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 Criminal justice? Using a social capital theory to evaluate probation-managed drug policy

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Article

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Abstract

Policy must be theoretically informed and appropriately targeted if it is to be effective (Kerr et al., 2011). In probation-managed drug policy, this demands an appropriate theory framework within which the multi-dimensional nature of problematic drug use can be understood. To engender genuine justice in such policy, theory must give 'proper weight to both structure and agency, in continuous interaction' (Bottoms, 2004) (agency refers to the ability of individuals to act of their own free will and structure refers to the social, legal and economic institutions, arrangements and practices which can facilitate, or indeed constrain, the agents' capacity to do so). This article responds to these challenges by presenting a theory of 'social capital portfolios' which was developed from the social capital; substance misuse and desistance literatures and refined through an 18-month longitudinal study of probation-managed drug interventions. The theory is used here to critically evaluate contemporary probation drug policy and developments and to make recommendations on what constitutes criminal and social justice.

What is justice in drug policy?

For a system to justifiably call itself 'criminal *justice*' it should only criminalize that which individuals can reasonably be expected to refrain from and should respond eruditely to that which it criminalizes. This is imperative in coercive drug interventions where inappropriate or ill-informed policy can not only exacerbate problematic lifestyles and engender 'criminality,' but promote exclusion and prolong existing health problems; none of which could be termed 'justice'.

McNeill (2009: 23) makes the crucial but frequently overlooked observation that probation is not just about reducing offending but is an agency of justice, advocating the need to attend not only to 'what works' but to what is 'just'. Contemporary risk

narratives have historically conflicted with this type of thinking by polarizing drug users and the rest of the 'non-using' population, on the pretext that the latter are at risk from the dangerous former (Seddon et al., 2008). How then might policy achieve this justice that McNeill speaks of for both drug users *and* the people around them?

The World Health Organization (WHO) says policy should respond with sanctions to heavy use which damages others and respond with treatment to that which does not (World Health Organization, 2009). This position promotes liberty at all levels; the focus on heavy usage implies a level of drug use as a right (which the law arguably already endorses since alcohol and cigarette consumption are legal), with intervention only if that right is pursued to the extent that it infringes on the liberty of others, that is, if drug use results in individuals harming others, for example committing crime against them. Such an approach is within the proper remit of state intervention (Mill, 1859) and already evident in *some* UK laws, including smokers being criminalized only if they impact on others' health through passive smoking.

Importantly, the World Health Organization recommend measured responses to drug use which harms others through drug courts with flexible sentencing options, which they deem 'more likely to build healthier and safer societies than incarceration' (World Health Organization, 2009: 2). This demonstrates an understanding that policy needs the capacity to respond to the range of dynamics which engender drug use and that this varies by individual. This is crucial in the establishment of justice for drug users: penal responses are only reasonable where an individual is making a choice to offend against others (i.e. an *agency* level decision, made with intent); rehabilitation is the appropriate response for that which is outside an individual's control (i.e. *structural* issues such as unstable housing or homelessness, ill health, or lack of employment opportunities). Realistically, most sentences will need to incorporate elements of both, or, as Robinson (2008: 436) characterizes it, 'rehabilitative punishment'.

This requires the government to look further than the punishment agenda by balancing their own obligations to society with individuals' obligations not to commit crime. This leads to a sociological view of criminal justice interventions in which the government has a moral duty to reduce structural inequality in order to reduce future

problematic drug use, and to begin the process at the agency level by balancing rehabilitative and penal interventions:

> [E]veryone has a right to minimal need satisfaction, and [we] question the state's right to punish those whose basic needs have not been met … it is contradictory to regard someone as capable of doing better… and then not help them attain at least the minimal wherewithal to do just that. (Doyal and Gough, 1991, cited in Lewis, 2005: 123)

It would be negligent to uphold the premise that agency level medical, social and psychological interventions alone constitute 'rehabilitation' because this fails to consider the structural social and economic contexts in which individual drug users live. It would be equally naïve to assume that tackling structural inequality at the societal level would alone have immediate rehabilitative effects on the problematic drug users of today, due to the protracted nature of social change. To achieve justice, interventions must therefore promote the *structural* availability of alternative opportunities through social policy, whilst more immediately, and within the remit of probation-managed drug interventions, they should promote the capacity of offenders to identify and engage in appropriate opportunities through agency level work. This means identifying and tackling obstacles to desistance through education, employment, health and finance work as well as working on individual motivation and capacity to change, a dual approach supported by extensive research on desistance:

