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Women in Prison

From a critical analysis of female imprisonment,
towards a female centred approach to penology

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Abstract

This dissertation aims to investigate the impact that prison has upon female offenders with regard to the criminal justice systems treatment of women in England and Wales. Research on this topic is needed because there is an identified gap in the literature pertaining to women in prison, and such data that does exist, is fragmented and thus fails to adequately address women's needs. This study will undertake a secondary analysis of existing research in order to consolidate current data and bridge the identified gap. The findings of this dissertation are that women have been excluded from criminal justice rhetoric for too long, and that given their complex needs and vulnerabilities, prison as a form of punishment enacts disproportionate harm upon women. Despite the evidence attesting to this, there is still a noticeable lack of public and political will for tangible criminal justice reform. This leads to a number of gendered and differential inequalities that are systematically imposed upon women at the hands of the prison system and the criminal justice system at large. It is concluded that it is this lack of public will that presents the largest barrier to achieving a more proportionate and appropriate form of punishment for women in the criminal justice system. To tackle these harms and inequalities, this work recommends implementing a policy of decarceration for women and adopting an overall shift towards a female centred approach to penology.

Contents

INTRODUCTION

page 1

CHAPTER ONE

page 5

CHAPTER TWO

page 13

CHAPTER THREE

page 22

CHAPTER FOUR

page 33

CONCLUSION

page 42

BIBLIOGRAPHY

page 45

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Introduction

Women in the criminal justice system have consistently accounted for just 5% of the prison population in England and Wales – as of June 2018 this equated to 3,803 female prisoners compared to 78,970 male prisoners (Ministry of Justice, 2018a). Perhaps due to this relatively low number of female prisoners, compared to men, there appears to be insufficient research within the current academic literature on both women as offenders and the impact that prison has on them. This is not to say that this is a topic that has never before been researched and academically considered; however, one might consider that given the magnitude of the identified problems, the area is certainly under-researched and under-considered. Thus, having identified a gap in the current literature, this work holds value in its attempt to address these chasms by piecing together the fragmented existing research into women in prison, so as to paint a representative picture of women's experiences as offenders in the criminal justice system.

Chapter one of this work will begin by exploring historical and modern concepts of what it means to be both a woman and an offender, taking a critical approach towards historical concepts of gender and double deviance in order to situate them into today's landscape. Part of this contextualisation will refer to what it means to be a woman beyond the binary systems of femininity and masculinity. Chapter two will then utilise the findings of chapter one's pairing of gender theory and criminology to provide a more empirical analysis of women in prisons contextualised experiences. Female offenders have a number of specific vulnerabilities that are not accounted for in current criminal justice practice, which leads to disproportionate harms and deeply embedded inequalities. In this context, 'vulnerability' is not taken to mean weakness, but is rather understood to refer to factors that make women more likely to experience harm. Chapter two will explore these vulnerabilities and provide a critical analysis of how prison provides a disproportionately harmful punishment for women given the nature of these vulnerabilities. Building upon the work of chapter two, chapter three will aim to provide a larger discussion for how the harms women face in prison and in the criminal justice system at large, produce a profoundly inequitable experience for women. This chapter will take particular interest in an intersectional approach towards difference and look towards how it provides an excellent framework from which to further explore – and redress – these

inequalities with regard to difference amongst women. Having identified that women experience harms beyond those associated with proportionate punishment, and the systematic inequality that prison perpetuates for female offenders, chapter four will look towards the future. The Corston Report's (2007) recommendations and its impact upon following policy proposals and real-world change (or lack thereof) will be explored in depth. Where problems have been identified, chapter four will aim to fill these gaps with adapted and more considered recommendations. Alternatives to prison as a form of punishment will be explored, placing women at the centre of criminal justice practice, so as to work towards a female centred approach to penology (punishment).

Chapter four will also see this dissertation go on to propose that a policy of decarceration is the most effective and proportionate response to women as offenders in the criminal justice system. The term 'decarceration' refers to an extensive reduction in female imprisonment, with prison being used only as a tool by which to incapacitate the most dangerous offenders. A policy of decarceration for female offenders is certainly seen as controversial and faces opposition from individuals across all sections of society – including women themselves (Corston, 2007). However, this dissertation sets out that this opposition is formed out of a lack of understanding of the uniquely damaging and disproportionate punishment that prison as an institution provides for women. Here, it is also appropriate to acknowledge that this work in no way is designed or intended to undermine the plight of the male prison population and the injustices that they may face at the hands of the criminal justice system. Whilst this work may not detail these instances, it is acknowledged that reform is needed across the criminal justice system, for men and women alike. However, female offenders in prison are often a group that go forgotten and unacknowledged; therefore, this dissertation will focus its scope in order to shine a light on the struggles women in particular face and why a policy of decarceration is beneficial for promoting equity across the criminal justice system. Part of this focus means omitting the experiences of women who identify as lesbian, gay, bisexual, transgender, queer and other (LGBTQ+). There is inadequate research on LGBTQ+ women in prison, which poses a dual issue. On one hand, the need for such research is great, therefore it seems counterintuitive to exclude the experiences of LGBTQ+ women in the criminal justice system. However, given the scope of this dissertation, it is simply not viable to include their voices in

any meaningful or impactful way, and to try to do so would trivialise their realities and generalise their vulnerabilities.

The overall aim of this dissertation is to provide a critical analysis of female imprisonment with a view towards crafting suitable recommendations as to how the identified problems associated with female incarceration might be alleviated and treatment of women in the criminal justice system might be better improved. The objectives inscribed below are not only achievable, they incrementally build upon each other in order to thread together a cohesive and appropriate focus that works to fulfil and meet the overall aim of this dissertation. They are as follows:

- Taking into account contextual factors, what does it mean to be both a woman and an offender in today's society?
- **What are the vulnerabilities that are almost exclusively attributed to female offenders and how do they disproportionately impact upon the harm female offenders experience in prison?**
- **How does prison as an institution perpetuate inequality for female offenders?**
- How can a policy of decarceration be legitimised and what are suitable alternatives to prison as a form of punishment for female offenders?

This dissertation will conduct a secondary analysis of existing research, given constraints to both time and resources, utilising secondary data facilitates a far more extensive and detailed analysis of female imprisonment than would have been obtainable through primary research (Bryman, 2016). Engaging in further analysis of existing data also allows for “new interpretations” to be gauged from others’ research, re-affirming – or not as the case may be – the importance of the data and its relevance to women’s offending behaviour and subsequent punishment (Bryman, 2016, 312). From this, a number of conclusions can be drawn and new theories and recommendations can be proposed, which not only adds value to this work, but also has the possibility of effecting real-world change. Whilst this dissertation hopes to provide a well-reasoned argument as to why a policy of decarceration should be implemented for female offenders on a national level, if this work achieves this goal by changing just one person’s perspective, it will be considered a success.

Chapter 1

For too long, women have been controlled and placed in constraints upon the parameters in which they can exist – both as women and as offenders. Tending to be simultaneously eradicated from embodiments of what it means to be an offender and evaluated through highly gendered lenses that attempt to hyper-feminise women. Such women are constrained by the boundaries of societal expectations and regulation. In today's society, it is easy to assume that women are no longer placed into 'traditional' norms of what it means to be a woman and to some degree this is true – notions of gender and sexuality have made significant leaps and bounds over the past decades (Skewes et al, 2018). Despite this, 'women as offenders' is still an area that is significantly under-researched, and, when theorised upon, academia shows that perhaps not as much has changed as society would like to believe (Fitz-Gibbon and Walklate, 2018). This chapter intends to provide an exploration of historical notions of female criminality, drawing upon traditional concepts of femininity and gender theory to contextualise what it means to be a woman – and an offender - in today's society.

