

Understanding the Privatisation of Probation through the lens of Bourdieu's Field Theory

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Chapter Four: Understanding the Privatisation of Probation through the lens of Bourdieu's Field Theory

Jake Phillips

Abstract

This chapter contributes to the growing body of criminological work to use Bourdieu's field theory to understand changes in policy and practice in criminal justice. The chapter uses the privatisation of probation services in England and Wales as a case study to argue that although probation practitioners vociferously opposed the reforms, their attempts to prevent them were always unlikely to succeed. This is because Transforming Rehabilitation needs to be understood as the culmination of a longstanding process of symbolic violence which resulted in the depreciation of relevant forms of capital amongst practitioners and their allies. The chapter begins with a brief overview of the reforms before turning to a discussion of Bourdieu's field theory. I argue that because 'capital' links field and habitus - in that capital is the product of the way in which habitus and field are, or are not, attuned to one another - this is an important mechanism of field theory which has, hitherto, been neglected. I argue that as probation practitioners' habitus has remained relatively stable over the last fifty years, the changing field led to a delegitimation of the forms of capital owned by practitioners which left them unable to mount a successful defence of a public probation service.

1 Transforming Rehabilitation: Grayling's brainchild or endpoint of a long process?

There is no need to go into Transforming Rehabilitation in great detail here, as it has been dealt with in several other places, including in this volume. Suffice it to say that in 2014 around 70% of Probation Trusts work was privatised so that Community Rehabilitation Companies became responsible for supervising low and medium risk offenders whilst the publicly run National Probation Service took over supervision of high risk offenders. CRCs were contracted partly on a Payment by Results basis, firmly cementing the profit motive into the delivery of community sanctions (although one CRC, Durham and Tees Valley is run a

not-for-profit basis). It is also unnecessary to go over the reasons for the reforms and how they were implemented as this has been covered elsewhere.¹ There is now widespread acceptance that TR was unsuccessful in achieving either a reduction of reoffending or greater efficiencies in terms of delivering community sanctions. Indeed, a spate of government reports have highlighted serious concerns about the efficacy of the reforms and the government is in the process of redesigning the system.

One of the main critiques of the reforms is that they were implemented with great speed, and with little in the way of piloting or testing. Indeed, after being appointed Secretary of State for Justice in October 2012 it took Grayling just 20 months to privatise a substantial proportion of the probation service in England and Wales. Grayling was quick to publish a consultation *Transforming rehabilitation: a revolution in the way we manage offenders* (Ministry of Justice, 2013a) which talked of:

The majority of rehabilitative and punitive services in the community [being] opened up to a diverse market of providers. We currently spend around £1 billion on delivering these services. Through competition and payment by results, we will introduce more efficient and effective services, specifically targeting a significant reduction in reoffending rates.

It was at this point in time that interested parties began to express a more serious concern regarding the government's plans and a visible opposition began to appear. The Prison Reform Trust (n.d.) argued that the 'speed of implementation could lead to some unintended consequences, which run counter to the objectives set out in the consultation' and Nacro (2013), whilst broadly supportive of the proposals because it would open up the potential for them (and other similar organisations) to expand their work with people on probation, warned that the government should 'not underestimate the challenge of getting offenders to stop especially when we are seeking to do this, on scale, with high volumes of offenders, over large geographical areas'. Napo, the probation officers' union and professional association,

1 In 2013 a *British Journal of Community Justice* special issue focused on the arguments against TR and includes several pieces which raised concerns and made predictions about what might come to pass. The theme of a special issue of *Probation Journal* in 2016 was 'TR 2 Years On' whilst a follow up special issue in 2019 examined the TR 5 years after the reforms had been implemented.

began to make headlines with warnings about the risk to public protection that the reforms posed. Practitioners on social media displayed high levels of antipathy towards what the government was proposing and academics reinforced the argument that many of the reforms were not underpinned by evidence. The view amongst many was that these reforms signalled the potential ‘death knell of a much cherished service’ (Senior, 2016).

