing exclusionary practices within tight-knit geographical communities against ‘strangers’ (Grabosky, 1992: 266, Crawford, 1998: 158, Ayling et al., 2009: 60). Further, as Ayling *et al* (2009: 251) noted, lengthening the arms of the law wholesale and too wide has the potential to backfire, undermining the virtuous circle aimed at strengthening police legitimacy. This may happen ‘if coercive measures proliferate to create the perception of a society of informers’, if the means to secure public cooperation are unregulated and hidden from public scrutiny, and if the public remains merely a resource to suck information rather than a genuine partner with whom to define problems and negotiate solutions (Mazerolle and Ransley, 2005: 174, Shapland and Vagg, 1988: 184).

Normative arguments aside, my concern here is to explore what this discernible trend in the contemporary governance of diverse public security issues (from migration to terrorism, drug trafficking, sexual exploitation, welfare fraud, and anti-social behaviour) tells us about the position of the public *vis a vis* the state in their responsibility for law enforcement.

Although at first sight the connection between them seems imperceptible, their association becomes clearer once we examine them together in the light of contemporary debates about the role of the police, and generally the state, in the provision of public security. The steady but consistent devolution process for responsibility of basic law and order functions from law enforcement agencies to a range of bodies with seemingly unconnected public safety goals, through direct encouragement, formalized partnerships, and novel forms of civil and criminal liability, signals important developments in the law enforcement landscape. On its face, this devolution process seems to insinuate ‘a retreat from the idea that society’s designated

agents, the police, should enforce the law, and a movement toward the more primitive notion of self-help' (Wenik, 1985: 1786) and vigilantism (Pratten and Sen, 2007).

Historically, in pre-eighteenth century England, law enforcement duties were distributed among citizens due to the lack of an institutionalized and unified police force. The medieval English system to discover and punish wrongdoers was predominantly one of communal responsibility, communal liability and collective security which relied on members of the community to make sure that everybody display good behaviour (Glazebrook, 1964: 197). This included a collective obligation to pursue a felon by means of 'hue and cry', primarily conceded to the male, propertied, articulated middle-classes (Critchley, 1978: 3). While the legal prerogative and duty of ordinary citizens to inflict violence on their fellow citizens has largely disappeared, the state has always relied in one way or another on its citizens to enforce the law, sometimes through coercion (Zedner, 2006, Ayling et al., 2009: 48).

Yet, drawing historical continuities in the involvement of citizens in law enforcement should not obscure the specificity of contemporary developments. Far from being a historical *déjà vu* or a mere reconfiguration of existing policing trends, the contemporary fragmentation and pluralization of law enforcement assumes very specific forms which are driven and shaped by wider transformation in the governance of security – and not necessarily pushed or promoted by the police- (Mazerolle and Ransley, 2005: 51) and propelled for a range of different reasons, including the ubiquity of crime and disorder, the widespread public scepticism about the ability of conventional policing and criminal justice institutions to deal with them, and the legitimacy deficit affecting modern states. Increasingly, the public is considered an active actor in the provision of policing service rather than merely a recipient of it (Crawford, 1999: 59) and their cooperation in law and order maintenance cast as a basic civic duty.

Making sense of the ‘discovery’ of the public for migration policing

These developments have obvious resonance with David Garland’s culture of control thesis. According to him (Garland, 1996, 2001), contemporary crime control policies and politics should be read in light of two fundamental social facts which characterize late modern societies: sustained high crime rates and the incapacity of state’s institutions to prevent and suppress crime. These two social facts, in his view, had contributed to erode the myth that the state is capable of delivering ‘law and order’. As a response to the decline of this myth the state has adopted two policy postures: on the one hand, denial through an attempt to reinforce the myth of the strong, virile state; and on the other, adaptation through a range of strategies that manifest the limits of state capacity in the enforcement of the law, including the outsourcing of the task of crime prevention and public safety among the public through partnerships, responsabilization and privatization of crime control. From this reading, the spread of enforcement duties among members of the public can be seen as an honest and open admission of the state’s helplessness to perform basic law and order maintenance functions.

A more fruitful reading is to examine the productive function of the proliferation of these civic duties. Their emergence maybe analyzed against the backdrop of decreasing levels of public participation in civic processes, alienation with ruling political parties and civic affairs, the perceived rupture and fragmentation of the political community due to globalization and mass migration, and the decline in traditional sources of authority and responsibility for the public welfare, like the family, religion, morality and the state (Ramsay, 2012: 201, also Aharonson and Ramsay, 2010, Reiner, 2010). Robert Reiner (2010: 242) explained the ‘rise in stock of citizenship and community’ in criminal law and criminal justice policies, of which the raft of new civic enforcement duties are a vivid illustration, as a response to the reversal some three decades ago from the values of social democracy and its ambition for the social, economic and political inclusion of all citizens. In this context, he noted that ‘embracing the need for citizenship and community offered a cosy legitimation of the thrust to egoistic individualism

unleashed in tandem with the “freeing” of the economy’. In a similar vein, Crawford (1999: 78) observed that “Community” and “partnership” are largely the medium through which responsibilities are recalibrated and legitimacy for the new regime sought’. The devolution of law enforcement responsibilities is thus seen as an attempt by the state to recreate social cohesion across a deeply fragmented society and to strengthen and reaffirm communal bonds (Crawford, 1999: 200). In the absence of spontaneous civic commitments, the raft of measures encouraging or obliging people to join arms in the enforcement of the law is intended to generate a ‘coercive solidarity’ whereby citizens actively cooperate in public governance issues while at the same time enhancing their understanding of the activities, problems, demands, and conflicts of governance’ (Crawford, 1999: 466, Mazerolle and Ransley, 2005: 196, Ramsay, 2012).