> Desistance … needs individual effort and agency (on the part of offenders), support for individuals (on the part of family members, supervisors and relevant agencies), *and* structural support (in terms of there being work, education, validation as a proper member of society). (Farrall et al., 2010 in Shapland et al., 2012: 23)

Explanations of crime which ignore structure or agency assume individuals to be 'superdupes' or 'superagents' respectively (Farrall and Bowling, 1999). In the case of drug use this refers to the extent to which users are seen to *choose* their lifestyle versus being *subsumed* by it, a debate central to justice as it predicts levels of punitiveness in drug policy. Where high levels of agency are assumed to cause drug use, individuals are deemed responsible for their own actions and in need of punishment. Perceptions of the bearing of structural and agentic influences on drug use have therefore loaded historical policy pendulum swings towards retribution or

rehabilitation respectively, in some cases producing lessons in 'what doesn't work', including disproportionate welfarism, excessive punitiveness, and retributive or 'revanche' sentencing (Melossi, 2000: 311).

Balancing structure and agency: A social capital theory of desistance and persistence

Balancing structure and agency in policy is therefore crucial as it translates into justice in practice by getting the balance right between sanctions and rehabilitation; enforcement and reintegration. This means drug policy must appreciate the individualized nature of problematic use at the agency level as well as the structural impacts of criminalization and socio-economic constraints on desistance (McNeill, 2009; Mair, 2004).

Such balance has been endorsed in sentencing for problematic drug users in probation-managed community sentences, namely the Drug Treatment and Testing Order (DTTO) (initiated by the 1998 Crime and Disorder Act), and its successor the Drug Rehabilitation Requirement (DRR) (an option in the 'Community Sentence' of the 2003 Criminal Justice Act), in their commitment to treatment, support and punishment for those whose drug use is deemed to be crime driven. The policy is more a framework than a prescription, allowing the sentence to be tailored to individual probationers, not least through the 'review' element of the sentence in which good progress can be rewarded or poor progress challenged. This suggests that (at least in principle), the DRR has a unique capacity to respond to differing levels of structural and agentic causation, both across different problematic drug users and throughout the sentence of individual users, as these dynamics change with time.

The contention of this article is that to respond appropriately, and moreover justly, to structural and agentic factors, requires criminal justice professionals to gain a detailed understanding of individual probationers' lives, and that the concept of social capital is an important evaluative tool in assessing the extent to which this is achieved in policy and practice.

Methodology and theory development

Housing, education, employment, health, thinking skills and social support are well-established as factors associated with desistance (Home Office, 2004; Social Exclusion Unit, 2002). Whilst their importance is evidenced, the mechanisms by which these factors work together to produce either desistance or persistence are not well understood (Farrall, 2004). Relatedly, how these should translate into policy responses is unclear. For instance, how can sentencing accommodate the fact that some elements of problematic drug use are about agency, i.e. individuals making *choices,* which may require enforcement action; or about structure, i.e. having *choices constrained,* which requires rehabilitation? Can policy have the flexibility to respond to the fact that this differs by individual? By exploring the elements that make up social capital, the research facilitated a better understanding of these key areas where there were obstacles to desistance from drug use and offending. This in turn offered insight into appropriate responses.

A comprehensive review of the desistance, drug use and social capital literature was used to establish an empirically informed theoretical framework in which desistance processes might be better understood. The theory was then applied and refined through an 18-month qualitative longitudinal study of an English DTTO and later DRR. The two programmes were very similar with the exception of the DRRs increased target group to include lower-level users. They are hereafter referred to simply as the DRR, for brevity. The research included two one-month observations of the programmes with a 12-month interval and individual semi-structured interviews with 22 probationers, six of whom were selected as case studies (three desistors and three persistors). The probationers were all adult offenders (six females, sixteen males), all users of class A substances and ranging from 19 to 36 in age. For confidentiality purposes, pseudonyms are used throughout; the location of the DRR is referred to as 'Midtown' and all probationer and staff names have been changed.

Firstly social capital was operationalized. Social capital refers to 'the ability of actors to secure benefits by virtue of membership in social networks and other social structures' (Portes, 1998: 6). It is realized through relationships (Sampson et al., 1999). The research was careful to avoid tautology by distinguishing between *sources* of social capital (or individuals who have the required capital)

and *resources* (the types of capital possessed by an individual) (Portes, 1998). Many theorists have characterized the attributes of relationships which facilitate social capital exchange, a number of which are commonly identified, including: shared norms, obligations, reciprocity, trust, rewards and sanctions (see for example Coleman, 1988 and Hagan and McCarthy, 1997).

