

Practical Wisdom and the Ethic of Care in Probation Practice

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Abstract

In 2003 the author interviewed 15 experience probation officers from one probation area about the nature of their work as probation officers. These participants had trained in an earlier ‘clinical mode’ of practice, when rehabilitation was to the fore and casework methods were still enshrined in practice. Now they found themselves in a ‘punitive managerialist’ mode of practice. The study found that the participants, through the use of their skills as reflective practitioners, resisted the worst excesses of punitive managerialism and continued to practice in a way that balanced the demands of justice and care. This article looks at their commitment to the worker-client relationship and suggests that it is consonant with an approach to probation practice based upon the desistance paradigm, which in turn fits within a restorative justice framework for criminal justice practice.

Keywords: Ethic of care - Ethic of justice – Phronesis - Practical wisdom - Reflective

Introduction

For most of the 104 years of probation’s existence, the client-worker relationship has been a cornerstone of practice. The 1907 Probation of Offenders Act contained the phrase ‘advise, assist and befriend’, which was to underpin practice until National Standards in the 1990s deliberately left out that injunction. The phrase ‘advise, assist and befriend’ prioritises the relationship between of the officer and the probationer and incorporates an assumption of care toward the individual, which was an underpinning social work value throughout the clinical mode of practice (Gregory and Holloway, 2005). Post war welfare-statism enabled probation practice to develop rapidly; it was a period of expansion of tasks, growth in the size of the organisation, and consolidation of professional confidence in casework methodology (May, 1991,

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Vanstone, 2004). Casework was strongly endorsed by the Morison Committee, which was briefed in May 1959 to enquire into the Probation Service:

Today the probation officer must be seen, essentially as a professional caseworker, employing, in a specialised field, skills which he holds in common with other social workers, skills which, if it opens up to him hopes of constructive work which were not enjoyed by his predecessors of twenty years ago, also make complex and subtle demands upon him, reflecting, as it does, growing awareness of the difficulty of his task (Home Office 1962, paragraph 54).

By 1971, probation officers were required to hold a social work qualification validated by the Central Council for Education and Training in Social Work. A four-year degree in Applied Social Studies was one of the routes to gaining such an award. There were also two-year undergraduate diploma and postgraduate options (Vanstone, 2004).

The author interviewed 15 experienced probation officers, all of whom had trained as social workers before 1991 Criminal Justice Act. Probation Officers were withdrawn from social work training by the Conservative Government in 1995, and in 1997 the New Labour Government followed the Conservatives' decision to have probation officers trained separately from social workers under the new Diploma in Probation Studies. By the time of the interviews in 2003, participants found themselves in a mode of practice which, following Cavadino et al I have termed a 'punitive managerialist' mode (Gregory, 2010). Cavadino et al have used the term to illustrate a governmental strategy designed to 'punish as much as is pragmatically possible' (1999: 54). Within probation practice it encompasses the move away from 'advise, assist and befriend and toward 'manage, control and punish'. This article discusses the responses of these 15 participants to their changed environment revealing their abilities as reflective practitioners, which it is argued are of relevance to desistance approaches to practice within a restorative justice framework.

The changing environment of probation practice

The changes to practice were heralded in 1984 by The 'Statement of National Objectives and Priorities' (SNOP) (Home Office 1984). This signals the managerialist turn in policy, shifting the underpinning ethos of practice away from the needs of clients for a social work service and toward the provision of an effective and efficient service to the courts, which were now seen as probation's main service users.

The punitive turn is easily discerned in the language of policy documents that followed SNOP as key participants began to respond to the politically led social policy changes. Initially, The Association of Chief Officers of Probation (ACOP), The Central Council of Probation Committees (i.e. the employers organisation, CCPC) and the National Association of Probation Officers (NAPO) tried to reassert some of the traditional aims and values of practice in their paper 'Probation: The Next Five Years' (ACOP et al. 1987). However, a year later, ACOP broke ranks and in its paper 'More Demanding Than Custody' was seen to be vying with the Home Office

in the use of more punitive terminology than was used in the Government's green paper 'Punishment Custody and the Community' (ACOP 1988, Home Office 1988).