It is important to consider the historical context and development of the female offender throughout time, in order to begin to contextualise the current climate for female offenders in the contemporary criminal justice system. Much of the academic literature on women seems to historically exclude them from involvement with the criminal justice system, despite evidence suggesting that in the early eighteenth century, women accounted for a significant proportion of recorded offenders who had some involvement with the criminal justice system (Feeley and Little, 1991). However, since then there seems to have been a notable decline in women's involvement with the criminal justice system as offenders, which has led to the concept of 'the vanishing female' (Feeley and Little, 1991). This notion of 'the vanishing female' refers to the systematic eradication of female offenders from history, instead promoting a consciousness that crime is – and always has been – a "male phenomenon" (Feeley and Little, 1991, 723). Of course, over time laws have changed – laws which were designed to persecute and demonise women specifically, such as laws pertaining to witchcraft and infanticide, acknowledged as "distinctly female offences" (Feeley and Little, 1991, 734). However, whilst there may be some decline in such targeted regulation of female 'criminality', which may in turn account for some decline in the recorded and acknowledged presence of women as

offenders; there are still many barriers which prevent academics from being able to accept this as a sufficient reason for the decline in recorded involvement of female offenders within the criminal justice system. Not only have women long been charged on account of committing crimes that do not fall under the purview of female offences, but they still continue to face criminal repercussions for crimes that do – namely prostitution (Feeley and Little, 1991). When faced with such juxtaposed explanations of why representation of female criminality has declined (or as the case may be, why it has not) scholars and practitioners alike are faced with searching for an adequate response to the lack of female criminality in societal consciousness. One may contend that the most adept explanation for ‘the vanishing female’ is the evolution of gender roles and their pervasiveness in society. In an attempt to understand crime and criminality, there is often a tendency to only consider the current social, political, cultural and economic climate, as the first indicator as to why people commit crime and how society can regulate and punish these individuals. However, when considering a variable such as gender, perhaps a “broader perspective is needed” in order to adequately capture the role it has fulfilled across history and will continue to in the future, in regard to the criminal justice system (Feeley and Little, 1991, 721). Only then will it be possible to consider gender as a central construct within criminology; which is particularly pertinent as it is arguably gender stereotypes which shape the degree of criminality and culpability that is associated with women. This is certainly supported by the thought that stereotypes of female offenders are often rooted in traditional notions of masculinity and femininity, which work to create a dichotomy in the treatment of women in the court process. Whilst some stereotypes work to alleviate women’s culpability – which is problematic in and of itself – others work to present women as double deviants. The concept of the ‘offender’ as an entity unto itself, possessing its own identity, provides an interesting point of contemplation when considering female offenders in particular. There is certainly a perceived notion that criminality and as such the ‘offender’, is inherently male, rather than female – a byproduct of women’s eradication from historical notions of criminality (Feeley and Little, 1991, 723).

The overt lack of visible female representation in criminal justice records and subsequent literature most notably presented severe implications with the emergence of feminist criminology – a perspective that gained in strength with the rise of second wave feminism in the 1960s and an emerging “cultural shift” in western society (Heidensohn, 2012, 123).

Revolutionary at its time, feminist criminologists made advancements so notable, they have gone on to “pioneer” the entire academic sector of gender and crime (Heidensohn, 2012, 124-125). Much of this pioneering centred around the unknown as well as the known – feminist critique focused on an apparent failure to recognise women as being a worthy subject within criminological writings (Heidensohn, 1968). Key differences between men and women in the criminal justice system and within crime records were also highlighted as areas which required further research, both retrospectively and looking forward (Heidensohn, 1968). From this point, the academic study of women and crime seemed to flourish, providing literature that worked to deconstruct “notions of gender”, whilst evaluating the merits of rising theories such as ‘double deviance’ and the ‘chivalry thesis’ (Heidensohn, 2012, 126). Both of these theories rely upon traditional notions of masculinity and femininity, which in today’s society one might struggle to define.

The definitions of ‘masculine’ and ‘feminine’ upon which such theories are based are perhaps best posited by one of the more controversial thinkers, functionalist, Talcott Parsons. Parsons (1956) highlights the key traditional features of femininity and masculinity through their roles in relation to the family; women fulfil the ‘expressive’ role, meaning that they are the primary caregivers, nurturing and caring for the children whilst alleviating the pressures that their husbands face from adopting an ‘instrumental’ role as the breadwinner. These definitions are open to wide interpretation and overwhelming criticism, on the basis that they are seen to promote men’s dominance and relegate women to the private sphere; gender roles are thought to be largely outdated and fail to take account of women’s contemporary presence in the public sphere as well as her role in the private sphere (Lindsey, 2016). However, as a recognised explanation of the origin of gender roles, they do hold weight, and thus provide a foundation from which it becomes possible to see how when women commit crime, they are thought to be doubly deviant (Smart, 1976). Double deviance refers to the view that when a woman commits a crime, not only is she perceived as deviating from being a law-abiding citizen, she is also thought to deviate from her ‘role’ as a woman (Cowen, 1995). Referring back to the concept of the ‘offender’ as being its own entity, it can be seen that when men commit crime, they are judged according to how well they fit with the notion of the ideal offender. For female offenders, their expected behaviour, based on preconceptions of gender roles, immediately fails to match with this profile of the typical offender, which can lead to them

facing increasingly subjective (and punitive) sentence variations. Cowen (1995) surmises that this is because where men are judged against offender stereotypes, women are instead judged and sentenced according to how congruent they as individuals compare to the traditional feminine gender role – that of a wife, mother and home maker (Moore and Scraton, 2016). The concept of femininity therefore plays a significant role in a woman's involvement with the criminal justice system.

Juxtaposing the theory of double deviance is the concept of the chivalry thesis, which suggests that women are treated less punitively in the criminal justice system than men (Grabe et al, 2006). Women are thus placed into a passive role, whereby they are treated more leniently throughout their involvement with the criminal justice system because they are seen as “weak and irrational” (Grabe et al, 2006, 139). However, alleviating women's culpability can be problematic on a multitude of levels; such behaviour feeds into a narrative that women are overly “emotional”, or that they are inherently “bad, mad, wicked, or weak” (Grabe et al, 2006, 140). Such narratives typecast women into almost pantomime characters – overly simplified and conceived within black and white moral boundaries. This works to erase the very human nature of female offenders, as people capable of both good and evil, with their own stories, experiences and circumstances. The problem with this is that it also feeds into a discourse that suggests that women are incapable of taking responsibility for their actions by negating women's culpability in their crimes, when the truth is that despite the many factors which do contribute to the reasons why many women decide to offend, such women have still made a rational choice to commit a crime. Simply put, “you don't go to prison for doing good things” (Skinner, 2019, 13). Fundamentally, this work acknowledges the historical significance of female criminality and how it is interwoven and embedded into the fabric of society, whilst theorising that as the society on top of it has continued evolving and adapting in its own right, so too have public perceptions of what it means to be a woman. It is only in recognising this conflict, that it becomes possible to follow the tangent of female criminality throughout time into today's society, enabling for poignant and appropriate exploration and understanding of the unique and complex challenges that women in the criminal justice system face today.

The concept that gender is a social construction rather than an innate aspect of personality is not a new one, yet gender norms have continued throughout history to permeate social consciousness, shaping and controlling the way in which we behave and perceive others

(Lorber and Farrell, 1991). As such, binary systems of gender – whilst outdated and often redundant – continue to shape social consciousness even today, influencing societal perceptions of what they feel it means to be a woman (Fitz-Gibbon and Walklate, 2018). It is in so many words “a gender system we simultaneously live and deny” (Williams, 2000, 15). To contextualise theories of double deviance in today’s society, one might look to depictions of ‘ladette culture’ in British media, characterised by an adoption of masculine traits amongst women (Player, 2013). Such depictions include emphasis upon women’s excessive alcohol use, increasing violence and role as abuser (Hickley, 2009). Whilst such behaviour is certainly not desirable of any member of society, these media hysterisations of women’s increasingly ‘masculine’ behaviour demonstrate that there is still prominence placed upon a binary system of masculinity and femininity, with the implication being that these boundaries must not be crossed. Rather than being seen as *transcending* archaic restrictions of genderised behaviour, when women do not fit the perfect mould of traditional femininity (and it is important to note that they seldom do) it is witnessed as a *transgression* of behaviour. One might therefore suggest that rather than a double deviance, there is a triple deviance of sorts happening, whereby female offenders are simultaneously judged on conflict between traditional notions of femininity and today’s definitions (or lack thereof) of what it means to be a woman, alongside their criminal behaviour.

