

News

Prison Inspections

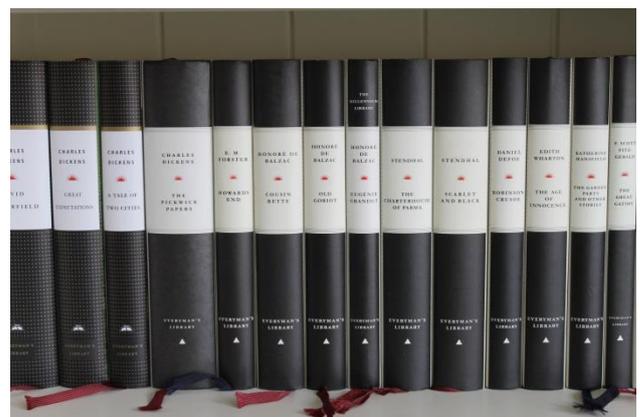
The past few months have seen several reports published by Her Majesty's Inspectorate of Prisons' which detail the shocking levels of danger and dire conditions of prisons in England and Wales. Frances Crook, CEO for the Howard League stated: "Prisons have gone into meltdown in the last year and it is a direct result of government policy. I have never seen a public service deteriorate so rapidly and so profoundly". The reports document increasing levels of self-harm and bullying, with many young people fearing for their safety. Inspectors found Wormwood Scrubs to be a filthy, overcrowded and dilapidated prison plagued by violence and inactivity. A report on the YOI Glen Parva highlighted increased levels of suicide. Violence in Doncaster was at four times the level seen in comparable prisons, and many prisoners were held in their cells for up to 22 hours a day. On 30 October figures revealed that the number of people dying in prison has risen to its highest level since records began in 1978. Serious assaults on prison staff have soared by 54 per cent in two years, and prisoner-on-prisoner violence has also risen sharply. The 'safety in custody' statistics, published by the Ministry of Justice, provide yet more evidence that prisons have become more dangerous as they struggle to deal with staff cuts and chronic overcrowding.

Anniversaries

11 August 2014 celebrated the 50th anniversary of the **ending of capital punishment** in England and Wales. The Howard League for Penal Reform was one of the key campaigners against the death penalty and played a central role in securing its abolition. In the years since, the charity has led the fight against its reintroduction. The death penalty was debated in Parliament as recently as the 1980s, but

Howard League pressure helped ensure that votes against were overwhelming. A selection of Howard League publications on capital punishment can be [read on our website](#).

One year ago, on 1 November 2013 the Ministry of Justice changed the **Incentives and Earned Privileges Scheme** to introduce a blanket ban on loved ones sending in books and other essentials, such as underwear, to prisoners. Since then, the Howard League has been campaigning for books for prisoners. On Friday 27 June, leading authors gathered at Downing Street to urge David Cameron to overturn restrictions on sending books and other essentials to prisoners and presented to Number 10 [a letter signed by more than 40 high-profile figures](#). On 31 July we received a [response from David Cameron](#). On 31 October we sent a letter to the [Justice Select Committee](#). [A public meeting](#) chaired by [Ian Dunt](#) with Frances Crook and authors [A. L. Kennedy](#) and [Kathy Lette](#). about the campaign will be held at 6pm on Wednesday 19 November at the King's Fund, 11-13 Cavendish Square, London W1G 0AN.



Finally, the **25th anniversary of the UN convention on the rights of the child** is on 20 November, so keep an eye on our website for announcements related to this.

Understaffing and overcrowding in prisons



the Howard League for Penal Reform

Between 2010 and 2013 the number of frontline prison officers in England and Wales fell by 10,000. In some prisons the number of officers has fallen by as much as 20%. Many prisons are being forced to operate with 40 per cent fewer staff than before.

Since the Coalition government came into power in May 2010, 10 prisons have been closed or re-located as a result of an immigration removal system. Non-removal centres have also been closed in the name of saving £500 million a year.

On 1 April 2014 the prison population stood at 85,204 – 20% higher than in May 2010. For the first time since 2005, the population has been significantly higher than at any one time since the late 1990s.

The introduction of these prison officers, lower cells and more prisoners has created a severely understaffed and overcrowded prison system which is now at breaking point.

Over the last year staff reduction, the reduction of staff and assaults on prisoners have increased. These are all at least in part, attributable to very low staff levels and overcrowding.

Prisons have also become less productive. The number of hours prisoners spend in education has fallen and the number of prisoners who have been referred to mental health services has increased.

Urgent action is needed to reverse the damage to the prison system. The reduction of staff and the increase in prisoners has led to a loss of control.