When it appeared the 1991 Criminal Justice Act signalled the Government's intention to bring the Probation Service to centre stage within the criminal justice system, as part of its efforts to reduce the prison population. A Probation Order now became a sentence in its own right, rather than as previously being a form of recognisance, in which the court allowed the Probation Service to supervise the offender instead of sentencing him or her to punishment. The loss of this understanding of 'probation' itself is crucial. In its dictionary meaning there is a notion of 'testing the character or abilities of a person in a certain role' which implies a time scale, a temporary period, and a goal to strive towards, to try to succeed in proving one's abilities. This implies a dynamic in which someone is moving forward, changing for the better. It infers capability on the part of the person to make those changes, and this necessarily involves some form of commitment on their part to the process. The role of the professional helper in this process is a 'client centred' one. It is based upon the relationship between the helper and the helped, and fundamentally regards them as equals. Although the terms of 1991 Act continued to require the consent of the offender, Probation as a sentence of the court eroded the element of voluntarism on the part of the offender. The undermining of voluntarism changed the basis of the relationship between probation officer and probationer so that the officer now became the enforcer of a punishment rather than a professional providing help and negotiating with the offender about solutions for change (Eadie, 2000). (This was reinforced by the Crime (Sentences) Act 1997 which abolished the requirement for the offender to consent). Punishment was now to take place both in prison and in the community, and probation was completely reframed as a punishment, not an alternative to custody. By 1993, however, Michael Howard was Home Secretary. There had been a right-wing backlash against some of the provisions of the 1991 Act, and Howard responded to this with his now famous 'prison works' speech to the Conservative Party Conference in 1993. The 1993 Criminal Justice Act effectively withdrew the position of centre stage from Probation (Nellis, 2004). The discretion given to probation officers in the 1992 National Standards was swept away in the 1995 version (Home Office, 1995), and a subsequent revision in 2000 is even more stringent in its requirements. It is also prefaced by a quote from the New Labour Home Office Minister for Probation, Paul Boateng:

We are a law enforcement agency, it's what we are, it's what we do
(Home Office, 2000, un-numbered first page).

As this suggests, the development of the punitive managerialist mode of probation practice, which began under the Conservative Government developed apace under New Labour (Nellis, 2004). On its election, the New Labour Government sought to prove its law and order credentials with its first piece of legislation the Crime and Disorder Act 1998 which the then Home Secretary Jack Straw proposed as 'the most co-ordinated and coherent attack on crime in a generation' (Straw, 1999: 1). The cornerstones of the New Labour criminal justice policy demonstrate its commitment to the continuation rather than departure from the processes of punitive managerialism:

- 'Consistent and mutually reinforcing aims and objectives;

- Enhanced use of existing resources ('Best Value')
- Evidence-based approach to crime reduction which embeds a 'what works' occupational/professional culture;
- Modernization of the structure and operation of criminal justice agencies
- Improved performance management' (McLaughlin and Muncie 2000: 174).

Punitive managerialism takes crime as a normal social fact and assumes that crime will be committed unless individuals are prevented from doing so. The probation officer's role now focuses upon the assessment of risk, the enforcement of legal sanctions, the challenging of offending behaviour, and case management (Goodman, 2003). Kemshall suggests that the assessment of risk is now the core business of the Probation Service 'supplanting ideologies of need, welfare or indeed rehabilitation' (1998: 1). The wholesale adoption of cognitive behavioural methodology under the EPI has had a number of effects. It has given central Government control over the 42 services (Nellis, 2004); probation management control over practitioners and, in what is already a highly structured environment, has curtailed professional discretion. It has also ruled out many of the practitioner-led programmes developed in the 1980s that were influenced by critical practice.