The government published its response to the final consultation in May 2013 (Ministry of Justice, 2013b) and within less than a year, the necessary structural reform had been legislated for in the Offender Rehabilitation Act (2014). On 1 June 2014, Probation Trusts were disbanded and replaced with 21 Community Rehabilitation Companies and a National Probation Service. In spite of the failure of the new delivery model there can be no doubt that the government was highly effective in achieving its aims of marketising the field of community sanctions, and at great speed.

The defenders of a wholly public probation service could draw on over 100 years of evidence-based practice; a body of practitioners with graduate level skills; a well organised and respected professional organisation in the form of Napo; a small but committed group of academics; and a range of lobby groups and charities all of whom were vociferously opposed the reforms. Nevertheless, the reforms proceeded as though there was very little opposition. How, then, did it come to be that on 30 May 2014, the eve of the dissolution of Probation Trusts, an anonymous probation officer published the following comment on the *Probation et al.* blog:

*This [period of reform] has been a strain on every staff member and their families, and has tested our resilience... That being said we must move forwards. **I no longer have any faith in probation leaders who mostly failed to fight against these ‘reforms’ they knew would end the probation service as we know it, or in probation unions who have been consistently ineffective in the campaign to save probation.*** (Anonymous, 2014; added emphasis)

This view has persisted, with the recent National Audit Office report being met with criticism from practitioners that senior leaders failed to defend a public probation service. But this explanation fails to acknowledge the context surrounding a profession which went from being in receipt of full cross-party parliamentary support during the ‘rehabilitative ideal’ to one which was side-lined and ignored in the face of reforms which would prove more disruptive than anything that had come before. Thus, this chapter seeks to answer the question: why were opponents to the government’s TR agenda unable to mount a successful

opposition to the reforms in question? In answering the question it becomes clear that the issues are more complex than a simple failure to act. Rather, people who were castigated by this anonymous practitioner had, in many ways, been silenced in myriad ways prior to the introduction of these reforms.

2 Bourdieu's Field Theory

In answering this question I draw on the work of Bourdieu's 'field theory' to argue that to understand the means with policy reform is, or is not, implemented, resisted and opposed we need to understand and analyse the role of capital in the subfield of community sanctions. Field theory is a diverse analytical framework which attempts to explain how institutions, in the broadest sense of the word, are structured. In doing so, Bourdieu draws attention to the unique 'logic' of each field; in essence it is the 'way it works'. In order to identify what the logic of a field is and how it functions, Bourdieu relies on three key concepts: field, capital and *habitus*.

The field is the broadest of Bourdieu's concepts and is used as a tool for visualising society as a 'series of relations' which exist in two forms:

first, reified as sets of objective positions that persons occupy (institutions or 'fields') and which externally constrain perception and action; and, second, deposited inside individual bodies in the form of mental schemata of perception and appreciation (whose layered articulation compose the 'habitus') through which we internally experience and actively construct the lived world. (Wacquant, 2013: 275)

Bourdieu asks us to think about how these fields function and how they relate to one another. All fields are subordinate to the field of power which is seen to transcend other fields and comprises a range of subfields.² This mode of analysis has been adopted by criminologists to examine, for example, the role of the prison officers union in the US (Page, 2011), and the position of poor people in being punished (Wacquant, 2009). For the purposes of this chapter I focus on the penal field (Page, 2012) which is made up of a series of subfields such as the

2 Bourdieu analysed an array of different subfields during his lifetime including, *inter alia*, higher education, cultural, literature, and the juridical fields.

field of incarceration (i.e. prison) and the field of community sanctions (i.e. probation) (McNeill and Beyens, 2013).