A recent Howard League research briefing, [Breaking point: Understaffing and overcrowding in prisons](#), presents analysis based on figures obtained from the Ministry of Justice through parliamentary questions. The data shows that the

number of prison officers has fallen in almost every prison since 2010, while numbers of prisoners in each prison have either risen or been static. As a result of understaffing and overcrowding, prisons are becoming less productive and more violent. The conclusions of this report were confirmed by [HM Chief Inspector of Prisons annual report](#), which said that ‘Increases in self-inflicted deaths, self-harm and violence cannot be attributed to a single cause. Nevertheless, in my view, it is impossible to avoid the conclusion that the conjunction of resource, population and policy pressures, particularly in the second half of 2013–14 ... was a very significant factor in the rapid deterioration in safety and other outcomes we found as the year progressed’. (p. 11)

Private firms the big winners of probation sell-off

Responding to the Ministry of Justice’s announcement of preferred bidders for probation contracts on 29 October, Frances Crook, Chief Executive of the Howard League for Penal Reform, said: ‘As we expected, the big winner of the probation sell-off is not the voluntary sector but large private companies run for profit. The Ministry of Justice will claim it has created a diverse market, but Sodexo and Interserve are the companies running half of all the contracts. A public service is being destroyed without any evidence that the fragmented landscape created will perform

any better or help make communities any safer. Indeed, reforms aimed at imposing compulsory support to those leaving prison after short sentences are certain to set people up to fail.’

Cries for Help Going Unheard

A report published by the Prison and Probation Ombudsman highlight that between April 2007 and March 2014, 89 young people aged 18 to 24 took their own lives in prison. Frances Crook, CEO for the Howard League commented: ‘Every death in prison is a tragedy and almost all are preventable... Increased overcrowding driven by cowardly sentencing and ill-conceived jail closures, together with a 30 per cent cut in officer numbers, has turned prisons into warehouses where yet more people will die needlessly.’ Many young people discussed in the report had a range of mental health issues, which further highlights how the current system fails to protect vulnerable children and young people in conflict with the law.

Costly tagging programme sets children up to fail



A report published by the Howard League, [They couldn't do it to a grown up: Tagging children without due process](#) claims children who have been in trouble with the law are being put on electronic tags, given curfews and then sent back to

prison because of failures in the system meant to support them. Research by the Howard League shows how almost 1,000 children were put under “intensive supervision and surveillance” (ISS) last year after being released from prison at the midpoint of a Detention and Training Order (DTO). Although the measure may be

intended to help change lives, the reality is that ISS conditions can be so lengthy and onerous that children find it almost impossible to comply. This means that they can be sent back to prison. The charity is calling on the government to end the use of midpoint ISS, arguing that the sanction creates injustice and is too costly. The Ministry of Justice spent £1.4m on private security companies tagging children on DTOs in 2010-11.

Research collaborations

In recent years the Howard League has developed its research capacity. The charity is now interested in expanding its research interests by developing partnerships and collaborations with academic and NGO colleagues. In particular, we wish to form relationships that seek to generate research grant funding both nationally and internationally. [Visit our website](#) for more information and guidance for potential research partners.

Peak offending age for men in Scotland up from 18 to 23

[BBC Scotland has reported](#) that the peak age of offending for men in Scotland has risen from 18 to 23 in the space of a generation, according to the latest conviction figures. Professor Susan McVie said: "Dramatic changes in the way that the youth justice system operates in Scotland could also be responsible, meaning that children are kept out of the justice system for as long as possible." Professors McVie and McAra won the Howard League Research Medal 2013 for their research [Delivering justice for children and young people](#).

Mental Health Trusts

Under section 136 of the Mental Health Act (1983), anyone who appears to be mentally disturbed in a public place can be detained to a "place of safety" to be properly assessed. Despite this however, figures obtained by the Howard League indicate

that almost three quarters of Mental Health Trusts in England and Wales do not provide a specialised place of safety specifically for children, with many held in prison cells. The Howard League contacted 52 Mental Health Trusts to determine the standard of provision available for vulnerable children and young people displaying mental health needs, and found that almost 1000 children in two years were held in prison cells or adult hospital wards.

2014 John Sunley Prize winners announced



The winners were publicly announced on 23 October and presented with their awards at the Howard League Parmoor lecture.

Miranda Bevan, London School of Economics, *Investigating young people's awareness and understanding of the criminal justice system: an exploratory study*

Chloe Peacock, University of Sussex, *Remembering the riots: Citizenship and 'social cleansing' after the London riots of 2011*

Emma Young, University of Glasgow, *The experience of fatherhood post-Imprisonment*.

