

Women's Imprisonment and the Case for Abolition: Critical Reflections Beyond Corston (Eds) Linda Moore, Phil Scraton and Azrini Wahidin (November 2017, Routledge)

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## **The Imprisonment of Women in Scotland: Restructure, Reform or Abolish?**

### **Introduction**

Abolitionism is a challenging term to define, with some confusion surrounding the boundaries between reform agendas and abolitionist calls for change. Many advocates of reform publically state they are not abolitionists while appearing to be. Attempting to address the harms of existing systems is not the same as setting out new visions. However, on occasion, those claiming to be abolitionists may frequently find themselves supporting pragmatic reforms. For Ruggiero (2010: 7) 'abolitionism is not only a strategy, or a set of demands, aimed at the reduction (or suppression) of custody, it is also a perspective, a philosophy, an approach which challenges conventional definitions of crime.'

The imprisonment of women is an issue where the potential for reform has been significant, although with limited effect to date. It is also an issue held up by those who claim to be abolitionists as a feasible starting point in the abolitionist agenda. The key reasons are due to the relatively low numbers of women in prison, about 5 per cent of the total prison population, and because generally, with notable exceptions, women tend not to fit the stereotype of the 'dangerous other' (Garland 2002). The use of imprisonment and non-custodial disposals for women in Scotland has been an ongoing focus of attention for policy-makers and penal reformers and has remained so in the decade since the publication of the Corston report. The report, like similar enquiries into the circumstances of women in prison in Scotland, focused on the 'vulnerabilities' that were a feature of the lives of many women in conflict with the law and drawn into the criminal justice system.

Corston (p.15 para 1.4) recognised the controversy surrounding the use of the term 'vulnerable' setting out the following from the outset:

I have declined to define "vulnerable" as required by my terms of reference and my review encompasses all those women *whom I consider to be inappropriately located in prison*. I prefer to consider these women in terms of their "vulnerabilities", which fall into three categories. First, domestic circumstances and problems such as domestic violence, child-care issues, being a single-parent; second, personal circumstances such as mental illness, low self-esteem, eating disorders, substance misuse; and third, socio-economic factors such as poverty, isolation and unemployment. When women are experiencing a combination of factors from each of these three types of vulnerabilities, it is likely to lead to a crisis point that ultimately results in prison (emphasis added).

Notably she continues: 'It is these underlying issues that must be addressed by helping women develop resilience, life skills and emotional literacy.'

This dichotomy between acknowledgement of the domestic, personal and socio-economic factors of women's lives and the 'solutions' proposed forms the basis of this chapter. It explores the claim that some women are 'inappropriately placed in prison' while retaining the seemingly default notion of individual deficit and the potential for addressing this through the justice system. This contradictory stance obscures claims of system failure and of the punitive basis of imprisonment resulting in newly introduced concepts in Scotland of 'community custody'. The chapter reflects on abolitionist claims that if prison is inappropriate, instead of

designing new forms of custody or more developed forms of 'punishment in the community', those who are 'inappropriately' incarcerated should be released.

## **Background**

Until recently, the national prison for women in Scotland was HMP Cornton Vale, holding adult and young women prisoners from throughout the country. Current developments have led to the relocation of women to dedicated sections of prisons in Edinburgh, Grampian, Greenock and Polmont Young Offenders Institution (YOI) and, as the chapter outlines, concerted efforts to reduce the overall female prison population. Accounting for approximately 4 per cent of the overall prison population, the number of women in custody in Scotland has reduced with a notable reduction for young women prisoners.

There is significant evidence to illustrate that many women in the criminal justice system, and specifically those who are committed to prison, have significant experiences of poverty, problematic drug and alcohol use, mental health problems, abuse, violence and bereavement. This is reflected in the attention given to women's 'needs' within the context of the criminal justice system, either through programmes and interventions in prison, or in specifically devised services for 'women offenders' in the community. Despite widespread acknowledgement of the significance of social problems (poverty and inequality) in relation to women's criminalisation, inquiries consistently have focused on the penal context, even though most people involved recognise the limitations of addressing social justice issues via the criminal justice system (Carlen 2008). Ongoing attempts have been made to respond to the persistently increasing female prison population and the severe social circumstances that many women prisoners appear to have experienced prior to encountering the criminal justice system (Loucks 1997; Bloom et al. 2003).

