



Justice and prisoners' families

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Howard League What is Justice? Working Papers 5/2014

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Abstract

Previous research has shown that prisoners' families in the UK are greatly affected by imprisonment: financially, socially, emotionally and practically. Despite an ever-growing body of literature, however, the topic of prisoners' families has not yet become one of the key themes in criminology and the sociology of punishment. Criminal justice policy has also failed to engage with the needs of prisoners' families, with criminal justice discourse being largely focused on justice as defined by punishments and deserts. Building on the concept of social justice, this paper argues that a broader understanding of justice within criminal justice is sorely needed if social justice is to be achieved for prisoners' families. It then discusses four types of injustices that are highlighted by thinking of prisoners' families through a social justice lens. It concludes that to do justice for prisoners' families, there is a need to broaden the meaning of justice in criminal justice, and discuss social justice and the collateral consequences of imprisonment.

Introduction

Criminal justice is not independent of social justice (Lacey, 2013). Social injustices permeate the criminal justice system – and criminal justice cannot be delivered until and unless academia and policymakers alike engage with how the system interacts with other social institutions, such as the family (Lacey, 2013). Delivery of social justice within criminal justice, however, is difficult because of the punitive socio-cultural climate that permeates today's society. As will be discussed below, today's understanding of justice within criminal justice revolves around punishment and deserts (see Lacey, 2013). This makes discussing social justice issues, such as poverty, invisibility and inequality, difficult. The focus on punishing people who offend means that social justice issues remain peripheral at best.

An emerging body of research in the UK and the US has sought to uncover the collateral consequences of imprisonment for prisoners' families. It has found that these consequences are serious and predominantly negative, and include financial difficulties, social stigma, emotional hardships and practical problems such as delayed letters and the distant locations of prisons, among others (see Condry, 2007, and Codd, 2008 for research conducted in the UK). So serious are the consequences of imprisonment for prisoners families that Comfort (2009), writing in the US context, has argued that these families are secondarily prisonised. She defined secondary prisonisation as 'a weakened but still compelling version of the elaborate regulations, concentrated surveillance, and corporeal confinement governing the lives of ensnared felons' (Comfort, 2009: 2). UK research largely corroborates the fact that often, imprisonment results in a range of problematic outcomes for prisoners' families (e.g. Condry, 2007).

Nonetheless, the difficulties faced by prisoners' families as a result of their loved ones' imprisonment are largely invisible within the criminal justice system. There is no official agency responsible for engaging, in any way, with the needs of families of prisoners (Codd, 2007). Moreover, there is very little official recognition of the multitude of financial, social, emotional and psychological problems faced by families of people who offend. The National Offender Management Services' (2012) *Commissioning Intentions for 2013-2014* do briefly discuss the need to support families of people who offend, but this discussion appears to be inexorably linked to the discussion of *Troubled Families*, a program designed to intervene in families who are already in the criminal justice system or are at risk of entering it. Even a key Ministry of Justice (2009) paper on the families of people who offend primarily focuses on prevention of reoffending and puts much emphasis on vulnerable and/or excluded families and early intervention for those children who are deemed to be at risk of offending. Thus, some writers have argued that the families of people who offend are the invisible victims, or forgotten victims, of crime (e.g. Bakker, Morris and Janus, 1978; Light and Campbell, 2007).

This paper argues that in order to deliver social justice for prisoners' families, there is a need for a broader, less punitive understanding of justice within criminal justice. It is important to recognise that the difficulties these families experience are connected to numerous social injustices – such as poverty and gender and race inequalities. In order to address the needs of prisoners' families, therefore, a broader, complex discussion

about the purpose(s) of punishment and the current punitive socio-cultural climate needs to take place.