The judges also awarded two highly commended entries:

Janine Hunter, University of Stirling, *The Implementation of a Single Scottish Police Force: The View from the Beats*

Daniel Packham, University of Cambridge, *An Exploratory Study of Military Veterans' Experiences in UK Prisons*.

[The 2015 John Sunley Prize](#) is now open for submissions.

Capital punishment in twentieth-century Britain

Lizzie Seal, University of Sussex

At 8am on 13 August 1964, Gwynne Evans, 24, and Peter Allen, 21, became the last people to be executed in Britain. They were convicted of murdering 53-year-old John West in the course of a robbery, a capital offence at the time. The most notable thing about them today, highlighted in recent media coverage of the 50 year anniversary of the last hangings, is that their executions passed with little notice from the press or public (see Davies, 2014a). The case was run of the mill rather than contentious, and neither Evans, Allen nor anyone else realised that the hangings represented the end of capital punishment in Britain. The Death Penalty (Abolition) Act was passed in 1965 and initially suspended execution for five years. However, MPs voted 343 to 185 for permanent abolition in 1969.

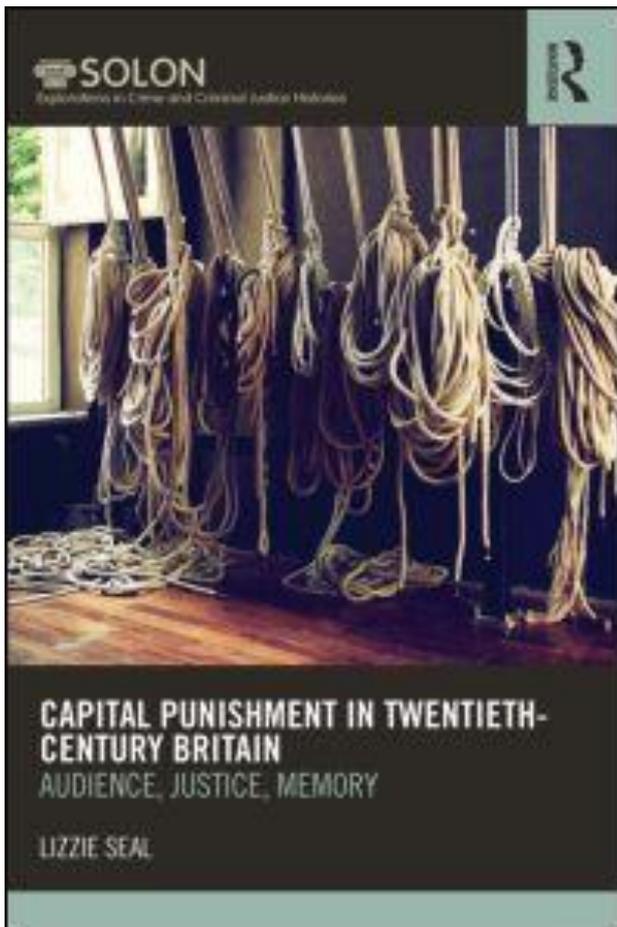
Fifty years later, the issue of the death penalty in this country remains one that can fire debate but it has slipped a long way down the political agenda. There is no serious prospect of its return and, in addition to no political will for this, public support has also declined (Davies, 2014b). In August 2011, the *Sun* newspaper backed a campaign from right wing blogger, Guido Fawkes (Paul Staines), to use the Government's e-petition scheme to initiate a parliamentary debate on the reintroduction of capital punishment. This was supported by three Conservative MPs (see Seal, 2011). Despite a flurry of publicity in the traditionally slow August news cycle, interest in the campaign fizzled out and the petition failed to generate the required quota of signatures needed – over 100,000 – to ensure that the return of the death penalty would be debated in the House of Commons.



The intervening years since abolition have seen periodic attempts to reintroduce the death penalty but, even when this was voted on in Parliament in the 70s, 80s and 90s, they came nowhere near to being

successful. A truism about the British context is that despite a lack of appetite for capital punishment amongst political, legal and intellectual elites, public support remained in favour. Therefore, the abolition of the death penalty can be interpreted as a triumph of elite driven penal modernism, which was ahead of the general view of the populace.

My recently published book, *Capital Punishment in Twentieth-Century Britain: Audience, Justice, Memory* (Seal, 2014), takes issue with this established narrative. The book is not primarily about abolition, thorough accounts of which can be found elsewhere (Block and Hostettler, 1997; Hammel, 2010; Twitchell, 2012). However, one of my starting points was previous scholars' apparent lack of interest in gaining a more fully rounded understanding of the cultural place of capital punishment in twentieth-century Britain (there are exceptions, for example Langhamer, 2012). Exploration of the 'cultural life' of the death penalty (Boulanger and Sarat, 2005) necessitates taking a close look at both its popular representations and also public responses. In order to assess these representations and responses, I qualitatively analysed sources such as local and popular press, films, novels, letters and oral history interviews.