By adhering to binary models of gender, more specifically, to a pre-conceptualised vision of what it means to be a woman, there is a danger of prescribing to gender essentialism, which may prove a barrier to achieving gender equality (Skewes et al, 2018). Essentialism fixates gender differences as inherent and determined. This leaves much to be desired in terms of defining what it means to be a woman in today’s society. Whilst this work does not pose that gender differences are “fundamental” (Skewes et al, 2018, 12), nor are they “immutable” (Fitz-Gibbon and Walklate, 2018, 7), it would be remiss to ignore both the facts of those differences which do exist and the cultural, social and historical contexts that continue to directly impact perceptions of gender in today’s society. This is not to justify them, nor to adopt them, but by understanding difference through a lens of gender, it becomes possible to see how these gendered conceptions inflict harm and perpetuate inequality for women, as will be explored throughout the course of this dissertation. This then means that systems of oppression can be broken down and new ones built to redress this inequality, which will bring along with it a

deconstruction of these gendered roles, allowing women – and men – to be, and to love, whomever they choose, without the fear of repercussion, or the constraints of an ill-fitting, contextual gendered role. In this image, whilst this work will largely characterise one type of ‘woman’ – she who represents the majority of the female prison population, it does so with great respect and acknowledgement for all types of women, with the view towards prompting a criminal justice system that will benefit all women.

Whilst acknowledging that women no longer fulfil the expectations and requirements of the role of traditional femininity, it is important to recognise that despite this, women are still sentenced and treated inequitably, based on their gender. This contradictory nature is something that proves a significant barrier when considering female criminality and imprisonment in contemporary society, as it not only requires great finesse in conveying the facets of each and how they interweave, but also hinders the ease with which the many and conflicting concepts can be bridged and evolve into a whole theory of justice in regards to female criminality. Thus far, this work has been heavily centred in gender theory and the historical importance of what it means to be both female and a criminal. However, one could argue that up until now gender theory and criminological theory have largely remained separate, meeting only when absolutely necessary. It is intended that this work will draw and pull them into each other throughout the course of this dissertation, however first one must explore not only the gap between gender theory and its relationship with crime, but also delve into the chasm that seemingly exists between existing theory and reality. In order to achieve this, the next step indicated is an analysis of the empirical research into actual life-experiences of women in prison.

Chapter Two

Women in the criminal justice system are often characterised by a complex set of vulnerabilities; their patterns of offending often lead to shorter terms of incarceration (Earle, 2017), their lives are defined significantly more by their children (Cox and Sacks-Jones, 2017) and their histories are regularly characterised by oppression and abuse (Cabinet Office Social Exclusion Unit and Ministry of Justice, 2009). This is not to say that men do not experience hardships beyond what may be defined as proportionate in prison but regards more of a comment on the characterisation of women as a group that cannot necessarily be applied with such rigor to men. Men and women are treated differently, and their experiences of life, and indeed prison are gendered accordingly. When the criminal justice system overlooks women in prison, their voices are lost; experiencing imprisonment not only means that women lose their agency, their families and their personhood, but also speaks to a system that is highly and inequitably gendered. This chapter aims to address these losses, by giving women in prison their voices back.

It is perhaps pertinent to first identify issues associated with short prison sentences for female offenders, as they can lead to unique and notably disproportionate harm. The impact and high frequency of short sentencing decisions on the wellbeing of those women currently incarcerated - particularly mothers - is not to be under-estimated (Masson, 2019). In fact, the magnitude is to such an extent that this work argues that the harm inflicted by prison upon female offenders means that it should be a “place of last resort”, reserved for only the most serious and dangerous offenders (Masson, 2019, 10). A ‘short’ prison sentence is typically used to refer to periods of less than 12 months (Masson, 2019) with around two thirds of women in prison serving a sentence of less than 6 months (Earle, 2017). Under the Criminal Justice Act (CJA) (2003, s.153) “the custodial sentence must be for the shortest term...that in the opinion of the court is commensurate with the seriousness of the offence”, this means that for a sentence of incarceration to be imposed, the crime committed must be judged by the court to be “so serious that neither a fine alone nor a community sentence can be justified” (CJA, 2003, s.152(2)). It is however advised that incarceration as a form of incapacitation, and the loss of liberty that is associated with it must be applied to only the most “dangerous and violent offenders” (House of Commons Justice Committee, 2008, 7).

In terms of functionality, there are a number of problems that short prison sentences incur for the system itself, not least the high cost despite the short time spent incarcerated; short sentences create a high turnover of offenders, which creates a significant workload of processing and paperwork that is constantly being handled throughout the prison and criminal justice system (Ministry of Justice, 2018b). Alternatives to prison custody, for example programmes designed towards drug intervention, where appropriate, would save exponentially on costs (Matrix Evidence, 2009, 9), whilst also serving to address the root causes of female offending. Despite this, the concern here should lie much more with the offender than it does with the criminal justice system and the Government. In order to take this critique even further, one must identify and consider the ways in which short term sentences are *disproportionately* harmful, despite logic prompting the assumption that a short term sentence is a proportionate response to low-level offences committed by women. When short term prison sentences are given in response to crime committed by women, rather than acting as a resource from which women can seek help and work towards rehabilitation – whether this be in the form of desistance from crime or through addressing more personal issues such as addiction – short term prison sentences “narrow” the often already limited social support and resources of female offenders (Carlen and Tombs, 2006, 353-354). The amount of time spent incarcerated is not only insufficient to undertake programmes to aid rehabilitation, but also can be seen to exacerbate offending behaviours (Masson, 2019), as evidenced by the high recidivism rate of offenders who have experienced short terms of incarceration (Ministry of Justice, 2013).

One explanation for why there is such a high proportion of short term custodial sentences for women is the severity of their crime. Of those women remanded to prison between 2015 and 2017, the majority were done so for a variety of crimes including ‘drug offences’, ‘miscellaneous crimes against society’ and most commonly ‘theft offences’ (Ministry of Justice, 2018c). At the same time as acknowledging that these are criminal acts, in breach of both moral and legal restrictions, one must also place such crimes into perspective; ultimately these offences are relatively low-level crimes (Baldwin and Epstein, 2017), meaning that under law the shortest custodial term possible must be applied as proportionate to the relatively low-level severity of the offences committed. Such practice can be critiqued on two strands; firstly, the high frequency of short term sentences for female offenders can be accepted as being a

proportionate punishment, when viewed based only on the surface layer. To begin to provide a true critique of this legislation, one must look beyond the surface, to see how given that the nature of these crimes is not inherently 'dangerous' nor 'violent' (Baldwin and Epstein, 2017), awarding prison terms as punishment for these crimes in the first place, actually provides a disproportionate response to the guidelines set out by the House of Commons Justice Committee (2008). Secondly, when incarceration for relatively low-level crimes is used so frequently, it demonstrates how not only is prison not used as a 'last resort' for the most dangerous and violent offenders, but it also illuminates how little sentencing authorities take heed of advice not written into legislation and law. The documents and words provided by the House of Commons Justice Committee (2008) seem to be treated with little respect; without the power of active and legal legislation to enforce a greater consideration for female offenders and to implement a structure on how they are sentenced, there can be little advancement. This is but one way that the law is failing to protect and provide adept consideration for female offenders in the criminal justice system.