While reformers argue in favour of rehabilitative interventions aimed at meeting the needs of the poor and marginalised, to integrate them into 'normal' society, abolitionists query why it is the poor and dispossessed that disproportionately end up in prison; why 'rehabilitation' efforts are focused on the poor; and why the poor are already punished by social inequalities and structures when clearly the enforcement of the law is itself discriminatory. There is also a conceptual issue of 'time' underpinning both reform and abolition. Most of the reports which have been conducted into the female prison estate (discussed further below) occurred in response to critical situations (the deaths of young women in HMP and YOI Cornton Vale and HMP Styal) where urgent action was required. Calls for reform are introduced within this context where longer term strategic change may be aspired to, but short-term intervention is required. Notably, Stan Cohen (1985: 252) acknowledged the importance of being 'pragmatic about short-term possibilities' and 'genuinely utopian about constructing long-term alternatives.'

### **The case for penal reform**

I do not believe, like some campaigners, that no women should be held in custody.

There are some crimes for which custody is the only resort in the interests of justice and public protection, but I was dismayed to see so many women frequently sentenced for short periods of time for very minor offences, causing chaos and disruption to their lives and families, without any realistic chance of addressing the causes of their criminality. I acknowledge that some low-level offending women are persistent offenders who breach their bail conditions and this cannot be ignored. But breach is ratcheting up the use of custody to little avail and there are alternative community solutions which I explore in my report (Corston 2007 foreword).

Corston acknowledged the deleterious impact of imprisonment on women; a situation recognised across the United Kingdom (UK) as well as internationally, and one which has led to a widely shared desire to reduce the female prison population. This issue has exercised policy-makers, practitioners and academics since the 1980s in Scotland (e.g. Carlen 1983; Dobash et al 1986). Much attention on women and the criminal justice system in Scotland has focused on the problems of custody and, related to that, recommendations to improve practice in prison. Successive reports by HM Inspectorate of Prisons for Scotland (2007, 2009, 2011) have identified specific problems, many of which have been addressed and/or resolved over time.<sup>i</sup>

While Corston is cited as having a significant impact on debates and discussions about the imprisonment of women, Scotland has had its own journey in responding to the seemingly inevitable circumstances of women in the criminal justice system. Much activity in Scotland preceded the Corston report, bringing significant discussion and debate. Calls for change in the application of women's punishment were reinforced with the series of reports produced following the deaths of seven young women within a 30 month period at HMP and YOI Cornton Vale between June 1995 and December 1997.<sup>ii</sup> Many similarities exist regarding circumstances of the women who died in Scotland which led to the publication of *Women Offenders: A Safer Way* (Social Work and Prison Inspectorates 1998) and the Corston Report following the deaths of six women in HMP Styal between August 2002 and August 2003 are evident.<sup>iii</sup> *Women Offenders: A Safer Way* highlighted particular concerns for drug users in Cornton Vale and recognition of the high number of problem drug users who were repeatedly incarcerated. The review went beyond the confines of the prison with most of the Inspectorates' recommendations aimed directly at: increasing services to support the use of

bail; reducing fine default; inter-agency co-operation to address key issues; tailoring social work services to meet the needs of women; separate collation of statistics/data on women; and an end to the use of prison custody for under-18s. Proposing that there should be more options for sentencers within the community, and fewer available prison places would, the Inspectorates suggested, reduce the prison population at Cornton Vale to '100 or less on a daily basis by the end of the year 2000' (Social Work and Prison Inspectorates 1998: 53).

In 2002, a Ministerial Group on Women's Offending, established to take forward these recommendations, produced an up-dated report *A Better Way*, which considered ways of keeping women out of prison, reflecting on recommendations made by a dedicated Inter-Agency Forum through: prevention and early intervention (including responses to prostitution, use of arrest referral, diversion, bail and particular circumstances of young women); and community disposals (supervised attendance orders, structured deferred sentences, drug treatment and testing orders, drug courts, restricted liberty orders, a 'time-out' centre (later to become the 218 Centre),<sup>iv</sup> and specialised services for women. Aftercare provisions and the importance of facilitating access to community-based services in relation to substance misuse, accommodation, employment and training, education, benefits and finance, health-related needs were highlighted.<sup>v</sup>