These sources enabled analysis of expressive, emotional and symbolic meanings and produced a finely grained assessment of the cultural place of capital punishment in twentieth-century Britain. It is important to realise that, especially by the middle of the century, the death penalty was a prominent topic in the popular press and that certain publications with large readerships, such as the *Daily Mirror* and the *Picture Post*, were strongly abolitionist. We cannot conclude from this that their readers agreed with this editorial line but appreciating the widespread nature of the debate is a corrective to the assumption that abolitionism, or indeed discussion of capital punishment, was restricted to elite discourse. Spending some time reading the popular press from the 1950s soon dispels this.

There is a significant difference between the death penalty as an abstract

issue and the specific, real-life cases of the individuals condemned. Examination of responses to actual cases helps to reveal a greater range of symbolic meanings that can be sparked by the prospect of capital punishment. In particular, the execution of women or of those perceived as young, in their late teens or early twenties, had the potential to be controversial. The details of the crime were also important. Where there appeared to be strong mitigation or where guilt appeared uncertain, sympathy or empathy for the condemned was more likely. The 1950s cases of Timothy Evans, Derek Bentley and Ruth Ellis¹ all generated public sympathy and empathy and have frequently been cited as significant in helping to change the climate of opinion regarding the death penalty, but they were not the only ones – other, now forgotten, cases such as that of Daniel Raven, a young man executed for the murder of his parents-in-law, were also high profile controversies. (Raven was only 23, there were concerns that the evidence against him was not watertight and also that mental health problems related to epilepsy might not have been adequately considered during his trial.) Although controversial cases were significant, it makes sense to argue that there had already been underlying shifts in feeling regarding the death penalty, which meant that these cases resonated.

The increasing contentiousness of the death penalty in the mid twentieth-century was tied to its emotional resonance, but this did not mean, of course, that abolitionism became the consensus. Strong retributive feeling existed alongside growing unease with capital punishment as a measure able to dispense justice. Following Zimring (1996; 2003), I argue that it is important to understand the death penalty as a culturally ambivalent practice, about which there are competing and contradictory

¹ For more information about these cases, please see BBC [Wales, 2012](#) (Timothy Evans); BBC, [2005a](#) (Derek Bentley); and [BBC, 2005b](#) (Ruth Ellis).

discourses, and understanding this ambivalence involves going beyond the legal and political spheres to pay attention to the complexity of its wider cultural meanings. Highlighting ambivalence allows us to find the interpretation that in twentieth-century Britain elites opposed the death penalty while the populace supported it rather too straightforward. This is not to argue that abolitionism or an anti-capital punishment stance became the predominant view but that unease and uncertainty deserve attention. Debates about the death penalty, and about its reintroduction, were linked to understandings of what it meant for Britain to be a modern, civilised society and to notions of what was entailed by citizenship.

In order to explore the cultural life of capital punishment in twentieth-century Britain, the book is built around three key concepts – audience, justice and memory. I explore these further below.

Audience

Public hangings in Britain were ended in 1868. After that, execution took place in prison. It would be wrong, however, to assume that this meant capital punishment disappeared from public view. In the late nineteenth and early twentieth centuries, journalists were admitted to hangings and wrote formulaic reports on the execution scene. This included attention to what happened to the prisoner's body after it dropped (for example, whether the legs twitched) but also to how the condemned had conducted themselves in their final moments: whether they were brave, penitent or overtaken by fear. By the 1920s, journalists were usually excluded from hangings and reports of the executed British body disappeared from the newspapers. However, the press remained the most significant means by which capital cases were brought to public attention. As stated above, it is important to consider the emotional resonance of capital punishment. In Britain, the popular press, which had

established large readerships by the mid-twentieth century, was instrumental in portraying the death penalty as emotionally traumatic. This was frequently done by highlighting the impact that execution had on the relatives and friends of the condemned. The grief experienced by Derek Bentley's family was detailed by the *Daily Mail* and *Daily Mirror*, with the *Mirror* (1953) running a front page dominated by a large photograph of Bentley's mother and sister sobbing. The issue of capital punishment became intertwined with shifts towards greater emotional expressiveness in British culture (Langhamer, 2012).

