

Part III

Contemporary Issues in Criminal Justice

Transition, Women and Criminal Justice in Northern Ireland

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Introduction

With emphasis on imprisonment in a society in transition, this chapter focuses on women's experiences of the criminal justice system, from the most violent years of conflict through to developments which followed the Belfast/Good Friday Agreement (1998), notably the devolution of criminal justice to the locally elected Northern Ireland Executive. Proposals for a new women's prison are also examined along with recent community-based initiatives aimed at reducing reliance on custodial sentencing. Our analysis draws on primary research conducted by both authors with women prisoners and former prisoners, including Wahidin's research on female republican former prisoners' experiences of Armagh and Maghaberry (Wahidin 2015) and Moore's research (with Phil Scraton) on women's imprisonment in Maghaberry and Hydebank Wood (Moore and Scraton 2014).

Penological research demonstrates the gendered nature of criminal justice processes and acknowledges the damaging effects for women of incarceration within institutions and regimes designed with male prisoners in mind (Carlen 1983). In Northern Ireland the positioning of female units within predominantly male prison environments has given rise to serious and persistent rights abuses and marginalisation of women's needs, as documented by a series of inspections, monitoring and research reports. Throughout the conflict the inherent difficulties associated with women's imprisonment have been compounded by the prioritisation of security demands over care and rehabilitation (Moore and Scraton 2014). This chapter analyses how violence and sectarian divisions have shaped penal regimes, both for politically motivated and so-called 'ordinary' women prisoners and discusses women's responses to gendered control and punishment.

In analysing gendered experiences of criminal justice, we draw on international scholarship on women's imprisonment, with the aim of understanding how the situation in Northern Ireland is consistent with other jurisdictions and identifying ways in which the experience of conflict has uniquely shaped the Northern Ireland

system. The chapter opens with reference to research on the global expansion of the female prison population, the particular characteristics and needs of women prisoners and gendered experiences of incarceration. In recent years, gender-specific community sanctions have been introduced in many jurisdictions with the aim of reducing the numbers of women in prison, yet evidence indicates that these have tended to supplement, rather than replace, the prison (Pollack 2008; Malloch and McIvor 2013).

Having examined these core issues, the chapter turns to the recent history of women's imprisonment in Northern Ireland, from Armagh, the transfer of women to Mourne House in Maghaberry high-security prison and then the move to Hydebank Wood (Ash House) where all women prisoners are currently detained within the confines of a male Young Offender Centre. Despite long-standing and consistent recommendations from local and international bodies, the prison system has been stubbornly resistant to change, and over a decade after the Belfast/Good Friday Agreement 'remained relatively untouched by the reforms of the criminal justice system' (CJINI 2010: v) raising questions about the effectiveness and reach of transitional processes. Following concerns expressed in the media regarding serious breaches of women's rights in prison, the multi-party Hillsborough Agreement (2010) provided for a review of women's imprisonment in light of international human rights standards. The independent Prison Review Team's (PRT 2011) recommendations, including for a new women's prison unit and greater use of community-based alternatives to custody, are analysed here.

The concluding section sets the experiences of women prisoners in Northern Ireland against a backdrop of United Kingdom and international developments, noting shared issues as well as divergent practice. In the context of recent transitional justice scholarship, which highlights conflict-related violence against women and the marginalisation of women's rights both during conflicts and in their aftermath (Bell and O'Rourke 2007; McMinn and O'Rourke 2012), the limitations of the transitional process in relation to women prisoners in Northern Ireland are acknowledged and alternative strategies explored.

Women's Gendered Experiences of Imprisonment and 'Resettlement'

Since the eighteenth and nineteenth-century development of the modern penal-industrial complex, women have remained a small minority of the total prison population globally and nationally, their minority status contributing to the marginalisation and neglect of their needs (Moore and Scraton 2014). Women prisoners are deemed 'doubly deviant' by society, failures as wives and mothers as well as being offenders, routinely pathologised and subjected to infantilising regimes (Carlen 1983). Despite their small numbers relative to men, increased

female imprisonment has been a 'defining feature of western jurisdictions in recent years', especially in the United States, Australia, New Zealand and many European countries including the United Kingdom (McIvor and Burman 2011: 6). This increase is not primarily an indication of more serious or persistent offending, but is attributable to factors including greater use of custodial remand (Scott and Codd 2010) and more women receiving custodial sentences for non-serious property offences and minor drug offences (Gelsthorpe and Morris 2002), the criminalisation of migration (Sudbury 2005) and greater severity in sentencing (Medlicott 2007). The majority of women entering prison are there 'primarily because of the poverty of their circumstances' rather than the seriousness of their offending (Carlen, cited in Carlton and Segrave 2013: preface). Women typically have experienced high levels of mental health needs, addictions, bereavement and trauma; sexual abuse and violence; and social and economic marginalisation prior to entering prison (HMCIP 1997; Singleton et al 1998; Medlicott 2007). Most are mothers and separation from children weighs heavily (Scott and Codd 2010).

Women's experiences of penal regimes are highly gendered, with access to a more restricted range of services and opportunities than male prisoners (Carlen 1983; Scraton and Moore 2005, 2007). Specific groups, such as older women (Wahidin 2004), young women, pregnant women or nursing mothers suffer particular neglect. Basic needs such as access to sanitary protection are regulated by penal regimes (Smith 2009). Security practices are experienced as aspects of a continuum of violence (McCulloch and George 2009; Scraton and Moore 2005, 2007), for example strip-searching as 'sexual coercion, which reinforces women's sense of powerlessness and undermines self-esteem and self-worth' (McCulloch and George 2009: 121–22). Women with mental health difficulties, including those with addictions and distressed, self-harming or suicidal women, may bottle up feelings for fear of being placed in isolation under oppressive surveillance, nominally for their own protection (Moore and Scraton 2014). Despite the introduction of initiatives aimed at reducing self-harm and suicide, these issues form a 'permanent and enduring feature of prison life' (INQUEST 2013: paragraph 10).

