

'Dangling Conversations' About Supervision: Reflections on our Athens conference

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For those who could and those who couldn't attend our recent conference in Athens on 'Compliance, Enforcement and Breach', I thought I'd share the gist of my concluding summary of the event.

Setting aside my own opening contribution (with Gwen Robinson) on 'Compliance, Legitimacy and Offender Supervision', which was based on two papers that some readers will know well, our first major contribution came from an unfamiliar voice and an unfamiliar discipline (to many of us). Prof Stef Decoene (who is both an academic at the Free University of Brussels and a practicing prison psychologist) questioned conventional criminological thinking on compliance by introducing us to how social psychologists understand how one person influences another.

The first -- and perhaps most fundamental challenge that he posed was that when we (as criminologists) discuss 'compliance', we indulge in a kind of collective use of euphemism; the word we should use is 'obedience'. For social psychologists the term compliance (and the term conformity) apply only to influence between people of the same status and/or in the same social group. When there is a difference in social status or a clear power differential, as in most criminal justice encounters, or when one social group is trying to influence another, obedience is the 'correct' term for the objective of the influence attempt. For Stef, this is not a moral or a normative claim but rather an empirically derived distinction. However, he (correctly) anticipated that many of us (both academics and practitioners) would find the term obedience difficult.

Reflecting on our conversations throughout the conference, I think this may be because obedience implies *submission*, and while we may typically want people subject to supervision to submit to its formal conditions, a lot of emphasis has been placed on more active forms of *cooperation* that seem to be implied in the aspirations and content of supervision -- which are often cast in rehabilitative (and sometimes welfarist) terms. Indeed, in my own talk, I had suggested a possible path to legitimate supervision that moved from formal compliance (based on instrumental mechanisms of incentive and disincentive) towards a more substantive compliance based on receiving help, developing an attachment (to the supervisor), and thus coming to see the authority as psychologically (and not just legally) legitimate.

But, of course, my law scholar colleagues (and in particular Christine Morgenstern) reminded me that, in fact, the obedience of submission to the formal requirements of the order is all that we can reasonably and lawfully *demand* of the person under supervision. Since these requirements (as I'll illustrate below) have real punitive weight, submission to them is all that is necessary for retributive justice to be done; and demanding anything further (in the way of substantive compliance or cooperation) would be to cross the threshold into punishment beyond the law (even if the intent is benign). That said, we can *ask* people to engage more substantively with the constructive intent of supervision (in terms of rehabilitation, reintegration or resocialisation) -- and we can and should do all that we can to *offer* assistance (not least to mitigate any unintended collateral pains of the punishment).

In my talk, I had also alluded to the work of Valerie Braithwaite on tax-payers' 'motivational postures' towards tax authorities. She distinguishes between postures of *deference* (which might represent commitment to or capitulation in the face of the tax authorities) and postures of *defiance* (which might include explicit resistance, game-playing or disengagement). Crucially, her empirical research shows that these different postures are discernible but that their relationship to tax-payers' actual compliance with (or obedience towards) tax regimes is contingent.

This idea of postures (or attitudes and dispositions) towards supervision came alive in our second session focused on the two pilot projects of our working group on experiencing supervision. Wendy Fitzgibbon presented some of the early findings from our ongoing 'Supervisable' project. In research sites in England, Germany and Scotland, we have asked people with lived experiences of supervision (past or present, and of whatever sort) to represent their experiences in and through photographs. In the images that Wendy shared (and in a different way in the pilot testing of the 'Eurobarometer' -- a survey measure of experiences of supervision -- that Ioan Durnescu presented), we found some evidence that postures of commitment and substantive, cooperative engagement with supervision are possible. However, by far the stronger message of the images was that supervision is experienced as pervasive and painful, particularly in the constraints that it imposes. While we make no claims that these pilot study findings are generalizable or representative, in the three sites the recurring images of *constraint* (and of *waste* and of *judgment*) seemed to endorse Stef's argument that, first and foremost, supervisees feel that they are compelled to submit obediently. And even when supervision becomes a positive and helpful experience (often represented in images of *nature and growth*), this does *not* mean that it stops being experienced as painful and pervasive.

In the third session, our working group on decision-making and supervision explored how 'breach' decisions are made (and avoided). Intriguingly, reporting the Spanish part of the multi-site pilot study, Ester Blay suggested that these judgments are much more about 'attitudes' (and hence postures or dispositions) than they are about the formal requirements of the law. The decision-makers (whether immediate supervisors, or managers, or judges) have dispositional postures towards supervisees, and they judge the dispositional postures (or attitudes) of the supervisee. If they deem the supervisee to be *trying to comply* (or obey), they are typically quick to re-interpret or to forgive formal non-compliance or disobedience. In the Spanish case, the decision-makers exercise of discretion seems to offer the promise of protecting supervisees from what might be seen as cruel or disproportionate enforcement. But, of course, supervisees in other contexts might be highly vulnerable to discretionary decision-making by powerful actors with different dispositions -- for example, in those US states where the approach to probation and parole is sometimes described as "tail them, nail them and fail them".