Justice

A somewhat neglected aspect of capital punishment in twentieth-century Britain is popular protest against it. The important role of organisations such as the Howard League and the National Council for the Abolition of the Death Penalty has been explored but there were other, more populist forms of abolitionism. Some executions provoked spontaneous protests, such as that of Ernest Kelly at Strangeways in 1913. Kelly, 20, was accomplice to Edward Hilton, 18, in the murder of an Oldham bookseller. Hilton, who was believed to have actually killed the victim, was reprieved on the grounds of being a 'mental defective'. When Kelly was denied a reprieve, the perceived injustice of the case led to violent protests in Oldham and a march to Strangeways Prison in Manchester in an attempt to save him. Forty years later, there were protests and marches on behalf of Derek Bentley, with the crowd expressing similar concern that to execute a young man who was not actually responsible for carrying out the murder of which he had been convicted was an injustice.

A more orchestrated, and more theatrical, protest against the death penalty was waged by Violet van der Elst, a wealthy businesswoman. She launched her campaign in March 1935, with the intention of staging a demonstration against the

execution of George Harvey outside Pentonville. She planned for a 25-strong brass band to play and for 30 men wearing sandwich boards bearing anti-capital punishment slogans to march through Hyde Park. In the end, she was forced to dismiss the band and send the sandwich-board men on an alternative route but in the 1930s in particular, van der Elst regularly engaged in spectacular protests involving aeroplanes trailing banners, vans with loudspeakers and her own charismatic presence. While her approach had its limitations, she was successful in drawing press attention to capital cases and capital punishment as an issue, and in understanding the emotional resonance of the death penalty (for more information about van der Elst and her campaign see Topham, 2013).

Another way for members of the public to protest against perceived injustice in capital cases was to write letters to the Home Secretary. This was, of course, a minority pursuit but analysis of these letters, which are held in case files in The National Archives, does enable access to perceptions of justice and injustice, and the ways in which these were expressed. Unsurprisingly, the majority of the letters I examined were asking for the condemned to be reprieved, but there were also letters objecting to the prospect of reprieve. Letter writers articulated five main themes – doubt about the safety of the conviction; concerns that mitigating factors had not been adequately recognised; perceived arbitrariness in the exercise of the death penalty; inequity in the exercise of the death penalty; and a retributive objection that reprieve would fail to secure justice for the victim.

Memory

Abolition did not mean that capital punishment as an issue disappeared from British culture, but inevitably it changed the context of cultural reactions. The anxieties that had formed the background to abolition lost their urgency and retributive, pro-death

penalty sentiments could no longer be satisfied by actual executions. Calls for the reintroduction of capital punishment tended to flare up in relation to particular cases or events, such as the Irish nationalist terror bombings in the 1970s, or the ongoing spotlight on Myra Hindley and Ian Brady, the ‘moors murderers’. However, high profile miscarriages of justice also left their mark and whereas the Guildford Four and Birmingham Six were the focus for discussion of reinstatement of the death penalty in the 1970s, their release in 1989 and 1991 respectively was a caution against irreversible punishments like execution. Derek Bentley’s conviction was overturned in 1998 and in 2000 Timothy Evans’ sister and half-sister were awarded compensation in recognition of the adverse effects that his wrongful conviction and execution had wrought.

Analysis of oral history interviews held in the British Library Sound Archive can reveal the negotiation of memories of the death penalty, with memory understood as something which is culturally and socially produced, rather than a ‘true’ recollection of the past. These interviews form the Millennium Memory Bank and were collected to provide a snapshot of Britain at the end of the twentieth-century. Crime and law was one of the possible topic areas for discussion. Interviewees who mentioned capital punishment did so in relation to three main themes, which were the need for capital punishment as retribution or as a deterrent measure to keep order in society; the danger of miscarriage of justice and concern that the state was not competent enough to avoid error; and ambivalence about the death penalty, where respondents expressed mixed feelings rather than straightforward approval or disapproval. This final theme of ambivalence exemplifies the need to understand the contested terrain of capital punishment as an issue in Britain.

Get **20 per cent off** when purchasing *Capital Punishment in Twentieth-Century Britain: Audience, Justice, Memory* from Routledge using the discount code DC362.

Lizzie Seal is Senior Lecturer in Criminology at Sussex University, having previously lectured at Durham University, and a member of the Howard League's [Research Advisory Group](#). Her broad research interests are gender and crime, cultural criminology and historical criminology. Lizzie has published work on gender representations of women who kill and the perceptions of femininity that circulate in the criminal justice system.

References

BBC (2005a) *1953: Derek Bentley hanged for murder (28 January)* Available at: http://news.bbc.co.uk/onthisday/hi/dates/stories/january/28/newsid_3393000/3393807.stm [accessed October 2014].

BBC (2005b) *1955: Ruth Ellis hanged for killing lover (13 July)* Available at: http://news.bbc.co.uk/onthisday/hi/dates/stories/july/13/newsid_2745000/2745023.stm [accessed October 2014].