Feminist scholars have highlighted women's resistance to penal regimes, stressing that 'even under the most violent and oppressive conditions women can resist their violent oppressors' and 'contest and evade the rules that grind them down' (Carlen and Worrall 2004: 88) This is particularly the case for politically motivated prisoners¹ for whom 'there is a well-documented history of carefully constructed and thought-through strategies' aimed at creating 'alternative frames of action in opposing the administration of the prison' (Moore and Scraton 2014: 36). Women typically adopt a 'range of strategies, ploys and disruptions—formal and informal, individual and collective—to negotiate and challenge the authority to which they are subjected' (Moore and Scraton 2014: 37) yet the prison is a

¹ For the purpose of this chapter we have adopted Shirlow et al's description of 'politically motivated' prisoners defined as those 'convicted through the Emergency Law system and subsequently imprisoned for their role in acts related to the conflict' (2005: 22).

powerful institution and ‘the forces deployed against resisting women are significant’ (Moore and Scraton 2014: 41).

Institutionalised into prison ‘routine and discipline’, women may find it ‘difficult to take responsibility for the most mundane of tasks’ (Eaton 1993: 18–19). Up to one-third will lose their previous accommodation during their imprisonment (Corston 2007) some being placed in unsuitable and unsafe hostels, sometimes shared with men. As Carlen observes, women prisoners are ‘repeatedly released back into those same circumstances of poverty and malign neglect which catapulted them into jail in the first place’, they are ‘put back into their class and cultural milieus ... put back in their place’ (Carlton and Segrave 2013: preface). Carlton and Segrave (2011: 560) also found that the trauma of the prison experience makes it more difficult for women to cope after release leading to ‘loneliness, boredom, coping with disappointment’, some former prisoners ending their own lives in despair.

Feminist scholarship, coupled with work by campaigning groups, has encouraged the development of gender-specific strategies and initiatives. In her review of the needs of vulnerable women within the justice system, Baroness Corston (2007: 5) stated, ‘we must find better ways to keep out of prison those women who pose no threat to society and to improve the prison experience for those who do’. Concluding that prison is ‘not the right place’ for women who require a therapeutic environment she recommended the ‘dismantling’ of the women’s penal system and its replacement by ‘smaller secure units for the minority of women from whom the public requires protection’ (2007: 5). In 2010, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) established the right to gender-sensitive treatment for women in prison, and for alternatives to imprisonment so far as possible. Regarding ‘women centred’ approaches, however, Pollack (2008: 7) found a persistent emphasis on discipline and punishment. Critics warn that, even if well-intentioned, gender-specific initiatives are often aimed at the reinvention of the prison, an ultimately flawed project (Hannah-Moffatt 2001).

Northern Ireland’s penal system demonstrates many of the characteristics witnessed in other jurisdictions as described above. However, there are some distinct features arising from the specific contexts of sectarianism, violence and conflict. The following section therefore turns to the experience of politically motivated prisoners in Armagh in such a framework.

Gendered Punishment and Resistance: Women’s Imprisonment in Armagh

Armagh was Northern Ireland’s only prison for women, until its closure in 1986. Built in 1780, in its early days Armagh held three groups of prisoners: women, and male ‘debtors’ and ‘felons’. From 1920, Armagh became a women-only

facility. However, male internees were also held there in the 1950s and a Borstal for boys operated in Armagh from the 1960s through to 1975. Staffed by both male and female officers, generally speaking male officers were in charge of the Borstal boys and female officers supervised the women (Murray 1998). Prior to 1970, Armagh rarely housed more than a dozen or so women at a time: prisoners mainly on charges such as drunkenness, assault, theft, fraud, forgery, prostitution and occasionally murder (Murray 1998). The resurgence of political conflict and violence led to a dramatic rise in the prison population, including for women. The number of politically motivated women imprisoned in Armagh increased from two in 1971 to more than 100 during the 1972–76 period, including more than 30 internees (Brady et al 2011: 10). The majority of politically motivated female prisoners were republican with much smaller numbers of loyalists (Aretxaga 1997). Conditions in Armagh were austere. Cells were eight by ten foot in dimension with an arched window high above as the only source of natural light. Women had to ‘slop out’ using a chamber pot (known as a ‘po’) (Wahidin 2015). In August 1972, 132 men were moved from Belfast (Crumlin Road) Gaol to Armagh (Brady et al 2011; Corcoran 2006) before being transferred to Long Kesh (later renamed as the Maze Prison). This exacerbated overcrowding, and resulted in women’s confinement to limited areas. In the allocation of resources, the ‘needs of male prisoners prevailed over the women’: the ‘poor quality of prison food, and inadequate recreation, washing and cooking facilities’, providing the ‘first focal point for a collectively organized campaign by women prisoners’ (Corcoran 2006: 21). Women prisoners were expected to perform traditionally female tasks such as laundering and cleaning and education provision was also gendered (Corcoran 2006). In an interview with Wahidin (2015: 100) Che-Mah,² one of the first women to go to Armagh in the late 1960s, describes hating the compulsory uniform: ‘I went into Armagh and I had to wear this prison uniform which was horrendous. The women had to wear a uniform and it had been in place circa since 1840. That’s how old the style was’. On 15 May 1972, four women at Armagh and republican men at Crumlin Road went on hunger strike for political status. Che-Mah participated in the protest explaining that ‘I didn’t want to wear this prison uniform. We were on it for political status. We were fighting for political status’. In June 1972 ‘special category status’ was introduced and prisoners were permitted to wear their own clothes (See the chapter by Scraton in this volume for further discussion.) Che-Mah stated:

At the end of 17 days, I remember the Governor sending for us, to tell us that we had political status. They brought me in my guitar and they brought me in my jeans and my sneakers and it was like, ‘oh it was worth it, it was worth it!’ We got the uniform and fired it out onto the wing, ‘we don’t have to wear that no more!’

² Names have been anonymised to protect the identities of the women unless otherwise stated.