The approach to punishment which is embodied in these developments is an ethic of justice, in which due process is applied to a race and gender neutral, rational, autonomous subject. This is accompanied by a technical-rational approach to probation practice, which is tightly managed within a routinised framework with interventions being selected from approved programmes. This contrasts with the clinical mode of practice in which the study's participants had trained, in which I have argued, an ethic of care underpinned practice (Gregory, 2010). In care reasoning, the solution to moral problems is sought by employing sensitivity to the needs of persons in their particular situations, together with a judgment about responsibility (Gilligan, 1982). This is precisely what probation officers would have done in their pre-sentence reports for courts and in their casework with probationers.

Responding to a changed practice environment

A Foucauldian understanding of power is instructive in understanding the study participants' responses to their new circumstances. For Foucault, power and knowledge are inextricably linked, and as noted by Driver, power:

does not exist prior to discourse and practices on some other plane or level; rather, it operates through them (Driver 1994: 116).

Participants, finding themselves practising in an environment whose conditions were not of their choosing, in some ways demonstrated normalisation to the changed environment (Foucault, 1977). Risk assessment, for example is a process in which the participants possessed expert power and were used to having the autonomy to carry out these assessments in a way that enabled them to exercise their professional judgement. They were comfortable with this and as participant Anila's comment indicates, felt that it was something they had always been expected to do:

But I always remember a probation officer saying to me that a senior challenged her, saying we have to challenge people's offending behaviour... But this person was offended by the senior implying now we challenge offending behaviour. And she said, 'But we do do that! I've been doing it my whole career!' And I thought that's right, just because we don't do it in the same way, doesn't mean we weren't challenging, or being concerned about risk to the public, or risk to children, or vulnerability or those issues, and it think its probably patronising that it's not recognised. We've always done it, just in a different format.

Foucault also indicates that resistance is integral to power, part of how it works:

Where there is power, there is resistance, and yet, or rather consequently, this resistance is never in a position of exteriority in relation to power (1976/1979, p95).

Participants demonstrate various ways in which they engage in resistance to the prevailing norms. They are critical of the prevailing punitive discourse as when Mark comments:

nobody seems to be questioning that until somebody says 'it's not pro-social to call them offenders' (Gregory, 2010: 2279).

Hamish reports that he is confident enough to refuse to complete OASys forms, telling his manager: 'no, I haven't got time to do it. He later remarks as an aside when talking about his workload, on his refusal to adopt the term 'offender':

The volume of paperwork, the lack of time we spend with clients, the approach, I mean I refer to them as clients but other people don't.

Another form of resistance may be seen in the role of the 'specific intellectual'. Foucault envisaged a role for the intellectual in challenging the power relations obtaining in a particular field at a particular time - in this case the Probation Service. This position 'has given them a much more immediate and concrete awareness of struggles' (Foucault 1994: 126). Participants adopt this challenging stance toward prevailing policy and in essence their critique denotes a concern that the complex realities of probationers' lives are being ignored in the prevailing mode of practice, together with a concern that greater public protection is not genuinely being provided because people are simply not being seen. Participant Kate comments:

I think certain expectations are set up – you know if you're on an order like this, these are the kinds of things we can help you with, and often there is a great long list in the report that goes in to court, and the reality is so different and its completely dishonest really. The reality is that we have a filing cabinet with 5 stacked cases, new Community Rehabilitation Orders, unallocated and seen by duty officers week in week out for up to 8 weeks before we can

allocate them because Probation Service Officers' points are high, and so they can't be allocated.

Reflective Practice, Phronesis and the Ethic of Care

What seems to enable these practitioners to continue to practice in what are clearly uncomfortable conditions are their abilities as reflective practitioners (Schon, 1987). I have suggested elsewhere (Gregory, 2010) that as they reflect upon their encounters with probationers, they continue to deploy a value base that accords with the principles of phronesis and the ethic of care. This is suggested by Angus when expressing his view that the professional relationship was being devalued within the prevailing context:

This reminds me of something I read when I was doing my dissertation about Aristotle's notions about practice in interacting with other people. He talked about *techne* and *phronesis*. *Phronesis* is about getting into a reflexive relationship with another personality and working it out together. *Techne* is about technically rational technique and that is the approach we are heading for. Sheldon [1986] wrote about evidence-based practice, and the 'social work as art' camp wrote in opposition to that – Michael Whan [1986] was one author (Gregory, 2010: 2282).