These attributes were used to consider the lives of the probationers in the study. 'Norms', 'values' and 'tutelage' helped to highlight how people thought and learned, and the basis of their decision-making; 'investments' reflected what they currently valued and invested in; and 'rewards' reflected the outcomes of investing in the opportunities available. This drew attention to the critical issue of *relationships* and consideration of why probationers invested in some groups and not others. This necessitated consideration of agentic choices and preferences, but also of the types of 'capital' accessible through probationers' relationships, which was influenced by structural factors.

The influences and outcomes of different types of social capital range from positive (socially legitimate, promoting cohesion, law abiding) to negative (socially illegitimate, often self-serving, and illegal). These are respectively described here as licit and illicit social capital, referring to the legal ramifications as well as the social impacts. These typologies represent the ends of a spectrum of social capital rather than a dichotomy. Indeed, developing on from the early proponents of the concept in the social sciences (Bourdieu, 1986; Coleman, 1988; Putnam, 2000), this article suggests, and indeed demonstrates, that *all* individuals possess social capital, but that desistance and offending are processes in which the balance of licit and illicit social capital differ.

The empirical research for this article explored this hypothesis by examining the social capital of probationers subject to the DRR; the factors which influenced the balance between licit and illicit social capital; and the outcomes of the balances in terms of offending and desistance. Consideration of social capital thereby served to highlight the processes (both within and beyond the probation office door) by which transitions into and out of problematic drug use occurred.

Hypothetical models of desistance and persistence social capital were developed from the literature and the models then 'tested' and developed by comparing them

to those of the probationers in the study. Persistence and desistance are trajectories not static states, meaning that to 'test' the models meant examining 'snapshots' of probationers' current investments and outcomes. To achieve this, the empirical work started with the outcome (evidence of a persistence or desistance trajectory in the probationers observed, based on their own and probation professionals' perceptions) and working backwards from it, asking by which mechanisms outcomes were produced: who invested what, in whom, in what context, why and how did this engender the outcome? This approach is a development of Pawson and Tilley's (1997)*Realistic Evaluation* method.
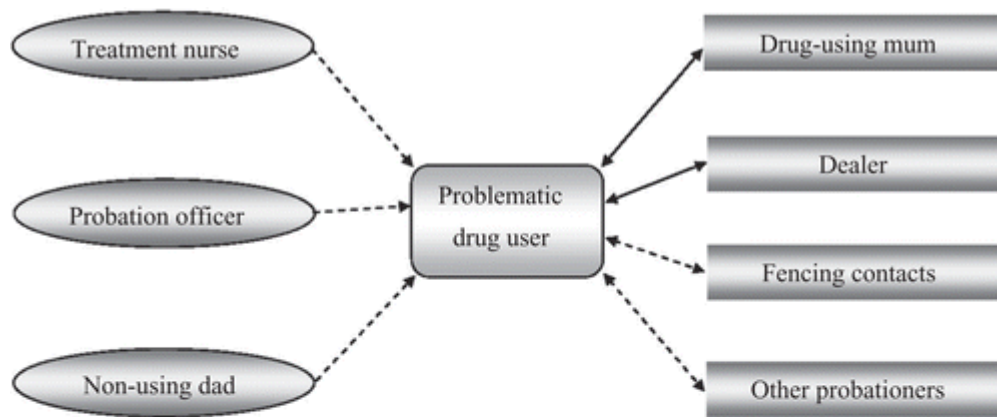
Mapping the findings of the desistance literature and the empirical work onto the social capital framework resulted in the production of what can usefully be termed 'portfolios' which highlight the relationships of probationers and serve as a visual representation of those in whom they did or did not invest. The portfolio maps were used to track the influence of both agency and structure on these decisions and the consequent progression towards persistence or desistance.

Findings
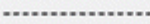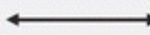
The theory framework: Portfolios, licit and illicit social capital

The theory, developed from the examination of probationers' relationships, was that problematic drug users' portfolios of social capital were dominated by illicit and lacking in licit. This was demonstrated by persistor probationers' significant investments in relationships with those who were possessors of high levels of illicit social capital. This is illustrated here in a model of a 'persistor' portfolio (Figure 1), in which investments in licit relationships are outweighed by illicit investments. This pattern of investments was common to all of the persistor case studies. Equally the reverse was true of those currently on a desistance trajectory, in that their licit investments outweighed illicit.