BBC Wales (2012) *The execution of Timothy Evans (16 January)* Available at: http://www.bbc.co.uk/blogs/wales/posts/execution_of_timothy_evans_1950 [accessed October 2014].

Block, B.P. and Hostettler, J. (1997) *Hanging in the Balance: A History of the Abolition of Capital Punishment in Britain*. Winchester: Winchester University Press.

Boulanger, C. and Sarat, A. (2005) 'Putting Culture into the Picture', A Sarat and C Boulanger (eds) *The Cultural Lives of Capital Punishment*. Stanford: Stanford University Press, pp. 1–47.

Daily Mirror, (1953) *Bentley Dies Today: No Last Minute Reprieve, (28 January)*.

Davies, C. (2014a) 'Britain's Last Executions: Hanging of Two Jobless Criminals a "Low Key" Affair', *The Guardian*, 13 August. Available at: <http://www.theguardian.com/world/2014/aug/13/britain-last-executions-hanging-criminals-low-key> [accessed October 2014].

Davies, C. (2014b) 'Support for Death Penalty Falls in UK, Survey Finds', *The Guardian*, 12 August. Available at: <http://www.theguardian.com/world/2014/aug/12/ess-half-britons-support-reintroduction-death-penalty-survey> [accessed October 2014].

Hammel, A. (2010) *Ending the Death Penalty*. Basingstoke: Palgrave.

Langhamer, C. (2012) "'The Live Dynamic Whole of Feeling and Behaviour": Capital Punishment and the Politics of Emotion, 1945–57', *Journal of British Studies*, 51(2) pp. 416–41.

Seal, L. (2011) 'Historical Views on the Abolition of the Death Penalty can Help to put the Latest Sun Campaign into Context', *LSE Politics and Policy Blog*, 5 August. Available at: <http://blogs.lse.ac.uk/politicsandpolicy/category/contributors/lizzie-seal/> [accessed October 2014].

Seal, L. (2014) *Capital Punishment in Twentieth-Century Britain: Audience, Justice, Memory*. London: Routledge.

Topham, L. (2013) *Chained to the prison gates: A comparative analysis of two modern penal reform campaigners*. London: Howard League for Penal Reform.

Twitchell, N. (2012) *The Politics of the Rope*. Bury St Edmunds: Athena.

Zimring, F. (1996) 'The Wages of Ambivalence: On the Context and Prospects of New York's Death Penalty', *Buffalo Law Review*, 44(2), pp. 303–24.

Zimring, F. (2003) *The Contradictions of American Capital Punishment*. Oxford: Oxford University Press.

Re-imagining the role of participation in youth justice

Sean Creaney, Senior Lecturer in Applied Social Science, Stockport College and trustee of the National Association for Youth Justice, London

Introduction

Despite the presence of campaign groups such as the Howard League for Penal Reform and the National Association for Youth Justice, and more specifically the campaigning that has been done by such organisations where the participatory rights of service users have been promoted, it remains the case that within youth justice there has been limited opportunity for children to be consulted on matters that affect them (Fox and Arnull, 2013). However, a campaign has been set up specifically to address this issue:

Young people have an ability to speak extremely openly and honest. They are unafraid to challenge the status quo and offer the insights that we require to commission services that best meet their needs. If we fail to seek the views of children and young people in custody, then we fail in our duty as commissioner of their secure estate.

(Youth Justice Board, Children's Commissioner and User Voice, 2011: 3)

There have been other developments in the field centred on giving voice to service users, namely the Howard League's U R Boss project (see <http://www.urboss.org.uk/> and Smith and Fleming, 2011 for more information). Inevitably, however, this shift in thinking, away from 'punishment' and doing 'to', and towards the equal sharing of power and doing 'with', may be regarded by some as offending 'the notion of justice' (Fox and Arnull, 2013). Despite this, and tensions between caring and controlling, 'the end aim is to increase effectiveness and increase compliance, which it might be argued is in the state's interest as well as the young person's' (Fox and Arnull, 2013: 23).



This paper explores some of the challenges associated with giving young people a say in youth justice. The paper argues that if young people are given a voice and provided with the

opportunity to influence how a service is implemented it is more probable that the child will be rehabilitated (Beyond Youth Custody, 2014; Creaney, 2014a, 2014b). The paper provides a basis for further discussion around child and youth involvement and engagement, and highlights some examples of promising participatory practice.

