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Introduction

This article interrogates the case that Scotland has long been an exception to the punitive trends that otherwise define Anglophone penal transformation. This claim characteristically has three key features. First, Scotland does not fit dominant explanatory frameworks of late twentieth century penal transformation; the forces behind Scottish imprisonment and penal politics were not shaped by a culture of control, new penology or populist punitiveness. Second is that Scotland has fully invested in penal welfare values and practices. Finally, these conditions have been supported by Scotland's distinct national culture (McAra 1999, 2005, 2008; McNeil 2005; Croall 2006; Tata 2010). Yet, despite its established place as an Anglophone punitive exception, there has been scant analytical or historical engagement with this claim.

Addressing these conceptual and empirical omissions this article has four central goals and it is organised as follows. First, it outlines the central features of penal exceptionalism in general and Scottish exceptionalism in particular. Then, focusing on historical material, the article presents a recovery and reconstruction of the events that defined Scottish imprisonment in the mid-late 1980s. Using the same data, the article traces the dramatic transformation that occurred as Scottish prisons and prison management underwent a progressive metamorphosis. Alongside this historical recovery, it will situate these changes within the wider social and political context as a means to explain this striking penal transformation, showing the influence of the otherwise opposing movements of Scottish nationalism and Conservative neoliberalism. The essay then moves on to provide a critical analysis, outlining the difference between *civilising* and *humanitarian* penal transformation. The essay then calls into question the orthodoxy that Scotland has an established history of progressive prison policy. Humane prison practices are radical, seeking to reduce the use of the prison and penal control given the inevitable personal and social problems caused by the prison. Alternatively, the civilised prison is one that appears progressive but is far less radical in its aims. Civilised penal practices use evidence-based expertise to refine the

aesthetic of penal control, making imprisonment profane, protecting the prison from the prisoners' dissent, and instilling prison administration with greater power and resilience, such that when people imprisoned experience tragedy it is seen as a blip that has occurred in spite of the prison, rather than because of the prison. The civilised prison denies the pains of imprisonment and therefore successfully inures itself from blunt force critiques levelled at overtly punitive institutions that are overcrowded, with physically poor conditions and degrading treatment. To conclude, the essay reflects upon the veracity and usefulness of the punitive/exceptional penal dichotomy. I argue that more closely examining the kinds of ideas, ideologies, feelings and sensibilities drawn on by those agents tasked with the power to imprison, as such, revealing the tenets of their working political culture, helps us better understand the social meanings of imprisonment. Finally, having shown that not all progressive penal transformations are equally aspirational, the article suggests that a humanitarian ethos is what we should seek to replicate when we are looking cross-nationally for penal reform inspiration.

Penal Exceptionalism

It is generally argued that the Anglophone world moved into a more punitive phase from the 1970s as social order (Garland 2001) and a neoliberal political ideology (Cavadino and Dignan 2006; Wacquant 2009) evolved to create a more punitive context in which a populist rhetoric of vengeance prevailed (Bottoms 1995). As a result, what emerged were new penal practices, such as greater use of prison and harsher prison conditions.¹ Though, some western countries that have managed to buffer these punitive forces (Pratt 2008; Pratt and Eriksson 2013). These nations, particularly the Nordic countries, have been described as exceptional, firstly, as they have resisted punitiveness (Pratt 2008), and that they are more tolerant in their responses to criminality and restrained in their uses of punishment (Pratt and Eriksson 2013). Therefore, penal exceptionalism is first, an inherently comparative concept, and is used to identify those nations that have diverged from penal practices often observed in England and Wales and the USA (Reiter et al 2018). Secondly, these accounts are

¹ To make matters a little more complicated, the USA is often described as exceptional, intended to emphasise, among other things, that within the community of punitive nations the USA has the dubious position as the most punitive.

also presented to help progressive penal reforms be developed. How have these nations managed to mitigate the prevailing punitive excesses? In understanding the virtues of these exceptional prison regimes we may be better able to outline how those practices could be replicated in our own or other more troubled penal systems (Pratt 2008; Pratt and Eriksson 2013; McAra 2008; Whitman 2003).

Given that penal exceptionalism has been at the forefront of comparative penal studies, it is interesting that Scotland is subject to curiously little investigation when it comes to matters of punitive resistance, even though it is widely accepted that Scotland 'fully embraced penal welfare values' from the 1960s (McAra 2008:489; Mooney et al 2015). The Scottish case is all the more interesting given that it is not only in the Anglophone region, but is a constituent of the UK. Though it has always had a separate prison system, when the punitive turn was occurring in the 1970s-1990s Scotland was governed by Westminster.

When the term exceptionalism is deployed in relation to Scotland it is intended to describe the progressive character of the penal system (McAra 2005, 2008, 1999; Hamilton 2014) and its relative immunity 'from the populist tendencies that were rapidly infecting its southern neighbour' (Cavadino and Dignan 2006:231). From this comment we see that like other penal exceptions, Scottish exceptionalism has a comparative calling-card, aimed at establishing that Scotland's penal system is felt to have been 'better' than that in England and Wales (Mooney et al 2015:210). A reader familiarising themselves with the Scottish socio-legal context will also be confronted with claims that the Scottish criminal justice system can be characterised as: 'England and Wales it isn't!' (Tata 2010). Discussions of Scotland's penalty refer as much to technical differences in the system as they do to something much more essential. The penal system in Scotland, it is argued, reflects Scotland's idiosyncratic civic identity as somewhere with an impregnable collective sense of fairness and communitarian values (Hamilton 2014; McAra 1999; Croall 2006), which buffered the negative forces of penal intolerance (Smith and Young 1999; Duff and Hutton 1999; Hamilton 2014).