Figure 1

Treatment nurse

Probation officer

Non-using dad

Problematic drug user

Drug-using mum

Dealer

Fencing contacts

Other probationers

Legend

⬭	Mainly licit social capital
▬	Mainly illicit social capital
----------	Weak bond
——————	Strong bond
——————▶	One-sided relationship
◀——————▶	Reciprocal relationship

This is not to suggest that the lives of probationers are predetermined to drug use and offending by their social capital sources or resources, or that they are subject to a social pathology that makes criminality inevitable. The acknowledgement of individual choice, and the impact of agentic evaluation of value, separates this theory from sociological positivism. Rather the research demonstrates that probationers make choices about where and in whom they invest but that these choices can be constrained by structural factors (i.e. outside their immediate control). This means that both individual change *and* more positive social conditions are required to make the transition from persistence to desistance trajectories, a finding consistent with Farrall's extensive longitudinal study of probationers (2002).

Where individuals *choose* not to engage with licit social capital (agentic factors), or *cannot* access licit resources to make such an investment worthwhile (structural factors), probationers' portfolios can become subjugated by illicit social capital. Increasing the value of licit social capital, and the devaluation of illicit social capital, are therefore crucial to desistance. This happens through structural activity in terms

of access to opportunities as well as agentic action in terms of choice, or engagement with those opportunities.

The impacts of policy, practice and relationships on social capital

Here, contemporary policy and recent developments in probation are considered using the social capital theory as a critical lens. Space limitations prevent coverage of all the study findings, so a range of well-established desistance factors have been selected for discussion – education, employment, social groups and housing. The consideration of probationers' relationships and social capital highlighted both the interaction and impacts of structure and agency on decision-making and the influences of policy, practice and individual lifestyles on desistance or persistence trajectories.

Licit diversions? The impact of social groups, employment and education on desistance

Class A drug use was rarely intermittent amongst the probationers. The pervasiveness of the use of these drugs appeared to suffocate licit activity. Many described how, as problematic drug use increasingly occupied their lives, other pursuits were sidelined. This included loss of relationships with those who could not accept their lifestyle through conflicting norms, and loss of opportunities through broken trust. An example of this was Ian who, during his initial experimentation with heroin, lied to his employer that various family members had died to cover for leave taken illegitimately. He was caught and dismissed, and felt it was from this point on that his drug use escalated. As with many others, Ian's illicit social capital both exacerbated and filled the void left by lost licit capital.

For the opposite process to occur, the DRR needed to help probationers to replace what they perceived as the value of drug use and offending. Many reported producing adequate incomes from employment in fencing and dealing, and a number of interviewees described the 'buzz' of using drugs, shoplifting and burglary. The 'void' left by desistance therefore needed to be filled with licit activity which was equally as stimulating and rewarding. The capacity of the DRR to deliver such activity was demonstrated in some college sessions and group work. These occasions provided probationers with something to do outside of their normal routines − 'being here beats what I'd normally be doing which is walking the streets

all day every day' (Ricky, probationer). Other probationers suggested that DRR activities broke the illicit norm of thinking continually about criminal occupations, by engaging their minds in productive (or licit) activity. One said that drug use and offending had become so normal for him that he had forgotten how to think and problem solve in any other capacity − 'it does help just to do maths and English − it gets your brain working again' (Alex, probationer). However, the DRR experienced instability in that these aspects of the programme were funded by short-term finance and contracts. This meant education and employment providers were often bought in for a number of months and then replaced, which interrupted the continuity of provision. This resulted in few genuine or long-term prospects for education and training, reducing the value of licit alternatives to drug use and offending offered by the DRR.

In terms of employment, the few probationers who did manage to access legitimate work suggested this gave them little time to consider re-offending or drug use and increased their opportunities for licit relationships. This is consistent with research which found that increasing the employability of probationers helped 'address social exclusion, and thus tackle crime and drug use' (McSweeney et al., 2004: 51). Their investment in their new roles engendered new norms of regular working hours and legitimate occupations, suggesting a new identity with which offending would be inconsistent. For example, Jenna said as a new employee she had a responsibility not to let her employer down. She felt obliged to reciprocate his trust, particularly since she recognized the risk he had taken in employing an ex-offender; 'not everyone would have let me in the shop with my history' (Jenna, probationer). However, the ability of the DRR to help probationers establish employment and education was often limited by structural factors beyond the control of the staff, such as the low levels of employment opportunities in Midtown and the likelihood of employers accepting (ex)offenders into their businesses. Staff reported that it was also difficult to convince probationers of the value of licit work when the types of employment available were generally manual, tedious and low paid. Jimmy confirmed this, saying he realized how much money he could make from drug dealing when he was made redundant, and that since he had a criminal record, this was an easier and higher income than he could earn legitimately. Additionally, policy paradoxically caused some probationers to lose access to work because accepting employment meant losing benefits and the time constraints of attending the DRR daily precluded regular working hours.