These harms from both short and long term prison sentences are aggravated even more so for female offenders who have children. It is key to recognise that despite increasing diversity in family representation, a significant proportion of women still fulfill a pivotal role in family life. Of the approximately 12,000 women imprisoned yearly (Prison Reform Trust, 2019), around two-thirds are mothers to children under the age of 18 (Minson, 2015, 2). Yearly, imprisonment separates an "estimated 17,240 children" from their mothers (Prison Reform Trust, 2019), a number that is significant on its own, yet even more poignant when considering the fact that the majority of these women are the sole caregivers to their children, often displacing these children into state care (Cox and Sacks-Jones, 2017, 4-5). A statistic that is even more "acute" for black and minority ethnic (BME) women and communities, which are overwhelmingly lone-parent families headed by mothers (Cox and Sacks-Jones, 2017, 5). Despite the identified need for active and relevant legislation, it may also be seen that when such legislation is in place, it still remains ineffective. In the case of women as both offenders and as mothers, under the Human Rights Act 1998 there must be some consideration given to the welfare of the child under Article 8 which refers to the 'rights of the child'. This legislation requires sentencing authorities to "balance the Article 8 rights of the child against the seriousness of the mother's offence" (Baldwin and Epstein, 2017, 11). Around 14% of those children who are forcibly

removed from their mothers because of incarceration end up in state care (Baldwin and Epstein, 2017). The consequences of this can be devastating.

Children in care are at a much higher risk of offending behaviour in adulthood (Doyle, 2008), thus creating “intergenerational cycles of offending” (Stone et al, 2017, 297). In one study, the impact of short term sentences on mothers and their children was explored, with great emphasis being placed on the women’s view that they found prison as punishment to also unjustly “punish [their] children”, due to the emotional strain of being separated and the stigmatisation that both mother and child faced as a result of a custodial sentence (Baldwin and Epstein, 2017, 41). In fact, many of these mothers attributed the pain of separation to be the largest deterrent to re-offending, rather than the experience of prison itself, with the observation being made by the women that many of the other women they saw enter prison left “worse than when they went in” (Baldwin and Epstein, 2017, 39). Having acknowledged that short term custodial sentences are disproportionately used as punishment for less serious offences and when considering the high number of mothers who are incarcerated, it becomes clear that such legislation is ineffective at protecting the rights of the child, and indeed the rights of the women being imprisoned (Epstein, 2012). This disregard speaks to the great power and authority that sentencing bodies are awarded; from this it is essential to recognise that alongside a greater implementation of law and legislation (including significant limitations and provisions being placed over sentencing authorities), the real shift that is needed is a societal recognition of the inequitable harms faced by women in prison. Ultimately, “disruption and damage occurs with a sentence of any length, and the ideal outcome, would not be shorter custodial sentences, but fewer” (Baldwin, 2015).

The idea of social control over women, regulating them in their everyday lives and altering the extent to which they engage in criminal behaviour, permeates into the criminal justice system and is mirrored in penal policy for female offenders as it is for women on the outside going about their everyday lives. The concept of power is never quite as potent as when it is placed in the penal system; its key role is in its very nature – that by which the criminal justice system is run and ‘works’. Power is a requisite aspect of discipline, as it allows for one actor (whether this is an individual or the state as a whole) to regulate and control an offender through incarceration as a form of punishment (Thomas, 2003). As such, it can be argued that prison as an institution serves to “disempower the individual, and re-empower the threatened state”

(Leder, 2004, 52). This can be particularly damaging when it is applied to individuals who are already vulnerable, marginalised and dis-empowered in wider society. The lives of women in prison are often already characterised by histories of poverty, homelessness, a lack of education (Cabinet Office Social Exclusion Unit and Ministry of Justice, 2009) and extensive abuse (Cox and Sacks-Jones, 2017). Despite recognition of their histories of victimisation, women are further victimised by prison policies; strip searches in particular can be especially damaging as a form of “sexual coercion”, leading to feelings of “powerlessness and undermin[ing] self-esteem and self-worth” (McCulloch and George, 2009, 121-122).

Prison as an institution – at least regarding women in prison – thus mirrors “the gendered structure” of wider society (Davis, 2003, 61). That is, that women’s agency is regulated during incarceration just as it is outside of prison. Historically, women have been coerced through their bodies, a vessel by which they are objectified, sexualised and controlled (King, 2004). A prison sentence has several phenomenological effects upon an offender; firstly, in a physical sense, it removes the familiar space in which an individual exists as prison is designed to “constrict”, “rupture” and “disorientate” (Leder, 2004, 57). By this, it means to literally reduce the space in which the offender resides, deny access to areas that are not directly designated and in no way mimic the home comforts, instead favouring spaces that promote easy surveillance and segregation. Secondly, there is a more meta deconstruction of this concept of power; in order to situate these power relations into a criminal justice landscape with regard to female imprisonment, one only has to look to the work of Foucault. Foucault (1995) sought to explore power relations through the concept of the body and how dominant expressions of power are used to subjugate and manage others. Contextually, Foucault (1995) presented this concept through the exploration of punishment and discipline. The organisation of punishment through the structurally stagnant penal system is a force by which offenders in custody become ‘docile bodies’. That is, the removal of agency through tools such as enforced routine and extreme regulations upon behaviour, discipline the body to such an extent that it creates an oppressed and docile group who submit to the power enforced upon them (Foucault, 1995). Foucault’s work is simultaneously affecting and flawed for feminist scholars, leading to extensive critique for his “gender neutral” approach towards relations of power and the body, disregarding the nature of power between men and women (King, 2004, 33). However, this does not render his work ineffective, by adopting Foucault’s concept of power, one can see

how the nature and effects of prison act as an extension of the 'gendered structure' of society. Yet, these are not malleable bodies, these are women's bodies, subjected to a duality of regulation, specifically punishment of being an offender through a regime that victimises.

However, to place the individual offender into a passive, docile role is to ignore the mechanisms of their own conception of the world around them – one that reduces significantly upon incarceration. In acknowledging this, it then becomes possible to develop an understanding from the perspective of the very people that experience prison as an institution. By opening up a dialogue with female offenders it provides researchers, academics and policy makers with an understanding of prisoner's experiences through a narrative that describes a female prisoner's "life-world" (Leder, 2004, 52). This can be seen in the way that female prisoners negotiate and manage power imbalances. Historically, there has been a view that a prisoner's act (in any form) is equated to one of resistance, directed against the dominant power exerted over them (Ferraro and Moe, 2003). However, Rowe (2015, 332) takes the view that demonstrations of agency are merely acts of "problem solving" as opposed to a more targeted resistance. In this light, female prisoners must learn how to live within the boundaries imposed upon them by the penal system and manage perceptions in order to exert agency, in a system that is designed to remove it. Rowe (2015) demonstrates this via the testimony of women in prison, taking their own narratives and experiences and conveying them in such a way that the women are both seen and heard, rather than lost within the data.

One such experience is that of Joanne, a prisoner at New Hall, who helps Rowe (2015) explore the influence that prison has on prisoners' inter-personal relationships. Their relationships are lived but also observed, which means that an experience that might otherwise be labelled as a routine argument, resulting from a mutual conflict, becomes an accusation of bullying, which thus requires the interference of prison officers as an over-arching authority on their relations with each other. In order to manage this power dynamic, prisoners may turn to alternative means in order to achieve agency by taking knowledge of the institution they reside in and using it to their advantage. An example of this is given by Joanne who recalls a situation wherein a prisoner fabricated an incident with another prisoner, which resulted in them being moved to another wing, as a means of exerting agency over whom they lived with (Rowe, 2015). By taking "indirect" action, which has been raised as an act which a prison officer might see as "manipulative", Rowe's explanation of 'problem solving' rings sincere, as a means of

prisoners managing agency and power within the confinements and impositions of the penal institution, and reduction of their life-world (Rowe, 2015, 337). Having this comprehension shapes the discourse on women in prison, positing them as human beings with thoughts, feelings and experiences, rather than as a statistic buried in a report or a demonised and distorted version of themselves.

The gendered structure of prison means that women experience harms far beyond that which might be deemed proportionate. These harms are systematic and deeply ingratiated into the penal system, presenting a picture that whilst seemingly banal, is overwhelming in its testament to the quite frankly devastating impact that prison can have upon women. In the face of such pains, women's resilience is certainly something to be admired, but ultimately should not have to exist in the first place. A criminal justice system that is fair and just in its application of punishment would not only promote parity between men and women but would also mitigate such harms beyond those which would be a necessary requisite of punishment – something that the current system starkly fails to achieve. Given such evidence, it is difficult to comprehend why equality is still not an actively prioritised agenda within criminal justice and prison reform.