The gains achieved by the politically motivated prisoners also benefited other prisoners as recalled by former prisoner Maud:

He [Secretary of State, William Whitelaw] gave us our demands, so we didn't have to wear the uniform after that and we were allowed a visit every week where before it was one a month. We were allowed free association, and we were allowed the right to education. Everything before that was a privilege which could be taken away from you, and what I was particularly pleased about was that it was also extended to the ordinary prisoner (cited in Wahidin 2015: 250).

From 1974, republican women were designated as 'A' company of the Provisional Irish Republican Army (IRA), organising along disciplined military lines and conducting communication with the prison authorities through their 'commanding officer' (Corcoran 2006). Prisoners' victory regarding political recognition was short-lived, however, and on 1 March 1976 special category status was removed for those convicted from that date, as part of the state's strategy of criminalisation (and was removed from all prisoners in March 1980). Republican women participated in the campaign to restore political status, refusing to do prison work and thus enduring long periods of lock-down. Unlike male prisoners, women in Armagh were permitted to wear their own clothes so long as these did not resemble paramilitary uniforms. In February 1980, however, a search was carried out for clothing worn by republican women during a parade to honour a fellow IRA volunteer 'killed in action'. Maureen Gibson described officers in 'full riot gear with shields and batons', one of whom was 'actually kneeling on Anne-Marie Quinn's stomach—a huge big man—pushing her on to the bed' (cited in Fairweather et al 1984: 219–20). Following this incident, women were locked up and refused appropriate access to sanitation. When chamber pots were full women poured the contents through cell 'spy holes', marking the start of the 'no-wash' or 'dirty' protest (Brady et al 2011). Throughout the protest, women remained locked in cells for 23 hours a day smearing faeces and menstrual blood on the walls. Fairweather et al (1984: 222) argue that by denying access to sanitation the authorities were trying to 'break the prisoners in an exclusively female way.'

In 1980 the campaign for political status escalated into a hunger strike in which republican women participated. This ended without resolution, and a further hunger strike involving only male prisoners commenced in March 1981, the 'no-wash' or 'dirty protest' ending to provide a focus for this action. The hunger strike culminated in the deaths through starvation of 10 men. When the strike ended most of the prisoners' demands were conceded, including the right to wear their own clothes and to associate together. Corcoran (2006: 182) argues that whereas the conclusion of the hunger strike in the Maze represented a 'critical turning point' for male prisoners, in Armagh the introduction of routine strip-searches from November 1982 led to 'intensified conflict' there and 'brought to the fore a renewed focus on controlling the bodies of unruly women prisoners.' For

women, being stripped—sometimes forcibly—was harrowing, as evidenced in the testimonies below:

A hostile screw will order me to remove all my clothes. She stands watching me while I undress. Each item of clothing has to be passed out to the screws. When I have passed the last item out the screws will then inspect my naked body. I stand there naked, trying to control my breathing, my anger and other confused feelings (Marie Wright, cited in Brady et al 2011: 243).

Despite my medical condition [having recently given birth] I was strip searched. Once naked I attempted to cover my breasts with my arms as I was embarrassed with my breasts leaking with milk. I was ordered to remove my arms to facilitate the warders' inspection of my naked body (Jacqueline Moore, cited in Stop the Strip-Searches undated: 10).

Strip-searching brought international attention to the Armagh situation and 'came to epitomise, for many, the resolve of the security services to have women submit to the process of criminalisation and surveillance by taking control of women's nakedness' (Pickering 2002: 181).

Armagh closed in 1986, as part of the Prison Service's strategy of modernisation and 'normalisation' (Gormally et al 1993; McEvoy 2001), all women prisoners being transferred to Mourne House, a unit in the newly built, high-security Maghaberry Prison complex. In Armagh, women's lives had, at times, been particularly restricted, and conditions worsened, due to pressures created by the accommodation of boys and men on the same site. The level of female imprisonment related to 'ordinary' offences was consistently low, but the situation differed from other UK jurisdictions due to the larger numbers of politically motivated women being interned or imprisoned. These women were routinely subject to harsh punishment expressed in gendered forms, collectively resisting such treatment. The analysis below of women's imprisonment in Mourne House, Maghaberry, examines the continued marginalisation of women's needs within a highly controlled and punitive environment, even after the numbers of politically motivated prisoners were reduced as Northern Ireland entered into political transition.

The Failure of Normalisation: Women in Mourne House, Maghaberry

In building Maghaberry, the authorities' intention was to provide a modern, high-security prison based on integrated regimes where politically motivated prisoners would be held on normal landings along with other prisoners. The female unit, Mourne House, held up to 59 women remanded and sentenced for both politically motivated and 'ordinary' offences, over four wings. In March 1992, a mass

strip-search of republican and other women belied the claims of normality and was an indication of the continuation of gendered punishment and institutionalised sectarianism within the prison system. A woman in Wahidin's (2015:120) study recalls her 'waking nightmare' of that day:

[M]y cell-door was flung open and the riot squad surged forward. Three or four of them wore visors and wielded shields and batons, the other two, clad in overalls. A shield was rammed straight into my face, forcing me back against the bars on my window, while another two attacked me from either side. I was seized, flung face down on the floor and sat upon, while my arms were twisted and locked up my back ... Having satisfied themselves that I'd been immobilised, my assailants proceeded to pull my clothes off from the waist down. They then proceeded to pull all the clothes from my upper body before getting up and leaving me. As I raised myself onto my elbows, feeling shocked and disorientated, I looked at my clothes strewn all around my cell and saw the backs of my attackers passing out through the door.

Following the early release of prisoners affiliated to organisations on ceasefire, as a result of the Belfast/Good Friday Agreement (1998), politically motivated women represented only a small minority of the female prison population. The Agreement established a Criminal Justice Review (2000) which made recommendations aimed at encouraging the development of a modern, professional justice system. Noting the difficulties in detaining the small number of women (on average 20) in Maghaberry within a larger, male institution the Review recommended the sharing of some facilities with the men, expressed hope that the issue of girl children being detained in the adult prison would be resolved by changes in the youth justice process, and proposed that women's imprisonment be kept 'under review' (CJRG 2000: paragraph 12.18).

