



Lamble, Sarah (2014) The marketisation of prison alternatives. *Criminal Justice Matters* 97 (1), pp. 14-15. ISSN 0962-7251.

Downloaded from: <http://eprints.bbk.ac.uk/10859/>

Usage Guidelines

Please refer to usage guidelines at <http://eprints.bbk.ac.uk/policies.html> or alternatively contact lib-eprints@bbk.ac.uk.

The Marketisation of Prison Alternatives

Sarah Lamble explores why market logics curtail possibilities for genuine alternatives

In 1976, Michel Foucault warned against the dangers of institutionalising alternatives to prison. Noting how seemingly progressive strategies can re-enact similar punitive functions to that of the prison, he argued that: ‘the carceral objectives of resocialization through work, through the family and self-culpabilization, are now no longer localized in the closed space of the prison but are being extended and diffused throughout the whole of the social body’ (1976/2009: 16).

Thirty-five years later his remarks remain strikingly relevant. Surveying the range of ‘alternative’ criminal justice sanctions available in England and Wales—such as community payback, antisocial behaviour injunctions, electronic tagging or parental responsibility orders—it is clear that many of these schemes replicate prison logics, albeit through different techniques.

Alternatives that are not alternatives

As many scholars note, well-intended alternatives often fall prey to a number of persistent flaws:

1. *False promises*: Although alternative schemes are designed to reduce the use of prison, in practice they can supplement rather than replace custodial sentences. The increased use of community sentences, for example, has not corresponded with decreased use of prison sentences. Instead, community sentences have tended to displace other (often less onerous) non-custodial sanctions (Mills 2011). When applied to people who would not have otherwise received a criminal sanction, alternatives can also function as net-widening tools, which increase the number of people who are subject to criminal justice controls.
2. *Expanding discipline and social regulation*: Many alternatives relocate the prison’s disciplinary techniques within the community, home, school and workplace. When a person is subject to electronic tagging, family members can become de-facto jailers; a parent must keep constant watch over her son’s whereabouts to ensure he keeps his curfew; a partner may face the dilemma of whether to report her spouse’s problematic drug use. Social service agencies that aim to support ‘at risk’ individuals are turned into compliance officers who report missed appointments as violations rather than as signs of needing support.
3. *Normalising punishment*: The extension of surveillance and control into the community may seem preferable to state-led regulation, but such strategies reinforce the assumption that discipline and punishment—rather than accountability and support—

are the most effective and appropriate responses to law breaking. For example, the Coalition Government's recent reforms to make community sentences 'tougher and more intensive' have been introduced to ensure these sentences are not seen as a 'soft option'. Such alternatives thereby re-entrench rather than challenge punitive logics.

4. *Focussing on individuals, neglecting root causes:* Many alternatives replicate the prison's focus on diagnosing, treating and disciplining individuals rather than addressing wider social, economic and political conditions of harm. The underlying assumption is that law-breaking is the result of poor choices by flawed individuals who need to be taught, trained and coerced into better 'life management' and coping skills. Rehabilitative efforts—such as cognitive behavioural therapy—often fail because they misunderstand the complex reasons why people come into conflict with the law and do little to alter the broader circumstances that lead to the offending behaviour. Employment training, for example, is ineffective if there are few jobs available or employers are unwilling to hire people with criminal records. Likewise, teaching money management skills as a response to poverty-related crimes will do little good if the underlying problem is low wages and high living costs.
5. *Reinforcing inequality:* When alternatives focus on 'fixing' individuals—whether through training, treatment or rehabilitation schemes—broader patterns of inequality and discrimination are obscured. For example, as Pat Carlen (2012) argues, rehabilitation programmes primarily target poor, working class and racialised people, rather than those who commit white collar or corporate crimes. In doing so, such strategies maintain the status quo of inequality.

Why marketisation further limits the scope for alternatives

These problems will likely become more acute with the implementation of the Coalition Government's *Transforming Rehabilitation Agenda* (2013), which introduces a 'new market model' for probation and rehabilitation services. The Government's strategy 'to increase efficiency and drive down costs' through competition and 'payment-by-results' will limit the landscape for developing genuine prison alternatives in several ways:

1. *Missing the target:* Payment by results schemes assume that competition and financial incentives will improve services, lower re-offending and reduce the prison population. The problem is imagined to be flawed individuals and inadequate rehabilitation efforts (i.e. a failure to correct those flawed individuals). Yet, the Ministry of Justice's own analysis (2009) reveals that the single largest contributor to prison growth over the past 20 years has been changes to sentencing policy—more people are given prison sentences and those who receive them are subject to longer periods of custody. By failing to tackle legislative and policy reforms that have increased criminalisation rates overall, systemic level issues fall off the policy agenda.
2. *Investing in criminal justice responses rather than prevention:* Despite financial incentives to reduce re-offending among 'repeat offenders', payment-by-results schemes do not include incentives to prevent offending in the first place. In fact, they create a reverse incentive to increase the number of new entrants to prison in order to

maintain a steady flow of business. Reducing crime overall would potentially put for-profit companies out of business.