### **Highlighting innovative initiatives**

Corston's review of the imprisonment of women drew on evaluations of innovative initiatives in Scotland, referring to the use of Drug Courts in Scotland and the 218 ('time-out' centre) (Loucks et al. 2006). The 218 Centre in Glasgow was considered by Corston, in the context of her discussion of women's community centres (which also included Calderdale in Halifax, Asha in Hereford and Worcester), influencing her vision for a 'distinct, radically different,

visibly-led, strategic, proportionate, holistic, woman-centred, integrated approach.' Corston described the management of Cornton Vale prison as a 'holistic' and 'human rights' approach which, for her, made 'common sense' (2007 p.18 para 2.6).

The publication of the Corston Report was received with considerable interest across the UK. While the identification of good pockets of practice in Scotland (i.e. the 218 Centre) meant that Scottish policy-makers were able to acknowledge the positive developments that had taken place in Scotland, they were exercised by the ongoing issues facing women in prison and the failure of community disposals to have any significant impact on the rising numbers of women in prison. In 2011, McIvor and Burman reported that women did not appear to be committing more serious offences but received more severe sentences than previously. It was acknowledged that the circumstances of disadvantage which feature in the lives of many women (individualised as 'criminogenic factors') drawn into the criminal justice system may contribute to their criminalisation.

Attempts to address these problems continued in Scotland after the publication of the Corston Report in England and Wales and in the aftermath of other notable enquiries in Scotland. The 2008 Report of the Scottish Prison Commission, although not focused specifically on women, had concluded that current uses of imprisonment were not working and recommended that the Scottish Government pursue a policy of reducing the prison population while also supporting relevant statutory bodies and investing resources in local communities. In 2009 the Scottish Parliament Equal Opportunities Committee produced a report, *Female Offenders in the Criminal Justice System* (Equal Opportunities Committee 2009), focusing on the quality of mental health care for women in prison, argued that more provisions for short-term and remand prisoners were required (especially in relation to literacy and numeracy skills)

and called for a speech and language therapy programme to be piloted.<sup>vi</sup> As with previous reports, the Equal Opportunities Committee called: for consideration to be given to statutory support for women on short-term sentences on release; increased support for children of prisoners; improvement of visitor facilities and more action to stop the circulation of drugs in prison. It also considered sentencing, alternatives to imprisonment, prevention of re-offending, gender equality duty and leadership in relation to the provision of services for women.

In 2012 the Commission on Women Offenders collated extensive evidence on women in the criminal justice system which was distilled into its published report. While cognisant of Corston it built on previous reports of enquiries carried out in Scotland. Recommendations were wide-ranging and covered 'service redesign' in the community.<sup>vii</sup> The Commission also made recommendations in relation to alternatives to prosecution, including new powers for police to divert women to community justice centres with conditional cautions, and alternatives to remand ('bail supervision plus', further examination of electronic monitoring as a condition of bail, communication and awareness of alternatives to remand in custody).

Other areas on which the Commission made recommendations were sentencing<sup>viii</sup> and leadership/structures/delivery, including the establishment of a national Community Justice service, National Community Justice and Prison Delivery Board to promote integration between the Scottish Prison System (SPS) and the community justice system. It was recommended that each key agency appoint a senior director with responsibility for women, and that annual reports on implementation be produced by the Cabinet Secretary for Justice. A number of recommendations of specific relevance to the prison were also set out including the reiteration of previous concerns about links between mental health programmes and



interventions in prison and the community, use of remand, staff training and significantly a call to replace Cornton Vale with a smaller, specialist prison. The reformist emphasis of the report also attempted to look beyond the prison and recognised the limitations of the criminal justice system.

While areas beyond the criminal justice system were recognised by the Corston Report, previous reports in Scotland and the later report by the Commission on Women Offenders, as contributing to the escalating female prison population and the circumstances of women drawn into it, government responses to the central recommendations of both Corston and the Commission were located firmly within a reformist framework.

