

Moving forwards or paying back? The unpaid work element of the community order

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The sight of increasing numbers of offenders performing compulsory work at a time of significantly rising unemployment makes for a disturbing view. However, this vision is becoming more likely thanks to the plan to double the amount of unpaid work annually performed by offenders to 10 million hours by 2011 (Home Office, 2006). It is also intended that this vision is witnessed because the millions of hours have to meet the requirements of the Visible Unpaid Work Strategy, otherwise known as ‘Community Payback’. As a result, the work that offenders undertake must be visible to the community and the display of the right kind of images is paramount. This method of administering the sanction has replaced an evidence based approach that sought to prioritise elements of good practice that were known to be effective in reducing re-offending. The fact that this widely used form of sentencing subordinated detailed research findings to the demand for visibility reinforces the case for the development of a Visual Criminology as recently expounded in Criminal Justice Matters (Issue 78).

The need for doubling the use of unpaid work has not been clearly explained, but a glance at various government-backed websites reveals the total to be currently hovering around 8.5 million and there are claims that these hours are worth almost £50 million to the economy. The misleading nature of these figures is caused by the simple use of the hourly rate for the minimum wage as the multiplier and therefore a vast range of costs are neglected, such as those associated with the actual offence and its process through the justice system. In addition to dramatically increasing the amount of payback, the Visible Unpaid Work Strategy also appears to have modified its meaning, as an approach based on ‘making good’ seems to have been replaced with a more retributive interpretation.

The original payback

The term ‘payback’ has always had a presence in the sanction’s rationale, as the notion of offenders paying back the harm they had been deemed to cause was an integral part of the sanction’s original philosophy. Its reparative features were perceived as giving a new dimension to sentencing at a time when ‘nothing works’ was looming and pessimism with the existing punitive options was common. The positive perception of what payback could involve was partly the reason why the proposal was so quickly enacted and then so frequently used by the courts. It was hoped that offender-only work groups would be the exception and wherever possible offenders would work alongside non-offenders.

By the early 1990s the number of community service orders approximately equalled that of probation orders and ‘payback’ was featuring prominently in the sanction’s discourse. In 1993 an edited collection of community service’s good practice was published in *Paying Back: Twenty Years of Community Service* and the optimistic meaning of the term was clearly apparent:

The collection is unashamedly celebratory and includes nine pages of sunny photographs of schemes, offenders and recipients. (Worrall and Hoy, 2005)

Comment [d1]: The title of the piece should be one of the first things to guide your thoughts for what the academic writing is trying to convey. In this article, I intentionally used a provocative question to get readers to immediately consider the tensions and opposing attitudes in unpaid work’s policy and practice.

Comment [d2]: The phrase ‘has not been clearly explained’ is a form of code to get the reader to think critically about possible use and abuse in this method of sentencing. The simple financial figures later in the paragraph were included to support this potential argument of abuse – hopefully there is sufficient commentary to show I do not agree that merely multiplying the total number of hours worked by offenders with the hourly rate for the minimum wage, is valid proof of the financial worth of this method of sentencing.

Comment [PJ3]: The sub-headings are not that important in this piece due to its short length, but in longer pieces such as in the *British Journal of Criminology* they are absolutely vital for breaking academic writing down and organising your thoughts.

Comment [PJ4]: To promote its aim for a wider readership, the required style of writing for the journal *Criminal Justice Matters*, limited authors’ use of other sources and also precluded standard Harvard Referencing conventions such as page numbers following a direct quote.

The type of work performed may not have accorded with the original desire to avoid offender-only work groups but was construed positively, and it took place in a variety of community spaces such as nature reserves and adventure playgrounds. The work may also have involved close relationships with beneficiaries and therefore tasks were performed such as decorating or gardening for those in need; driving for, or attending to, people in need of care; general assistance in geriatric and psychiatric hospitals; supervising adventure playground activities; and running football teams (Whitfield, 1993). These tasks provided opportunities for offenders to attain new skills, to develop empathy with vulnerable members of society, or for acquiring a sense of responsibility; issues that were being simultaneously established as being beneficial in terms of recidivism (McIvor, 1992).

Comment [PJ5]: This range of detail for what offenders used to do on the sanction, under the old interpretation of 'payback', was provided to illustrate clear differences with the 'one-size-fits-all' approach of Community Payback.

The extent of the good practice that was being revealed by research resulted in the establishment of pathfinder projects in ten probation areas that led to a method of delivering the sanction known as Enhanced Community Punishment (ECP) being introduced in 2003. It was typical of the confusion (or flexibility according to some) in the sanction's rationale that only three years earlier the name of the orders had been changed from community service to community punishment. Nonetheless, ECP represented official policy and the benefits for the offenders were prioritised. Consequently, the projects were supposed to focus on issues such as offenders' skills development, their relationships with the beneficiaries of their work, and the potential impact of the staff supervising the work. It was hoped that ECP would see an end to the routine nature of the work then customarily required, a type of work succinctly described in 1999 by the Howard League's 'Do Women Paint Fences Too?' study of female offenders on community service. It is questionable whether ECP achieved its aims, as it was found that the 'painting fences' model still persisted (Johnson, 2009).

