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Time and Punishment: a comparison of UK and US time bank use in criminal justice systems

Abstract

This paper explores two developments, one in the UK and one in the US, between time banks and the criminal justice system. The first is the time dollar youth court established in the US, the second an initiative between a UK time bank and a prison. Through an exploration of the differences in policy context in relation to time banks and the details of the two initiatives, this paper makes the claim that the universal practice of time banks, As such the paper claims that along with the importance of context, universal principles provide a key aspect of policy transfer.

Introduction

The development of time banks in the UK has closely followed the model established in the US. This development provides a useful insight into policy transfer to highlight the role of universal principles in encouraging policy proliferation. This paper explores this issue by examining time bank-based criminal justice initiatives in the UK (specifically England and Wales) and the US.

By their nature time banks require a at the local level exploring how universal principles locally construct initiatives which interact with national organisations to produce knowledge and practice that can be disseminated internationally. The paper will define time banking before considering the different policy contexts of the UK and the US which have shaped practice. This establishes a context for the analysis of two initiatives: the Time Dollar Youth Court developed in the US and the UK time bank prison initiative developed in Gloucester. By discussing the details of these initiatives it is possible to expose how the universal values develop schemes at the local level – an essential consideration for replicating these developments in other locations and leads to a discussion of the potential for policy transference between the US and the UK. The possibility of policy transfer is facilitated by the universal aspects of time banking, which cuts across policy contexts.

Time Banks

Time banks were designed, in the 1980s, by the US civil rights lawyer Edgar Cahn (2000a) as a means to rebuild diminishing social networks and informal neighbourhood support which forms the “core economy”. Operating as a community currency, time banks provide *time dollars* to individuals who donate time to help their communities, with each hour treated equally, regardless of the activity involved. Each hour of volunteering is equal to one time dollar, which can “purchase” an hour of service/activity from their community or used to access goods and services. For example, Toni uses one time dollar to be driven to the shops and back by Alex, who earns one time dollar. She then uses her time dollar for piano lessons from Phil, who

uses his earned time dollars to have Toni visit him as he is housebound. All these interactions are recorded by the *time broker*, responsible for recording how people spend and use credits and recruiting new members to the time bank thus increasing the range of skills and services available to members. Consequently time dollars operate on a different value system to mainstream national currencies which determines the value of activities based on scarcity and ability to create further money.

Underpinning time banks is the notion of co-production: a form of service delivery where service users are actively engaged in creating and delivering the services provided for their benefit. This ends devaluation of users in preference for treating them as valued assets with capabilities, benefiting both users and the wider community. Co-production establishes parity between service users and providers, whilst time dollars are used to reward user participation. This helps generate labour from the user which is vital for any service to be successful (for a complete account of time banks and co-production see Cahn, 2000a; Gregory, 2009; Needham, 2007 and NEF 2004, 2007, 2008a, 2008b).

Cahn established co-production to rest on four core principles: treating *people as assets* capable of contributing positively and productively to a service; *redefining work* to accept a wider range of activities for their beneficial outcomes; *reciprocity* as the defining characteristic of the relationship between members and time banks as a practical means of establishing *social capital* within a community, to ensure community cohesion and re-establish trust in local settings. Whilst these principles are often accepted uncritically by the time bank movement it is possible to highlight a few theoretical points of contention.

For example, Fitzpatrick (2005) shows how the ideas of motivated self-interested (examined fully by Le Grand, 2003) could actually be interpreted as reciprocity. Thus rather than establishing the implied, beneficial, two way relationship, time bank members could be motivated by their own ability to access services through time credits. However it is perhaps more appropriate to describe the principal of reciprocity built into time banking as existing between motivated self-interest and “altruistic reciprocity”. In practice it establishes two way relations between members, but the reasons for participation can range between the two polar opposites. Where social capital is concerned there is potential to draw similarities with another policy area: community health. Whilst a number of studies outline the benefits of focusing on social capital to improve community health (for example Gillies, 1998 and Lomas, 1998) others have pointed out that such an approach often ignores wider structural factors (Muntaner and Lynch, 1999; Amin, 2005). It is therefore possible that an approach to criminal justice which draws on the same theory of social capital could face the same limitations.