In the penultimate session, the working group on 'practising supervision' presented two papers. One came from Ines Sucic and Renata Tkalic (from Croatia). They offered and then evidenced an important difference between consent to the *order* itself (and its formal requirements) and agreement with the *content* of supervision (and the substantive expectations implied in that content). Their research revealed that, to use a Scottish term, Croatian supervisees are effectively compelled (not least by the threat of imprisonment) to agree to 'a pig in a poke'. They consent to an order the lived experience of which is shaped later by a 'treatment plan' over which they have little or no control and which

they typically had no idea would be so central to their supervision. In other words, they sort of agree to obey, but are offered little choice about the implications of required cooperation.

Jake Phillips then went on to use photographs from the working group's 'Picturing Probation' project (which has collected photos from practitioners in several countries) to explore the relationships between probation architecture and compliance. Drawing on Goffman's familiar concepts, Jake's presentation suggested (to me at least) that the front-stage of supervision (the buildings, the waiting areas and the interview rooms) often sets the stage for obedience rather than cooperation. Security measures in particular construct the supervisee as a risk or a threat, and control and constrain access to help in ways which might serve to set people up for *disengagement* and passivity rather than cooperation. On the other hand, where the architecture sets the stage for help, nurture and support, it might nonetheless also be an architecture of infantilisation -- and indeed, this was one of the themes that emerged in the 'supervisible' project's photographs (linked to the themes of both constraint and judgment).

While Jake's presentation left me pondering how we might imagine a utopian architecture for supervision (if that is not an oxymoron), Anthea Hucklesby's final presentation quickly sobered me up! Her fascinating account of the expansion and increased intrusions of electronically monitored forms of supervision (EM) posed some unsettling conundrums. One effect of EM, at least in some jurisdictions, is a focus on 'mere compliance' with (or mere obedience to) the formal requirements of the order, with little concern for substantive engagement and the potential for rehabilitation to support longer-term change. Some EM providers are now providing 'assisted compliance' (to borrow Mike Nellis's term) -- sending text messages and making phone calls to remind people of their obligations. This kind of assistance may be helpful in preventing breach, but it doesn't address needs or support change. Indeed, all it seeks is 'mere obedience' and all it offers is the avoidance of greater pains; and so it doesn't require probation officers or social workers to deliver it.

Moreover, Anthea talked about the possibilities created by GPS tracking. Whereas RF (radio frequency) location monitoring checks that a person is in the place at the right time, GPS tracking allows them to move, but it follows their every move. One technology (RF) monitors a restriction of liberty; the other (GPS) restricts privacy. In considering these two possibilities, there is a trade off between these two types of constraint. But how are we to weigh these pains and losses against one another -- and against the pains and losses of imprisonment that they are sometimes intended to replace.

Finally, why have I called this post 'Dangling Conversations'? The image above (from the supervisible project's Scottish strand) is a powerful one. It conveys the way in which the supervisee is left 'dangling' or hanging by the suspension implicit in supervision. This is a suspension of full access to social life, a suspension of the full rights of citizenship, a judgment (that the person must 'prove' him or herself) and a suspension of judgment (about whether or not he or she can really be 'one of us' again). And this suspension always occurs in the looming, immanent presence of a seemingly worse fate.

For me, it is the pervasive and penetrating quality of this suspension -- what we might call the haunting effects of a supervisory sanction -- that we now need to examine more closely. We need to continue to strive to understand how it is experienced. But we also

need to examine how the decisions around it are made: When and why is the hangman's hand stayed? When and why does he open the trap door? When and why does he leads the once condemned back down from the scaffold?). We must also study how practitioners seek to manage the paradox that cooperation is what they desire and really require (at least if they want to support change), yet obedience is all that is necessary -- and sometimes seems to be all that is valued in penal policy.

Too often and for much too long, probation research (at least in its Anglophone forms) has focused naively on the 'effectiveness' of what probation officers do. But these 'brief encounters' between supervisor and supervisee -- whatever they achieve or fail to achieve -- are only the more or less human interludes in the continuous lived experience of (sometimes interminable) supervision. The continuous part of supervision is the suspension and even if the haunting is by a friendly ghost, it still seems a frightening thing to endure.

On the other hand, perhaps I exaggerate. If people subject to supervision are commonly members of what Guy Standing and Loic Wacquant have referred to as the 'precariat', perhaps this sense of being haunted by marginality and insecurity, and by the threat of the penal state, is such a common feature of their lives that supervision adds less to their sufferings than we might imagine.

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