With the closure of Belfast Prison (Crumlin Road) in 1996 and the Maze in 2000, male prisoners affiliated to paramilitary organisations not on ceasefire were transferred to Maghaberry. Prison officers had also been transferred from the Maze to Maghaberry, bringing with them a culture of 'containment' (HMCIP 2003: 3). An inspection (HMCIP 2003: 4) found that Mourne House required 'some development to fulfil its role as Northern Ireland's only women's facility', including retraining of management and staff and a change in ethos in order to meet the needs of women rather than being just a 'small adjunct to the male prison'. Despite the inspectors' optimism that the overall situation in Maghaberry was progressing, in summer 2003 the prison was seized by a series of protests by both loyalist and republican prisoners demanding separation. The Steele Review (2004) established to inquire into safety in the prison, recommended a 'degree of separation' to 'protect paramilitaries of opposing factions from each other, and to protect the "ordinary" prisoners from the paramilitaries as a group' (NIAC 2004: 3). Subsequently, politically motivated male prisoners who agreed to a 'Compact' with the authorities were imprisoned separately, loyalists in Bush House and republicans in Roe House. The small number of politically affiliated women remained within an integrated regime, continuing to protest against what they saw as a

policy of criminalisation (Scraton and Moore 2005; see also the chapter by Scraton in this volume for further discussion).

In 2004, the Northern Ireland Human Rights Commission (the Commission) initiated an investigation into women's imprisonment focusing on the rights to life (European Convention on Human Rights (ECHR), Article 2) and freedom from torture, inhuman and degrading treatment (ECHR, Article 3).³ This investigation revealed a regime in Mourne House in which women were routinely locked up for a minimum of 15 hours out of 24 (Scraton and Moore 2005: 53) and without a structured induction programme, formal sentence management or appropriate resettlement programmes. Family contact was curtailed by limited access to expensive telephones and inadequacies in the visits system. The majority of officers were men and often the night shift was entirely male. A small minority of staff engaged constructively with prisoners but the predominant attitude was 'disinterest' with some officers openly abusive. There were inappropriately high levels of staffing and women were not permitted to move about the site unless escorted by prison officers, a legacy of the high-security regime established to deal with politically motivated prisoners. The Prison Officers Association strenuously resisted any attempts to reduce numbers or alter conditions of employment. For officers who had lost colleagues through paramilitary violence, or who had feared for their own or their family's safety, to be asked to work constructively with prisoners was a difficult cultural shift, which most had not yet made (Scraton and Moore 2005).

Health care was provided in the male prison hospital and despite the extent of depression and trauma, there was minimal counselling or therapeutic provision and no treatment for women classified as 'personality disordered'. Distressed and self-harming women were routinely locked in isolation in the 'special supervision unit', where typical cells had no mattress, no pillow, a potty for a toilet and no sink for washing. Women deemed 'at risk' were forced to wear anti-suicide gowns and forbidden underwear even during menstruation (Scraton and Moore 2005). Two women had died in Mourne House since its inception, Janet Holmes in 1996 and Annie Kelly in 2002. Early in the Commission's research fieldwork, Roseanne Irvine took her own life through hanging. Roseanne suffered persistent mental health problems and alcohol addiction, self-harmed and feared she would lose access to her young daughter, yet she did not receive appropriate medical care either in the community or in prison. At the inquest into her death at Belfast coroners' court the jury stated that 'the prison system failed Roseanne' (Moore and Scraton 2014: 166).

Republican women continued to resist what they saw as the criminalising impact of association with 'ordinary' prisoners, and during the Commission's investigation the only two republicans in Mourne House were protesting, including going

³ One of the authors of this chapter, Linda Moore, was investigations worker at the NIHR and co-researched and co-authored the Commission's two investigations into women's imprisonment along with Phil Scraton, Professor of Criminology at Queen's University Belfast.

on hunger strike in pursuance of separation. Their campaign was successful and a separate landing was granted; however, the space to provide this was achieved by moving girls as young as 16 years of age from the designated 'young offender' landing on to an adult landing, in clear breach of Article 37 of the United Nations Convention on the Rights of the Child which requires the separation of detained children from adults (Scraton and Moore 2005). The difficulties of providing for the complex needs of different groups of women prisoners in a confined site, and within a mainly male environment, were all too apparent. The Commission's report recommended the prioritisation of alternatives to custody, development of a gender-specific strategy, policy and programmes, and establishment of a 'distinct, gender-specific identity' for the women's custody unit. It also called for an independent public inquiry into the deterioration of conditions for women prisoners, and the deaths of women in custody (Scraton and Moore 2005).

The history of women's imprisonment in Mourne House demonstrates the prison authorities' ineffectiveness in pursuing the normalisation project, exacerbated by a lack of understanding of the needs of women prisoners. The legacy of the conflict contributed to prison officer disengagement and an inappropriately security-focused regime. Moreover, as a small minority in a larger male establishment, women's needs were neglected and highly punitive practices persisted especially in relation to self-harming and suicidal women. With few politically motivated prisoners there was little collective resistance to the regime. Mourne House closed in June 2004 and women were transferred to Ash House, a unit within Hydebank Wood, a medium security male young offenders' centre on the outskirts of Belfast. The prison authorities anticipated that the transfer would result in a reduction in staffing levels and make better use of spare capacity in Hydebank Wood, while providing a less oppressive environment for women (Scraton and Moore 2005). Although highly critical of the Mourne House regime, the Human Rights Commission opposed women's transfer from one male environment to another, arguing that this would lead to continued rights abuses. Its views were disregarded (Scraton and Moore 2005).