Time banking and time dollars were first developed in the UK ten years ago, gradually growing to 109 time banks in the UK as of 2008 (NEF 2008b). Operating on the same basis (although offering *time credits* as opposed to time dollars) they remain local initiatives designed to develop the social

economy within communities, drawing on the universal principles of co-production. Their application to public service provision is advocated by the New Economics Foundation (NEF). More recently attention has been drawn to the potential of time banks within the justice system: predominately in relation to youth justice but also within prison services (see Drakeford and Gregory, 2010, Gregory, 2008). This paper intends to focus on these criminal justice developments and explore their development alongside that of Time Dollar Youth Courts (TDYC) in the US. Prior to this it is important to set out the slight differences in policy context in which time banks have developed within these two countries.

Time Bank Policy Context

Both the UK and the US show no differences in the basic operation of time banking. Time bank members in both countries earn their time credits in the same way, follow the same basic principles and national governments have ensured that they are exempt from taxable income (Cahn, 2000b; Seyfang, 2006). However whilst Cahn (2000a: 128-31) explains the potential to use time dollars to access a list of goods such as refurbished computers, this is not possible in the UK. Seyfang (2006: 8) highlights the belief of UK time bank organisers and members that the ruling on benefits is not sufficient. The Department of Work and Pension (DWP, 2008) guidelines consider any time credits used to “purchase” goods to count as earned income. Thus Seyfang (2006: 8) explains that:

‘In the USA, local businesses take part in time banks by donating surplus goods or services, which can be “bought” for time credits. This is a useful way of attracting participants with economic needs, and widening the range of useful services that may be obtained on the time bank, and such a strategy in the UK would increase the benefits of time banking to the socially excluded enormously’.

Additionally the DWP can perceive participation in time banking as an indication of ability to work, subsequently altering benefit entitlement. Consequently involvement in time banking can be disadvantageous to benefit claimants, the very groups of people for which time banks provided greatest benefit.

Youth Courts in Context

Before explaining the operation and impact of the TDYC initiative it is important to draw further distinctions between the US and the UK. Within the US, youth courts are well established, community instigated initiatives. Across the US there are four models of youth court (youth judge, adult judge, youth tribunal and peer jury), each operating in a slightly different way but at their core they rely upon interaction between young offenders (referred to as respondents) and their peers. Additionally these courts offer the same range of punishments to respondents. The American Bar Association (2002: 9) explains:

'...the underlying philosophy of youth courts is not merely to punish youth. Instead, the deliberators work through creative ways to have respondents understand that their behavior (sic) has harmed others and the community. To help bring closure, respondents are provided ways to repair the harm that they caused. Specific needs of the respondents are identified and the disposition is directed at building competencies in them. The disposition involves the community in new ways of working with offenders.'

This creative work often includes respondents themselves serving on the jury, thus not excluding respondents from law-abiding peers, associating with stated benefits of Department of Justice research which advocates the use of law-related education for its positive benefits on young people and ability to reduce delinquency (American Bar Association, 2002: 12). Additionally sentences can include community service hours, educational classes, mediation, restitution, apology, essays, counselling, curfew, drug testing, school attendance, peer discussion groups, and other creative dispositions.

Yet in the UK, youth courts in England and Wales operate for young offenders between 10 and 17 years of age, as part of the mainstream criminal justice system. The differences between the youth court magistrate and a magistrate of another court is that the former has received special training in dealing with young people, there is no public gallery and restrictions are placed upon press reporting of proceedings, the court retains a clerk, prosecutor and defence solicitor like any other court. Sentences include Detention and Training Orders (up to 24 months) and a range of community sentences (Youth Justice Board, 2008).

US Initiative: the case of the Time Dollar Youth Court

Time Dollar Youth Courts began in 1996 in Washington's District of Columbia. The initiative developed from a partnership involving the Time Dollar Institute, the University of the District of Columbia School of Law and the DC Superior Court, with the purpose of providing 'a meaningful alternative to the traditional adjudicatory format in juvenile cases' (Cahn 2000b). This partnership also allows for Law students to act as presiding judges, and to take part through helping monitor compliance with youth court dispositions and serving as buddies and mentors to volunteers.