Setting the scene

Within children's social care, at the heart, is a focus – certainly at the practice level – on promoting the welfare needs of the client and an intention to deliver person-centred care; but within youth justice, and criminal justice more broadly, there appears to be political and public ambivalence towards whether children who offend deserve or should be provided with the opportunity to have a say on the purpose of their intervention (For further discussion on this see Hart and Thompson, 2009). Indeed, in England, practice-based responses seem to comprise a 'prescription without a consultation' (Case, 2006: 174) whereby there appears to be minimal incorporation of the views of young people into the assessment process (Case, 2010). The prevailing focus on risk/deficit led interventions seems to be in contrast to a model of practice emphasising the enhancement of positive aspects of a child's life and the building of strengths and

aspirations (Smith, 2011). Within youth justice, the intention appears to be to deal with future problems rather than meet the present welfare needs of young people (See Creaney, 2012c for further discussion on this). There is less emphasis on the structural environment, for example issues of poverty and social inequality, and the impact this has on young people's ability to secure inclusion (Yates, 2010).

The pre-occupation with risk assessment and risk management (and the emphasis on 'predicting future offending' has resulted in professionals acting as technicians, unable to act independently (Creaney, 2013). This has resulted in practitioners experiencing difficulties delivering innovative, engaging methods of intervention and creative child-friendly forms of practice (Creaney, 2013).

Notwithstanding this, the introduction of various schemes, including Triage and Youth Justice Liaison and Diversion Schemes, and the move away from formal processing, demonstrates a commitment to overcome dominant bureaucratic aspects of practice (Creaney and Smith, 2014).

Triage purports to overcome unnecessary criminalisation by reducing the amount of professional involvement, in an approach that supports the idea of swift justice, embedding 'minimum intervention, maximum diversion' (McAra and McVie, 2007). The Liaison and Diversion schemes promote a welfare driven supportive solution, where the social context or circumstances linked to offending become the focus (Smith, 2014). In addition to these approaches, the Youth Restorative Disposal appears to be in favour of community solutions, where the intention is for the intervention to benefit victims of crime alongside people who offend by facilitating reconciliation (Smith, 2014).

In Wales, the Swansea Bureau is an innovative 'child first, offender second' initiative, prioritising the welfare needs of children. Here, young people are

encouraged to become involved in decision making processes (Haines et al., 2013). The project subscribes to the idea that professionals working with young people who offend should aspire towards an emancipatory approach, deliver non-discriminatory forms of practice intervention and understand the structural constraints that can severely impact on a young person's offending career and deny opportunities for integration into society (Ibid.). The Swansea Bureau purports to 'give explicit place to hear the voices of young people' (Ibid.: 5), but in England there does not appear to be a 'clear or significant role for young people or their parents in diversionary processes' (Ibid.: 4).

Re-imagining the role of participation in youth justice

To participate is to be involved, be listened to, and have some say over the process. With regard to the use of participatory approaches across the tariff of youth justice interventions and providers of services, 'the involvement of young people in their own assessment is underdeveloped and, even where they provide useful information; this may not be used to inform the plans that are made' (Hart and Thompson, 2009: 4). An exception to this is the introduction of the structured assessment tool 'Asset: What Do You Think?', which is meant to be used to inform planning and intervention (Creaney and Smith, 2014). The tool allows the child, for example, to identify their own areas for development. However, it appears to be an afterthought which is often used inappropriately, and therefore can be viewed as a tokenistic gesture (Hart and Thompson, 2009). It must be acknowledged, however, that the Youth Justice Board recognise the importance of service-user involvement in assessment and intend to introduce a new and improved assessment framework called AssetPlus (Creaney and Smith, 2014).

Although practitioners experience time constraints and resource pressures in day-to-day practice with young people who

offend (Smith, 2007), service user participatory techniques should be encouraged as they promote positive engagement and motivation, principally by offering a sense of control (Nacro, 2008). In order to counteract the lack of user-led engagement of people who offend and experiences of disempowerment, it should be a priority to involve young people in decision making processes throughout the Youth Justice System (Creaney and Smith, 2014; Creaney, 2014a, 2014b). An example of how to do this in practice can be seen in the Howard League's U R Boss project, which set out to embed participation, prioritising the welfare and rights of children (Smith and Fleming, 2011).

Article 12 of the United Nations on the Rights of the Child provides that the views of children are to be taken seriously through 'active participation'. In order to involve young people in decision making processes youth offending services could attempt to embed Article 12 at a managerial level, and integrate it into practice by advocating 'active involvement'. Here, service users could become involved in the planning, delivery and evaluation of services. It is important to note that Article 12 states that the competence of a child to express their views is determined in accordance with age and maturity. Some children may be deemed too young or immature to contribute to the process, which could then prevent them from having their voices heard. Article 13, on the other hand, differs somewhat in its focus 'valuing a child's participation in any shape or form relative to the individual' (Green, 2012: 21).

Despite the increasing focus on children's rights, there are a number of barriers that need to be overcome if the lack of participation of young people in youth justice is to be addressed.