In his work on the field of cultural production and the literary field, Bourdieu argues that there are different forms of art: aesthetic art and art produced for economic reasons. In discerning the way in which the field is structured (the logic of the field) he identifies two poles – the heteronomous pole, and the autonomous pole:

At the heteronomous pole artistic production is treated much like any other form of production: the work is made for a pre-established market, with the aim of achieving commercial success... The principles of production at the autonomous pole include imagination, truth and freedom from social or economic influence... the rewards in this part of the field are symbolic capital. (Webb et al., 2002: 159–161)

Thus an agent's position in the field imbues that agent with a specific form of capital. Similarly to the field of cultural production, the subfield of community sanctions has two poles. At the heteronomous pole, practitioners work to 'pre-established forms' that are defined by the structure of the field which derive from things like politics, or public opinion. This might be, for example, the drive to reduce reoffending, protect the public and work on behalf of the public rather than adopting the Kantian ethic of seeing offenders as people in their own right. The aim of practice at this pole is to garner legitimacy (or, capital) from external stakeholders such as politicians and the general public (Robinson et al., 2017). Prior to TR probation workers accrued capital at this pole by demonstrating success through concrete measures of 'success' such as reductions in reoffending, or meeting key performance indicators. At the autonomous pole, probation practice can be structured by its own internal logic which is underpinned by what we might call the 'values', or habitus, of probation. This might include: working on behalf of the offender, believing in an individual's capacity to change, measuring 'quality' in different ways to those defined by the field. Here, such work has an added benefit of protecting the public but this is not the be all and end all. This form of practice results in capital, but not capital which is valued at the heteronomous pole – fellow colleagues might value this work, but those with the power to structure the field (i.e. politicians and policymakers) do not. This partly explains the focus in policy on targets that emphasise timeliness over the more ineffable notion of quality, for example.

Thus, the way in which the penal field is structured by, and structures, what happens within these subfields needs to be understood with reference to the concept of capital 'in all its

forms and not solely in the one form recognized by economic theory' (Bourdieu, 2006: 105). Capital therefore incorporates financial means as well as other well-known forms of capital such as social, human and cultural. In the subfield of community sanctions this might be thought of as penal capital, defined by Paige as 'the legitimate authority to determine penal policies and priorities' (Page, 2012: 159).

We can break penal capital down into three forms of capital in order to assess the extent to which actors have authority to determine policy change and priorities. Firstly, cultural capital denotes the cultural skills and competencies of actors – this would be signalled by titles, qualifications, the extent to which agents are seen as 'professionals'. Secondly, Bourdieu identifies social capital as the useful networks which agents can draw upon to further their own interests. And, finally, symbolic capital which is the prestige which agents have in society. These three forms of capital, which make up penal capital, are critical to understanding the subsequent analysis of probation privatisation.

Habitus is 'at the basis of strategies of reproduction that tend to maintain separations, distances and relations of order(ing)' (Bourdieu, 1996: 3). In turn, capital is determined by those who have a 'well-formed' habitus which, in Bourdieu's terms, is one which is attuned to the logic of the field. Capitals are valued differently within different fields, and across time and so capital is entirely contingent upon the field in which it exists. There is constant contestation over capital and those with the 'right' kind of capital have the power to transform, maintain or reproduce the structured relations in the field. Moreover, *habitus* is a product of relations: 'the value of each member depends on the contribution of all the others as well as on the possibility of actually mobilizing the capital of the group' (Bourdieu, 1996: 286). Thus, the ability of, for example, senior managers and union representatives, to oppose the reforms was always reliant, to some extent, upon the *habitus* of the practitioners they were representing. It is the contention in this chapter that the capital upon which opponents to TR could draw upon had become increasingly less 'well formed' and thus less 'valuable' in the years running up to TR.