Sheldon (1986: 240) reviewed effectiveness research of social work practice in two periods, the 1940s to 1970s and 1970s to mid 1980s and argued that social work practice should be based upon 'stricter tests of outcome'. His work has underpinned a technical-rationalist approach to practice which in the probation service is manifest in an overwhelmingly cognitive-behavioural mode of intervention, despite concerns that effectiveness research on cognitive behavioural treatments initially failed to take account of race/ethnicity and gender of participants (Shaw and Hannah-Moffatt 2004). Michael Whan (1986) links this approach to Aristotle's notion of '*techne*' or technique, in which scientific causality is the foundation of action. Whan compares *techne* with Aristotle's contrasting notion of *phronesis*, using Gadamer's (1979) formulation of the concept. The understanding of practice flowing from this suggests that practice is founded upon judgment, choice and reflection, which are brought to bear upon the unique and concrete circumstances of an individual, with a view to doing good. This resonates with the ethic of care, which focuses upon the unique and specific features of each person's situation (Gilligan, 1982). Both *phronesis* and care may be contrasted with *techne* whose basis is scientific causality and the ethic of justice, which is founded upon the applying the abstract principles of rules and rights (Gregory, 2010).

Participant Frank discusses here the job satisfaction and the benefit for the service user of providing positive feedback:

And I think it's not just what you do, be it practical or whatever, but what seems to them to be most important is that they are able to see that you've got some faith in them. She [names client] said to me this morning, 'everyone else thinks I'm thick, but you don't'. I fed some of the insights she's demonstrated about her life back to her. And all this business about

where low esteem fits into the pattern of these people's offending, and I find myself intuitively looking for the positives to feed back to people. Another client said to me 'what you've just said to me has made all the difference in the world. And when someone says something like that you think well, I can't be all wrong.

Both phronesis and care involve reflexivity in practice, that is self-awareness of our own impact upon the situation, and being aware of our own values. The ethic of care emphasises human connectedness and the value of relationships. These both contrast with the technical problem-solving approach of *techne* and with justice, whose foundation is free will and choice in recognition of obligation to others. Participants' responses stressed their continuing value in the working relationships with probationers, for example, Angus who says:

One thing I think is fundamental is the personal relationship, and without that nothing else works. But there is a difference between a reflexive relationship and a controlling relationship where a person is trying to manipulate the other.

and Frank,

But regardless of whatever method of intervention might be required or used, as important as any or all of that, is the inter-personal skills. I feel that underpins everything else.

The understanding of phronesis put forward by Gadamer additionally emphasises understanding and insight, in which we are able to get alongside the other person and empathise with their experience – 'there but for the Grace of God' (Gregory, 2006). This again corresponds with the ethic of care in which maintaining relationships with others, and meeting their needs are key. Respondent Kate expresses this as follows:

I think you have got to like people, you've got to want to get alongside people, respect them. That doesn't mean to say that you are colluding with people at all but I think that unless you can do that it's hard to work with people in a positive way, because its hard for them to acknowledge things about themselves.

Justice, care and contemporary criminal justice practice.

Is the practical wisdom displayed by the participants in this study of any value in contemporary practice with offenders? The study's findings show that some participants have begun to doubt their value to the organisation for which they work. However, the answer to the question very much depends upon the criteria that are used in measuring the effectiveness of practice interventions. 'What works' has become an orthodoxy in which cognitive behavioural principles have come to underpin the Home Office curriculum of approved programmes of intervention, despite the inconclusiveness of evidence for their effectiveness (Gorman, 2001; Gorman, O'Byrne and Parton, 2006; Merrington and Stanley, 2000; Vennard et al.

1997). However, evidence from research in the last few years has emerged which substantiates the view of participants in this study that the reality of clients' lives is extremely important, and suggests that they are right to feel that their relationship with offenders is important in providing support for the individual as they make changes toward a crime-free lifestyle (Maruna, 2001; Maruna et al., 2004). This is evidence based practice which takes account of the processes involved in ceasing to be an offender, rather than more readily measured outcomes such as programme completion, breach or reoffending rates.