Punitive socio-cultural climate

We live in a society in which imprisonment 'is considered an inevitable and permanent feature of our social lives' (Davis, 2003: 9) and a first and most logical response to criminal wrongdoing (Brown, 2009). In fact, the numbers of prisoners in the UK have increased dramatically over the last decades, reaching an all-time high of 88,179 prisoners on 2 December 2011 (Berman and Dar, 2013). At the time of writing the number stands at 84,578 (Howard League for Penal Reform, 2014). Since imprisonment is seen to be a response to harmful behaviour, we as a society rarely question whether the consequences of imprisonment are warranted or necessary (Brown, 2009). Any pain and suffering resulting from imprisonment are accepted as natural results of imprisonment – even if the pain and suffering is experienced by prisoners' families (Breen, 2008). Illustrative of this is the strong public denunciation actress Catherine Tydesley received after making a donation to a charity for prisoners' families, with many members of the public expressing the view that such families were undeserving of her donation (York Press, 2013).

In addition to the above, the current penal climate is characterised by a highly punitive attitude towards any involvement with the penal system. As Lacey (2013) pointed out, in England and Wales in the last 20–30 years in, thinking has fixed on the idea that the 'justice' part of criminal justice has everything to do with retributive justice in the forms of just deserts. Justice, therefore, in people's minds, equals punishment. This prioritisation of retributive justice within criminal justice discourse has also made it very easy for issues of deserts and punishment to morph into a highly punitive, stigmatisatory form of punishment that Lacey (2013) describes as being very much akin to institutional revenge. It is no surprise, therefore, that the mass media vilifies prisoners, using language such as 'thugs', 'murderers', and 'killers and rapists' (Mason, 2006).

The current penal climate is not simply punitive and stigmatising – it is also very much exclusionary. There is a tendency to categorise people into 'them' (the dangerous offenders) and 'us' (the good, law-abiding citizens), with the former group being perceived as dangerous 'others' (Cook, 2006). A stark example is the manner in which antisocial behaviour measures are applied to young people. Young people subject to these measures are seen to be 'apart' from the lawful community and punished for what might have been seen previously as childish naughtiness rather than criminal behaviour (Cook, 2006).

Families of prisoners are embedded in this socio-cultural climate, one that stigmatises imprisonment (Arditti et al., 2010) and people who offend as 'others.' This is important because the stigma experienced by prisoners' families is mediated by the manner in which we as a society view prisoners (Condry, 2007). Consequently, the more prisoners are seen as uniformly evil and dangerous, the easier it becomes to discount the negative consequences of imprisonment for families of prisoners and to see these families as undeserving of any support. Goffman's (1963) concept of 'courtesy stigma'

is useful in thinking about this: prisoners' families are seen as somehow tainted by their association with the prisoner (who is seen as evil and monstrous). Existing research (see Condry, 2007) also indicates that prisoners' families are 'othered' in that they are seen as tainted by their relationship with the prisoner and thus somehow 'separate' from the law-abiding community.

Illustrative of the above is the Catherine Tydesley incident already mentioned, – in which the public viewed prisoners' families as unworthy recipients of a donation by virtue of their association with imprisoned individuals. A second illustration of the lack of social support for prisoners' families is the fact that support organisations for prisoners' families are generally very small, local, and under-funded. It comes as no surprise that following recent budget cuts, such support organisations are among the first to struggle – for instance, SHARP, a prisoners' families charity, closed down in September 2012 (Shropshire Star, 2013). One practitioner working with prisoners' families I spoke to as part of my research said her organisation was not popular with anyone – not with the government and not with the wider society.

What is justice (for prisoners' families)?

As Lacey (2013) argued in her discussion of what is justice, there is a need to debate what exactly justice means. She advocates a broader understanding of justice, one that goes beyond a conception narrowly focused on punishment and deserts. According to Lacey, part of this broader understanding, involves thinking about the consequences of criminalisation – including consequences for the families of those who are punished. We need to, therefore, think about social justice (Lacey, 2013).