Operating in a similar fashion to the "peer jury" model of youth courts, the professionalism of youth court organisation matches that of mainstream courts. TDYC activities begin at an Intake Unit where referrals are taken and young people are interviewed in the presence of their parents or guardians prior to the court appearance. Within the court itself, proceedings allow for the jury to hear the charge, the facts of each case, the police version of events and the testimony of the young people and their parent. Following a dialogue and questioning period the jurors are then given time to deliberate on the case and decide the sentence. Any TDYC sentence incorporates a mandatory requirement for the respondent to serve in the youth court for a period of ten weeks, including a two week training period linking in with evidence indicating

benefits of law-related education to reduce delinquency. Other aspects of the TDYC sentence match those of other youth courts outlined above.

The role time credits play in these courts can be clearly observed from an established programme allowing young people, as part of their sentence, to participate in a mentoring scheme with local schools. Here respondents are sentenced to time working with younger children, helping them to improve basic reading and writing skills. Such a scheme carries the distinct signature of time banking: the automatic assumption that young people need help is replaced by an attitude where they are seen as an asset with the capability to help others. The scheme transforms the time given to tutor younger children in to time dollars and establishes reciprocity between the young people and the school to jointly provide the new initiative, consequently establishing social capital. Earned time credits can then be used to access the reward of a recycled computer (a valuable educational tool), thus, Cahn (2000b) explains, '[t]he message for participants is clear: Helping others creates opportunity and you have the power to shape your destiny'. However respondents are not the only individuals to earn time credits. Those who serve as a youth court juror also earn time credits. These credits can be used to purchase a range of items including: recycled computers, youth project events, access to an extensive summer programme, college savings bonds and against the costs of admission and application fees at the University of the District of Columbia: also benefiting respondents who sit on juries.

The outcomes of the TDYC have also been quite clear. In its first year of operation the court dealt with 150 cases, increasing to over 400 in 2003, with referrals coming from public prosecutors, the police and the public school system. By 2007 the TDYC received 778 referrals (70% from the Metropolitan Police Department), heard 639 cases, involved 639 young people in juror training and saw 444 young people successfully complete their programmes. Recidivism data, gathered by the TDYC shows that the 12 month recidivism rate of those who successfully completed the youth court programmes was 17% - compared to 30% for the control group – in 2003 (TDYC, 2004). At present this recidivism rate equals 14% (TDYC, 2008).

Finally the role that TDYC's play in reform of the criminal justice system differs from other youth courts. The TDYC operates a Youth Grand Jury which provides a voice for young people within the youth justice system and is responsible for collecting and analysing data to disseminate to policy decision makers. This work has led the American Bar Association (2002: 29) to conclude that, 'The Time Dollar program is the only one to move beyond service delivery to system reform. To address the issue of unresponsive systems and gaps in delivery, a youth grand jury was created. The youth grand jury, staffed by a law professor and law students and facilitated by a youth facilitator, collects and analyzes facts and then speaks to adult decision'.

As Cahn (2000b) explains, TDYC's show that youth justice is not something which is done to young people; for it to be effective it is done *with* them, as co-producers: time banking practice is the means by which this can be achieved.

It is with this in mind that the paper now focuses on the UK, to examine time bank initiatives operated in partnership with a prison.

Prison Time

The Fair Shares time bank has established a presence at HMP Gloucester, starting with the Family Centre. The Prison Family Centre provides support to the families of inmates. In 2003 the centre became an organisation member of the time bank, thus allowing volunteers to work in the centre to help run a crèche and provide alternative therapy (such as massages to combat visiting stress). As the partnership developed it became possible for time credits to be earned by inmates involved in voluntary work, thus earning time credits while serving their sentences. These recent developments have received interest from the Ministry of Justice which is now considering the potential expansion to other prisons (see Straw, 2008; Time Bank UK, 2008b).