Both the Corston Report and the Commission on Women Offenders drew attention to the provision of services within the community referring to their 'fragmentation', a recurrent theme in other jurisdictions also, for example, the Social Exclusion Unit (2002) acknowledged that women in prison were most likely to be among the most socially disadvantaged and least likely to have their needs addressed in prison. Corston noted (para 4.16):

There is a wealth of knowledge, research, experience, good practice and expertise throughout all of the agencies working with women in the criminal justice system but much good work is being carried out in isolation, with duplication of effort, little coordination and, in some cases, in ignorance of identical work being carried out elsewhere. [...] It is essential that a central body gets to grips with this basic administrative task.

In Scotland, the Justice Committee (2012) questioned 'what works' in terms of alternatives to custody. During the presentation of evidence, Eilish Angiolini, who had chaired the Commission on Women Offenders, commented on the fragmented nature of interventions. She noted that there were many good services in existence, but they were often fragmented and amorphous, with monitoring and evaluation directed towards the needs of funders rather than sufficiently aimed at evaluation of what was making a difference. The duplication and disparate nature of interventions meant that sentencers were not always aware of alternatives at the point of sentencing, nor could the government provide an overview of alternatives. 'That disparate, fragmented picture leads to a lack of cohesion and understanding, as well as a limited value in the research that is carried out. (Justice Committee 2012: 1578).

Related to the fragmentation of services, was the need identified by both Corston and the Commission for strategic oversight and clear forms of leadership in directing the female penal estate. This had been noted by the Prison Reform Trust in 2011. Angiolini in evidence to the Justice Committee claimed (2012: 1585): 'A chief executive is needed to drive the whole dynamic forward so that community justice alternatives become a central part of the justice system rather than the marginalised Cinderella that they are at present'.

This issue had also been identified by Corston (2007: para 4.38) who noted:

None of the pathway leads were able to demonstrate to me that they have a specific high-level strategy for women. Virtually nothing was said about the particular difficulties or restraints faced in dealing with women, who are a tiny minority at every stage within the criminal justice system.

Of the Women's Offending Reduction Programme (England and Wales), set out to deliver a 'joined-up' response to women in the justice system, Corston (2007: 47) noted:

(It is disappointing that the WORP has not been able to achieve more, despite the best efforts of the small dedicated team of four whose enthusiasm and commitment is exemplary. Without authority, power or backing at the highest levels the team is unable to effect change in the policies and priorities of others even within its own organisation, leaving aside the myriad of other government departments and agencies involved.

Government responses to both enquiries also engaged with governance issues. The Government Response to the Corston Report (Government Response, 2007) identified key issues as the need for: high level governance and better mechanisms for cross-departmental working; an Inter-Ministerial Group to provide governance; the establishment of a 'Women's Commission', the appointment of a 'champion' for women to drive forward the changes. In England and Wales, the Government established an Inter-Ministerial Group to provide governance, establishment of a cross-departmental unit within the Ministry of Justice to co-ordinate and monitor work, and a ministerial Champion with responsibility for women and criminal justice matters. Rather than challenging the use of custody, both Corston and the Commission argued for new forms of custody intended to be facilitated by a reduction in the number of women sent to prison as the result of other reforms. Corston (2007: 3.34) stated:

Like many other commentators I have concluded that the present structure of relatively large, self-contained institutions that are sparsely distributed across the country will become even less appropriate as the female prison population reduces as

my recommendations are implemented. The existing system of women's prisons should be dismantled and replaced by smaller secure units for the minority of women from whom the public requires protection.

Corston, like others before her (e.g. Social Work and Prison Inspectorates 2008) considered that her proposed penal reforms would result in a significant reduction in the number of women imprisoned and, accordingly, the female prison estate would require radical restructuring resulting from the number of women likely to be imprisoned. *Women Offenders: A Safer Way* (1988) proposed a 'twin-track' approach which consisted of *both* the development and enhancement of community disposals *and* a reduction of the number of available prison places to support the use of community disposals. The Prison Reform Trust (2011: 3) had also called for 'the planned closure of women's prisons to be accelerated and the money reinvested to support women's centres and other effective services for women offenders and vulnerable women in the community.' Failure to pursue both elements, as noted by the Social Work and Prisons Inspectorate, and suggested by evidence from progressive work in Canada, the US and elsewhere, simply results in the expansion of the number of women in prison. The failure of reforms has often served to legitimise punishment as the only way to respond to social problems, thereby expanding the penal system. This has been particularly troublesome in the case of the criminal justice response to women (Carlen and Tombs, 2006).