What is social justice? There is a need for a clear elaboration of the meaning of this term, because as Miller has argued, very often 'it seems little more than a rhetorical phrase used to add luster to some policy or proposal that the speaker wants us to support' (Miller 1999: ix). In thinking about what social justice means, Arditti's (2012) recent elaboration on social justice, made specifically in the context of prisoners' families, is useful. Arditti uses Young's definition of social justice – 'the elimination of institutionalised domination and oppression' (Young 1990: 15) – a definition that is interesting for a number of reasons. It challenges the view that social justice is primarily about distribution of resources, income or positions, and instead argues that the focus should be on domination and oppression. Miller's (1976: 19) definition of social justice is typical of the prevalent conception of the subject matter: according to him, social justice is 'the manner in which benefits and burdens are distributed among persons, where such qualities and relationships can be investigated'. Yet Young (2011) rightly notes that some injustices are not about wealth distribution. A focus exclusively on wealth distribution tends to obscure the institutional context within which this distribution is made – this institutional context includes 'any structures and practices, the rules and norms that guide them, and the language and symbols that mediate social interactions within them, in institutions of state, family and civil society, as well as the workplace' (Young 1990: 22). As an example, Young (1990) refers to the injustice of all Arabs being portrayed exclusively as terrorists in Western media – an example of injustice that takes the form of highly negative cultural imagery rather than unequal wealth

distribution. Thus, Young (2011) wishes to broaden justice discourse beyond the prevalent focus on distributions of wealth and resources, and include discourses of people's abilities to take action and provision of the means to develop people's capabilities.

Firstly, a social justice perspective draws attention to the fact that imprisonment does not only affect the person who is imprisoned – rather, the oppressive impact of imprisonment has a wide-reaching impact upon families, communities and society as a whole. In fact, some criminological research has begun to explore the wide reach of punishment into our social fabric (see Roberts, 2004; Beckett and Murakawa, 2012). The existing research on prisoners' families has indicated that punishment extends beyond prison walls and reaches into every facet of these families' lives, that they 'experience restricted rights, diminished resources, social marginalisation, and other consequences of penal confinement' (Comfort 2007: 7). Writing in the US, Comfort found that wardrobes may have to be adjusted according to prison visitors' clothing regulations, free time may be absorbed by the hours spent visiting and waiting to go on a visit, and so forth. In the UK context, Condry (2007) described how some prisoners' partners arranged their daily lives around supporting their imprisoned loved one, which included waiting for phone-calls, going on visits, and writing frequent letters. The social status of prisoners' families may also be greatly affected, with families seen as contaminated by their link to the imprisoned individual (see Condry, 2007). For instance, some relatives of sex offenders were shunned by fellow prison visitors (Condry 2007). It is telling that one participant in Condry's study (2007: 61) used words like 'pariahs', 'lowest of the low' and 'outcasts' to describe how she felt as the wife of someone convicted of a sex offence.

The above problems are usually unacknowledged, with the hardships experienced by prisoners' families in the UK remaining near invisible (Light and Campbell, 2007). To use Hallsworth and Young's (2008) metaphor, the difficulties experienced by prisoners' families are hidden behind a wall of silence. Silence, however, generates further stigma, because silence connotes something negative or shameful: 'silence breeds shame every bit as much as shame breeds further silence' (Kaufman and Raphael, 1997: 103). Additionally, this silence could enhance the extent to which prisoners' families feel 'othered' and excluded from mainstream society.

The first step towards doing justice for prisoners' families is recognising and acknowledging, on a policy level, the fact that imprisonment affects families in numerous and highly negative ways. To do this effectively, however, we need to broaden our conception of what justice means by thinking about social justice as promoting the elimination of oppression and domination rather than justice as defined solely by punishment and deserts. Social justice can include the promotion of self-worth, but silence and invisibility are hardly conducive to this.