Many probationers described the social isolation that could result from attempts to desist. Having grasped that their norms and values were unlikely to change whilst spending time in close proximity to other problematic drug users, a large number of probationers explained their strategies for escaping illicit groups. These included moving to other areas, switching from illicit to licit friendship groups, changing where they 'hung out', moving house and living alone. All of these strategies meant losing social networks. The DRR had the capacity to intervene by helping fill this void, facilitating opportunities for new, licit relationships with staff, family and community groups. However, these opportunities were countered by the increasing likelihood of contact with other using probationers at the DRR office. As a significant majority of probationers stated in their interviews, putting problematic drug users together encouraged collaborative using, offending, justification, learning and obligations; essentially producing and transmitting illicit social capital norms, investment, tutelage and reciprocity respectively.

Even when licit social capital opportunities arose, probationers needed to be convinced that they had the capacity to engage in relationships with the sources. As Jason pointed out:

> It can be a vicious circle. I know I need a home, a job and to be around my kids and family to get clean. But those things just aren't available to me just now. I don't know where to start. (Jason, probationer)

One-to-one sessions gave probation officers the capacity to counsel individual probationers in how to go about accessing and engaging in such relationships and opportunities. In these sessions, staff often explained how to communicate and engage with different groups, and how to approach requests for help, support or information from licit friends, family, employers and organizations. This is known as bonding, bridging and linking capital; or capital exchange within social groups, across social groups, and between individuals and institutions, respectively. In the first observation phase, one-to-one work formed a significant element of programme delivery. However, by the second phase, DRRs had begun to filter in, replacing the DTTO, and the broader target group resulted in greater numbers and higher probationer-to-officer ratios. This led to an increase in the use of group work and limited the time available for one-to-one sessions. At the time this was

problematic as the accredited programmes left little time for individual attention or collaborative relationship work between probationers and their officers.

Clearly the DRR had limited capacity to influence the level of licit structural opportunities. It could not provide resources where none existed in the community (such as appropriate housing or employment) and this was exacerbated by the fact that the staff themselves were under-resourced. However, this is not to say that there was not a role for the DRR in such interventions. A more logical and long-term approach would be to help probationers to establish where, in their own networks, such licit opportunities might be available. Many families proved themselves capable of being sources and accessing resources of licit social capital on probationers' behalf. For example, the four probationers who had jobs all accessed them through their parents. This suggested the role of the DRR could simply have been to help probationers identify the licit resources they needed, and how to bond, bridge and link in order to build relationships with people who were sources of such capital.

This finding is supported by other research which suggests that probation-managed drug interventions have less impact on desistance than probationers' own lifestyles, making the improvement of social functioning and relationships outside the probation office door increasingly important (Eley et al., 2002). Likewise, Farrall (2004) suggests that strengthening social capital through work with employers and families is much more likely to engender positive outcomes. Such work seems more likely to foster permanent rather than short-term desistance, in that probationers will be supported by their own peers, families and associates in the community − support which is more accessible and will outlast DRR intervention.

Safer housing? The impact of living arrangements on desistance

Contemporary analysis of OASys data has identified the significant role of housing in the desistance and persistence trajectories of probationers:

> Drug misuse and accommodation were the offending-related needs most predictive of reconviction. (Howard, 2006: 1)

The social theory of problematic drug use helped determine why accommodation had this effect, in demonstrating that housing significantly impacted on the proximity

and influence of different social capital types. From the observations and interviews it was clear that probationers were rarely able to desist whilst living with other users. Ryan explained that lacking opportunities to live with licit social capital sources resulted in reliance on illicit sources, and accordingly unavoidable exposure to drug use and offending. Likewise Kyle said that staff interventions were currently of no use to him as he could not implement any of their guidance whilst living on the streets amongst other users.