Women in a Young Male Environment: Ash House, Hydebank Wood

Ash House can accommodate up to 71 women and is one of five units in Hydebank Wood, a male young offender centre (CJINI 2013: v). Within months of women being transferred to Ash House, an unannounced inspection (HMCIP/CJINI 2005) raised serious concerns about the safety of 'vulnerable' and 'damaged' women and girls. Officers without appropriate training and 'anxious, by any means available, to prevent another self-inflicted death' relied on disciplinary procedures to place vulnerable women in cellular confinement as punishment for self-harming. With little

activity for women, boredom was 'likely to compound feelings of depression and anxiety' (HMCIP/CJINI 2005: 6). There was 'no Northern Ireland Prison Service strategy, policies or procedures to deal with the specific needs of women and girls; and no separate, properly trained, management of the women's prison' (HMCIP/CJINI 2005: 6). In 2004 Alvaro Gil-Robles (2005: paragraph 126), Commissioner for Human Rights for the Council of Europe, visited Ash House and concluded there was 'no possibility for the women to receive appropriate treatment, indeed, the conditions could only be considered likely to aggravate their fragile condition still further'. Likewise, the Committee Against Torture described 'unacceptable conditions' including: 'a lack of gender-sensitive facilities, policies, guarding and medical aid, with male guards alleged to constitute 80 per cent of guarding staff and incidents of inappropriate threats and incidents affecting female detainees' (CAT 2004: 5). Research conducted for the Prison Service in Ash House provided evidence of female prisoners' vulnerabilities, finding that: 88 per cent had suffered depression and 76 per cent recent bereavement; 60 per cent were on medication and 68 per cent had been referred for psychiatric assessment; and 44 per cent had not felt safe in their communities prior to entering prison and women were very fearful about being released (NIPS 2005).

Initially barred from carrying out an investigation in Hydebank Wood, the Human Rights Commission was granted access later in 2004, conducting extensive fieldwork in Ash House until 2006. The Commission (Scraton and Moore 2007) noted that only a small number of the women had been convicted of serious offences and around 40 per cent were imprisoned for fine default, including for non-payment of television licences. Women reported experiencing highly sexualised verbal abuse from the young men, especially during shared transport. Frequent strip-searching (called 'Full Searching' by the prison service) was experienced as humiliating and even traumatic:

When you're on your menstrual cycle you still have to strip. It's very degrading. You have to show them the pants and pad with the blood on it. It's disgusting, you're embarrassed. Their attitude is indifferent. It's their job, but it's not a nice thing to do (sentenced prisoner, cited in Scraton and Moore 2007: 52).

At best women were unlocked for eight hours out of 24 but often were locked up for 23 hours a day due to 'staff shortages' and industrial relations breakdowns. A long-term prisoner described the monotony:

Education is rarely available to us and, at that, it's very basic. It's hard to cope, especially when you were used to a busy life, for it to become the opposite and you end up doing nothing all day long (Scraton and Moore 2007: 56).

Discipline was strict and women feared being 'zeroed' for minor breaches of rules:

They change the rules handsomely. It depends on the person [staff] and what mood the person's in. There's no structure and no consistent rules. A woman officer said to me, 'You shouldn't query. You shouldn't ask questions. That's a rule' (Scraton and Moore 2007: 55).

In comparison with Mourne House, there was increased access to mental health services in Hydebank Wood but nonetheless these were limited and the health care centre was shared with young men. Women were often locked in isolation for 'their own safety', with the result that many were afraid to reveal their problems:

They put me in the observation cell from Friday to the Monday. I'd gone through a great loss. I was just out [of her cell] for the shower, no interaction, nobody asking to speak with me. I'm shit scared of going back to the hospital. There's nothing. So I say I'm fine. There's no therapeutic help, nothing (remand prisoner, cited in Scraton and Moore 2007: 78).

Part of the stated rationale for the transfer to Hydebank Wood was that this lower-security environment would provide a more relaxed regime. Yet, in practice, women's movements were strictly 'choreographed' to avoid contact with young men and they were at all times escorted by prison officers:

The whole point of this place was that it would be lower security with a see through fence rather than a wall, that we'd be able to have more outdoor freedom in a nice environment. The reverse is true. We have less access to the grounds. We can see the environment but we can't experience it (woman prisoner, cited in Scraton and Moore 2007: 55).

The Commission recommended the development of a discrete women's prison unit, staffed by a minimum of 80 per cent female staff, with its own management structure; an end to strip-searching except where risk assessment demonstrated this as necessary to protect the women or others from serious harm; the ending of extended periods of cellular confinement; and a review of health care. A core recommendation was for the enactment of legislation to ensure that custody for women was a last resort and the development of community-based alternatives (Scraton and Moore 2007).

The Commission's findings were later mirrored by those of the Independent Monitoring Board (IMB), a body of volunteers with statutory powers to visit prisons and report on conditions (IMB 2010). The IMB recorded an increase in the use of cellular confinement as a punishment and no move towards establishing a therapeutic regime. There had been 'no manifestations of the [promised] culture change' and only 'marginal improvement in the level of staff engagement with prisoners' (IMB 2010: 5). Positive engagement with prisoners had been sacrificed in favour of a 'strong emphasis on security and control' (IMB 2010: 6). No progress had been made towards the construction of a separate female prison and only minimal advances towards the development of gender-specific policies.

In 2010, the Northern Ireland Prison Service introduced Gender Specific Standards for working with women prisoners (NIPS 2010) and an inspection the following year (CJINI 2011) described Ash House as performing 'reasonably well' in terms of prisoner safety. Sadly, this was contradicted by the death by hanging that same year of Frances McKeown, a young mother with long-standing mental health difficulties, on the very same day as a young male prisoner also took his own life (Prisoner Ombudsman for Northern Ireland 2012). Despite her vulnerability, Frances experienced a six-month wait before accessing a prison psychiatrist.

A diary entry made shortly before she died, reflected the painful impact of confinement:

Because I suffer from mental health my time for thinking is my biggest problem, when I have too much time to think on my hands that is when my mood lowers severely and I become suicidal. My thoughts make my mind snap and I just can't cope with it anymore so I self-harm to try and stop it and block out the thinking and sometimes I even go far enough to plan a new way to end it all just to stop my pain from my thoughts. Once I lose the head and cut I end up on a SPAR [Supporting Prisoner At Risk] and have to put up with being watched which makes my paranoia worse and the voices I hear go mad because of it and I stress out. It is the worst combination of emotions you could possibly imagine (cited in Prisoner Ombudsman 2012: 15).