3 The changing value of probation practitioners' capital

In this section I outline the changing value placed on the type of penal capital with which probation practitioners were imbued in the run up to TR. Thus, this section is about how

people define and implement the subfield of community sanction's aims and priorities. In his seminal quartet of articles on the history of probation policy and practice, McWilliams argued that up until the early 1980s, probation officers and the service for which they worked were virtually synonymous: 'for most purposes the probation officer was the probation service'. There was, he argued, a 'large measure of consensus about the probation system, its purposes and its tasks meant that the probation officer encapsulated the probation service in propria persona' (1987: 99). He went on to say that as the 1980s progressed, it became 'simply not possible to comprehend the modern service purely, or even mainly, by reference to its officers' because the organisation had changed in terms of its size, its composition, and its aims with the service taking on additional responsibility (in the form of post-custodial supervision) and losing others (such as working with fewer numbers of people on community service). This period in the probation's history represented the beginning of a growing gap between what the organisation was intending to do, as defined by the broader penal field, and what the people who worked for the organisation wanted to do within that organisation. There began to appear a heterodox within the subfield of community sanctions. It was at this point that probation officers started to move slowly towards the autonomous pole of the subfield of community sanctions, whilst the heteronomous pole began to be structured according to the ideals of, first, managerialism, then contestability and finally privatisation. In brief, the aims of probation practitioners remained relatively static whilst the logic of the field as defined by the logic of the heteronomous pole changed considerably.

The consensus in the penal field which existed prior to the 1970s and 1980s meant that the forms of capital, the habitus of practitioners and the field in which they practiced were attuned to one another. Thus, practitioners' structured and structuring dispositions (i.e. habitus) were, broadly speaking, aligned with the organisation's aims, and so practitioner's habitus and the broader aims of the penal field were mutually supportive:

...when the "rehabilitative ideal" was the dominant orientation ... in the years following World War II, it was "thinkable" that prisoners should have access to higher education... Today, however, when "punitive segregation" ... is the dominant orientation in the penal field, college education for prisoners ... seems unthinkable if not "taboo" or "crazy".

(Page, 2012: 11)

However, we are now a long way from such consensus. The way in which policy defines and measures the aims of probation has changed significantly over the last 50 years, yet the way

in which practitioners do so has not. Despite the claims of some that ‘nothing works’, rehabilitation survived as a purpose of probation when one looked to frontline practice and practitioners beliefs (Raynor and Vanstone, 2007). Similarly Humphrey and Pease (1992) found that probation practitioners justified their effectiveness in terms of being able to divert people away from custody, the ability to give clear recommendations to the court and the slowing of criminal careers which contrasted with the attention paid to input and output targets by the Home Office. Robinson and McNeill (2004) found a similar inconsistency between practitioners’ definitions of probation and the way in probation’s aims were measured by the ‘system’. At both official and unofficial levels, public protection was seen to be a legitimate aim of probation but it was the means with which public protection might be achieved where divergence was identified. Thus, ‘interviewees tended to frame rehabilitative interventions and the reduction of reoffending in the context of the ‘more general’ quest for public protection’ whilst official documents adopted a more punitive rhetoric (Robinson and McNeill, 2004: 294). In the late 2000s, Annison et al. (2008) found that probation trainees still put their offenders first, despite a distinct punitive shift in terms of probation policy and Deering (2010) argued that a ‘new breed’ of probation trainees had, perhaps surprisingly, not emerged despite the extent to which probation could be understood as being underpinned by Feeley and Simon’s (1992) actuarial new penology and the management of ‘risk’. In more recent work, Robinson et al. (2013) identify a inconsistency between the official and unofficial aims of probation was stark with practitioners being more concerned with flexibility, outcomes, individualisation and the working relationship. Since the 1960s there has been increasing divergence between official and unofficial accounts of probation so that by the time of Grayling’s consultation in 2013, there was a distinct heterodox in the subfield of community sanctions. We can also see that probation practitioners have defined the aims of their work in relatively static terms over time:

practitioner accounts of what matters most in the routine supervision of offenders can survive significant periods of social, political, cultural and even economic fluctuation—indicating that agency and discretion survive within contemporary practice.