The Commission on Women Offenders called for the closure of Cornton Vale and its replacement with a smaller institution more suited to the needs of women, reflecting similar calls by Corston. The proposed closure of Cornton Vale and its replacement with smaller units across Scotland has noticeable parallels with Canada following the closure of Kingston

Prison for Women (like Cornton Vale deemed 'unfit for purpose') and its replacement with smaller institutions (Correctional Service Canada 1990). Importantly, while feminist scholars and activists were involved in the development of the policy and ethos of *Creating Choices*, the 'penal interpretations' that characterised its implementation have been criticised for returning to the narrow paradigm of individualising problems rather than challenging the injustices and inequalities that contribute to processes of criminalisation with particular consequences for women (Hannah-Moffat and Shaw 2000, Hannah-Moffat 2001; 2008).

There have been several attempts to develop alternative forms of custody throughout the UK (e.g. Women in Prison 2012; Lidell Thomson 2015; Wilson 2015). As prison reformers have consistently argued, it is inadvisable to make prison an attractive option for sentencers especially given the current disparity in evidencing 'effective practice'. While community provisions are under pressure to show they 'work', prisons have no similar requirement and indeed, in Scotland there is no recorded data on the number of women who lose their jobs, tenancy, home (through repossession) or have their children taken into care as a consequence of their imprisonment. Consideration of the use of remand is ongoing and the Commission highlighted this area as being particularly problematic, suggesting that custodial remand could actually mitigate the potentially deterrent impact of imprisonment.

Corston's most significant recommendation regarding women in prison was that existing women's prisons should be replaced with geographically dispersed, small, multi-functional custodial centres<sup>ix</sup>. The Government response was to agree to *consider* the future of the women's custodial estate and *explore* the potential scope, aims and objectives of the proposed new units. While accepting 'in principle' the underlying intent that custodial provision in the

women's estate must be configured appropriately to meet women's needs, their response was to give this issue further consideration.

By contrast, following the publication of the Commission's report the Scottish Prison Service (SPS) was proactive from the outset, commissioning Reid Howie Associates (2012) to chair a series of meetings across the country intended to consider the Commission Recommendations. They developed plans for a 300-350 bed prison for women (HMP Inverclyde) aiming to provide a 'state of the art' prison for women, meeting all their needs in one location. This brought a mixed response, some applauding the comprehensive design of the new proposed prison while others, notably from prison reformers, challenged the ethos of the prison and arguing that this would work to increase rather than reduce the female prison population.

In 2014, Cabinet Secretary for Justice, Michael Matheson announced a halt to the development at Inverclyde. Following his announcement, much activity followed as the SPS again took the lead, along with the Scottish Government, reviewing plans for women, with meetings convened across the country to discuss what should happen next. There has been determination across all agencies to maintain momentum for change. An international symposium was convened to consider how best to move forward following the decision to halt plans for HMP Inverclyde, producing a report, *From Vision to Reality: Transforming Scotland's Care of Women in Custody* (SPS, 2015). In response to the Commission on Women Offenders' (2012) recommendations on community provisions, mentoring schemes and community justice services were established. A recent evaluation by the Institute for Research in Social Services (IRISS) (Dryden and Souness 2015) reiterated the challenges of short-term funding as well as highlighting good practice.

The speed with which SPS led the debate on alternatives to the proposed HMP Inverclyde was notable. By comparison, in terms of community provisions, the fragmentation of community resources and the different policy areas that come under the remit of different systems have implications for the potential of 'joined-up' approaches to tackle the key problems more broadly facing women. At the time of writing, developments are in hand for a national prison (80-100 places), small regional facilities for the West, East and North of the country (50 places each), community-based residential units (each providing 15-30 places totalling 150 places) with young women accommodated separately from adult prisoners (Wilson 2015). It is unclear when HMP Cornton Vale will close and women continue to be held in designated areas of local male prisons.

While prison is generally viewed as a static feature at the centre of criminal justice policy, the implementation of resources in the community is fragmented and often short-term. Similarly in Canada, following the closure of the Kingston Prison for Women, the Expert Committee (2007) concluded that more focus was required to build community capacity and increase creativity at grass-roots level: 'The Committee is left with the impression that there is a lack of co-ordinated effort on the community side relative to what we have observed at the institutions' (Expert Committee 2007: 16).