Chapter Three

There is no shortage of legislation on promoting gender equality in wider society and within the criminal justice system itself. The Equality Act 2010 incorporated and bound together various legislation on gender equality, cementing the principles of the Equality Act 2006 towards taking a more proactive approach in tackling discrimination and advocating for equal opportunity for women. The capacity of such legislation on addressing the specific needs of women and its ability to provide redress for historic gender inequality is significant in its potential. However, despite the existence of such comprehensive and considered legislative frameworks and indeed multiple policy proposals that would attempt to advance gender equality within the criminal justice system – of which the Corston Report (2007) is perhaps most notable – any action taken in terms of practical change appears to be both intangible and insignificant (Player, 2013), meaning that the true potential of this legislation is not being met. Due to this the focus of this chapter is not so much on the lived experience of a female offender but rather more of a commentary on the criminal justice system itself and its justifications behind female incarceration, culminating in an exploration of what equality means in the current criminal justice climate for women and why attaining it should be a priority across all sections of society.

There appears to be a notable difference between “logical and political necessity” with regard to prison as a form of punishment for crime (Carlen, 2013, 220). The “state’s ‘power to punish’” and the Government’s political power in the area of criminal justice is derived from a public will for it (Carlen, 2013, 220). Thus, in order for the state to maintain the current justice system for female offenders and continue utilising prison as a form of punishment for women, there must be some form of public support, giving prison as an institution “popular legitimacy” (Carlen, 2013, 220). However, the conditions for this public support do not exist in isolation – they are subject to differences in the cultural, social and political landscape of the time. These attitudes play a significant role in the experiences that women as offenders in the criminal justice system seem to face, which for the purposes of this work can be loosely positioned into three key stages; sentencing, imprisonment and release. Each of these stages present women with unique obstacles based on their gender and can be used to comprehensively highlight how the current criminal justice system provides an inadequate, harmful and overwhelmingly

inequitable response to the crimes committed by women. As such, whilst there must therefore be some form of 'political necessity' for prison as a form of punishment for female offenders, that does not mean that there is also a 'logical necessity'. This leads to the question of why there is a public and political will for female incarceration, when it can be posited that oftentimes such political necessity is inherently illogical.

The criminal justice system's failings regarding providing an equitable process for women arguably begins at the first identified stage: sentencing. Namely, in the continued (and increasing) frequency and severity with which it applies custodial sentences for female offenders (Player, 2013). In a changing world that is placing an ever-growing importance upon gender equality, there still remains space for the argument that gender equity means mirrored sentences as a proportionate response to similar crimes committed by men and women (Player, 2013). This standpoint is recognised as a "gender neutral" approach, which suggests that sex should not be factored into sentencing decisions; this term is most prominently recognised as the advice of the Sentencing Advisory Panel (SAP) (2010, 68). These guidelines were accompanied by a token acknowledgment of the diverse impact and harms that resulted from custodial sentences in the case of gender differences, yet failed to provide guidance on how courts might practically factor such differences into their decisions, beyond calling upon them to partake in their own consideration of such matters (Player, 2013). This is a gross failing of the Sentencing Advisory Panel. A gender neutral approach not only promotes ignorance of the severity of gender differences that result from custodial sentences, but could also be argued to diminish the importance of women themselves and their repressed position in society; these guidelines demonstrate a systematic failing within the political sphere in addressing women and their place in the criminal justice system. The SAP acknowledges that the resulting harms caused by prison are both gendered and inequitable yet fails to address these harms in any meaningful way. The implication here is that these harms are seen as a reasonable and unavoidable consequence of what the SAP view to be a fair and equal sentencing process. This not only minimises and undermines the disproportionate harms women face in prison, it also places higher importance upon the equality of the process than it does upon the outcome.

This opens the topic up to a much wider debate around equality of opportunity versus equality of outcome and it would be remiss not to acknowledge the highly controversial nature of such

a politicised debate (Phillips, 2004). The concern here however is that the women that initially sparked such a debate will get lost in amongst the political caricatures, in both this work as in real life. This is echoed in the work of Baroness Corston, who suggests that the chasm between legislation and practice may be perceived in such a way that a complete agenda for women in the criminal justice system – more specifically a policy of decarceration for female offenders – presents itself in some manner as “highly controversial” in nature (Corston, 2007, 16). At the same time as suggesting this is how the issue may be perceived, Corston denies in no uncertain terms that it is in any form a controvertible matter (Corston, 2007, 16). This may provide some form of explanation for why there is a lack of both public and political will for change to women’s agendas in criminal justice practice. Despite arguments attesting the generalisation of such a statement, society is permeated with “widely shared beliefs that women are already treated more leniently than men” (Player, 2013, 284). Thus, if public opinion is reliant upon and exists under the influence of the political and cultural climate and if equality between men and women is rooted in the notion of universality (in this instance meaning the same sentencing guidelines), then public will is likely to view any divergence from this as promoting leniency for women (Player, 2013). Given that political agendas are structured to gain public support, any public resistance instigated by ‘controversial’ perceptions of equality and justice, deny female centred agendas the ‘legitimacy’ they need in order to be practically implemented, as explored by Carlen (2013).

The second and third stages: imprisonment and release respectively, appear to be significantly more complex in their relationship with equality and female offenders. There are many threads by which it is possible to criticise the criminal justice and penal systems, but what is to follow is felt to be the most inclusive account of impediments that women in prison face as barriers to equitable treatment. It is by no means an account of every inequality faced by female offenders, but it is hoped that it conveys the truly terrifying scope and power of the penal system and the institutional barrier it poses to gaining equality for women in the criminal justice system. Common-sense by definition is understood as being a rational and logical view of the world and its workings – it is by all means based on consensus and mutuality of thought (Carlen, 2013). As such, it possesses a great deal of resistance and resilience towards contrasting explanations of various systems, in this instance those explanations as conveyed by theoretical understandings towards the inner-workings of female criminality and prison

reform (Carlen, 2013). In an attempt to understand the chasm between will (both public and political) and the evidence (both theoretical and academic), Carlen (2013) sheds light upon the language that is adopted around prison reform and women's experiences of custody through the utility of 'common-sense' discourse and 'theoretical' discourse.

Under various reports conducted with the hope of prison abolishment reform, terminology and language appear to have changed manifestly; In 2000, the Wedderburn report, commissioned by the Prison Reform Trust, saw the complete erasure of theoretical terms that can be used to directly identify marginalised groups (notably 'class', 'race' and 'sexuality') in favour of the term 'social exclusion', as understood to be a more common-sense term. This report, which was written with the interests of female offenders in mind, towards "reducing... imprisonment" and "improving treatment" (Prison Reform Trust, 2012, 1) has had a number of unfortunate consequences, firstly, by excluding an already under-represented section of society. This exclusion is a direct result of the change in terminology as such terms are not as irrelevant as the aforementioned report and subsequent literature would have you believe and thus cannot be brushed over, as they speak to an identity, rather than being used merely as a label. That is to say that such terms are much larger than being personal characterisations, as they refer to much wider social implications – that of social standing, organisation and most poignantly oppression, based on the very existence and presence of these factors (Baca Zinn and Thornton Dill, 2016).

Another repercussion is that the very people who have claimed to be dedicating their help to reducing female imprisonment have unthinkingly done just the opposite by supporting its popular legitimisation. In her work, Carlen states that the penal system is an active force, in that it has to continuously work to legitimate itself in order to fulfill its most basic function – that of incapacitation, in other words, to maintain its function of "keeping a prisoner in prison"; this is what Carlen has termed 'carceral clawback' (Carlen, 2013, 220). The succession of carceral clawback, although a constant motion rather than one singular action, can be attributed in some degree to the 'common-sense' principles promoted by abolitionist literature (Carlen, 2013). In a bid to address issues around 'social exclusion' and justify the high numbers of women incarcerated, who were understood under the new terminology to be socially excluded (working class or members of BME communities for example), there was a renewed focus upon the benefits of prison as a facilitator of rehabilitation for such women

(Carlen, 2013). There is no shortage of evidence attesting to the influence of social factors upon offending behaviour, such as poverty, addiction and homelessness to name but a few (Corston, 2007). Here it is possible to see how the idea of carceral clawback and the role it plays in the criminal justice system has significantly impeded upon attaining equal and just treatment for female offenders in determining custodial sentences.