Desistance as a measure of effectiveness

A concern about what counts as success that emerges from this study is that the smaller gains made by offenders within the context of a supportive supervisory relationship are ignored by such quantitative measures as recidivism, or completion of a community sentence and yet may be of deep significance to the offender concerned, perhaps with potential for more sustained life change over time. Respondent Jenny gives an example of the kinds of progress made by individuals made the subject of a Drug Treatment and Testing Order:

So I think it has benefits that might not necessarily be equated with completions, i.e. someone has gone drug free for 6-7 months, and has learned to read and write, and has tried activities that they've never tried before, and so there may be relapse, but that doesn't to me necessarily equate with failure, so the order does impact in lots of different ways.

Clearly the DTTO court, which required probationers to feed back to them in person a number of times during the course of the order, viewed this kind of qualitative feedback from offenders as important. The DTTO court's interest in the process of an offender moving away from crime was in tune with the burgeoning research interest in the concept of desistance which incorporates an understanding of not only the termination of offending by the offender, but also the processes, practices and relationships involved in arriving at that termination (Maruna 2001, Maruna et al. 2004). This links to the understanding of practice as care/phronesis held by participants in this study, because desistance is accomplished in part by the development of self-understanding by the desister as a changed person. It involves the development of a relational subjectivity by the offender, where he or she can come to understand the impact of their behaviour upon others, and begin to recognise their own agency in being able to make changes. In order to make such changes, an individual needs the support of others who believe he or she can begin to change. Participant James expresses his continuing belief in the ability people to change, in spite of their challenging behaviour and also some apparently more negative views from others around him:

Well it is about getting balance between not losing sight of the things people do, because we are an organisation that works with people that do some pretty horrible things, but also I personally do not want to lose sight of the fact that the people we work with are human beings. I mean, a lot of police officers would say that 'leopards don't change their spots' but I personally find that kind of approach quite depressing.

In a study which examines the impact of probation officers' relationships with offenders upon their ability to desist from offending, Sue Rex identifies some of the elements of supervision which probationers felt had contributed to their ability to desist. She interviewed 21 probation officers and 66 of their probationers, a quarter of whom were women, and half of whom were thirty years old or over (Rex, 1999). Eighty-eight percent of the offenders regarded probation supervision as important in impacting positively upon their attempts to stop offending. Of this group, a clear factor identified in the nature of the supervision was the active and participatory nature of the supervisory relationship. They had positive views of the negotiating skills of their officer, and felt that they had been allowed to participate in the focus and content of supervision. Probationers in Rex's study viewed their probation officers as having a level of expertise encouraging their belief that their officers would take them seriously, and supporting their disclosure of information and the likelihood that they might respond to suggestions from the officer. Probationers also recognised the difficulties ahead of them in attempting to secure and maintain a crime-free lifestyle, reflecting the uncertainty that characterises social work. The content of probation supervision revealed by Rex's research shows that probationers found officers' attempts to improve their decision-making capabilities helpful, as long as the work was carried out in a meaningful way: probationers did not appear to appreciate formulaic ways of addressing offending behaviour. This again reinforces the shared approach to the generation of solutions which are central to the care/phronesis understanding of practice, and resonates with participant Mark's comment:

Being a good listener, being empathetic, and knowing something about change and emotions, and having an understanding of all that. Being encouraging and positive with people, and having some way of finding out about resources that are available, and being willing to do that.

Rex also notes the importance of reinforcing offenders' social ties to their families, friends and wider social networks in supporting their efforts to maintain desistance. Participants in this study reflect this finding in their prioritisation of the relationship with clients. Their accounts also show similarities with evidence from studies of practitioner expertise which showed that experienced practitioners created the theory and knowledge that underpinned their practice in a dialogue with service users, and were motivated to take account of the complexities of service users' lives despite other demands placed upon them (Fook et al., 1997). This is a priority for participants even when it is clearly a source of considerable stress, as James comments:

And one of the things I didn't say when we were talking about stress, but that I often have said, is that one of the stressful things is that we have to negotiate between the reality of their lives and the kind of expectations that the organisation places on them, and that is stressful. So, you get people to do things that you don't think they should be doing, they don't think they should be doing, but the organisation does, and I actually find that quite difficult (Gregory, 2010: 2282).