In recent years a theoretically and empirically sophisticated literature has developed to illuminate the problems of penal exceptionalism, revealing a more nuanced picture of

penality, though focused on the Nordic countries. These new accounts show that even these lauded prisons are fair from non-painful (Ugelvik and Dullum 2012) and penal values are more complex, less absolute than the literature suggests (Barker 2012). It also reveals a broader problem with the dichotomous punitive/exceptional penal narratives that can feature heavily in penology, obscuring our capacities to describe the nuances of penal systems (Reiter et al 2018).

Despite its distinct position as an exceptional outlier within the punitive Anglophone region, the idea of Scottish exceptionalism as an historically enduring phenomenon has rarely been critically or empirically investigated. In fact, there has been curiously little engagement with Scottish penal history at all. From the mid-1980s Scotland had a large prison population, equivalent in per capita terms to England and Wales (House of Commons 2017), so, if the exceptionalist claims were ever mainly about numbers, then Scotland was in a precarious position from the outset. Scottish penal parsimony, in relation to the prison at least, is actually less than clearly established in the 1980s, with McManus (1999:231) suggesting that the impact of welfarism upon imprisonment was only 'piecemeal'. There are clear empirical gaps in our understanding of the historical shape, character and practices of Scottish imprisonment across this period – leaving claims of exceptionalism open to uncertainty. This article seeks to address these omissions.

Note on Methodology

This research develops the general agenda sketched out by Loader and Sparks (2004) about the usefulness of an historical sociology of policy for probing some of criminology's prevailing theoretical claims. This approach also helps overcome some of the common weaknesses in this field of penal exceptionalism, where examples are routinely over-general and lacking in historical specificity. The focus here is on the period from 1985-1995, asking first, how did the penal state think? Secondly, how was the Scottish prison system organised and how did it evolve across this period? I explore these questions in the hope of offering an account that explains why were people imprisoned in the way they were and why the power to imprison was deployed in the way it was. The article draws on oral history

interviews with seven retired civil servants: Douglas, Adam, William, Derek, Euan, Ken, and Alistair.² Each worked within the penal state in Scotland during this period as governors, prison administrators, policymakers and researchers. In addition, I employed archival research and documentary analysis. I approached all of these texts using a cultural sociology methodology (Girling et al 2000; Swidler 2001). This involves examining the often taken-for-granted narratives, values, beliefs, and tacit feelings that were embedded in each discussion and dispensation of penal power. A contribution of this article is that it demonstrates that properly conceptualized and grounded historical case studies can illuminate the complex nature of penal politics more thoroughly (Jones and Newburn 2005). The article does not speak for prisoners' experiences, however, nor does it make claims as to how these new ideas and policies unfolded in practice. Further historical recoveries of the kind that illuminate what is beyond the scope of this article are required; namely, how prison was experienced in Scotland during this period of rapid transformation.

Scottish Imprisonment in the 1980s: Riots and Disturbances

Prior to devolution in 1998, prisons were one of the few public policy areas controlled and managed by a separate Scottish administration, known as the Prison Division. The actual prison regime relied on mundane and unskilled labour to form the routine of the prison life (Brangan 2018), while isolation, particularly in notorious segregation units, known as the cages and the 'digger' at Inverness and Peterhead, were central to punishment and control (Sparks 2002). The degradation, violence and inhumanity of the system became part of Scottish prison folklore (Boyle 1977), with one former prisoner wrote that it 'was rumoured that blood was coated on the walls from the beatings handed out there' (Steele 1992:211-212). By the mid-1980s the Scottish prison system came under extreme pressure as a sustained pattern of disorder and rioting erupted across the prison system. The first major riot occurred in January 1984 when prisoners took over a section of Peterhead prison for 18 hours. The following year, in another Peterhead incident, nine members of staff were taken hostage in the course of an abortive escape attempt (*Annual Report* 1985:15). Not long thereafter, again at Peterhead, seven members of staff were held at gunpoint during another

² These are pseudonyms. Interviews lasted between two and three hours and were recorded and fully transcribed.

escape attempt; though the gun was later revealed to have been a replica (ibid.). Dissent, however, began to spread. At other prisons there were fire-raising incidents, dirty protests and prisoners refusing food. In 1985 further riots, hostage-taking and rooftop protests occurred. This continued into 1986, as prisoners undertook rooftop demonstrations, there were serious fires at two prisons, dirty protests, and on two occasions prison officers were held hostage (*Annual Report 1986:15*; Scraton et al 1988).

The riots were blamed on the particularly 'bitter' and 'uncooperative' prisoners (*HMCIP Annual Report 1986:15*). The Prison Division believed the incidents 'served to highlight the need to tackle the question of facilities for difficult prisoners' (HH57/2070). This marked a period of extreme security consciousness, an obsession with the dangerous prisoner and reactive prison policy. Perimeter security was tightened at a number of prisons (*HMCIP Annual Report 1986:14*) and new 'punishment blocks' and security systems were provided (*Annual Report 1985:14*). A six-cell national segregation unit, a 12-person unit for disruptive prisoners and an 18 cell segregation lock down facility were opened (HMCIP 1988:iii; SPS 1988b; *HMCIP Peterhead Report 1985:5*).