Whilst these findings may represent unfulfilled potential it has to be recognised that the measurement of skills development and its subsequent effects is extremely difficult to ascertain. This issue is even harder to assess if 'skills' are given a broad interpretation; a point illustrated in McIvor's study where one offender commented: 'It's not a new skill learning how to wash dishes!' (1992).

Comment [PJ6]: If this was a longer piece, I would have gone into far more detail about the supposed benefits of the ECP approach.

Visible payback

Like community punishment orders, ECP's reign as the leading policy was short-lived and it was replaced by a strategy that had very different priorities. The introduction of Community Payback required that all the delivery of compulsory unpaid work took into account the need to promote visibility. It was originally stated that the display of signs and plaques at the projects' site to note the offenders' contribution would be sufficient, but this has since been extended to include the wearing of high visibility jackets and to ensure that the work is performed at times when the most number of people will be able to see it taking place.

Community Payback also aims to engage the community by giving them the right to vote for what work offenders should perform. The totalitarian nature of this election should ensure that the public will not make the wrong choice as their choice is restricted to 'local clean up campaigns and other improvements to a local area' (Home Office 2005). The nation 'got their say' in the government's 'Justice Seen, Justice Done' campaign of 2009 where 270 potential projects were short listed from 54 local probation areas and were subsequently advertised on

Comment [PJ7]: 'Totalitarian' refers to government through dictatorship – so whilst on paper the public may have 'had a say' it was limited considerably by the single choice of the Community Payback approach.

the government web site Directgov. The projects revealed a markedly different approach to 'payback' as 238 of them stipulated that one or more of the following would be required: the clearance of dense overgrowth of trees and shrubs, a 'deep clean' of the project area, the removal of fly tipping, and the clearance of litter or graffiti. It was reported that 18,000 votes were cast and out of the 54 'winners' only seven did not require this type of work.

Comment [PJ8]: Hopefully the inverted commas around 'winners' demonstrate my beliefs of the hollow nature of this victory.

The importance of visual images to Community Payback is further confirmed by 160 of the Directgov projects being accompanied by photographs. This type of initiative therefore complemented Community Payback's presence on other popular and visual web sites such as YouTube and flickr. Whilst the use of the internet may make unpaid work appear to be a forward looking sanction, there is evidence to suggest that its effects on increasing community engagement are very small (Johnson, 2009); furthermore the reliability of the Directgov data is questioned by the fact that individuals could vote more than once and for any project in any local probation area.

Comment [PJ9]: There was insufficient space to analyse whether those people engaging with 'Justice Seen, Justice Done' were already involved in working in the criminal justice system. I knew people could vote more than once, as during this campaign, I cast four votes in two probation areas – unsurprisingly none of my choices 'won'.

Grot spots and intensive payback

In the last couple of years the term 'grot spot' has been used by probation areas to explain some of the types of work that offenders will be expected to do. The public are therefore informed that the work is so unpleasant that no right thinking person would contemplate performing it. The 'painting fences' standard does therefore seem to be changing as the type of renovating and gardening it implied has been replaced by a more physical type of experience with an emphasis on removing dense overgrowth and performing deep cleans. It is possible for large groups of offenders to perform this work as they are supposed to be placed in groups of ideally no more than ten offenders per supervisor, as opposed to the previous maximum of six.

The ratio of offenders to supervisors is not the only thing to be increased, as the 2009 Green Paper 'Engaging Communities in Criminal Justice' sought to treble the number of weekly hours performed by some offenders. It is proposed to extend the recently piloted Intensive Community Payback scheme and apply it to unemployed offenders only. The offender would then be required to perform 18 hours of unpaid work each week. The reasons for distinguishing the unemployed were not explained apart from an unsubstantiated claim that it will assist an offender to comply with their order. This proposal may speed up the completion of orders but it does little to clarify the absurd position of work being increasingly denied to people yet more frequently given to them as punishment. However, this is not a unique position as during the recessions of the late 1970s and early 1990s the numbers of orders annually imposed actually increased. Therefore it would seem that the current '10 million target' is unlikely to be threatened by such a paradox and if the target is attained then the visual spectacle of Community Payback with its emphasis on visible and physical humiliation is likely to be responsible.

Comment [PJ10]: This part again criticises policy for not providing adequate explanations. In a longer piece, I would have considered the marginalisation of unemployed offenders as well as the lack of logic in work being a method of punishment in times of widespread unemployment.

Comment [PJ11]: This last sentence invites the reader to recall Foucault and the spectacle of punishment vividly captured in the opening chapter of "Discipline and Punish".

References

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