### **Tensions between reform and abolition**

Gelsthorpe (2004) highlights that when women are asked why they have 'offended' the most common reasons cited are: use of drugs/alcohol; need for money for drugs/alcohol; general lack of financial support. This, coupled with lack of accommodation/housing for those released from prison serves to maintain cycles of criminalisation. A feature of both Corston

and the Commission on Women Offender Reports was the shared acknowledgement of the role that poverty and social deprivation played in the criminalisation of women. Poverty was one of the three categories used to define 'vulnerabilities' by Corston (2007) (alongside 'domestic circumstances' such as domestic violence, single-parent, child-care issues; and personal circumstances such as mental illness, low self-esteem, substance misuse). Yet the limitations of their scope in making recommendations are evident. Acknowledging the wider circumstances of women's lives, Angiolini (Justice Committee, 2012: 1589) notes that 'Those are much wider issues that the commission could not deal with'. References to 'structural change', in the context of recommendations referred to better delivery of services and stronger leadership rather than socio-political transformations.

The increasing burden of economic pressure on poorest families, and growing inequality between rich and poor is evidenced by the dramatic growth in use of food-banks across Scotland, with a significant increase in the number of people turning to food banks for emergency aid in recent years (All Party Parliamentary Group 2014). Current welfare cuts in Scotland have had particular impact on women (and children) as a consequence of recent changes in benefit entitlement which have wider implications in terms of the inter-relationship of poverty and mental ill health, and inadequate housing and physical and mental illness.

A key recommendation from the Social Work Services and Prisons Inspectorate (2008) was that an expansion of community provisions should be accompanied by a cap on prison places. This was intended to ensure that community resources were used in place of custody thus avoiding potential problems of 'net-widening' where increased numbers of women were drawn into the criminal justice system to access resources that were absent from local



communities. This cap has never been introduced (see Tombs, 2004). Updates on the implementation of the Transforming Rehabilitation agenda in England and Wales also noted concerns that more women may be drawn into criminal justice system and remain there for longer (All Party Parliamentary Group 2015).

Although there has been significant investment in community provisions in Scotland, funding provided in two year cycles causes considerable uncertainty for workers and service-users alike, allowing little time for services to continue beyond a set-up and pilot phase. Short-term interventions are unable to evidence longer-term impact (Loucks et al 2006; Easton and Mathews, 2010 and 2011; Burgess et al. 2011, Hedderman et al. 2008 and 2011; Dryden and Souness 2015). 'Alternatives', suggested as significant innovations within the system, are often absorbed into it in a way which softens them yet, at the same time, deflects the initial critiques within which they originated. This process also impedes the transformation from short to long-term goals.

In Scotland, the Reducing Reoffending Change Fund (RRCF) was set up as part of the government's preventative approach to tackling some of Scotland's most challenging problems. This £10 million fund has been used to provide mentoring services across Scotland, "to help them ['offenders'] to turn their lives around and to become responsible contributing citizens" (Cabinet Secretary for Justice 2013: 1). £2.7 million of this funding has been used to support 'Shine' – a national mentoring service for women.

The emphasis on mentoring denotes a return to individuals and their 'vulnerabilities' being addressed through interventions with community services, a key recommendation from the Commission on Women Offenders:

The Commission noted the potential for a mentor to work with each individual to address their criminogenic and non-criminogenic needs, engage effectively with community justice services and assist their access to public services that will support their ongoing rehabilitation and reintegration. The aim is to encourage women participating in the programme to consider their own offending behaviour and, as a result, reduce their offending in the future (Cabinet Secretary for Justice 2013: 2).

Approximately £3 million was allocated to support local criminal justice partners across Scotland to develop, extend or restructure services for women within the criminal justice system aimed at responding to the Commission's ambition of co-ordinated, multi-agency working in a holistic response to women's needs. However, the language of 'criminal justice' retains a positivist basis of 'offending' and 'offenders' and determines responses within a limited framework of reform, individualising problems and their solutions.

### **Transformation of limited visions**

Attempts to reduce the female prison population have been reflected in a plethora of reviews, reports and inquiries into the imprisonment of women and potential reforms. Key reports have been based on extensive consultation, evidence-gathering, and in discussion with women in the criminal justice system, practitioners, service providers and commissioners, representatives/leaders of key agencies and academics. Evidence has included national and international contributions which located the Scottish situation within an international context. Alongside this, academic research and analysis, evaluation and service monitoring has contributed to these key reports. Although as Corston (2007:16) noted: "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."