Equally, structural issues such as being forced to move house could break supportive, licit bonds. For example when Carrie was convicted of blackmail, she was ordered by a magistrate to leave the area in which her co-defendant lived. This meant she lost access to her old flat, non-using friends and family. The only people she knew in Midtown were those on the DRR, which made her reliant on them for resources such as accommodation, emotional support and friendship. To bond with these illicit sources required further investment in drug using norms and values, or as Carrie aptly described it, 'eventually you just accept what they're up to as normal. It becomes your normal'. It seemed no coincidence that Carrie deteriorated from controlled to chaotic use during her time on the programme in Midtown.

Housing could equally increase the likelihood of desistance. Probationers generally felt invested in when they were offered housing with sources of licit social capital and accordingly felt obliged to reciprocate. Many developed more licit norms through the promise of rewards (housing provision) for licit behaviour and concern about sanctions (the removal of housing opportunities) for illicit behaviour. Ian said he had been told by a local housing association that he could move into a new rented property only when he had provided four weeks of drug-free samples, and Russ said he had been warned by his family that if he used drugs or re-offended he would be asked to leave. Russ's mum was a social worker who housed foster children. He understood her need to keep drug use away from their home and had been drug free for the last six months.

At the structural level there was a lack of social housing in Midtown making it difficult to prevent the shared time, investment and resultant shared norms of probationers living together. This left many probationers caught in the trap of living amongst other users, compounding the likelihood of persistence. Kyle's homelessness was a significant contributor to his drug use, offending and lack of ability to conform to

programme rules. For instance not having a clock or watch made timekeeping difficult. Probation staff agreed that homelessness was Kyle's principal obstacle to desistance, but also that it was outside their control. On three separate occasions officers were observed calling the local hostel and housing associations for him, to be told that there was no accommodation available.

Some licit social capital sources were simply not prepared to share resources with problematic drug users. The local college was one example. Whilst allowing probationers to attend classes there, the college mandated that they had separate rooms and teachers, in order that they did not 'contaminate' their own students. Probationers said this was laughable since the college was notorious for drug problems amongst its own students anyway. Eventually, most classes took place in the DRR office, meaning that probationers were not integrating with their local community. This demonstrated how DRR impacts could be restricted by the extent to which others were prepared to invest in probationers, as well as highlighting the difficulty of engendering structural opportunities.

Notably, structural opportunities had to be accompanied by agentic choice for desistance to occur. A number of probationers were in stable accommodation with emotional support on offer but were failing to desist, and some were in unstable accommodation or homeless yet working hard to desist. The latter was demonstrated by a small number of probationers who developed strategies to escape the activities of their cohabiters if they were forced to live with drug using offenders. For example, Jeremy was stabilized on a methadone script and rarely tested positive for heroin because he only ever *slept* in the hostel he lived in, where drug use was rife. For the rest of the day he deliberately invested his time in activities *outside* the hostel, attending the DRR for longer hours than required and in the evening attending reading groups and a weekly guitar workshop.

At the level of agency, housing mirrored the other desistance factors, in that probationers required not only legitimate opportunities (that is, accommodation or at least time away from other users), but needed to value those opportunities enough to invest − 'the creation of social capital requires its own investments' (Farrall, 2004: 67). In accommodation with sources of licit social capital this meant valuing the person they were living with enough to share or at least respect their norms and values, and when living amongst illicit sources required investment in

non-drug using activities away from home. Whilst unable to assist in producing social housing at the structural level, the DRR was still able to support desistance trajectories in this area, by providing alternative occupations during the day, referral and guidance regarding licit occupations in the evening, supporting probationers' access to accommodation with licit social capital sources, and interventions such as motivational interviewing and relapse prevention work to help prepare probationers to reject the norms and values of illicit cohabiters.

Policy, practice and justice implications

In policy, drug use is often seen more as a choice than a compulsion due to evidence discrediting conceptions of drugs as intrinsically addictive (Erickson and Cheung, 1999). But such decisions can be constrained by deprivation either preceding or resulting from drug use, through labelling, criminal justice segregation and 'war on drugs mentality' (Buchanan, 2004). The solution to the structure and agency divide then is to find a balance; an equilibrium where both individual and socio-economic contributors to problematic drug use are acknowledged and tackled. It was clear from the findings of the research that to achieve this balance, probation drug policy and practice should focus on individual probationers' relationships and their associated resources (or the 'social capital portfolios' of problematic drug users) as this facilitates an understanding of the contribution of agentic and structural factors in each individual case, highlighting the most appropriate response for that person. The theory therefore proves a valuable benchmark for evaluating contemporary policy.