Despite these efforts prisoner protests persisted into 1987. In the first half of the year prison officers were held hostage at two separate prisons. Then, in September, another prison officer was held hostage and just as that incident drew to a conclusion on the 27th, the following day, the 28th of September, two prison officers were taken hostage at Peterhead (SPS 1988:Appendix 2). This incident was also an unparalleled spectacle, as 'television viewers around the world witnessed an officer being dragged across the roof of Peterhead Prison with a chain around his neck' (Coyle 1992:8). The siege was not resolved until a dramatic decision was taken to send in the British Special Air Service (SAS), who stormed the besieged area on the 3rd of October (SPS 1988:Appendix 2). Then, the following day, October 4th, a prison officer and a group of prisoners were taken hostage at Perth prison for 33 hours. After the quick succession of hostage takings and sieges the Division took decisive and firm action to immediately stamp-out the danger across the prison system (SPS 1988:para.8.4): all adult male prisoners were denied association and a further 60 prisoners, believed to pose the greatest threat to the mainstream, were removed to Peterhead (Coyle 1991:143).

The prison administration described themselves as 'under intense strain' (*Annual Report* 1986:15) and they escalated their reactionary and punitive response. They proceeded to plan another 'new generation' of maximum security units, including a 60-person unit to be built 'as quickly as possible' given the 'Department's anxiety' (SPS 1988:para. 8.3-8.8). Reflecting this discomfort, many participants in this study revealed these were still traumatic memories. Ken, who worked inside the prisons and the Division, reflected the feeling that a small but intense carceral civil war had erupted:

'for a while, about two, three years, we were in a warzone... a lot of staff were held hostage, injured, a lot were traumatised, a lot of staff felt they couldn't really cope. It wasn't why they were in the prison service. A lot of staff retired and left. I suppose damaged people. It was a very difficult time.'

A sense of conflict had engulfed the prison system. A cycle of mutual hostility and retaliation shaped Scottish prison culture – dirty protests, riot gear, blockades, negotiations, rooftop protests and hostage takings. Prisoners on one side, pulling against and clashing with the physical environment – the building, the landings, the cells –and those agents of power, the prison officers, who every day sought to manage and control them.

Legitimacy Crisis

The Division began to draw public opprobrium for their responses to the prison crisis, putting pressure on their largely unexamined management rationale. The Scottish Prison Officers Association and the Scottish Council for Civil Liberties wrote to the *Scotsman* newspaper critiquing the ineptitudes of Prison Division's management abilities. Then critical aspects of an unpublished internal report were leaked to the press. This blamed the current prison crisis on a lack of managerial direction and a prison system that was fundamentally unfair (Kinsey 1988:108). An independent group published a report criticising the abuses at Peterhead and the official responses to the disorder (Gateway Exchange 1987).

Civil servants responsible for prisons had been seeking a return to an equilibrium within prison by intensifying security. But the legitimacy underpinning those reactions was

undermined as the prisoners had become evermore irreconcilable to their imprisonment and the public and other penal state actors grew critical of the Division's lack of success. By the end of the 1980s crisis and uncertainty enveloped the Division, as the basic objectives of control and containment seemed less secure and achievable. William described this as a confluence of fragility and futility: 'The prison service...can no longer manage...[The Division] lost the plot...prisons at that stage were in a real degree of crisis'. Interviewees told stories of senior managers also 'breaking down' in tears in public and going AWOL. The chaos of the prison system was perceived to have taken a toll upon those in charge. Derek referred to the departures of senior Division civil servants as 'casualties': 'At the time of the troubles...[there were] casualties among governors and managers, who were suddenly away', leaving Scottish prisons in a state of uncertainty about their future. These anecdotes were visceral tales of a Government administration that had exhausted its well of authority, the consensus about how best to control prisons and prisoners was unsettled and the Division now found itself in a new form of internal crisis. At times of crisis, as Hay has written, 'disparities between previously unquestioned cognitive frameworks and the 'realities' they purport to represent are starkly revealed' (Hay 2002:214). As such, it is at moments like these that transformation can take place.

Progressive Penal Transformation

Reassessment

During 1988-89 the Director of the Prison Division stood down and 'a group of young Turks took over' (Derek). The new Director stated that: 'New approaches and new ideas are needed to avoid further disruption' (McKinlay 1989:4). Now, in a volte-face, the failings of the prison regime were described as the overt violence of Scottish imprisonment – evaluations which had previously been reserved for the prisoner. The Prison Division became embarrassed about the physical excesses of incarceration. As Ken mournfully recalled:

'Our response was a very hierarchical, forceful, coercive response. We were out there knocking the hell out of prisoners...It was a very violent time. The response was violence by the authorities back, and we locked down and we locked up. And we damaged a lot of people; a lot of prisoners'.

William described prisons as 'pretty nasty places...we were treating them as animals'; Douglas recalled that it appeared to him that 'Prisons used to systematically brutalise people'.

It was further suggested that Scotland's prison administration was responsible for the disorder – management's punitive and uncultivated ideas about imprisonment had proliferated the disturbances. Reflecting this, William described Scotland's prison policy of security and segregation as illogical and needing to be repudiated:

'It came from the common-sense: we have 50 bad apples, or 200 bad apples in the barrel, let's take them out, but let's do something for the rest but let's get these guys out...[It] was about "let's get a cage somewhere and let's forget about them"...[new senior management were] able to say [this] was shite'.

Douglas also wanted to invalidate the Prison Division, describing it as a 'semi-performing' Department that hadn't been able to function when the riots continued. Similarly, Adam described how the prison administration suffered from a powerlessness that he defined as 'learned helplessness'.

The problems with imprisonment were now firmly identified as problems with (1) management; and (2) the dehumanising penal philosophy that shaped the treatment of prisoners. New management was intent on transforming the Division *and* taming the disorder in Scottish prisons. Having made these diagnoses, the new management, acting with all the zeal of reformers, felt they could radically alter the foundation principles of imprisonment: 'ideas on the organisation of prisons are under challenge from the new perspectives' (HH57/2071), and, they wrote, that the 'fundamental philosophical concerns' of incarceration were now subject to a 'programme of change' (Wozniak and McAllister 1992:10).