While prison populations have increased, attempts to enhance community disposals have continued, without evident success in reducing the female prison population significantly, although recent restructuring in Scotland does appear to show some reduction in the number of women in custody. Consistent features of all reports and inquiries into women in prison in Scotland have identified the need for appropriate mental health facilities and provisions for problem drug users in prisons linked into the community; appropriate education and training; reduction of use of remand and short-term prison sentences; improved access to/for families and provisions for visitors which cater for children. Each has highlighted the need to develop resources in the community and to ensure effective transitions between prisons and the community. All have indicated that the female prison population could be reduced significantly without detriment to the safety of local communities.

For any effective change to take place and be sustained, there is a requirement for actual engagement beyond the criminal justice system, based on a recognition of the limitations of criminal justice agencies to secure change in isolation. Political momentum is required towards more radical and far-reaching reform through addressing inequalities and disadvantages that are features of many local populations where 'communities' have been fragmented. It also requires ensuring that when radical interventions are proposed, they are able to retain that radical potential. These are challenges evident in Scotland, as indicated above, but also elsewhere following Corston (2007) and including Correctional Service Canada (CSC 2009) where strategies for change, and the innovations within them, have been diluted. The focus of Corston, the Commission and international experiences highlight the fragmentation of services and resources, taking little account of the wider fragmentation of

communities. It is beyond the scope of such reform agendas to try to resolve this deep and pervasive problem.

It is important to return to Ruggiero's (2010: 7) definition of abolitionism as being 'not only a strategy, or a set of demands, aimed at the reduction (or suppression) of custody, it is also a perspective, a philosophy, an approach which challenges conventional definitions of crime.'

This fits with the need for an approach that goes beyond, but may include, practical initiatives, as Mathieson (1974) has advocated previously for alternative visions to be sketched out, rather than elaborate blueprints constructed (see this book's concluding chapter (Scraton) for further discussion). Fundamentally, the context which surrounds and defines current criminal justice approaches needs to be transformed for a shift from reformism to abolitionism to take place. There needs to be a wider acknowledgement that the prison in particular, and the criminal justice system in general, does not meet its own objectives in terms of crime reduction or control.

It is the fundamental base of 'criminal justice' that requires interrogation to move beyond the existing mind-set that maintains a dysfunctional prison system with limited room to manoeuvre in the direction of innovative change. Until this is challenged, the 'ontological reality of crime' goes unchallenged (Hulsman 1986). The depth to which the punitive discourse reaches is evident when consideration is given to the suggestion made by Mathieson and Hjemdal (2016: 146) to 'adjust the efforts of society as help to the victim *rather than* punishment of the offender' (emphasis in original). The instinctive discomfort that this concept can generate speaks volumes, illuminating a broad tradition within criminal justice of acknowledging the significance of the victims of 'crime' but in practice dedicating few resources to actually addressing their needs over the longer-term (i.e. beyond court

processes). Given the recognised circumstances of many women in prison, experiences of victimisation could certainly have been recognised earlier (i.e. prior to events resulting in custodial sentences) which would have had the potential to make a significant social impact. However, there appears little likelihood that within the current penal context, attention to the 'offender', be it to punish or 'rehabilitate', will be shifted towards ensuring the needs of the 'victim' are either identified and/or addressed.

Finally, it is the broader structural issues, social, political and economic, that determine the throughput of the criminal justice system. Any attempt at reform which does not address this necessarily will be limited. It is important to challenge the 'uplifting liberalism' for those at the top of the social structure, and 'punitive paternalism' for those at the bottom (Wacquant, 2012). However, current developments across the UK have highlighted the tendency to integrate prison and community penalties, and in so doing, the wider social context remains obscure and unchallenged. The 'vulnerabilities' identified by Corston and the Commission on Women Offenders have been 'decoupled' from structural relationships and 'recoupled' with individual risks and/or deficits in their implementation, if not in the quest for a different approach to women in the criminal justice system. There is a growing frustration, however, with attempts to set out radical ideals which are translated into piecemeal practical reforms, where individualising theories are used to justify the dilution of far-reaching change. Indeed, this has formed the basis for a more critical shift towards abolitionism and utopia (Malloch and Munro 2013; European Group for the Study of Deviance and Social Control 2016). Until there is a shift in consciousness, this dystopian set-up is likely to remain as the status quo.