Earlier studies of probation officers' views of their practice have also suggested that they believe that it is through their relationship with the offender that their most effective work is carried out (Leibrich, 1991; Burnett 1992).

Farrall's (2002) research cites several examples of probation officers providing the active link which helps the probationer to re-establish relationships with his or her estranged family. That was the key role of the probation officer in Farrall's study, because the offenders' families in turn supported the links with employment. Farrall suggests that Probation Services should go beyond their present role and follow examples of schemes in the Surrey and Inner London probation areas, in which Probation Services have actually begun to engage in work that develops local job opportunities that probationers can access.

The role for the practitioner emerging from desistance research is a reflexive and supportive one that resonates with the care/phronesis perspective. Two models of practice for social work with offenders have recently been put forward which encompass such a view of practice. The first of these is McNeill's desistance paradigm for offender management (McNeill, 2006). McNeill criticises the prevailing focus of offender treatment on the what works orthodoxy for its failure to prioritise an understanding of the processes of change involved in how and why people manage to adopt a crime free lifestyle. He argues that the focus of practice should be upon the processes involved in desistance from crime that have been discussed here. When practice is so focused, its priority becomes supporting the process of desistance which is owned by the desister, rather than as at present focusing upon the imposition of treatment and the elevation of the practitioner as expert (McNeill, 2006). Supporting the offender firstly as they develop their subjective understanding of themselves as someone who can take a first step away from crime (a primary desister) and secondly move on to establishing themselves in a crime free existence (a secondary desister) situates the agency firmly with the offender, with the practitioner as a supportive fellow-traveller. It is an approach focusing upon on the strengths and capabilities of the Service user, which are located within themselves and in their wider social and familial networks. The practitioner's role here is realistically an active listener, negotiator and fixer who can help the offender to re-engage with the human capital (personal skills and strengths) and social capital (access to services and community resources) they need to succeed in an offence free lifestyle, which leads to reduction of harm, and an ability to make good. It is a fully relational model which expressly acknowledges society's role in providing the social capital necessary for those offenders who have made the choice to move away from offending: both human agency and structure are crucial. The making good in this model is both offenders making good to victims and communities, and society making good to the offender who may have lacked the social capital to engage purposefully in society. The practitioner needs to be a good listener and to be able to engage supportively with the client, but there is also a requirement for community resources of the kind Farrall (2002) outlines. Respondent Jenny, discussing the skills of a probation officer, is realistic about the balance between the value of a supportive relationship and the other key factors in an offenders life:

To value the relationship, to be interested in people, to be curious, and I think to be open and to realise that putting somebody on an accredited programme is not going to change their lives in the context of everything else that's going on.

[To be realistic you mean, really?] Yes, be realistic about what we can do, what they can do and not to minimise, accommodation, employment, health, mental health, vulnerability, life experiences, because these are all huge factors in relation to someone's offending.

Constructive practice with offenders

The second approach is constructive practice with offenders proposed by Gorman et al. (2006). Central to the constructive approach is the concept of citizenship, which inheres in all parties to an offence. The understanding of 'citizenship' within a constructive form of practice is a civic republican one which incorporates rights and responsibilities with an assumption of equality. Therefore the practice relationship is not one in which an expert administers treatment to an offender, but one in which equal parties who each possess agency construct a shared solution. A constructive approach suggests that supporting offenders to achieve active citizenship is a central role for probation practice. There was official acknowledgement of the strengths of the Probation Service in achieving this:

And the correctional services have a part to play in making offenders more active citizens themselves...the National Probation Service also has a significant track record in encouraging community involvement and in particular is encouraging greater involvement through the enhanced Community Punishment Scheme (Blunkett, 2003: 31).²

The task of the helper in the constructive approach is the encouragement of a full and active citizenship, and this cannot be achieved without addressing the barriers to social inclusion faced by the majority of offenders. There are problems to be overcome in achieving this because of the gulf created between an offender and the community by their behaviour, and also because there may be particular personal difficulties such as drug or alcohol addiction, debt, mental health problems, poor social functioning and so on. These are the kinds of problems that need to be addressed before an individual is ready to engage positively with their community. The implication of this approach is that there is not only a moral duty on the citizen to behave well, but a moral obligation on the state to provide reasonable social conditions to enable and facilitate law-abiding behaviour.