(Grant and McNeill, 2014: 14)

It might be argued that practitioners have internalised managerialism to some degree (Phillips, 2011), and there have been adaptations in practice in response to changes in policy (Robinson et al., 2013). It is here that we can see the ways in which the field inculcates

particular dispositions over and above the values that are absorbed through early childhood experiences (*habitus*) or occupational acculturation (*secondary habitus*). That said, despite myriad ‘penal turns’ practitioners seem to define success in similar ways to their predecessors, and work in similar ways (Grant, 2016). It is these ‘welfarist’ facets of probation practice which serve to constitute the probation habitus and it is the case that practitioners have been resilient to changes in emphasis in the field in which they operate:

The Scottish and English fields of criminal justice appear less successful in shaping more punitive dispositions amongst penal agents involved in the community side of punishment.

(Grant, 2016: 763)

Such an argument, that sees probation workers as ‘durable agents’, is often presented in positive ways, as a ‘curious ability ... to resist the influence of punitive discourse in their attitudes, actions and approaches to practice’ (Grant, 2016: 764). Whilst Grant’s analysis may be accurate here, a Bourdieusian analysis draws our attention to the fact that that practitioners were, in the run up to TR, operating at a pole in the field which was not imbuing them with the capital needed to influence policy and priorities. Probation practitioners did acknowledge the importance of public protection and meeting targets but this was not, for them, the main motivation for working in probation.

Alongside the durability of practitioners’ habitus has come a considerably change in the logic of the field in which practitioners are working. The subfield of community sanctions gains legitimacy from a range of stakeholders such as the public, offenders, victims, politicians and so on. Over the last thirty years, actors at the autonomous pole of the subfield of community sanctions have increasingly attempted to legitimate probation through tougher enforcement action, more punitive community sentences and a greater focus on binary measures of reoffending rates (Robinson and Ugwu-dike, 2012). Prior to TR, success was defined in terms of reconviction rates, rates of enforcement, compliance rates, and key performance indicators such as numbers of people put through a programme or timeliness targets. Meanwhile, practitioners remained focused on the ineffable nature of probation practice and its effects (Canton, 2012; Whitehead and Statham, 2006). Rather than focusing on, for example, ‘the slowing of criminal careers’ as a legitimate objective of probation practice (Robinson et al., 2013), the logic of the field was becoming structured in such a way that legitimacy was garnered through rewarding providers with reducing the reoffending rate, protecting the public from crime, working with victims or providing suitable sentences to the courts

(Robinson et al., 2017). Thus, whilst Robinson et al. (2017) argue that ‘the moral obligation to help improve offenders’ lives which has animated probation work throughout its history is now sharpened by a new instrumental imperative to deliver profits for shareholders’ one could also suggest that this moral obligation bears little relationship to the way in which the autonomous pole of the field is structured. In turn, this means that the habitus of probation, which was still very much predicated on this moral obligation, resulted in a form of capital which was undervalued by the logic of the field.

Alongside the effect of a durable habitus on the forms of capital with which agents are imbued, we can also take a closer look at specific forms of capital. During the 1990s and 2000s the legal, policy and training framework worked to turn probation officers into enforcement officers who did the bidding of the court rather than being an arm of the court and removed them from the social work profession. Being an ‘arm of the court’, meant probation staff could draw significant levels of capital from this group of important penal actors. Probation has slowly had its role in the court weakened through an increased emphasis on oral reports and what Robinson (2018) has characterised as the McDonaldisation of court work whereby jobs are deskilled and transformed to achieve efficiency, calculability, predictability and control. The requirement for a social work qualification linked probation officers with the social work profession until the requirement for probation officers to be social work qualified was removed in the mid-1990s. This led to the depreciation of practitioners’ symbolic capital because they no longer need to be registered with a professional body. Moreover, the Criminal Justice Act 2003 worked to turn probation workers into brokers rather than providers of services which further reduced their social capital because the links to professions such as psychology and social work became less important in the day to day delivery of the work. This further exacerbated the impact of the government’s decision to remove the requirement to be social work qualified. One might also add, the emergence of initiatives such as What Works, the reliance on accredited programmes which are delivered according to a manual, and the deprofessionalisation of probation practitioners is manifold. Other examples of how probation practitioners’ various forms of capital depreciated over the years include, for example, the loss of a raft of Chief Probation Officers in the run up to the creation of the first National Probation Service in 2001 which left the service lacking in terms of valuable human and cultural capital. Other research has suggested that probation officers see themselves as doing the dirty work of society (Worrall