The first scheme to be developed with HMP Gloucester involves inmate participants refurbishing old bicycles donated by the community. Once refurbished the bikes are shipped to developing countries for the benefit of the local population. Each year around 200 bicycles are restored and the only constraint on the scheme is the need for additional resources to fund the purchase of materials and equipment to facilitate refurbishment work. Inmates earn time credits for every hour they spend working on the bicycles and these credits can then be given to their families or placed into a community pot for members of the Gloucester community to access time bank services. Building on the success of this initial scheme Fair Shares has encouraged the development of a tutoring scheme (Toe-by-Toe) where inmates who have completed literacy and numeracy courses, take on the role of peer tutor and help fellow prisoners on these courses. Tutors earn time credits which again can be given to the community pot or their families. Further schemes developed include a mentoring scheme: the Listeners. Here prisoners are trained by the Samaritans, to act as someone capable of listening to the worries and concerns of fellow inmates and offer them advice and emotional support. Again those who participate earn time credits in the same way as the above schemes.

Many of the credits are donated to the community pot and as a member of the time bank the family support unit in the prison is able to allow the families of inmates to access credits to provide them with a range of services. A more recent development by Fair Shares has allowed inmates to retain some credits for themselves which permits inmate members to access a new scheme currently being developed. Here Fair Shares have supported a number of members outside the prison to develop their skills using video cameras with full sound and editing skills. These skills/services are then accessible by inmate time bank members to use time credits to record letters home or read out stories for their children which can then be transferred to DVD and sent to the family. This has the benefit of tackling the costs of visiting which may prohibit regular visits but also, in relation to visual letters home, to overcome potential illiteracy barriers which discourage inmates from writing to their families.

Retaining some time credits also provides support for prisoners on their release. As time bank members ex-inmates are already part of a social network, although their physical presence has previously been limited by their incarceration. In an attempt to make a physical connection between these members and the wider social network, Fair Shares aims to establish a new scheme where, upon release, these members are met by volunteers. From here they can get help, for example, in searching for accommodation and accessing to time bank services, further locating the individual within the social network: the presence of time credits increases the resources these individuals will have at their disposal. This scheme, as with all the others, has been possible due to a productive partnership between the time bank and the Offender Management Team; reflecting the importance of establishing local partnership as is the case with TDYCs.

To date some 3,000 hours have been credited through time bank activity at the prison (completing around 2,000 activities), the majority of which have been sent to the families of prisoners or placed into a “community pot” at the time bank (Fair Shares, 2008). The success of the scheme has led to a decision by the Ministry of Justice to roll out time banking at a further ten prisons, with a scheme being developed between Fair Shares and HMP Eastwood Park (a women’s prison) about to be started. Such a move paves the way for time bank activity in custodial settings with the criminal justice system, demonstrating that, even in the most unpromising circumstances, the unique approach of time banking can create opportunities and social networks, reciprocity and social capital, to produce real benefits for the individual and the community. This serves to remind inmates that despite being in prison, by helping others they have created opportunities to regain control over their lives.

Policy Transfer

Whilst the differences in time bank deployment in criminal justice systems have now been explained, a key consideration remains to be discussed: the potential for policy ideas to transfer between the two countries. In considering the potential to use the TDYC model in the UK, there exists no practical reason why such initiatives could not be developed. Whilst it would require the development of a different system of dealing with young offenders this is not a challenge based on the different operations of the two criminal justice systems. Rather it rests on a difference in attitudes. Implementation of TDYC in the UK depends on a conceptual shift which regards young people in trouble as potential partners in shaping their own futures, and the potential benefits available to young people from working through these problems with their peers. Once accepted, the use of time as a currency can unlock the potential, passion and aspiration of young people which is prohibited by a sense of powerlessness placed upon young people who experience the current youth justice system.

The establishment of a “Time Credit Youth Court” (TCYC) would require the creation of similar partnerships that have been forged in US communities.

Such a transfer however reflects two important differences between the systems in the US and in England and Wales. Firstly whilst Cahn and UK Justice Secretary Jack Straw use similar rhetoric, their approaches to time bank use within criminal justice systems differ. In Cahn's TDYC model the aim is to work within the criminal justice system to divert young offenders from the formal system and to provide them with new forms of help. Such an approach tackles first time and "minor" offending in a way which the criminal justice system fails to do. By diverting young people and offering time bank supported assistance, levels of recidivism are reduced thus preventing young people from getting into further trouble and leading to more punitive engagement with the criminal justice system. Whereas in England and Wales the approach adopted by Straw seems to reflect a desire for a more formal engagement with the criminal justice system, thus bringing people into a system which can offer them support and assistance through the rights and guarantees embedded in the sense of "justice" which is conceptualised differently in the US.