The meaning of 'constructive practice' encompasses a link to the theoretical perspectives of social construction and narrative work, which regard talk, conversation and dialogue as central to the helping relationship. The language must be generative, forward-looking, and about possibilities for action and change. In addition, constructive practice incorporates the common understanding of construction as in building, or putting together (Parton and O'Byrne, 2000). In so doing it acknowledges the findings of Barry (2000, 2006), that recipients of social work interventions value the dialogue that takes place between themselves and the

² We now know that Enhanced Community Punishment never became a general approach despite the evidence leading Blunkett to make these comments. Instead the lower cost and more punitive 'Unpaid Work' and 'Community Payback' were put in place.

helping practitioner, especially when they feel they have genuinely been heard. For offenders, the building required is in large part rebuilding. They need to rebuild relationships with their families and communities, which have almost always been damaged by their offending. A constructive approach assumes that active citizenship requires social inclusion and therefore the basis of that rebuilding has to be access to the social capital needed to achieve social inclusion.

The constructive approach supports the broader view of effectiveness developed from desistance research and acknowledges that when this approach is taken, the success of probation supervision in encouraging desistance can be seen. It shares with the desistance paradigm the supportive, enabling role for the practitioner, and places considerable stress on the role of the practitioner as providing the link between the offender and their community. It has suggested applying the principle of sustainability to work with offenders in supporting them to link with the social capital they need to recreate their offence free lives in a sustainable way (Gregory, 2006). Both the desistance paradigm and constructive practice with offenders involve an iteration of justice and care; *techne* and *phronesis*, as they consider the fully social needs of offenders, victims and their communities.

Phronesis, Care, and Restorative Justice

In the 21st century, do these ideas have very much currency in criminal justice policy, or is it that the group of practitioners I have interviewed are simply harking back to a bygone era? I would suggest that the kinds of principles for practice employed by these participants are of a more abiding and robust nature than ideas which come and go according to fashion or political whim. As we have seen, they date back to Aristotle, and continue to inform practice in the face of an opposing dominant discourse, and in conditions of restrictive managerial control. Human agency, and the power of resistance, is strong. McNeill and Burnett (2005) suggest that there are some encouraging signs at the senior level of probation management that worker-client relationships may again be seen to have relevance for practice, citing Christine Knott, the then National Offender Manager's comments that she envisaged a 'renewed focus on the role of the caseworker' (2004: 23). Knott was influenced by Canadian research into core correctional practices which demonstrate that the effectiveness of probation supervision can be improved by developing certain key skills of practitioners, such as relationship skills, pro-social modeling, the effective use of reinforcement and disapproval, and problem-solving (Andrews, 2006). She saw the renewed emphasis on the caseworker's role as a key stage in the development of effective, evidence based practice (Knott, 2008). Although the National Offender Manager role has now disappeared in the restructure and reform of NOMS, NOMS has more recently developed the 'Offender Engagement Programme' led by Sue Rex. This seeks to develop the individual supervision skills of workers and is clearly grounded in evidenced based practice and the social work tradition.

In addition there is an already established approach that encompasses the iteration of justice and care principles, within which the models outlined here would operate successfully, and which continues to have legitimacy. This is restorative justice. In England and Wales restorative justice operates as an add-on to our otherwise punitive managerialist system, with schemes for adult offenders commissioned by the Home Office under the Crime Reduction Programme. However, restorative justice principles

are the foundation of some of the provisions of the Crime and Disorder Act 1998 which relate to young offenders. Restorative justice underpins the criminal justice process for all young offenders in Northern Ireland through the Youth Conferencing Service (NIO, 2005). Restorative justice is commonly agreed as 'a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future' (Marshall, 1999: 8). An understanding which permeates restorative justice is that the efforts of all concerned are about repairing the harm that has been caused by an offence. The stakeholders referred to are the victims, the offender, and their 'communities of care', (Urban Walker 2006: 151).