Fundamentally, it is not possible to justify imprisoning women as a means of rehabilitating them, as the core function of prison as an institution is punishment, in fact it is the “only” common thread that ties female prisoners together (Carlen, 2013). To incarcerate women based primarily on the assumed ability of prison to provide successful rehabilitation for means that are often outside of their control, is both unjust and paternalistic. Most overtly, because of the overwhelming evidence attesting to the fact that prison seldom works as a means by which to reduce women’s reoffending (Hedderman and Jolliffe, 2015). To understand this further, one may look to the moral and ethical implications of such an act to see how these women are being punished for being part of ‘socially excluded’ groups, rather than for their actual acts of criminality. This particular ‘reform’ is designed more so in a way to work on the individual – to change their “beliefs” around their options given the context of their social circumstances, rather than to work to change the external factors themselves (Carlen, 2013, 235). When understanding that the reform tries to change how women *view* their options, rather than actually providing them with help to address their options, it becomes impossible to view their policies as a legitimate way of fulfilling a prison’s rehabilitative function. In this instance, the facts have been subjectively interpreted and presented in such a way that infers an inherently positive nature of penal policy and custodial sentences, by placing emphasis upon its rehabilitative functions. This is a form of carceral clawback, whereby women face significant inequalities at the hands of the criminal justice system and more specifically the penal system as a means of maintaining its own political power.

The essence of this work, and the literature it relies upon are inherently, yet seldom overtly feminist in their nature, with much feminist literature studying women in the role of victimhood as opposed to in a role of demonstrated criminality (Chesney-Lind, 2006). Whilst this is not to negate the work that has been and is being done in this sector, there are still significant advancements that need to be made to create an adept and complete charter of feminist criminology. There exists no one feminist theory of criminology and given the often

lively and conflicting debate on the matter, at times feminist theory can – and does – contradict itself (Musto, 2019). It is arguably this very nature that allows for critical and well-informed feminist intervention into criminal justice matters (Musto, 2019). For the purposes of addressing the unique issues associated with women in prison, there are two loose explanations of feminism that this work favours, posited more as objectives than definitions, that is to achieve gender equality and to study and observe difference amongst women (Baca Zinn and Thornton Dill, 2016). However, of those existing feminist criminologies (including the extensive work of Carlen) much have been critiqued on the grounds that they fail to adequately take into account the politicised nature of the criminal justice system in favour of promoting a culture of blame against dominant institutions (namely the patriarchy) (Carrington, 2016). In this line of thought, it is a process of everyday normalisation to blame for any apparent inequality in the criminal justice system, rather than an over-arching oppressive patriarchal power (Carrington, 2016). Here, Carrington (2016) fails to acknowledge ties between the grand and the mundane. Whilst the two are not mutually exclusive, it appears obtuse to deny that grand patriarchal systems of power can have a direct impact upon mundane normalised routines and actions – particularly when the subjects of the harms caused by these systems are women.

Carrington (2016) believes that this has come at the expense of specificity for some women in favour of relevancy for all women. On this point, one would have to agree; given the fact that under feminist thought women seem to have a common oppressor, that of the patriarchy, other oppressive systems are often disregarded as being comparatively unimportant (Musto, 2019). This provides an excellent segue into intersectionality within feminism and the impact it has on providing a whole and just account of the diverse women in prison and their unique experiences. Intersectional feminism is concerned with providing a feminist theory for *all* women, inclusive of differences such as class, sexuality and perhaps most prominently, race (Henne and Troshynski, 2019). This is important not least because of the already identified impacts of prison upon black and minority ethnic women and their communities, such as the erasure of identity through terminology and the paternalistic governance of such ‘socially excluded’ groups through increased incarceration; the implications of this on race especially are significant. By accounting for multiple, layered oppressions, an intersectional approach enables a deeper insight into the experiences of marginalised groups, and the systematic

inequalities such groups face. By placing specific focus on women of colour, it illuminates institutional inequalities such as harsher sentences and more punitive treatment (Sudbury, 2010). For these women, they are subject not only to the inequality that arises with being a woman in prison, but this is made all the more acute by the inequality that they face based on their race as well. Having this understanding, enables for reflexive practice, both within the academic discipline of criminology but also provides real-world understanding and solutions, which is essential if we are to enact positive change by mitigating harms to *all* women serving custodial sentences and provide them with a just and equal form of justice, in whatever form this may take.

However, recognition of difference amongst women is arguably as problematic as it is essential. One of the concerns here is that feminist politics grows to see nothing but difference, which becomes divisive rather than encompassing (Martin, 1994). The concerns of this article remain just as relevant today as they were in 1994, taking on a new form with the focus shifting towards a separation between what is viewed as “normal” (white) as opposed to “different” (women of colour) and the “inequalities” which these distinctions are borne out of (Baca Zinn and Thornton Dill, 2016, 36). In this sense, ‘difference’ can develop negative connotations that imply those women who are different (also largely understood to be marginalised groups) are somehow ‘less than’ the perceived social norm of a universalised woman (Baca Zinn and Thornton Dill, 2016). For women in prison, there is already an observed removal of identity, through loss of agency, loss of familiarity and restrictions to self-expression (Bosworth, 2017). For women of colour, this loss of identity is even more so discriminating as they face erasure through discourse (referring back to the gloss of ‘social exclusion’) that is “color-evasive” (Baca Zinn and Thornton Dill, 2016, 36; Frankenberg, 1993). This succeeds in reducing down and painting over the harms that women from black and minority ethnic groups experience and the inequality they are subjected to during their terms of incarceration. It also cannot be ignored that there is a clear lack of academic literature on the experiences of BME women in prisons across England and Wales; whether this is due to language that suppresses their voices or whether there are simply not enough of such women to gain wide recognition is unknown – what is known however, is that they are an “important part of the story that we need to be listening to” (Skinner, 2019, 1). As such, more research needs to be done into the multi-faceted

harms and inequalities that black and minority ethnic women in prison face daily – there can be no true equality for women, until there is equality for *all* women.

At its essence, the takeaway here is that by acknowledging difference, between men and women and between women themselves, equality does not have to mean the same treatment. In fact, calls for ‘equality’ under the guise of the same routines and policies often lead to worse conditions for women (Davis, 2003). It is for this reason that this piece of work is so important, as it aims to provide an academic and adept response to this viewpoint through an intersectional approach, highlighting its flaws whilst illuminating the hidden harms that arise for women under the guise of gender equality, as is the case when imprisonment is used as a form of punishment. Grand theory along with lived experiences are integral to each other in order to move forwards, both practically and academically – if they continue to exist in isolation, the criminal justice system and its treatment of women as offenders will remain stagnant. As such it is of significant importance to explore how one might marry the two so that they are inextricably linked in order to move the system forwards and begin to look at adequate justice – and care - choices for female offenders.

Chapter Four

What follows addresses a number of societal and systematic failings to provide an adequate and considered response to female offending behaviour. The chapter will provide a synthesis of these failings, specifically with the intent of drawing appropriate recommendations that might address these inequalities in the criminal justice system, with great attention being paid towards creating a model of criminal justice that is fair, equitable and molded so as to mitigate women's specific vulnerabilities and harms. Despite public perception, the following recommendations are not always new, or indeed revolutionary, but they are significant in their endeavor to provide a female centred approach to penology.