Peter Ramsay (2012) interpreted the spreading of civic enforcement duties and in turn the expansion of liability for not living up to those duties as a manifestation of a new ruling ideology that strives to fill the legitimacy deficit affecting modern societies and to address the consequent condition of ‘vulnerable citizenship’ and ontological insecurity on their members. By imposing minimal duties of active citizenship and enforcing the conditions of ‘coercive communal solidarity’, Ramsay (2012: 209) argued, the criminal law is called to play a reassurance function. More specifically, it is called forth to prevent acts and omissions which have the capacity to cause a climate of fear and undermine (subjective) security (also Ramsay, 2010: 270).

The literature on citizenship, criminal law and punishment provides a framework to understand the social, political and economic context of the rise of the ‘appeal to the community’ and the mobilization of citizenship in criminal law and criminal justice for symbolic and instrumental purposes. It also suggests the hollowness, short-sightedness and counter-productiveness of these initiatives which in order to strengthen civic values and social cohesion and alleviate people’s sense of insecurity, may instead buttress social fragmentation and mistrust, and exacerbate people’s sense of vulnerability (Loader, 2006: 209, Ramsay, 2012: 230). In addition, while one

may concede that as a matter of fact ‘the criminal justice system plays a powerful and pervasive role in providing a formal education in what it means to be a citizen’ (Justice and Meares, 2014: 160), trying to impart civic training through the criminal law and its institutions as an explicit policy might not be that sensible after all. Ian Loader adamantly defends the role of public policing in affirming citizens’ sense of belonging to a democratic political community and has no qualms in conceiving the public police as

a mediator of collective identity, a social institution through which recognition and misrecognition are relayed, a sender of resonant —sometimes coercive— signals about whose voices are to be heard or silenced, whose claims are to be judged legitimate, how and in what ways individuals and groups belong (Loader, 2006: 211).

And yet, he is well aware that attempts to bring the ‘community on board’ – through neighbourhood watch schemes, ‘reassurance policing’ and so on – risk turning public policing into a ‘servant of partisan or parochial interests, or to satisfy without scrutiny demands for order that may be motivated by desires for injustice, or xenophobic fears of the alien and unknown’ (Loader, 2006: 218). Indeed, community policing research has shown that the rates of participation in neighbourhood policing schemes are not evenly distributed among the population. Rather these schemes are likely to appeal to the ‘usual suspects’ and tend to flourish in middle-class, low crime areas populated by residents ‘replete’ with economic and social capital (eg Ren et al., 2006, Bullock and Sindall, 2014, van der Land, 2014, also Shapland and Vagg, 1988: 180). Pointing to the same paradoxes of the democratization of policing, Peter Grabosky (1992: 266) warned that, given existing power imbalances in society, the more vocal and powerful groups will tend to dominate citizen participation in law enforcement, leading to the perpetuation of social injustices.

Conclusion

In this paper I explained the productive dimension of conscripting the public into migration policing, an aspect largely overlooked by policing scholars. Apart from the instrumental reasons behind this policy trend, calling upon ordinary citizens for spotting unruly non-members is a form of ‘doing citizenship work’. Migration policing is an ideal site where to produce citizens by educating the public about appropriate standards of behaviour and instilling a sense of civic responsibility in law and order maintenance to prevent immigration law-breaking. It conveys expectations about the duties that come with being a good citizen –including the active cooperation in law enforcement- and in doing so it seeks to recreate social cohesion by mobilizing the exclusionary side of citizenship. The rite of policing non-citizens embodies ‘the citizen exerting power to preserve the privileges, and purity, of citizenship and the integrity of the nation-state (Chavez, 2007: 45).

Enlisting the public on that role reinforces the perception of illegal immigration as a *mallum in se* crime while pandering to social anxieties about migration and taking stock of certain social groups’ readiness to report those who simply do not belong here. Skin colour is one of the most salient and visible clues for singling out ‘suspicious populations’ (Sampson, 2009: 12, Weber, 2011: 461). As Joanna Shapland and Jon Vagg (1988: 66) rightly noted, perceptions of disorder and ‘suspiciousness’, of being ‘out of place’, are grounded on class, race and age stereotypes. The process of watching and noticing –Who does the watching? What do they pick out as unusual? What do they define as suspicious? What ideas they have about disorderly people and behaviour?- is as or more important than the outcome of the watching and reflects deep seated anxieties about newcomers and outsiders –or in euphemistic terms, ‘not village people’ (Shapland and Vagg, 1988: 24).

The state’s quest to conscript the public in migration policing is perhaps the most obvious ways in which a territorially bounded concept –citizenship- is mobilized to patrol the physical and symbolic sovereign borders (Zedner, 2010: 381). It vividly bolsters the exclusionary sides of citizenship by burdening the law-abiding population of insiders with the task of spotting

outsiders, 'irregular' citizens and non-citizens alike (Zedner, 2010, 2013). This final, cautionary note should advise against the enthusiasm in deploying citizenship within the criminal law.

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