

## **A justice system that the community owns: Speech by Lord Woolf, Lord Chief Justice of England and Wales: Criminal Justice Serving the Community Conference**

The message that the Home Secretary has just given is one that I consider extremely important. On behalf of the judiciary, I can assure the public that judges are absolutely committed to achieving the improvements to the justice system to which he aspires.

I have a friend who was a very good judge, but who has now retired. Before his retirement, if he was asked what he did, he would say he was a social worker. He did not give this answer because he was soft on crime. When appropriate, he could be as tough as old leather. He said it, partly, because he had found that telling people he was a judge provoked the wrong response but, more importantly, because his conception of a judge's role was that he was not there primarily to preside over trials and, when appropriate, to punish offenders. An important part of his role was to help solve problems in the society or the community in which he sat as a judge. He would have been equally happy to describe himself as a community worker, because he was working with others to improve the community.

I mention my friend because, having visited the Red Hook Project in Brooklyn and having had the privilege of sitting in court with Judge Calabrese, it appeared to me that my friend's approach to judging was the Calabrese approach.

Judge Calabrese's court does not deal with the serious crimes which will inevitably result in the offender being sent to prison to serve a long sentence. He deals with the sort of crimes that individually are not grave, but collectively can blight a locality. In relation to this sort of crime, it can be far more constructive for the community to try and tackle the causes of the offender's offending than to impose a conventional punishment. Without this approach, sentencers are forced to resort to the imposition of relatively minor sentences which do nothing to prevent future re-offending.

I learnt many things from the day I spent at Red Hook. One of the most important, was that we might be making a mistake in this country by not appreciating that the courts, and all those involved with dealing with less grave crimes, should primarily be focused on solving the problems of the community in which the crime took place. This is appropriate to a far greater extent in relation to such crimes than in the case of graver crimes where a clear message has to go out: "If you commit a serious offence, you will be punished."

A court performing this new role must have close links with its community. When I was a young barrister, the links between our local courts and the community were much stronger than they are today. The administration of justice was less centralised. Each court had its own probation officers who were often accommodated at the court. Each court had police officers who, for part of their career, worked day in and day out in the same court. Each magistrates' court had more autonomy and had its own clerk who was a pillar of the community. Borough Quarter Sessions were also much more locally focused than today's Crown Court.

The changes which have taken place since those days have brought many benefits, but have also resulted in the courts becoming less connected with the communities that they serve. Many courts try to address this. Judges and magistrates visit local schools and community groups and schoolchildren are invited to visit the courts. Courts have 'open-days'. But a court's relationship with its local community today is still not as close as it was 40 years ago. This is despite the fact that, because of our combination of lay magistrates and juries, our system should be very community-orientated.

Of course, there are courts in this country with very good liaison arrangements with local agencies and organisations. For example, a number of magistrates' courts have established diversion schemes designed to respond constructively to defendants with mental health difficulties. An illustration of the benefits of such an approach is provided by the experience of Hampshire and Isle of Wight Magistrates' Courts Committee (MCC). The MCC has set up an area-wide scheme involving a variety of voluntary organisations, including

MENCAP. The scheme varies according to the needs of the particular court, but ensures that those with mental health difficulties are dealt with more expeditiously and in a broader range of ways than was the case previously. This has nothing to do with punishing offenders. Similarly, many good practices occur in our Youth Courts.

However, as far as I am aware, no court in this country has the facilities to play a community role in the same way as the Red Hook court does. It was created out of an old school with the help of the community. Many, if not all, of the staff of the court themselves perform voluntary work in the community. Youngsters work in the court helping to sort out their peers who have gone astray. No court in this jurisdiction has all the facilities that Judge Calabrese will describe. It is so much easier to respond constructively to an offender's individual circumstances, if the resources are actually available at the court. Practical solutions can then be found to the problems that underlie offending behaviour and the offender leaves court knowing exactly what he is supposed to do next.

In the case of juveniles, offending is often linked to problems within the family. If you are going to make any significant progress in tackling the juvenile's offending behaviour you have to tackle the problems of the family as a whole. As the President of the Family Division, Dame Elizabeth Butler Sloss, has recently pointed out, the division between our care and juvenile criminal jurisdictions has possibly become, from the best of motives, too rigid. She said:

"We must move to an overall appreciation that children in trouble need to be caught early and their problems dealt with in the context of the problems of their families. If we were able to do this we would have a chance to improve the behaviour of children; to reintegrate or in some cases, for the first time, integrate these children into the community and save years of adult offending with the enormous cost to the state. I should like to see the Youth Court given the jurisdiction to require the relevant local authority to investigate the family in accordance with the requirements of the Children Act and that in serious cases the local authority should be obliged to make a care application in the family court. . . . The Home Office's recent White Paper on Anti-Social Behaviour contains some interesting ideas on working within the community as well as punishing offenders."

A related issue is that magistrates and judges in this jurisdiction do not get the sort of feedback that Judge Calabrese receives when he decides upon a community disposal. Except in the case of a Drug Testing and Treatment Order, a magistrate or judge has little involvement with an offender once that offender has been sentenced. This needs to change - ongoing involvement helps both judges and offenders. Judges learn what works and offenders see that the judge who sentenced them has a continuing interest in their progress. When Judge Calabrese deals with an offender, on his computer in front of him is a running record of how the offender has responded to the court's orders. I take care not to use the word 'sentence' because in many cases, as I understand the position, the judge only passes a sentence if the alternative approach has failed or is in danger of failing.

At Red Hook it is not only the judge who adopts a different approach, but also the Prosecutor and the defence lawyers. That is why Jennifer Etheridge's contribution is such an important part of what we will learn about here today. Both the prosecution and the defence put aside their usual short term objectives. The prosecution is not primarily interested in obtaining a conviction nor the defence an acquittal. Instead, the prosecution, in the interest of the community, and the defence, in the interest of the offender, both appreciate they will fulfil their respective responsibilities better if they achieve an outcome that will solve the problems of the offender. They therefore co-operate to achieve this. I am happy to give a lead in saying that we should be seeking a similar change of culture in this country.

I am delighted that the Home Secretary shares my enthusiasm for the 'community' approach and is hosting today's conference in order to explore what, on my visit to Red Hook, I found so very impressive.

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