and Mawby, 2013) which, in turn, results in less prestige and symbolic capital. This whole process could be summarised by Robinson's characterisation of probation as the 'Cinderella' of the criminal justice system (2016). Despite being focused on probation scholarship (rather than practice), Robinson highlights the invisibility of the field and questions over probation's role in the delivery of punishment as explanatory factors for a neglect of probation, and therefore also its practitioners. The central point, though, is that these changes in the field worked, in conjunction with a habitus which did not 'keep up' with changes in the field, to leave probation practitioners and their allies with a significant deficit in penal capital.

Capital can, in many respects, be likened to power and all forms of capital can be exchanged for power if the conditions of the field allow. Thus it allows us to analyse not just what capital people in a field might have, but also how it is valued and what its exchange value might be. It is clear from the preceding discussion that probation practitioners lacked the 'right' forms of capital with which to influence penal policy and determine priorities in the run up to TR. That said, probation practitioners had begun to 'catch up' with the changing field – as seen above, practitioners had come round to accepting public protection as a key aim of probation and had, to some degree, internalised managerialism as a way of governing probation. In some respects this reflects an acceptance of their diminished influence – acquiescing to managerialism meant they were less able to resist yet more managerialism in the form of marketisation.

However, as TR emerged as a piece of policy reform the field shifted again and defenders of a public probation service were unable to keep up. TR was not sold by the government in terms of public protection and meeting key targets. Rather, the rationale, ostensibly at least, was saving money (in line with the Coalition Government's austerity agenda) and reducing reoffending. Opponents of the reforms did not mount a defense on those terms. Rather, as discussed in Phillips (2014) they focused on the potential 'dangers' of TR (i.e. public protection) as well as the case that probation did not need reforming because Trusts were meeting key targets. The defence was laid down, but in the managerialist terms which had characterised probation in the first decade of the 21st century. Actors had 'caught up' with the heteronomous pole of the field as defined by New Labour but not with the way it was being structured by the Coalition government. Thus, they were left stranded with the wrong form of capital to mobilise in their defence of a public probation service. The conditions for change were very much in the government's favour and so the reforms occurred not because of a

failure to act but because the logic of the field was structured in a way which worked to silence opposition and bolster supporting voices.

4 Conclusion

This chapter has brought together the concepts of habitus and field in the field of community sanctions to highlight the ways in which agents' positions in the field shapes their actions and subsequent ability to shape the field. Such an analysis allows us to identify ways in which different actors, or groups of actors, in any subfield are positioned to influence, prevent or succumb to change that is being imposed by actors at the heteronomous pole. This chapter demonstrates that if we use Bourdieu's analytic framework to think about where agents are situated in any given field and the forms of capital which they possess and mobilise, we can better understand how policies and priorities might be influenced and resisted in future attempts to privatise sections of the criminal justice system (or any area of social policy, for that matter). This chapter needs to be understood as a case study of probation privatisation. This type of analysis can, and should, be conducted with other subfields to better understand how and why opposition to reforms will result in varying degrees of success.

Finally, and to put it bluntly, the failed reforms of the government were unable to be resisted at the time of their imposition, because the government had chosen and prepared the field of battle in advance. By limiting discussion to arguments relating to metrics and efficiency, probation practitioners were effectively outflanked by a government which made its stand in terms of reducing reoffending and protecting victims albeit in a system which turned out to be fundamentally flawed.

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