3. *Prioritising short-term policy targets at the expense of long-term social change:* Forcing service providers to compete for contracts means that organisational priorities are refocused around securing funding, marketing services and meeting short-term policy targets rather than developing long-term goals. Service organisations that were previously motivated by a broader social change mandate must adopt more business oriented market models that focus on individual behaviour management.
4. *Limiting political imagination:* Market-driven schemes normalise neoliberal political rationalities, which then limit the horizon of possibilities for developing genuine alternatives. As Wendy Brown argues, neoliberalism casts all human and institutional activity,

as rational entrepreneurial action, conducted according to a calculus of utility, benefit, or satisfaction against a microeconomic grid of scarcity, supply and demand, and moral value-neutrality. Neoliberalism does not simply assume that all aspects of social, cultural and political life can be reduced to such a calculus; rather, it develops institutional practices and rewards for enacting this vision (2005: 40).

Within the neoliberal frame, law-breaking is reduced to a consequence of poor personal choices. Crime reduction initiatives are accordingly reduced to incentives and sanctions designed to shape individuals into self-disciplined governable subjects, or to lock up, medicate or otherwise abandon those who are deemed ungovernable. This framework makes it difficult to identify broader issues which contribute to an expanding criminal justice system—such as growing wealth inequality; changing health, welfare and immigration policy; and systemic discrimination—and make it harder to imagine the kinds of social change that are needed to address these issues.

Rethinking the criteria for alternatives

Acknowledging the limits of contemporary ‘alternatives’ is, however, politically risky. In the current political climate where most prison alternatives are not given as many resources, political support or opportunities for development, critiques can risk feeding a sense of demoralization, a conclusion that nothing works, that the problems are too big to tackle or that every alternative is hopelessly flawed. Conversely, to combat this pessimism, advocates of alternatives sometimes resort to overly romanticised accounts of new initiatives, which overstate their potential benefits and make dismissing them easier.

What is needed are better frameworks for evaluating, prioritising and developing robust alternatives that do not pander to neoliberal logics and contribute to criminal justice expansion. This means asking different questions:

- Does the proposed alternative target individual, institutional or systemic level problems? What assumptions are made about the underlying problem?

- Does the proposed alternative reduce the use of punishment, surveillance and control, or will it expand, entrench or normalise carceral power?
- Which groups of people are most and least likely to be targeted by the initiative?
- Does the alternative challenge or reinforce patterns of inequality and discrimination?
- Is the alternative approach less harmful than what it proposes to replace or could it create more harm?

Returning to Foucault (1976: 24), his fundamental questions remain unanswered. Ultimately the problem is not simply to imagine ‘a form of punishment that would be more gentle, acceptable or efficient’ but rather, whether we can ‘conceptualise a society in which power has no need for illegalities’. This question invites us to consider how to re-organise society in fundamentally different ways to move away from the current ‘economy of illegalities’. Foucault challenges us to contest the normalisation of carceral logics—within and beyond the prison—and to think about social problems differently. This task requires a set of deliberations and actions that arguably cannot take place within the confines of neoliberal market logics.

Sarah Lamble is Senior Lecturer in Law at Birkbeck College, University of London.

References

Brown, W. (2005), *Edgework: Critical Essays on Knowledge and Politics*, Princeton: Princeton University Press.

Foucault, M. (1976/2009), ‘Alternatives to the Prison: Dissemination or Decline of Social Control?’ *Theory, Culture & Society*, 26 (6), pp.12-24.

Mills, H. (2011), *Community Sentences: A solution to penal excess?* London: Centre for Crime and Justice Studies.

Carlen, P. (2012), ‘Against Rehabilitation: For Reparative Justice,’ Eve Saville Lecture, Centre for Crime and Justice Studies, 6 November 2012, <http://www.crimeandjustice.org.uk/resources/against-rehabilitation-reparative-justice> (accessed 1 May 2014).

UK Ministry of Justice (2013), *Transforming Rehabilitation: A Strategy for Reform*. London: The Stationary Office.

UK Ministry of Justice (2009), *Story of the Prison Population 1995-2009 England and Wales, Statistics Bulletin*. London: Ministry of Justice.