Secondly, the concept of social justice also highlights the disproportionate impact of imprisonment on ethnic minorities (Arditti 2012). Arditti acknowledges disproportionality as a global issue within criminal justice (e.g. pre-trial detainment), and the disparate

impacts of contact with the criminal justice system is also important for thinking about justice for prisoners' families in the UK. In the UK, a disproportionate amount of prisoners are ethnic minorities – about a quarter of all prisoners (Berman and Dar, 2013). This is a very large proportion when compared to 1 in 11 of the general population in 2009 (Prison Reform Trust, 2014). Many of these ethnic minority prisoners will have families who are also from ethnic minority groups. Bearing in mind the evidence of racism within the UK criminal justice system (see Cheliotis and Liebling, 2006 and Bowling and Phillips, 2007), the consequences of imprisonment for prisoners' families could be exacerbated by their racial background. For example, they may not only go through all the hardships experienced by prisoners' families in general, but may also have to endure racist abuse (Light and Campbell, 2007). This is a further injustice that the concept of social justice draws attention to. Other race-related difficulties could include communication difficulties if the family's English is poor and there is no information available in their native language (see Light and Campbell, 2007).

Thirdly, social justice also highlights the disproportionate impact imprisonment has on the economically disadvantaged. Many prisoners' families are economically disadvantaged (see Condry, 2007, Comfort, 2008), and imprisonment is strongly correlated with a fall in the income of the prisoners' partner (Smith et al., 2007). Despite this, in recent years there have been a number of welfare cuts in areas such as housing benefits (Hawkins, 2010). The Assisted Prison Visit Scheme, a program which seeks to provide financial help to poor families visiting incarcerated loved ones, has also been reduced – for instance, elderly visitors can no longer claim for taxi fares (Action for Prisoners Families, 2010). Phone-calls from UK prisons are very expensive (see Consumer Focus, 2009), and the cost is often shouldered by the families of prisoners (Girschik, 1996, in the US context). Yet there is little discussion, on an official level, of how welfare reductions will affect prisoners' families and little recognition of their financial plight.

It should also be pointed out that those who support prisoners are usually women – wives, girlfriends, mothers and sisters (Condry, 2007, see also Christian, 2005 for the US context). Thinking about social justice in this context should incorporate this gender aspect of the issue as well, since women, often face domination and oppression. Society often takes women's care-work for prisoners (and care work in general) for granted as a 'natural' female role or duty (Aungles, 1993), rarely recognising that this work may be financially, emotionally and socially burdensome. We need to engage with and challenge the prevailing conception of women as natural caregivers and home-makers, a conception that permeates our society in general and criminal justice in particular. For example, it is startling that women in the UK may easily lose their social housing if their sons, and/or male partners act antisocially, even when these women have done nothing wrong themselves (Hunter and Nixon, 2001). The underlying rationale seems to be that it is a woman's duty to control 'her' men and the domestic domain (see Hunter and Nixon, 2001).

In the context of prisoners' families, it is worth noting that the experiences of prisoners' families may be mediated by their gender: women are more likely to have a financial

and social status that is dependent upon their imprisoned male relatives' status, which facilitates the transfer of stigma from the incarcerated male to his female relative (Hannem, 2008). Whereas male relatives may also suffer significantly if their loved one is imprisoned, their social status is not usually dependent on that of their imprisoned relatives' (Hannem, 2008). Since women's social statuses are linked to those of 'their' men, it is easier for women's identities to be corrupted or tainted when these men are imprisoned. For example, wives of sex offenders are often blamed for their husbands' offending, and vilified themselves, as happened to Laurie Fine, the wife of a sports coach accused of molesting young boys, who was herself accused (by ESPN, a TV channel) of facilitating and condoning her husband's actions (O'Brien, 2012).

Relatedly, research indicates that it is primarily female relatives of prisoners who shoulder the burden of supporting both male and female prisoners (see Condry, 2007, Comfort, 2008). This often includes spending significant amounts of time and money to send parcels to prisoners, write letters, visit, and supply money (Condry 2007, Comfort, 2008). Yet this care-work is unrecognised and unsupported at any level – in fact, families may be stigmatised precisely because they are maintaining their relationship with a prisoner and supporting him or her (see Condry, 2007). Young (2011) talks about cultural imperialism, the processes whereby minority groups are invisible and marked-out and stereotyped simultaneously. Although Young (2011) primarily talks of racial and sexual minorities, this issue is also relevant to prisoners' families in general, and prisoners' female relatives in particular. The difficulties they face as a result of imprisonment are invisible, yet at the same time they experience courtesy stigma and are 'othered' (see above).