The Scottish Prison Service

Scottish prison administration underwent a transformation, becoming SPS (Scottish Prison Service). The creation of SPS marks the beginning of a fervent period of bureaucratic expansion, policy production and reinvention. The deliberate reconfiguration of the 'culture'

of Scottish prison governance was to be made literally and physically evident (Frizzell 1993). For example, the reception at SPS headquarters was to be re-designed on the instructions that it 'portray a positive image of a forward-thinking service' (HH57/1897). In becoming SPS they acquired a logo (a unified symbol that the previous prison administration never had) that adorned their documents, their letterhead, their staff IDs, etc., demonstrating and consolidating their new managerial unity. SPS for the first time set out a Mission Statement in which the concerns of custody, order, care and opportunities were precisely stated. These developments allowed SPS to produce new referents by 'which to define itself and advance its claims' (Geertz 1983:143) as a professional and cohesive organisation, no longer a mere administrative set of offices.

Scholars have identified a trend in England and Wales whereby imprisonment was inflected with a new austerity. Stripped of their reformative aims, prison policies were no longer the preserve of insulated researchers and civil servants. These experts were displaced from the policymaking process, which was increasingly beholden to popular sentiment and punitive politics (Cavadino and Dignan 2006:230; Loader 2006). Contrastingly, in Scotland, a space for evidence-based policy was created, and at the beginning of the 1990s a new SPS research unit was established (*Annual Report 1991-1992*) where they hired and also commissioned work from criminologists. These experts were highly regarded and their new conceptual frameworks lead the way in Scotland's penal transformation. There was now an avalanche of academic publications from SPS: a series of extensive research reports, bulletins, policy documents, business plans and strategic reviews. SPS was motivated by a desire to evaluate what works in prison policy and prisoner intervention,³ an approach that seemed totally unknown to the previously reactive administration. Policy documents provided SPS for the first time with evidence to make decisions, helping SPS establish a strikingly reformist penal identity. As William described it:

'We transformed the quality of what was brought to the board, just transformed. Two pages became 22 pages. Things had references to academic work, footnotes – that was never ever part of that agenda before'.

³ In the early 1990s there were reports were published on HIV/AIDS in prison; physically disabled prisoners; psychological and mental disturbance among prisoners; research into vulnerable prisoners; a relational audit, a review of regimes and drug use in prison; Evaluations of special handling units, drug reduction programmes and parole procedures; two research bulletins; and two prison surveys

These publications also *looked* different: all adorned with the new SPS logo, they were sleek and glossy A4 documents. These allowed SPS to raise the standard of the previous archetypical prison administration, the way it looked, the form it took and the outlook it communicated. As a result, this allowed new 'ideas to get supremacy' (William). As such, these documents were a tool of penal transformation, setting the foundations of a new professional and authoritative prison authority these documents sent visible signals that SPS was an 'enlightened' (Douglas) and 'thinking organisation' (Alistair).

Scottish penal transformation was in direct response to the destabilisation caused by the continuous disturbances, but the character of these changes were partially the result of wider political shifts occurring in British politics. In tandem with changes in Scottish penal values, the whole rationality of government had been evolving. Throughout the 1980s, Margaret Thatcher's Conservative Government, armed with a newly dominant doctrine of free market economics, launched an assault on the social democratic developments of Britain's post-war settlement. Under Thatcher, the ideology of Westminster politics shifted to the right. These changes entailed alterations to the normative vision of the citizen. Social structures were dismissed as a determinative force. Instead, citizens were to be understood as autonomous agents fully responsible for their own well-being and circumstances. In its policies and discourse the UK government began to advocate and encourage citizens to be entrepreneurs of their own fortune (O'Malley 1992; Garland 1997; Rose and Miller 2010:298). In wanting to foster this kind of neoliberal citizenship, Ministers sought to minimise citizens' dependency on government by reducing social provision in education, health, and curtailing the abuse (as they saw it) of welfare benefits (Gamble 1994). Government itself was to be shaped by a 'business-type managerialism' (Rhodes 1994:144). The civil service should follow the corporate doctrines of performance measurement, efficiency, greater accountability, and consumer responsiveness. In addition, government agencies should be decentralised, becoming independent in order to reduce costs (Hood 1991:4-5). The ascendance of this outlook was to have a major impact on SPS's specific aims and managerial organisation as they confronted the problems of Scottish prison disorder.

What came to distinguish SPS's organisational DNA from the Division was that it adopted exactly this kind of corporate identity (SPS 1990c). In 1990 the annual report changed so that it corresponded with the financial year instead of the calendar year. SPS then published a *Business Plan* (1989) – an extensive organisational review conducted by a private consultancy firm. They then produced *Organising for Excellence* (1990a), which illustrated how to improve accountability and establish a strategic management style. SPS pursued the opportunity to become an independent agency (ibid.), which they achieved in 1993 (SPS 1993). As Douglas, who was directly involved in this bureaucratic conversion, defined it, becoming an agency 'empowered headquarters... it gave [SPS] the freedom and trust that we needed'. Adam also saw the reinvention as one which moved prisons away from administrative bureaucracy towards a more powerful corporate system: SPS became 'a managed place rather than an administered place, you can't do any of these things [reforms] without a grip on the business'. As a corporate-like organisation SPS had more power and was able to create a 'coherent line management structure with clear accountability for the overall direction and control of prison operations' (SPS 1990a:i).