The key aims of restorative justice are: to address the needs of victims (that is their material, emotional, financial and social needs and those of their families); to reduce reoffending by reintegrating the offender into the community; to enable offenders to assume responsibility for their behaviour; to develop a community that is able to support victims and provide for the reintegration of offenders and to provide a form of justice that avoids escalation of legal justice with its attendant costs. The approach to these aims must be balanced so that a single aim is not allowed to outweigh the others (Marshall, 1999). Restorative justice is founded on a different understanding of justice from conventional justice, which involves the application of abstract legal principles to a rational, race and gender-neutral subject. Restorative justice recognises that the origins of crime are in the 'social conditions and relationships in the community' (Marshall, 1999: 9). It assumes that communities and local and central Governments have responsibility for alleviating those social conditions that are the foundation of criminal responses. It recognises human agency in accepting that the harms caused by a crime cannot be successfully repaired without the personal involvement of all parties involved. It assumes that a just outcome requires an understanding of the concrete and specific circumstances of each individual involved in a crime, including victims, offenders and their communities. For agencies who engage in restorative justice practice, Marshall (1999: 5) suggests that the following four principles which embody the aims and assumptions of the model, should underpin their work:

- Making room for the personal involvement of those concerned;
- Seeing crime problems in their social context
- A forward looking or preventative problem-solving approach
- Flexibility and creativity of practice

The practitioners involved in this study are people who have been professionally educated and trained to become reflective practitioners who are skilled in care - 'a mode of acting in which participants perceive and interpret care needs and act upon these needs' Sevenhuijsen (1998: 22). Trying to impose upon professionals like these a narrow and punitive model of practice appears from this study to be unsuccessful and is a waste of their skills and abilities. Probation practice with restorative justice as its overarching framework would comfortably accommodate the value base of the practitioners involved in this study, and would make very good use of their professional skill and expertise. Restorative justice as such a framework is more than a value for practice as in Nellis's (1995) formulation. It is a framework for justice that includes both the traditional justice values of fairness and equity and the relational values emanating from the care perspective. Restorative justice as a model for probation practice is put forward by Masters (1997: 244) who suggests that practice

with offenders would benefit from a 'restorative and relational ethos' of the kind he outlines as having been developed in schools in the USA, where children have been taught mediation and conflict resolution skills to good effect. There are good reasons for putting forward such a model for statutory practice with offenders, not least of which is the ever-rising prison population which currently stands at 84,548 (Ministry of Justice 2010). The damaging effects of imprisonment, particularly for vulnerable groups, are well documented and these strengthen the case for the use of community penalties.

Conclusion

There are problems in regarding probation as punishment rather than its original formulation as an alternative to a sentence, some of which can be seen in this study in the confusion for probation practitioners about what are the appropriate values for practice. I have argued elsewhere (Gregory, 2006) that the conception of probation as giving the offender a chance to achieve something is important as the basis for constructive practice with offenders. Given the complexity of the political climate in sentencing, in which probation is regarded as a punishment, it remains an important question for discussion. As pressure on the Government from the continually rising prison population grows, penal reformers, probation academics and practitioners will continue to invest time and effort in developing the kinds of practices and policy suggestions discussed here. At this historical juncture, although there are some glimmers of hope, it may be that opportunities for practising in these ways may have to be found in specific projects such as those described by Farrall (2002), and in other practitioner-led schemes that may or may not be successful in bidding for some of the work that will be put out to competitive tender under the new arrangements. Practitioners will have to choose their 'sites of engagement' (Gregory et al., 2006: 203) to develop innovative ways of working with offenders, and perhaps policy makers will again turn to the field for lessons in good practice.

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