It should be noted that the above injustices are complex and interrelated. A punitive socio-cultural climate, for example, makes it easier to see the collateral consequences of imprisonment for prisoners' families as 'natural'. Ethnic minorities are also more likely to be economically disadvantaged (see Comfort, 2008). The invisibility of prisoners' families is fed by, and feeds into, stigma and feelings of worthlessness and shame. In discussing social injustices in the context of prisoners' families, it is important to bear these interrelations in mind.

Conclusion

Thinking about social justice will certainly draw attention to the four injustices described above. Although beyond the scope of this paper, it is worth noting that the next step would be to begin thinking carefully about what can be done to address these injustices. It is far from clear that the state is best placed to directly engage with prisoners' families – there is a potential that direct engagement could result in further stigmatisation. Arditti (2012) suggests that the state could do much in terms of harm reduction (reducing the harm caused by imprisonment) and promoting human development. Neither, however, need to take the form of direct state–prisoners' families engagement. Harm reduction could be promoted via a movement towards using less imprisonment (see Arditti, 2012) and better funding for charities working with prisoners' families, as well as government schemes to combat poverty and gender and race inequality in general. Promoting human development as envisaged by Arditti (2012) refers to applied developmental science for welfare improvements among prisoners' families. Programmes and policies that seek to empower would fall within this category, key features of which can include viewing the clientele as active agents, and grass-roots projects – something the state could promote via funding research and implementation of well-thought out community programs for prisoners' families (see Arditti, 2012).

Families of prisoners often experience a range of injustices – many are financially disadvantaged and stigmatised, and women's care-work in this context is often taken for granted by policymakers and society alike. If social justice is about the elimination of domination and oppression, then this is certainly a group whose needs ought to be recognised and engaged with. Yet the current punitive socio-cultural climate means that these injustices are either invisible or seen as natural consequences of imprisonment – imprisonment that we, as a society, have consciously chosen as a method of punishment (see Lacey, 2013). We should, therefore, take responsibility for that choice and for its collateral consequences.

Annex: Re-Imagining Penal Policy

- This paper has argued that to do justice for prisoners' families, we need to re-think what justice means within criminal justice. A dialogue about social justice, both in the academy and among policymakers, needs to happen.
- Thinking about social justice is likely to help us move away from the current punitive, deserts-focused conception of justice.
- It will also highlight the numerous social injustices experienced by prisoners' families – the invisibility of the highly negative impact of imprisonment on these families, as well as racial, gender and economic injustices.
- Social justice is a concept that could help us re-imagine penal policy by exposing the collateral consequences of imprisonment on prisoners' families and the broader injustices which currently mark the criminal justice system. Exposing and debating these injustices could provide the impetus for positive policy change.
- Finally, gender, racial and economic injustices, as well as the punitive and exclusionary nature of the current criminal justice system, are all issues that go beyond the context of prisoners' families. These are complex issues that penal policy needs to address in general.

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Acknowledgements

I would like to thank the Sir Halley Steward Trust for funding my Ph.D project – 'Making love last: Maintaining intimate relationships with long-term prisoners'. This paper has developed as a result of my work on this project over the past year. All views expressed in this paper are mine alone and not necessarily those of the Trust. I also extend my gratitude to my supervisor, Dr. Rachel Condry, and to Dr. Joyce Arditti for their valuable feedback on an earlier draft of this paper.

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This paper is published by the Howard League for Penal Reform. However, the views contained in the paper are those of the author, and not necessarily those of the Howard League.

This paper was amended on 10 June 2014 to correct the link given in the reference for Smith, R., Grimshaw, R., Romeo, R. and Knapp, M. (2007).