The Reformed Scottish Prison and the Responsible Prisoner

SPS was in a process of producing and reifying their organisational motivations in their managerial paraphernalia, but it also recalibrated the penal philosophy underpinning Scottish imprisonment, reflecting the entrepreneurial normative vision of citizenship that was now in the ascendance in UK politics. During this period SPS produced their most seminal document, *Opportunity and Responsibility* (1990b). While the practical focus of the document was trained upon the long-term prisoner, *Opportunity and Responsibility* reads as a manifesto, re-articulating the aims of imprisonment.

Central to *Opportunity and Responsibility* was a new view of a prisoner's rational subjectivity, one that became the bedrock of Scottish prison policy. It asserted that Scottish imprisonment had 'concentrated excessively on individual pathology'. This was now seen as defunct. As described by the Chief Executive of the SPS, the prisoner was neither 'sick', nor 'an inferior kind of person who is unable to exercise decision making' (Frizzell 1993:206). The new ethos

accepted that prisoners possessed at least a degree of rationality and credited them with the potential for self-control and responsibility: 'we believe that the prisoner is a person who is responsible for his actions and who should be encouraged to act responsibly, then it follows that we must believe that he is a responsible person' (HH57/2112).

However, 'It is not sufficient to say: 'Be responsible', responsibility must be learned in a context' (SPS 1995a:14). They could no longer just do things to prisoners. Control would be better achieved through 'facilitative change', by giving prisoners 'opportunities' to develop and display their responsible character, rather than using a 'coerced cure' that had relied on intrusive punishments, such as segregation (1990b:17). Now, 'the whole thrust of SPS policy was to encourage prisoners themselves to adopt a more responsible approach' (Minutes of the Scottish Prison Service Extraordinary Board Meeting, 21 June, 1995).

The twinned ideas of opportunity and responsibility permitted a much more internal and psychological form of penal control. SPS implemented interventions such as cognitive behaviour groupwork and disruptive prisoner programmes, making prisoners compliant through a personal evaluation of their criminality and acts of prison disorder (SPS 1998:10; *Annual Report* 1994-95). The imprisonment regimes evolved to include new techniques of intensive micro-management, as Personal Development Files and Sentence Management were introduced for long-term prisoners in 1992. These dossiers would enable prisoners 'to address personal development issues and problems' (SPS 1998:9). All prisoners sentenced to two years or more could also take part in the Sentence Planning and Personal Officer Scheme (*Annual Report* 1991-92), whereby prisoners were appointed a personal prison officer with whom they would agree the best way for them to make the most of their time in prison (Coyle 1992). Existing penal programmes, such as education and work, were rhetorically re-packaged, these too would 'give prisoners the opportunity to address their offending behaviour and to assist and encourage them to make constructive use of the available facilities' (SPS 1998:10). These techniques promised the Scottish prisoner that he could now be 'master of his own destiny', according to a former governor (Coyle 1992:6). It was not simply that the Scottish prisoner became responsible because people expressed that belief, but these new rationalities materialised in the altered shape of imprisonment regimes which sought to 'encourage' prisoners into the kind of 'responsible citizens' they desired (SPS

1994:26). In Scotland during the early 1990s, the responsible prisoner was both 'imagined and moulded' (O'Malley 2010a:14).

SPS also attempted an additional rhetorical re-positioning of the prisoner: labelling them as customers (HH57/1897). SPS was spreading this new mantra through workshops where staff were 'learning a business approach to forward planning, focusing on quality of life service and customer needs' (HH57/2071). With this in mind SPS developed the Prisoner Survey, described as 'a major market research study' of prisoners' views (Wozniak and McAllister 1992:10). The survey was extensive and directed SPS's efforts in the process of *mainstreaming*, namely, improving the mainstream prison system to reduce disturbances and the need for segregation. In response to the findings of the survey, SPS set about improving the quality of life for prisoners in the mainstream prisons. Visiting facilities were upgraded; information booklets for prisoners and prison visitors were produced; food was improved (HMCIP Report 1993-1994); and a new grievance procedure was introduced in 1994 when an Independent Complaints Adjudicator was appointed. While the existing segregation units remained, they were re-branded with the more civilised terminology of 'small units' (SPS 1990b Chapters 8-9) which would provide opportunities for facilitated change by addressing prisoners' anger issues, 'criminal attitudes, values and beliefs' (SPS 1994:42). Finally, to reinforce a coherent mainstream prison system SPS set about transforming imprisonment regimes into a single efficient and business-like system. The annual reports took on the character of a report card organised around performance measures, targets and strategic objectives for facilities, conditions and security as each prison was to be aligned with the Service's business outlook.

These developments in Scottish prison policy and prison administration were not so different to those occurring in England and Wales, where responsabilisation and managerialism were also being ushered in. However, there a punitive political rhetoric emerged to envelope public discussions of prison policies (Liebling assisted by Arnold 2004; Sparks et al 1996). While in Scotland, these same policy changes were perceived to display the Scottish commitment to an enlightened and egalitarian approach to penalty (McAra 1999). How come, in contrast to England and Wales, Scottish prison policy and administration were seen as abandoning overt punitiveness and embracing

progressiveness? What cultural forces and social occurrences were transpiring in Scotland that were not present in the rest of Britain? That similar prison and administrative practices signalled very different penal identities in Britain at this time means that Scottish penal transformation is not best categorised as either a neatly choreographed case of neoliberalism or progressive penalty the same as any other – such sharp distinctions prevent us from seeing the complex forces that gave Scottish penal culture its character. It is only by developing a fully contextualised history that we can understand the different meanings actors gave their actions when devising and justifying their prison policies.