The Prisoner Ombudsman's investigation (2012: 29) into the death of Frances McKeown confirmed inadequacies in communication, poor record-keeping, limited access to mental health care, long periods of lock-up and lack of 'purposeful activity'.

The most recent inspection of Ash House in 2013 (CJINI 2013: v) stated that although women were 'reasonably well cared for', they were still subject to verbal abuse from young men and were 'inevitably marginalized and restricted in their access to facilities and services'. Staff-prisoner relationships were judged to have improved, but security remained overly restrictive. The inspection survey found that 42 per cent of women self-defined as having mental health problems and 45 per cent had felt depressed or suicidal on reception into the prison (CJINI 2013: 26). Excessive amounts of lock-up continued to be damaging to women's mental health (2013: 27). At the time of the inspection around three-quarters of women prisoners were sentenced and one-quarter detained on remand. Eight women were on life sentences and one on an indeterminate sentence. Over one-third of convicted women were on sentences of less than two years (CJINI 2013: 55). Once again the inspectorates concluded that it was 'wrong to run a female prison at the margins of an overwhelmingly male environment' and the overall impact was 'fundamentally disrespectful' (CJINI 2013: vi).

The continued imprisonment of a small number of politically motivated women continues to raise human rights concerns. The imprisonment of prominent Irish republican prisoner Marian Price from 2011 until 2013 illustrates these concerns. During the 1970s, Marian had been imprisoned in England along with her sister Dolours, for their part in an IRA bombing campaign. During this imprisonment, both sisters were on hunger strike and were force fed on more than 400 occasions, which led to serious and persistent health problems (Moore and Scraton 2014). The sisters were transferred to Armagh Prison in 1974, and in 1980 Marian was released under a Royal Prerogative of Mercy due to life-threatening ill health (Moore and Scraton 2014). In 2011, Marian was returned to prison on licence (the legality of which was challenged by her lawyers) following her involvement in a republican commemoration. Demanding separation from 'ordinary' prisoners, Marian was initially held as the sole woman prisoner in Maghaberry, the isolated conditions of detention impacting severely on her mental and physical health.

In 2012, she was transferred to Hydebank Wood and again held in solitary conditions. Marian's health continued to deteriorate significantly, resulting in her transfer to a community-based mental health facility (Moore and Scraton 2014). Solitary confinement beyond 15 days has been declared to be cruel, inhuman or degrading treatment or punishment by UN Special Rapporteur on Torture, Mr Juan Mendez (United Nations General Assembly 2011) yet Marian had spent more than a year in isolation (Moore and Scraton 2014). Since her release, at least one other republican woman has been imprisoned in Hydebank Wood, yet there has been little official recognition of the issue of the imprisonment of politically motivated women.

The experiences of women in Ash House demonstrate their continued marginalisation within a male penal environment, and the persistence of gendered punishment. Numbers of female life-sentenced prisoners have grown, and the women's prison population has more than doubled since women were transferred from Mourne House. With around one-quarter of women on remand, and over one-third on short sentences, there is a clear need for alternatives to custody. The imprisonment of women with serious mental health problems also draws attention to the need for more appropriate responses to women's offending. The section below focuses on the government Strategy for dealing with women's offending (DoJ 2010) inspired Baroness Corston's (2007) review of vulnerable women within the criminal justice system in England and Wales.

Government Strategy and Community-Based Initiatives

Following Corston's report (2007), the Department of Justice (2010) in Northern Ireland developed a strategy to 'manage women offenders and those vulnerable to offending behaviour' [the Strategy]. This Strategy identified women's 'pathways' to offending as including homelessness, poverty, mental illness, addictions and experiences of violence and abuse and prostitution. Despite the acknowledgement of these structural issues, they were to be tackled largely on an individual basis, for example by encouraging women to be more 'motivated' about seeking employment (DoJ 2010: 29). Reflecting an individualistic and risk-focused framework, 'attitudes, thinking and behaviours' was also named as a 'pathway' with a commitment to develop gender-specific 'offending behaviour programmes' including anger management (DoJ 2010: 39). When identifying 'pathways', the Strategy did not consider the context of communal violence, sectarianism or conflict and nor did it adequately address 'how appropriate, accessible and effective resources, services and support for women' would be provided in a context of scarce resources, including very limited mental health provision (Convery 2013: 169).

Core to the Strategy was the development of the Inspire Women's Project, for women under probation supervision, those awaiting pre-sentence reports and a small number on day release from prison. In October 2008, Inspire opened

with a caseload averaging 150 women, of whom 16 had served prison sentences. Programmes on alcohol and drugs, victim awareness, individual counselling, offence-focused work, restorative practice, creative arts, and support with employment were provided in cooperation between Probation and external community agencies. Unlike comparative initiatives, for example the 218 Service in Scotland (Beglan 2013), Inspire did not facilitate self-referral by women who had not been processed through the criminal justice system. The first evaluation of Inspire (Easton and Matthews 2011) identified much good practice, with the benefits of this women-only environment praised by clients and practitioners alike. Few criticisms were made, but the evaluation did raise questions about the capacity of some community-based groups to respond appropriately to 'criminogenic' issues and noted that some key agencies, including housing and mental health authorities and the police, had yet to engage effectively with the project. Moreover, women were aware that failure to engage effectively could result in being returned to court and some felt stigmatised by the connection to Probation. Participation was sometimes difficult for women with mental health problems and addictions. Engagement with women's centres built useful connections with local communities, but a few women felt uneasy as to whether their privacy would be respected in this context (Easton and Matthews 2011).