The first identified failing is that of a significantly under-researched and overlooked group of prisoners - women. Here, it can be seen that an integration of gender theory and penology is imperative in order to effect change. The Corston Report is largely understood to be a seminal piece of research that has shaped all following conceptions of this re-focused insight into women in the criminal justice system (Corston, 2007; Ministry of Justice, 2018d). With a focus upon "women with particular vulnerabilities" the Corston Report identified "the need for a distinct, radically different, visibly-led, strategic, proportionate, holistic, woman-centred, integrated approach" to criminal justice reform (Corston, 2007). The report provided a number of heartening recommendations, including an emphasis on "reducing the women's prison population", championing gender equality and devolving prisons into smaller localised facilities for those women who pose a threat to others and as such require some form of incapacitation (Corston, 2007, 81-82). The most promising token of Corston's (2007, 16) work is the recognition that "equal treatment of men and women does not result in equal outcomes". It is this conviction which lies at the heart of a female centred approach to penology and is one that incites such passion. The year 2018 saw the recommendations of the Corston Report solidified into the 'Female Offender Strategy', which aimed to present a dynamic strategy towards achieving a criminal justice system that catered to the unique and complex needs and vulnerabilities of female offenders (Ministry of Justice, 2018d).

Whilst the strategy greatly favoured solutions to punishment in the community - which was met with sincere and enthusiastic praise by academics - there are a number of limitations that render the strategy both implausible and inadequate (Booth et al, 2018). On a practical level,

the allotted funding for the Female Offender Strategy has suffered significantly compared to previously promised amounts – with just £5 million now being set aside (Ministry of Justice, 2018d). Whilst this certainly seems like a lot of money, it simply is not enough to actively follow through on the promised implementations of the strategy (Booth et al, 2018). The Female Offender Strategy also neglects to pay due diligence towards three essential areas of prison reform: restorative justice, impositions on sentencing authorities and the adoption of models working against short sentences. In spite of such promise, it is evident that the recommendations of the Corston Report “have seen a stagnation and loss of momentum...in recent years” (Women in Prison, 2017, 27). As Corston (2007, 16) said “there can be few topics that have been so exhaustively researched to such little practical effect as the plight of women in the criminal justice system”; given the shortcomings of the Female Offender Strategy and the diversion of attention away from a female centred agenda, the sad reality is that this sentiment remains as relevant and as poignant today as it was 12 years ago when the report was written.

The former Secretary of State for Justice, David Gauke (2018) stressed the underuse of alternative forms of justice to prison, such as that of restorative justice. Despite this, any mention of restorative justice seemed to be noticeably absent from the content of the Female Offender Strategy (Booth et al, 2018). Restorative justice provides an excellent alternative to prison, as it surpasses public concerns that community sentences are not punitive enough, as a suitably ‘punitive’ option (Masson and Österman, 2017), whilst proving to be extremely effective at reducing reoffending and diverting women away from the criminal justice system altogether (Larsson et al, 2018). This may be due to the fact that research suggests restorative justice is a deeply painful process for female offenders to experience and as such meets the need of public will to have a punitive aspect to punishment – that is, to make punishment an unpleasant experience (Daly, 2008). There are of course a number of recommendations towards appropriate uses of restorative justice, so as to represent a fair punishment without exacerbating women’s unique vulnerabilities. These recommendations lie mainly in education for all of those involved in the restorative justice process; for police and mediators to have a knowledge of offender’s histories and a sensitivity to previous victimisation, which can pose an adverse risk towards the success of restorative justice, and for women engaging in restorative justice to have an educated knowledge on its practices and purposes (Larsson et al, 2018). With

these advisements in mind, restorative justice is arguably the future for a female centred approach to penology, as it mitigates disproportionate harms that arise out of women's vulnerabilities and complex needs, whilst still fulfilling a symbolic aspect of inflicting punishment upon someone, thus meeting the necessary conditions for public and political will. The Female Offender Strategy has been criticised on the grounds that it "abdicat[ed]...responsibility with regard to gender-specific guidelines" (Booth et al, 2018, 433). This has several implications, firstly, that it therefore fails to provide a direct and binding counsel over those who possess sentencing power. As identified in chapter two, sentencers are awarded significant power and face insufficient regulation given their extensive capacity to imprison women. This means that women will continue to be improperly sentenced to short custodial terms, concurrently leading to higher levels of recidivism amongst female offenders by embroiling women into patterns of offending, creating more work for the system itself and inflicting unjust harm upon women. Thus, sentencing guidelines that are gender-specific are essential in promoting diversion away from the criminal justice system for women, and for substantially reducing the amount of women in prison – especially those serving short term sentences (Baldwin and Epstein, 2017). However, the lack of accountability that sentencing authorities face when making their decisions also needs to be addressed in order to ensure that gender-specific guidelines are adhered to. To achieve this, one method is to devolve sentencing powers from one judiciary to a panel of judges who are amalgamated from a selection of interdisciplinary bodies, or alternatively, to have this panel report directly to and advise the judiciary. This not only holds those who sentence to accountability, ensuring that women's needs are being met and that their vulnerabilities (such as children) are being considered, but it also provides for better informed practices, on a number of levels.

One of these levels is in the marrying of academia and practice – two spheres which concern themselves with each other but seem to fail to ever truly meet in a way that enacts meaningful and tangible change. Academics have often been likened to residing in an 'ivory tower', a euphemism for the impractical nature of academia, suggesting that it has little real-world impact (Newbury-Birch et al, 2016). By creating a working partnership, academics are opened up to providing research that holds the potential for change by taking an accurate account of the criminal justice landscape, alleviating barriers to access which often obscure the parameters of their work. For criminal justice practitioners, such as prison officers, politicians

and judiciaries, this means that they have an evidenced-based account of what works in terms of criminal justice reform, which they recognise as legitimate due to their involvement in the process as collaborative producers, allowing for more considered and informed practice. This interdisciplinary approach is an excellent starting point to criminal justice reform and would significantly benefit both parties involved, but is not the only means by which a multi-disciplinary system can be evolved.

This idea of joined responsibility for research and practice can be replicated across the criminal justice system. The need for reform and evidenced recommendations towards achieving it have not arisen from a small, radical group in society, but rather has seen calls for action from those in politics, in the form of extensive legislation - both in England and Wales itself and internationally, from those in academia and from those on the ground, working with women in prison day in and day out, whether through charitable organisations or the prison system itself (Booth et al, 2018). By utilising these groups and drawing upon their expertise to create a criminal justice system that depends and relies on others' knowledge, a female centred approach to penology will naturally emerge. Such a framework is "key" in effecting palpable "progress" (Gauke, 2018, 3). This framework will allow for an organic enforcement of women's rights as the system - balancing upon each other - holds each member accountable, and acts with the interest of the female offender and their vulnerabilities in mind. Expressly, in facilitating awareness and respect for the "diverse forms of 'family' alongside women's lived experience and their histories" (Booth et al, 2018, 434), with regard to building women's self-esteem and mitigating the impact of stigma upon women and their families and towards a better informed, holistic approach to treatment of women in the criminal justice system. This will present itself in the reduction of incarceration for female offenders, increased support and after-care for women's unique vulnerabilities and in the direct addressal of women's criminogenic needs.

One such important vulnerability arises out of those created by difference amongst women. This work acknowledges its shortcomings, which were felt acutely but were sadly unavoidable; namely, that there is a noticeable lack of continued consideration for all types of women, signposted by the deficit on research regarding women who identify as part of the LGBTQ+ community, as well as women from black and minority ethnic groups. Arguably, these women's experiences and hardships within the criminal justice system can be felt even more acutely,

but constrictions on this work (time, resources and length to name but a few) meant that this group could not be afforded the depth or recognition which they both deserve and require. This is identified therefore as an interesting and very much needed area of future research, to truly begin to present a full and realistic portrait of the vivid differences found in society and the often resulting friction faced by such women. Such women's needs and experiences are so complex that it is felt that they would need extensive work focusing on them exclusively, an objective that unfortunately could not be met in the course of this work. An intersectional approach therefore provides an excellent theoretical framework from which to base all future work on, in order to carry out research that is truly intersectional and representative of all women and their experiences within the criminal justice system; one that is wholly inclusive in spite of its exclusivity.