Nationalism and Fear in Scottish Prison Administration

Managerialist ideas were not thoughtlessly replicated by SPS nor imposed by Westminster, they were actively and eagerly deployed by SPS managers. What makes SPS's fulsome embrace and pursuit of managerialism all the more intriguing is that the Conservative brand of liberalism were highly contentious in Scotland. During the Conservative government from 1979 until 1997 the majority of Scots voted for Labour MPs. This did not necessarily represent a democratic deficit in Scotland, in the UK political system the party with the greatest number of seats across the UK wins the mandate to govern. Constitutional difficulties and cultural divisions emerged in the 1980s as Conservatives pursued neoliberal policies that were felt to be particularly harsh on Scotland, such as the poll tax, curtailing social provision, introducing privatisation into healthcare, electricity and transport; re-ordering education and local government funding. Scotland's higher reliance on public provision, extensive social housing, higher unemployment rates, and having some of Britain's most deprived areas meant that Scotland 'had much to lose' from Thatcher's economic policies (Stewart 2009:120). Accusations followed from leading Tories that England was subsidising a dependent Scotland, which now needed to develop a culture of enterprise (Mitchell and Bennie 1995:94).

Scotland gained a devolved parliament in 1998, the popular momentum for which developed from the middle of the 1980s as Scottish public dissent against Thatcher and the Tories grew. Scotland's local government, civil society and media engaged in a protracted

resistance against the commodification of public services, the responsabilisation of citizens and destruction of the Scottish welfare state (Holliday 1992; Stewart 2009). Consequently, the policies pursued by Westminster alienated Scottish voters, provoking the proliferation of Scottish 'civic nationalism' (Perchard 2013:n14),⁴ and fuelling demands for Home Rule (Stewart 2009:139). Scotland, rather than Britain, was 'construed as the unit of political and economic management' (McCrone 2006). The view that Scotland should free itself from 'internal colonialism' (Perchard 2013:86) became influential. By the end of the 1980s, Scotland had become a 'restless nation' (Munro 1999; see also Midwinter 1990), taking on a distinct new identity, increasingly depicted as 'different' (McEwan 2002:79), culturally distinct, collectivist, left-wing, sitting in stark contrast to the neoliberal ideology of individual responsibility in British politics (Perchard 2013). As a response, the Scottish administration found ways to embed an image of national distinction in departments and policies, aptly described by McEwan (2002:72) as the 'tartanisation' of the Scottish government administration.

A vital source of change that helps explain the particularly positive glow around managerialist penal change (McAra 1999) was rooted in how the prison became embroiled with devolution sensibilities, how the image of punitive penalty in England and Wales served as a nationalistic foil: transforming the prison reflected the desire to implant a distinctly Scottish identity in the penal system. Undoubtedly there was something amoral (O'Malley 1992) in how SPS now conducted itself and treated prisoners. But when interviewees recalled this time, their stories were also charged with the nationalism that had been mobilised in response to the Tory policies of the 1980s. Interviewees were appalled by Thatcher. Philip stated that the difference lay at the level of values: 'She made some terrible decisions, and her value system was just wrong'. Showing the overlap between these anti-Thatcher sentiments and the positive Scottish managerialist motivations, Douglas commended Westminster managerialist policies but described Thatcher's influence as totally 'toxic', dividing Scotland from England: 'the Thatcher years, which were toxic because she was a south-east England posh lady and anybody with that type of accent doesn't go down well here.' These statements conform to what Mitchell and Bennie described as source of

⁴ Civic nationalism has a more collective and inclusive view of citizenship based on shared values as opposed to ethnic nationalism which has the common grounds of race and ancestry (Brubaker 1999; Keating 1996).

Scottish nationalism: a deep personal dislike of Thatcher, who was felt to personify 'anti-Scottish' Westminster politics (1995:96). The penal reforms enacted gave a new discursive life to the distinctly *Scottish prison*; a shift that was a reflection of the contemporary 'neo-nationalist sentiment' that McLennan described as forming an image of 'New Scotland' in the collective consciousness, representing a 'distinctive national civic culture of progressive pluralism' (2006:592). Douglas best summed-up the nationalist charge within Scottish penal cultural:

'During the 1990s we had the Tory government and we had people like Michael Howard in England preaching about prison works and all that stuff and a very right-wing agenda, and of course we weren't quite following that here. We were trying to be a bit more evidence-based rather than politics based...Scotland didn't like the Tory government. Scotland hates the Tories'.

Prisons in Scotland would not follow the politics south of the border. Alistair similarly described the Scottish penal changes of the 1990s in contrast to England: 'It worked quite well, and quite different from England and Wales'.

While SPS embraced managerialism, they opposed what was felt to be the imposition of any English prison policies or practices. As a result, the Secretary of State stated that SPS policy 'betrayed 'wetness'' for lacking the tougher character of imprisonment in England. SPS managers saw this as evidence that this English Minister did not understand that Scottish prison policy was now fundamentally different (Minutes of the Scottish Prison Service Extraordinary Board Meeting, 24 July, 1995). Scottish divergence from imprisonment in England and Wales was now clearly evident. SPS's actions, its name and the way in which it declared its organisational rationale and penal intentions, all affirmed it was now 'other-to-England' (McAra 2009:493). There was a distinct way of doing things north of the border that was less right wing. Progressive changes in Scottish prison policy and organisational culture allowed anti-Thatcher views and growing nationalist sentiment to find some practical expression.