Secondly, whilst the TDYC system relies on local networks thus establishing an important key to success, its ability to impact on the national criminal justice system is limited. Whilst a TDYC Youth Grand Jury has been set up to campaign on behalf of young people, this can only impact on state law, as criminal justice is in state rather than federal control. However within England and Wales it is much easier to implement national change because the criminal justice system is controlled by the national government. However here exists a potential problem. The solution favoured by Straw supports formal engagement with the criminal justice system. The TCYC however would follow in the footsteps of Cahn to promote diversion and assistance. This would require a TCYC Grand Jury and youth justice workers campaigning for a different approach which combines the benefits of diverting young people, as was the case in the 1980s, with the provision of support and assistance to prevent future offending (see, for example, Haines and Drakeford 1998 for a more extended account of these developments). Any campaigning would also need to incorporate a campaign to clarify the relationship between time credits and welfare benefits as many older, young people will possibly be in receipt of benefits whilst engaged with the criminal justice system. The uncertainty in the England and Wales context, outlined above, therefore would need to be resolved.

The universal principles which underpin time banking could also facilitate the development of prison initiatives in the US. As with other time bank schemes there is a need firstly for local ingenuity and commitment to develop such schemes, followed by the establishment of partnerships to facilitate the development. Furthermore, for time banks associated with youth courts, the partnerships may already exist with District Judges. The support of the legal system may go some way to assist the establishment of a partnership with prison authorities and groups which can develop time bank practice. As always this rests on the need to change attitudes, not the system, through an acceptance of young offenders as assets who are capable of positively controlling and deciding their own futures in collaboration with, rather than

coercion by, service providers. This is achievable through time banking practice within the criminal justice system.

The compatibility of these different approaches and the ability to develop them in each country rests on the universality of time banks. The way in which time credits operate and are earned is the same, as is the value system which underpins their operation and guides their development. Subsequently it becomes possible to take time bank schemes out of one context and place them into another. Despite the slight differences in use of time credits, the real benefit, the development of co-production and the rewarding of community activity, and attempts to reform service provision to co-production through time bank use remains the same. The fact that time banks have been developed in the UK to closely follow the US model is the primary reason for this compatibility. Barriers to the development of time banking practice may persist, as outlined by Boyle (ND) and James (2005). Time bank development can be prohibited by the unwillingness of service providers to engage in new initiatives which can be perceived as not only limiting their control of the service but also fundamentally changing service operations. Yet as Gregory (2009) shows, the success of small scale pilot time bank projects are an effective means of tackling these barriers and developing time bank practice. The success of the small scale, Fair Shares/Family Centre project has led to Ministerial interest in time bank schemes in prisons. Government is considering the use of a form of practice which goes against the grain of market logic and the public service efficiency ideology: co-production. Starting locally, starting small and showing success will dissolve these potential service barriers.

Conclusion

This paper has explored the application of an innovative approach to social welfare within a context which is usually inimical to experimentation. Similarities between policy and practice in criminal justice services in England and Wales and the US have been regularly reported in the literature (see, for example, Singer 1996; Newburn and Jones 2005). Here, the investigation of time bank practice in the justice context has identified a wide range of universal features, alongside variations not only nationally but also locally. It has been argued that underpinning of universal principles facilitate the transfer of time bank practice. Despite this application of this practice fitting local context, its guiding principles remain. Accordingly, even in highly unpromising circumstance, the principles of co-production, engagement and promotion of social welfare, can be seen to have taken root. Time bank initiatives in England and Wales have to operate within a system which seeks to formalise engagement with the criminal justice system, in contrast to the US time bank approach which seeks to divert young people from it, the core concepts of time banking can be applied in both contexts. Equally, while services in England and Wales are more susceptible to whole-scale, system-change in comparison with the US, this has not meant that change at different levels has been possible in each jurisdiction. Context does matter, it can be concluded, but, as far as social welfare is concerned, being clear about

principles, and applying them consistently, means that lessons learned in one country can, indeed, be used positively in another.

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