It is important to note that at the same time as acknowledging that processes within women's prisons do need to be improved and indeed that the institution's infrastructure needs to be radically reshaped (refer back to Corston's (2007) proposal of smaller localised units for women), a female centred prison system is not the objective, but rather a female centred approach to penology. The distinction may not seem clear at first, but it is of key importance when looking towards the future of women's involvement with the criminal justice system. A female centred prison system serves only to re-conceptualise and thus re-legitimise those punitive policies which are so extensively criticised by prison reform rhetoric (Hannah-Moffat, 2002), thereby, rationalising a shift towards a female centred approach to penology. Such an approach relies on a number of changes to women's punishment, such as the previously explored incorporation of restorative justice, use of multi-disciplinary teams and an adoption of an intersectional, female led theoretical framework. However, the most essential proposal of a female centred approach to penology is an active and compelling policy of decarceration for female offenders. Above all, the primary objective of prison reform should thus be an adoption of an abolitionist agenda. That is, to reduce the female prison population down significantly so that it houses only the most dangerous and serious of offenders. Anything less than a rigorous policy of decarceration is insufficient at addressing the specific needs of women as offenders and will continue to perpetuate deeply ingrained harms and inequalities for women. This is, and should remain of utmost importance, embodying the spirit of prison reform and guiding all future policies. Having acknowledged this, there are however several

notable barriers to achieving a fully implemented policy of decarceration, which not only prevent it from being executed with any sense of urgency but also restrict its perceived legitimacy – inhibiting its validity as an achievable and desirable objective and instead presenting it as an aspiration of only a select few.

It could be argued that the current criminal justice system is very much rooted in the ideals of an ethic of justice, which posits that as humans develop, their moral compass evolves to prioritise values of equality and justice (Larrabee, 1993). This may explain in part the desire for a punitive aspect to punishment, as it personifies a moral intent to see justice upheld. Developed as a criticism of an ethic of justice, Gilligan (1982) formulated an ethic of care. “A theory of moral concern grounded in responsiveness to others that dictates providing care, preventing harm, and maintaining relationships” (Larrabee, 1993, 5), principles which assimilate well with the orientations of a female centred approach to penology, even decades later. Much of the literature on an ethic of care is notably dated (see Gilligan, 1982; Larrabee, 1993; Clement, 1996) which can make it difficult to see its relevance in today’s ever-changing and highly politicised society. Gilligan (1982) marketed an ethic of care as aligned with distinctly feminine virtues, which calls to mind notions of women as the caregiver and homemaker, roles which have “traditionally been used to keep women in the ‘private’ sphere” (Larrabee, 1993, 5). This has understandably led to some criticism, particularly from concerned feminist activists. One could propose a new way of looking at Gilligan’s ethic of care however; it is well established by now that there are notable differences between men and women’s offending behaviour and that women in prison suffer an inequitable and disproportionately harmful form of punishment. By creating a theory that is distinctly female-centric (by virtue of placing women’s experiences at its core), an ethic of care subverts systematic tools of oppression (those means by which women have traditionally been excluded from criminal justice narratives) by directly encompassing women’s lived-experiences and the real-life implications of such histories into criminal justice discourse. It is the extreme polarisation of an ethic of care as opposed to an ethic of justice that can be so dangerous as it leads to “uncaring forms of justice and unjust forms of care” (Clement, 1996, 2). The picture painted by this dichotomy is one that is uncomfortably familiar given the nature of today’s criminal justice system and its treatment of women. By drawing upon both an ethic of justice and an ethic of care in regards to abolishment rhetoric, it may become possible to create a whole theory of a

female centred approach to penology, as it creates caring forms of justice and just forms of care. That is, a theory which meets women's needs and accounts for their vulnerabilities, whilst gaining public and political traction as a legitimate form of justice.

Based on the explorations of this chapter, three definitive conclusions can be made. Firstly, that the need for criminal justice reform, specifically in the form of a female centred approach to penology, is both essential and well over-due. The recommendations in this chapter also show that achieving such a model, whilst not a process that can happen overnight, is by no means implausible, nor is it a biased form of justice that 'let's women off easy' so to speak. Thirdly, it is apparent that without dedicated political backing, and strong evidence-based policies and legislation, with its implementation held to account, little progress can be made to criminal justice reform.

Conclusion

This work was structured with the intent to provide a logical and comprehensive response to the identified objectives. This began with a contextual analysis of what it means to be both a woman and an offender in today's society. As a means of addressing the identified gap in research pertaining to women as offenders, a number of vulnerabilities were established that are shown to make women more prone to suffering harm during the terms of their incarceration. With an understanding of the gendered nature towards these harms, research followed that spoke to a systematic perpetuation of inequality for female offenders. Finally, the dissertation reached its final chapter by providing recommendations towards mitigating these harms and inequalities for women in prison. This structure and its facilitation of a successful meeting of the proposed objectives, meant that the overall aim of this dissertation was effectively and appropriately achieved. This dissertation has provided a critical analysis of female imprisonment and has crafted a set of suitable recommendations as to how the identified problems associated with female incarceration might be alleviated and treatment of women in the criminal justice system might be better improved. What follows is a summarisation of conclusions that can be drawn from the findings of this dissertation as well as a short exploration of both the limitations and the value of this work.

To conclude, there is a distinct and notable lack of research into women as offenders, not only into their experiences in prison, but also in their involvement in crime as a whole, from those factors which might be seen to impact offending behaviours, through to insufficient after-care practices upon release. With consideration being taken to avoid adopting an essentialist point of view, the research highlights that there are multiple and significant vulnerabilities that characterise women's offending behaviour and subsequent incarceration. More concern needs to be applied to these vulnerabilities, as low-level offending behaviour too often unjustly results in short term sentences that entrench women into the criminal justice system. Women's family dynamics, specifically their role as mothers, also need to be significantly considered, as well as their histories of victimisation and abuse. This has led to women in prison suffering disproportionate harms and with such little attention being shed upon this problem, there are few evidence-based solutions that are considered to be viable and achievable. There is also a lack of understanding, amongst the public and some practitioners and academics alike,

that gender equality in the criminal justice system does not mean mirrored punishments. Gendered structures and systematic oppressions mean that when women experience the same form of punishment as men (prison), they are disproportionately more affected.

With regard to solutions, there are several barriers that prevent tangible change. Firstly, there are a notable lack of practical resources by which reform can be implemented, namely a lack of funding and several inadequacies with the proposed 'Female Offender Strategy', as well as other key legislation in the area. However, legislation has been shown not to be enough and more needs to be done to hold sentencing authorities and those in power accountable for their actions in the name of the law. Secondly, this leads to the understanding that without sufficient public will, to provide female centred criminal justice reform with popular legitimacy, and the political support that is derived out of this will, there can be no tangible change for women in prison. In order to garner this public and political will, women have to be significantly more included within criminal justice rhetoric and there needs to be a shift in public knowledge and perception. Such a shift would be facilitated by adopting an intersectional approach that pulls in the principles of an ethic of care and applying these theoretical frameworks to multi-agency workings across the criminal justice system and into wider society. Only then can true and effective reform be carried out. The best method of providing a just form of punishment for women is to adopt a female centred approach to penology. The primary objective of the approach is in the implementation of a policy of decarceration for female offenders, with a view to adopting alternative forms of punishment, such as restorative justice. Then, and only then, can women's vulnerabilities be accounted for adequately and a simultaneously just and caring form of dealing with female offenders in the criminal justice system be achieved.

Despite the identified need for significantly more intersectional research into LGBTQ+ and black and minority ethnic women, this work has provided somewhat of a starting point from which work in this arena can be built upon. This dissertation has endeavoured to draw together fragmented research on women in prison, in order to present a logical and persuasive account of their vulnerabilities and experiences, in favour of implementing a policy of decarceration. However, even with the overwhelming account of harm and inequality that this work has encompassed, there are still areas that this work has declined to address. Specifically, that it has placed its focus upon only one type of female offender, and even then, this work has provided only a limited account of the vulnerabilities that these women carry – the harm that

women in prison experience simply cannot be captured or adequately conveyed in such few words. With that in mind, society must work harder and with more conviction, in order to create a criminal justice system that does not simply respond to the harms and inequalities perpetuated by prison for women but prevents them from being inflicted in the first place.

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