There was another inescapable force driving Scotland's prison system and penal state transformation, something much more visceral. After the prison disturbances, the public outcry, and the crisis inside the Prison Division, the pre-existing certitude about how to address prison disorder unravelled. The enthusiastic embrace of managerial ideas in

Scottish penal culture reflects the desperation and anxiety which had overtaken the Division. There was no protest and angst around the implementation of these signature Conservative policies in Scottish prisons as there had been when it was grafted onto other areas of Scottish social provision. SPS were high-spirited and jubilant about the managerial transformation in Scottish imprisonment regimes and its supporting governmental processes, as William described it: 'The atmosphere was great. It was mental, it was a party'. This is because it appealed to, and could assuage, their fears summoned by the prisoner riots. From 1989 until the mid-1990s, the senior prison administrators were seeking a return to order by dramatically reorganising the most provocative and inciting aspects of their rule – managerialism provided the tools for that project. Actively pursuing the new public management agenda bestowed SPS with the power and a complete set of ideational resources to take firmer control of prisons.

The motifs of managerialism were concerned with the distribution of a stabilising effect across prison life, which had been marked by chronic chaos. The language of the customer, objective pro forma of performance measures, the new business ethos and the orderly outlook also safeguarded the organisation against future vulnerability. These changes reflected 'a logic of resiliency', which, according to Lentzos and Rose (2009:243 in quoted in O'Malley 2010b) improves the ability to cope, 'to anticipate and tolerate disturbances in complex worlds without collapse, to withstand shocks, and to rebuild as necessary'. By being more proactive and managerial, SPS were seeking out forms of safety and protection as much as managerial efficiency: 'Prisons will always be potentially volatile but I believe that the more professional we become at managing the Service, the less violence will occur' (*Annual Prison Report 1990-91*:3). The new managerial systems and evidence-based penal stratagems, the responsabilisation of prisoners, provided SPS a means to prevent 'potentially traumatic futures' (O'Malley 2010b:488). Scottish prison managerialism deviated from the neoliberal ideas that forged them because they were employed for progressively, to make prisons calmer, safer and more manageable by providing SPS with new controls to prevent future disorder and disarray and it gave people a renewed sense of confidence.

These contrasting influences – changes in the nature of British liberalism, an insurgent Scottish political outlook and the emotional demands of fear and fragility – provided new ideational resources to assertively address the Scottish problems of imprisonment.

Discussion: Civilising Imprisonment

The changes that took place at this time were intended to re-describe Scotland as a penal exception, a country that was leading the way in progressive prison reform. Speaking in 1991, a senior governor reflected that through their reforming efforts SPS had ‘overtaken and passed traditional penal reform groups, such as the Howard League’ in the development of new practical theories of incarceration (Coyle 1992:6). These striking transformations are all the more astounding given the violence and disorder that preceded them. The Prison Division was replaced by SPS. Prison conditions were being modernised and the general quality of prison life was improved and physical segregation was softened. Yet, I aver caution against too positive a reading of this period of change. That is because the nature of the penal reform that took place in Scotland was a *civilising transformation*, rather than a *humanitarian* one (Garland 2010).

A humanitarian shift in penal sensibilities would have curtailed the very act of inflicting imprisonment (Halttunen 1995); making the imposition of harsh or invasive punishment unacceptable (Garland 2010:148). There were few traces of humanitarian sensibilities, such as an increased empathy or social identification with the plight of the prisoner – their life trajectories, poverty or background. By contrast, I identify Scotland’s penal transformation as civilising rather than as welfarist and progressive. Civilising imprisonment has three key features: it is calculated to protect the prison from the instability and emotional turbulence that tends to be experienced by more overtly punitive prison systems. It does so by intensifying prison control while simultaneously submerging the brutal and disturbing aspects of imprisonment beneath progressive penal tropes.

Central to civilising imprisonment was a broader process of refinement (Elias 1978). As shown above, in confronting the prison problems, an embarrassment crept in among the SPS

professional managers, who expressed an open discomfort at the physicality and brutality of Scottish imprisonment. Euan recalled prison now as something despicable and inexcusable. Looking back, he felt what he described as a

'A horrible kind of, this impression of grey, they [prisoners] ate off tin plates... And they had sex offenders sewing mail bags. It was grim, absolutely grim...I know that sounds bad, and when I look back no one was interested in these and what was going on in these places'.

They had seen it, but had not always acknowledged the prison was dismal and often inhumane. By the end of the 1980s, and in the face of continued violence, 'forms of cruelty that had once gone unquestioned' were increasingly hard to justify (Halttunen 1995:303). SPS's new squeamishness in response to prison cruelty helped secure a 'diminution in the gratuitous suffering' imposed upon prisoners (Morris 1966:628). These realisations had clear benefits for prisoners: improved food and visiting facilities, better clothing, and access to a complaints commissioner.

However, what happened in Scotland was not a reduction in the use of the prison, but a concealment of its penal pains. These changes expressed an unease and embarrassment about the prison's excessive force, but not about its aims, social function, levels of exclusion or stigmatisation. Both Adam and Douglas outlined the spirit of the change as humane, but their pairing it with terms of 'efficient' and 'evidence-based' reveals a concern for preventing penal impropriety rather than preventing penal pain:

Adam: [We] 'made policy a bit more humane, a bit more efficient'.

Douglas: 'I would say sensible, I would say humane, I would say evidence-based and legal'.

SPS's civilising desires were more ambivalent about the infliction of pain, not doubting its necessity, but appalled by its brutality and vivid existence. Managerialism and evidence-based policy were part of this civilising process, making the administration of prisons dispassionate. Crucially, this 'offered a variety of narrative strategies designed to distance' SPS 'from any imputation' of barbarism as well as Home Office punitiveness (Halttunen 1995:328), and thus was 'an aesthetic of refinement', reducing 'the sight of pain', but not 'its infliction' (Garland 2010:150).