The Strategy (DoJ 2010) promoted alternatives to prosecution and custody including police issued penalty notices, conditional cautions and electronic monitoring. However, as Convery (2013) states these were introduced in the absence of appropriate research on decision-making by criminal justice agencies regarding women's offending in Northern Ireland. A further initiative has been the introduction through the Criminal Justice (Northern Ireland) Order 2008 of Supervised Activity Orders piloted as a community-based alternative to imprisonment for fine default. Despite the introduction of such alternatives, as noted below, the female prison population remains significantly higher than a decade ago.

Social and political concerns led to the inclusion of a review of prison conditions within the multi-party Hillsborough Agreement (2010) which established the devolution of criminal justice and policing. This Agreement stipulated that there should be consideration of a women's prison, 'which is fit for purpose and meets international obligations' (Hillsborough Agreement 2010: 7). Headed by Dame Anne Owers, former Chief Inspector of Prisons for England and Wales, the independent Prison Review Team (PRT 2011) recognised the distortion of the prison system by the experience of conflict to the extent that it had become highly dysfunctional, with an over-emphasis on security and control and limited focus on prisoner rehabilitation or resettlement. The PRT recommended an early retirement scheme for long-serving staff, to facilitate the recruitment of more Catholic and female officers. It also recommended the establishment of a women's prison based on therapeutic principles for the small number of women convicted of serious and violent offences as well as the development of strategies aimed at decarceration with an emphasis on community-based punishments (PRT 2011). A Prison Review Oversight Group was established by the Minister of Justice to

monitor progress on the implementation of the PRT recommendations.⁴ At the time of writing, women remain imprisoned in the young male environment of Hydebank Wood, and levels of female imprisonment remain persistently high despite the introduction of alternatives. The conclusions which follow, include analysis of the imprisonment of women in Northern Ireland, as discussed in the preceding sections, in comparison with penal practices for women in other UK regions and globally. Having identified issues shared across jurisdictions, the discussion turns to the specific context of transition from conflict, citing relevant literature and identifying the key challenges raised by the failure to transform women's experiences of imprisonment during the transition process.

Women's Imprisonment and Alternatives to Custody within a Transitional Context

From Armagh, to Maghaberry and then Hydebank Wood, women's imprisonment in Northern Ireland has shared some fundamental characteristics with penal practice in other jurisdictions. Although the female prison population has remained small in comparison to men, levels have risen by approximately threefold within recent years: at the end of September 2014 there were 62 women in Hydebank Wood⁵ in comparison to an average of 20 in Mourne House at the turn of the twenty-first century when the Criminal Justice Review (2000) reported. Explanations for the increase include high levels of custodial remand and the use of short sentences; however, the number of life-sentenced and long-term women prisoners has also risen. As acknowledged by research within the Great Britain and international contexts, women prisoners typically have vulnerabilities and histories of abuse, trauma and disadvantage, a high proportion having mental health difficulties (Mills et al 2013). Such problems are often inadequately addressed within the penal context, and the isolation inherent in imprisonment may exacerbate mental health problems, leaving women re-traumatised and vulnerable to self-harm and suicide (Coles 2013). Successive inspection, monitoring and independent research reports, as cited above, have commented on the significant health and mental health needs of women in prison in Northern Ireland: needs not appropriately met either within the community or penal contexts. Carlen's (1983) study of social control within the Scottish female prison context is mirrored by the findings of the

⁴ Department of Justice, 'Ford Appoints Members to Prisons Reform Oversight Group', 14 November 2014, available at www.dojni.gov.uk/ford-appoints-members-to-prisons-reform-oversight-group. See also the Prison Review Oversight Group Reports, available at www.dojni.gov.uk/index/ni-prison-service/nips-prison-review-oversight-group-reports.htm.

⁵ See Department of Justice, *Population Statistics 01 July 2013 to 30 September 2014*, available at www.dojni.gov.uk/index/ni-prison-service/nips-population-statistics-2/population-statistics-01-july-2013-30-sept-2014.htm.

Human Rights Commission's reports on Mourne House, Maghaberry (Scraton and Moore 2005) and Ash House, Hydebank Wood (Scraton and Moore 2007) which exposed regimes where women experienced discipline for petty offences and where being placed in isolation was the routine response to self-harm. As is the case in other jurisdictions, their small numbers left women prisoners in Northern Ireland marginalised and with restricted facilities and activities in comparison to male prisoners. The siting of women's prison units within male penal establishments, in breach of international human rights principles (CPT 2013) exacerbated the neglect of women's needs and exposed women to sexualised verbal abuse from male prisoners (Scraton and Moore 2007).

That women's imprisonment in Northern Ireland shares much in common with other jurisdictions is clear; however, the conflict also shaped the penal system, with prisons becoming 'ideological battlegrounds' (McEvoy 1998). Research has exposed the distinctly gendered characteristics of penal regimes within this context of violence, conflict and sectarianism, and resistance to regimes also took gendered forms (see Scraton and Moore 2005; Corcoran 2006). The development of rights-compliant criminal justice agencies was a key transitional demand within the Belfast/Good Friday Agreement (1998); however, the Criminal Justice Review (2000) erroneously assumed that the prison system would return to 'normal' following the early release of politically motivated prisoners and consequently failed to adequately address the urgency of penal reform. The failure to prioritise penal reform as a transitional project has contributed to the continuation of a system, which is 'over-focused on physical security, with excessive staffing levels, and where concessions to separated prisoners merely serve to highlight the deficiencies and inconsistencies in the regime for others' (PRT 2011: 6). Women prisoners—politically motivated and others—have been significantly impacted on by the dysfunctional nature of Northern Ireland's penal regimes. Whereas politically motivated women actively resisted criminalisation and punitive practices, women remanded or convicted of ordinary offences, especially those experiencing mental ill health, were more isolated and their agency seriously constricted (Moore and Scraton 2014).