Considerations and recommendations for drug policy

Within the policy framework, DRR practice continues to develop and to date there is a dearth of large-scale evaluation of its effectiveness (Hollingworth, 2008; McSweeney et al., 2008). However, the social capital theory demonstrates that the sentence may overlook important relationship dynamics in a number of areas. Firstly, DRR implementation policy (National Probation Service, 2005a, 2005b, 2007) reduced probationers' contact with Probation Officers except for enforcement purposes. The social capital theory suggests that this was problematic in that probationers fail to develop relationships with their officers if they do not feel 'invested in', which demonstrably has detrimental impacts on retention

and compliance (Laub et al., 1995). Secondly, the broadening of the DRR remit to include lower level users increased numbers of probationers sentenced to the order and resulted in the use of more generic group programmes (including Addressing Substance Related Offending and Offender Substance Abuse programmes), rather than individual approaches such as one-to-one counselling and support. The social capital theory suggests that this again was problematic as it overlooked the importance of probationers developing individual relationships with programme staff and resultantly prevented interventions being tailored to the different balances of agentic and structural influence on individuals' drug use and offending. This may change, however, as programmes become more relationship-focused as part of the Offender Engagement Programme (Travers, 2012), an issue discussed later in this article (see page 14).

Finally, it was the original intention that probationers should see the same judge or magistrate at court reviews, based on evidence of the effectiveness of this from US drug court modules (Listwan et al., 2003). Scottish drug court research found that this contact should focus on 'productive lifestyles' and recognition of drug use as relapsing condition (McIvor, 2004) through interpretations of National Standards which relied more on rewards for success to encourage desistance than enforcement and punity through revocation and imprisonment (Hedderman and Hough, 2004). The results of these orders spoke for themselves, vindicating the flexibility and pragmatism of the Scottish model:

> Unlike England and Wales, few orders were revoked and probationers reported significant reductions in drug use and offending at six months. (Eley et al., 2002)

> This resulted in higher retention and lower long-term recidivism − 66% had re-offended two years after the DTTO in Scotland compared with 86% in the rest of the UK. (Stevens et al., 2005)

Again, the social capital theory helps explain such findings, in that only if probationers feel invested in through the development of a relationship with the criminal justice professional will they care about their approval (or disapproval) in the review process, a finding confirmed by work on desistance-focused probation practice (McNeill, 2006). However, the DRR policy diluted this important element of the programme by making it *good practice* rather than a *requirement*, and, worse still, allowed for reviews to occur without probationers present, suggesting that they

only need attend in cases of 'poor progress' (National Probation Service, 2005b). This was a clear demonstration of policy misunderstandings about the importance of both sanctions *and* rewards, and the development of investment and reciprocity, in order for desistance to occur.

These DRR oversights regarding the importance of relationships may be set to change. Extant desistance and policy-evaluation literature (see for example Burnett and McNeill, 2005; Robinson, 2005) and reports prepared for NOMS specifically (McNeill and Weaver, 2010), and the government generally, have requisitioned the (re)centralization of relationships in probation policy:

> The value which really effective Probation Officers can add comes primarily from direct contact with offenders … it is imperative that NOMS and individual trusts take steps to increase the proportion of their time that probation staff spend with offenders. (House of Commons Justice Committee, 2011: 18)

The Ministry of Justice collated and acknowledged considerable research evidence on this topic (Ministry of Justice, 2010) and responded to the Justice Committee in a parliamentary report (Ministry of Justice, 2011a), which was brought to fruition in policy by a relaxing of National Standards (Ministry of Justice, 2011b) in order to allow greater probation discretion. Increased discretion does offer the opportunity for the re-centralization of relationships to probation practice, but the actual outcomes remain to be seen. Current evidence, whilst anecdotal, suggests that training for the 'new generation' of probation may make the development of relationships with probationers a difficult transition for some officers:

> The removal of the social work background training was the biggest mistake probation undertook [sic]…. A generation of probation staff who are accustomed to using enforcement now have to make decisions based on professional judgment. A difficult task to achieve when you have been taught… to follow stringent guidelines and standards with very little flexibility to breath [sic] never mind spend 20 minutes with an offender. If you happened to let it slip that you spent 20 minutes with an offender Senior Managers would single individuals out and label them as having problems with their time management and lacking in prioritisation skills. (Knight, 2011 in Parliamentary eConsultation, 2011)

Despite this, a policy commitment to relationships is clearly demonstrated here, buttressed by the current Home Office Offender Engagement Programme which

has the stated purpose of 'improving the effectiveness of one-to-one engagement between the probation practitioner and the offender in order to reduce reoffending' (Rex and Ellis, 2012). This offers optimism that the (re)emergence of the pivotal nature of relationships has begun to translate (back) into probation policy.