This resulted in new penal tactics and tropes. Prisoners in Scotland were not to be viewed as alien and subhuman. The Scottish prisoner was no longer passive, but an active consumer, 'an entrepreneur in his own personal development' (Garland 1997:191), who was being taught how to manage their own risks and potential. Prisons employed control techniques that relied directly on the 'pains of self-government' (Crewe 2011b). These included highly intrusive psychological and cognitive programmes promised 'pseudo-autonomy' (Crewe 2011a), encouraged self-regulation and promoted rational decision-making, all while providing an 'implicit inducement' for non-compliant prisoners conform to the mainstream as well as 'subtle ways of undermining' the resistance and protest of prisoners (McEvoy 2001:252). The civilising reforms implemented ideas of rationality and opportunity that made prisoners more visible and accountable for their progress. If prisoners failed inside the mainstream, the blame must rest with them and not SPS, who offered prisoners a programme of positive engagements. These seemingly progressive changes exerted a 'broader and tighter grip on behaviour and cognition' (Crewe 2011a:460).

This civilising reinvention and concealment was also a strategic transformation and expansion in Scottish penal power (ibid.:146) – which, as shown above, was felt to be much needed. These reforms helped win back management's ruling prestige, reducing the quotient of violence, while returning the prison to some form of predictability. Civilising imprisonment steadied the ship and shielded SPS from the claims of cruelty and injustice that had unsettled their previous working consensus. The prison system itself was more accountable and publicly opposed to cruelty, but ultimately, the power of the prison administration was expanded.

Hence, Scottish prison discipline became more cultivated, control became subtler. These civilising reforms successfully renewed the prisons' institutional purpose: to confine *efficiently and effectively*. Civilising imprisonment as intensification of control has quite clear shades of Foucault's (1977) astute and sceptical interpretation about punishing better. However, the concept of civilising imprisonment goes further, it was not only a newly calculated approach to discipline and control. Civilised penal transformations do not transform punishment in fundamental ways (e.g. moving from the scaffold to the prison) but distil what is felt to be vulgar (e.g. moving from the electric chair to the lethal injection),

and improving the image of the penal state. Thus they occur dependent on the inescapably contingent cultural mores, emotional sensibilities and anxieties that coalesce at precise moments in history. In this case, these were in Scotland's nationalist aspirations and penal anxieties – neither of which provided the ideational resources for humanitarian prison reforms. The transformation that took place by the 1990s in Scotland was that the prison was redeemed – rendered rhetorically progressive, evidence-led, riven with a neoliberal rationality and emboldened by a new nationalistic confidence. Thus, its forms of pain became more deniable, while defining themselves in contrast to England at the time of its punitive transformation served to communicate an impression of Scottish penal superiority.

Conclusion: the limits of exceptionalism

This article has sought to explore the political, emotional and social dynamics of penal transformation in Scotland during the 1990s. What is to be gained from developing a 'historically tutored memory' (Nellis 2001) of this kind in relation to one small aspect of UK penal policy? By studying this moment of transformation in Scottish prison history, we can begin to see that not all exceptional penal evolutions are as radical or impressive as they might appear when simply contrasted with harsher penal systems; nuances which are only evident when we examine these changes within their socio-cultural context, however. This has consequences for the kind of lesson-drawing that might interest us as part of the comparative penology project.

First, it is hoped that this article adds further weight to the literature that shows the analytical and descriptive limitations of employing the sharp juxtaposition of exceptionalism and punitiveness. The penal transformation that occurred in Scotland in the 1990s certainly did not mirror the rise of punitive vitriol that so often defines penal change in the English-speaking world. As we saw, this does not suffice to characterise it as exceptionally moderate or progressive, however. If we only set out to explain the source of a nation's penal exceptionalism, we can efface the complexity and contradiction of penality, privileging instead the overtly and explicitly virtuous features of a penal culture. If we wish to comprehend the distinct social meanings of imprisonment and penal policy, then we need a means to capture its complexity.

This article is a reminder that a more thorough and illuminating understanding of penal politics is garnered when it is fully situated in its time and place, examining the ideological, political and cultural habitat in which policy develops. The analysis presented here shows the importance of a multidimensional and grounded approach to research and analysis of prison systems and penal transformation (Garland 1990; Jones and Newburn 2005) if we are to see our way past exceptionalist/punitive perspectives.

Having taken this approach, has allowed the contemporary history of Scottish penalty to significantly extended. It has been shown that it was the conjuncture of prison disturbances, fear and anxiety, the emergence of managerialism, and the increasingly pronounced Scottish civic nationalism, rather than a deep history of progressive feeling, that intersected, and captured the minds of those in charge. This reshaped the everyday business of making of prison policy and imbued Scottish prison transformation in the 1990s with its civilised new character and exceptional reputation.

Finally, characteristic to studies of penal exceptionalism is a certain amount of admiration held for those perceived to be our penal betters. Taking the methodological approach outlined here permits us a more refined lens to deploy when viewing exceptional penal nations. What is it that makes a nation penal exception? What lessons should we seek to draw from these nations? It is not merely enough to suggest certain jurisdictions are exceptional as their penal policies have managed to circumnavigate the punitiveness that settled across certain larger English-speaking nations. While certainly more appealing than its punitive alternative, is the civilised form of incarceration one which we should aspire to replicate? These prison systems still rely on the inhumane tactics of exclusion and control, albeit in much more palatable forms, where the pains of imprisonment have been submerged but not overcome. When we seek to reproduce the penal practices of more temperate carceral systems, we must be careful to identify if these are civilised penal refinements or, preferably, if they are humane techniques that might allow us to fundamentally reimagine and reduce the prison.

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