Transitional justice discourse and practice has been criticised for the routine absence of gender awareness leading to a failure to understand the needs of women and children who are among the most affected by conflict and with least resources (Ní Aoláin 2006). In discussing the deep 'conceptual exclusion' of women, Bell and O'Rourke (2007: 23) note a 'growing feminist unease with the "from" (male-defined political violence) and "to" (liberal democratic frameworks) of transitional justice discourse' (2007: 24). Some developments have been made regarding truth recovery processes with the potential to have a positive impact for women (Orford 2006; Ní Aoláin 2006; Bell and O'Rourke 2007). However, as Bell and O'Rourke (2007: 24) argue, it remains a priority to reform transitional justice mechanisms so as to address women's needs. The marginalised position of women prisoners has been discussed in some detail above, and the Criminal Justice Review (2000) neglected to seriously address the issue. The Hillsborough

Agreement (2010) was unusual among transitional agreements in acknowledging the issue of women's imprisonment. Timely implementation of the Prison Review Team's recommendations is needed to ensure that the commitment to respect for women's rights becomes more than a promise on paper. Despite the Justice Minister's announcement of a new women's prison,⁶ at the time of writing women remain incarcerated within a primarily male environment at Hydebank Wood in breach of their rights.

Transitional justice includes both backward and forward facing aspects, and processes aimed at achieving truth recovery and justice for victims and survivors are necessary in order that society may come to terms with the legacy of conflict (Hayner 2010). While acknowledging differences in approach, Sandoval Villalba (2011) identifies four core features of transitional processes which are: bringing perpetrators to justice for past wrongdoing; reparation and redress for victims; truth recovery; and reform of key institutions to protect against future rights abuse. The violation of women's rights in prison raises the questions of what constitutes victimhood and whether 'offenders' can simultaneously be 'victims', including of the prison system. Knox (2001) found routine denial of the status of victimhood for young people subjected to paramilitary 'punishment' attacks for alleged anti-social behaviour. McEvoy and McConnachie (2013: 493) also concluded that 'drug addicts, prisoners (or indeed former prisoners), prostitutes and other social groupings who themselves may have been involved in criminality are troublesome victims in terms of public discourse'. Given their extensive social, economic and health needs (Bloom and Covington 1998) women in prison may be simultaneously 'offender' and 'victim', requiring us to acknowledge the complexity of these labels. Despite the requirement within transitional justice discourse to deal with past breaches of rights and provide justice and redress for victims, and an increasing emphasis on the importance of acknowledging the issue of gender-based violence in transitional processes, there has been a lack of accountability regarding the violations of women's rights in Armagh, Maghaberry or Hydebank Wood and the Northern Ireland Human Rights Commission's demand for an inquiry (Scraton and Moore 2005) has not been met.

In response to legalistic interpretations, focused mainly on civil and political rights (for example, rights to fair trial and to freedom from abuse within the criminal justice system), critical theorists have argued for a 'deeper', 'thicker' transitional justice with a strong emphasis on social and economic rights and local and community participation (McEvoy 2007; Pasipanodya 2008). As noted within the recent Haas proposals, 'the first requirement of any comprehensive treatment of the legacy of the past must be to provide for the social and health needs of victims and survivors' (Haas 2013). Hamber (2003) observes that if transitional processes fail to address social and economic inequality, this may lead to an experience

⁶ *BBC News*, 'Ford Announces New Jail to be Built on Magilligan Site', 19 March 2013, available at www.bbc.co.uk/democracylive/northern-ireland-21843521.

similar to that in South Africa where ‘despite constitutional commitments to equality, social stability has involved the reassertion of power and advantage by those elites who benefited most from the apartheid regime’ (cited in Ní Aoláin and Rooney 2007: 348). As articulated by Laplante (2008: 332) ‘post-conflict recovery entails a holistic approach that should include economic, political and social structural reform’. Yet as former United Nations High Commissioner for Human Rights, Louise Arbour (2006) notes, social and economic rights are often viewed as aspirations rather than as entitlements.

Underpinning transitional justice studies is the defining feature of transition as a movement between a previously oppressive, dictatorial or illegitimate regime towards a democratic and just society (Teitel 2000). As Lundy and McGovern (2008: 273) observe, the notion of transition ‘tends to involve a particular and limited conception of democratization and democracy based on liberal and essentially Western formulations of democracy’, thus ignoring the problem that ‘human rights abuses may continue to take place in circumstances where in theory at least, the norms of liberal democratic accountability prevail’. Much transitional justice discourse uncritically accepts the end goal of a liberal democratic ‘rule of law’ including the creation of modern, professional, and rights-compliant institutions—including police and prisons. Yet as Sharp (2013: 151) argues, without the reconfiguring of power relationships and steps to tackle inequality and injustice, transitional justice may be a ‘paradigm closely associated with transitions to liberal market democracy’. Devolved governance in Northern Ireland has been developed within a neo-liberal model that perpetuates social exclusion and sectarian division (Murtagh and Shirlow 2012). Within this context the various ‘pathways’ to women’s offending are predominantly viewed as individual failings or misfortune. Gender-sensitive programmes are important in providing support for individual women, but do not challenge the structural inequality and disadvantage endemic in neo-liberal democracies.

The ‘once in a generation’ opportunity for change offered by the transition process (PRT 2011: 7) gives the opportunity for Northern Ireland to ‘lead the way among jurisdictions in pursuing a decarceration strategy’ (Wahidin et al 2012: 470) and rights-based legislation and policy. For the Prison Review Team (PRT 2011: 9) reform of the prison system is ‘an essential part of the move to a normalised society’, yet as Scraton and McCulloch (2009) remind us even ‘normal’ prisons are built on a continuum of violence that ranges from routine procedures such as strip-searching and lock-up, through to actual physical violence and attacks on prisoners. Rather than pursuing ‘normalised’ prisons, therefore, we argue that the transition process provides an opportunity to reimagine ways of responding to social harms, advocating a decarceration strategy underpinned by the principles of social justice. Such a challenge requires a vision based on social justice which addresses the structural basis of the ‘pathways to offending’ through provision of adequate public housing and employment, effective education and training, and appropriate health and mental health and trauma services. It involves also tackling the culture of masculinity within which much violence against women occurs.

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