This requires a reframing of 'reform' to recognise the limitations of attempting to make radical change within a wider penal system that appears to be highly resistant to reductions in

scale or scope. While both Corston and the Commission for Women Offenders, as with developments in Canada and elsewhere (see Malloch and McIvor 2013) sought to highlight reforms to the criminal justice system as it applied to women, this relied on practical interventions within community initiatives and the governance of community justice more broadly. Their aspiration was that these developments would result in a reduction in the number of women sentenced to custody due to the availability and indeed, efficacy of community disposals. This would allow a radical transformation of the penal estate as it applied to women, directly due to a reduction in the numbers sentenced to custody.

Ultimately, fewer women in custody would enable a rethinking of the use of custody, with a different form of custodial experience emerging. With the majority of women experiencing community-based interventions, their 'vulnerabilities' would be better addressed while still under the auspices of the criminal justice system. Those who required separation from society therefore would be recipients of a more humane and needs-based response. However, while this may promise some potential for change, the broader and deeper structural constraints ensure that such change is limited and limiting. Rather than focusing, as so much criminological work does, on how best to ameliorate the individualised 'vulnerabilities' that characterise the lives of women in conflict with the law, attention would be better directed towards focusing on and actively contesting the vulnerabilities that are a direct result of inequitable and destructive social, political and economic systems. Vulnerabilities that emerge as a consequence of community fragmentation, punitive welfare reforms that impact most heavily on the poorest and an attention to the misdemeanours of one section of society, purposefully distracts from the war-manufacturing, capital accumulating frenzy at the top of the economic ladder.

Abolitionism, going beyond reforms or reductions in penal populations, requires a shift in consciousness that questions what comes to be defined as a 'crime', turning attention towards the harms that do not result in such a definition. This is accompanied by the requirement to explore the broader structures of society and its economic and social injustices that characterise widespread inequalities and divisions. The liberal project of reform does not consider the wider context of what actually constitutes 'justice' in a society defined by class and gender inequalities that restrict access to social and economic resources. Processes of criminalisation must be interrogated from this position. This requires rethinking the central concepts of 'crime' and 'punishment' and critiquing notions of 'rehabilitation'. Just as a conscious paradigm shift is required to imagine what it would be like to have a justice system that prioritised attention and social resources to helping the victim rather than punishing the offender, an abolitionist approach requires envisaging a society without prisons, rather than the development of a more palatable prison system.

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<sup>i</sup> For example, during the 1990s, the absence of an open estate for women, lack of appropriate educational opportunities for women in prison, the need to address the specific 'needs and aptitudes' of women and calls for consideration of small local units (referring specifically to Aberdeen, Inverness and Dumfries) were highlighted (for example HM Inspectorate of Prisons for Scotland, 1997). Issues such as training opportunities for women,

visiting arrangements and ongoing concern about medical care (especially in relation to psychiatric and psychological problems) have featured consistently in Inspectorate Reports throughout the 1990s and 2000s.

<sup>ii</sup> At that time Scotland's national prison for women.

<sup>iii</sup> See also Prisons and Probation Ombudsman for England and Wales, 2003.

<sup>iv</sup> Plans for roll out across the country did not come to fruition (see Malloch et al 2008).

<sup>v</sup> The average daily female prison population at this time (2002) was 201.

<sup>vi</sup> It often seems that enquiries and their recommendations are influenced by the expertise of those conducting the enquiry.

<sup>vii</sup> To include Community Justice Centres, multi-disciplinary teams and key workers, intensive mentoring, supported accommodation, national service level agreement for the provision of psychiatric reports, development of mental health services to address the needs of women with personality disorders, mental health training for criminal justice professionals.

<sup>viii</sup> Recommendations on sentencing included pilot of a problem solving summary criminal court, rapid criminal justice social work reports, subsequent progress review hearings, introduction of composite custody and community sentence, and suspended sentences, training for Judicial Studies Committee.

<sup>ix</sup> See also Scottish Prisons Commission (2008).