From theoretical, policy and practice perspectives, what is critical about these relationships is their capacity for probation officers to assist probationers in altering their own social environments. This might be exploring how to make more considered decisions about those in whom they invest, or where probationers have low access to potential sources of licit social capital, officers have the capacity to offer 'brokerage' by supporting them in building relationships (potentially outside their intimate communities) which offer licit resources.

Policy is about what makes sense to the public rather than solely what is just, but social capital theory in practice can fulfill the requirements of both. 'Tough on crime' strategy maintained support previously because it had few realistic challengers. But rehabilitative support, as suggested by the social capital theory, could realistically be such a challenger. Where 'tough on crime' policies assumed lack of control as the cause of crime, rehabilitative support also considers lack of licit social capital and in doing so attempts to dismantle both agency- and structural-level obstacles to desistance. In this respect, the theory has a significant practice evidence-base in achieving greater levels of desistance and the notion of social support makes sense to the public, is evidenced-based and most of all is humane (Cullen et al., 1999). Public support for punishment is no longer guaranteed; particularly regarding drug using offenders, as many no longer support the war on drugs (Lock et al., 2002) or punitive policy (Bottoms and Wilson, 2004; Maruna and King, 2004). This presents an opportunity for desistance-focused rehabilitation and social interventions to prove their value. Applying the social capital theory of problematic drug use to criminal justice practice might facilitate this, and should be the benchmark by which it is measured:

> Future investigations of the outcomes of probation supervision should focus on the role of social contexts in assisting probationers to combat risk factors and ultimately to desist. Chiefly amongst these influences… [are] personal motivation, gaining employment and changes in family relations. (Farrall, 2002: 223)

Such attention helps to identify the more important questions of *how* programmes work rather than just *what works*, as well as highlighting the need to acknowledge each individual's personal context and resources *outside* the probation office. Focusing on probationers' social capital portfolios makes clear both the types of social capital sources and resources to which they have access (structural-level opportunities) and their valuation of and investment in these opportunities (agency-level influences). This establishes that the key question that 'motivational' work with probationers should ask is 'What makes individuals invest here as opposed to there and what influences this?' To achieve this, policy would need to take account both of social resources and probationers' own perceptions and thinking regarding what they, not practitioners, see as a rewards or sanctions, by assessing how much it means to them. In doing so there would be an acknowledgement that probationers' decisions make sense to them *in their context*. This process requires assessment of what probationers value, their related norms, and subsequent investments.

Sentences should closely monitor, supervise and support probationers in the desistance process, resorting to penalty only in extreme cases of wilful non-compliance. This requires criminal justice interventions which support social opportunities through access to licit social capital sources and resources as well as helping probationers to engage in those opportunities, or:

> First, having opportunities for involvement in conventional and pro-social activities; second having the necessary skills to participate in these activities; and third, receiving reinforcement for participation. (Gorman and White, 1995: 147)

Medical and cognitive interventions can then be employed to encourage probationers to value licit relationships and tackle psychological and physiological obstacles to desistance, whilst sociological interventions can stimulate access to licit sources and resources, or rewards.

Conclusions

The social capital theory has a number of justice implications. Allowing it to guide probation practice would rescue their historical recognition of the importance of social relationships for desistance outcomes. Interventions of this nature have an empirical record of being most effective in engendering desistance (Robinson and Crow, 2009) and the model resonates with governmental objectives:

Social capital has a well established relationship with the outcomes policy-makers are most concerned with. (Harper, 2001: 4)

Failure to theorize and engage with the individual social lives of probationers leaves open the prospect of a return to 'war on drugs' style policies, which divert attention away from genuine obstacles to desistance by presenting drug use as a cause not symptom of social problems (Johns, 1991). This would be a regretful development from a justice perspective in that the punishment agenda takes no account of structure and agency interactions in an unequal society. Moreover, from a practical perspective, such policies have been repeatedly proven not only to be ineffective, but also detrimental, precisely because they increase what this article has termed illicit and decrease licit social capital (Hagan, 1994, Hagan and Coleman, 2001; Farrall, 2004; Laub et al., 1995; McNeill, 2004).

From this we can conclude that to fully acknowledge structure and agency in drug policy, and thereby achieve criminal *justice*, the proper objectives of probation-managed drug interventions should be: to increase individual motivation; to devalue illicit social capital; to make licit social capital a more attractive investment; and to aid that process through social capital brokerage.

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