First, the culture that exists in youth justice is often unwelcoming towards the idea of active participation, especially for young people subject to formal intervention

where conditions are attached to court orders imposed (Beyond Youth Custody, 2014). Second, there is a lack of knowledge and understanding regarding the principles of participatory approaches (Hart and Thompson, 2009). Third, the requirements made of practitioners (for example, requirements that assessments need to be updated regularly and deadlines for court reports) could prevent child-friendly, youth participatory approaches from happening (ibid., 2009).

The idea of active engagement is realised through the Swansea Bureau scheme, which, as discussed, is child rather than offender focused. The Bureau is also compliant with the United Nations Convention on the Rights of the Child (UNCRC), demonstrated particularly by the acceptance of article 12 (Haines et al., 2013). This pro-social interventionist project embraces the idea of systematic diversion, away from formalised criminal justice intervention and towards informal mechanisms of non-stigmatising support. This approach is deemed to be 'non-criminogenic' as support is provided to young people with issues that may not be directly related to the offence and/or offending behaviour.

Although the Bureau is a scheme that offers much promise, it does not extend to young people committing more serious crimes or those subject to statutory intervention. Furthermore, it cannot be overlooked that there still exists – although to a lesser extent – a degree of responsabilisation because it operates within a 'crime control' rationale. However, the Bureau promotes inclusion and it avoids the dangers of labelling and stigmatising young people by way of unnecessary criminalisation (Creaney, 2012a). The Bureau is based on the idea that formal criminalisation and repeated contact with the system is harmful in the longer term (McAra and McVie, 2010).

It is argued that young people and their parents welcome the opportunity to have a say and become more involved in the planning of interventions. As Hart and Thompson (2009: 4) note, 'participative approaches can improve outcomes. If young people feel listened to, they value the experience and their behaviour is likely to improve.'

Indeed, it is important to promote an inclusive and participate culture where professionals 'perceive, treat and view children with respect, dignity, and understanding to maximize both potential and capacity for positive change' (Almond, 2012: 147). Rather than embracing risk-led strategies and individualising offending, more emphasis should be given to strength based approaches. An example of this is the Good Lives Model (GLM), which has been promoted as being an effective way of securing a child's engagement as it provides a positive framework – balancing the risks with the promotion of securing personal goods (friendship and happiness for example) or accomplishing goals (McNeill, 2009: 85). It is worth noting here though that professionals must be aware that 'too strong a focus on personal goods may produce a happy but dangerous offender; but equally too strong a focus on risk may produce a dangerously defiant or disengaged offender' (McNeill, 2009: 85). However, the GLM is a positive move when considering that the Youth Justice System tends to respond by using approaches that draw on a model of negativity concerned with risk management, rather than one concerned with problem solving techniques, offence resolution or seeking the 'active participation' of young people (Scruton and Haydon, 2002).

Intervention should be tailored to the young person's needs and the enhancement of pro-social behaviour where personal, social and emotional development takes precedence over blaming tendencies and deficit-led measures (Creaney, 2012a,

2012b). In practice this could be achieved by involving children in 'consultation and participation processes shaping their futures' (Case, 2006: 3). Indeed, as Armstrong (2006: 276) notes, 'to engage with young people we have to listen to them without trying to cure them of their problems.'

The argument for involving service users in the management of their care is informed by user experiences of institutional discrimination and the feeling of being 'devalued'. As Gough (2010: 332) asks; 'who better to influence, shape and control how services are planned and delivered than the person who is using them?'

Conclusion

Managerial processes and targets appear to constrain levels of professional autonomy in practice with young people who offend (See Fitzgibbon, 2009). Despite these constraints, service user participatory techniques (as advocated by the Swansea Bureau, for example) should be encouraged as they promote positive engagement and motivation (Creaney and Smith, 2014). In order to overcome experiences of disempowerment, throughout the Youth Justice System the priority should be to involve young people in decision making processes and consult them on matters that affect them (Creaney, 2014a, 2014b).

Although there are participatory approaches already, it is unclear how the lack of participative/consultative mechanisms should be approached: there does not seem to be any strategic direction on the issue (Creaney and Smith, 2014). Being actively involved in youth justice processes can improve outcomes for young people (Nacro Cymru, 2009; National Youth Agency, 2011; Hart and Thompson, 2009). It can also contribute to crime reduction thereby making society safer for the public. Involving young people also complies with UNCRC requirements, in particular adhering to principles of inclusivity and empowerment. Indeed, young people should

be key players in 'goal setting' as this can help to foster engagement. However, challenges remain, in particular regarding whether young people deserve to 'have a say'. More specifically, participatory principles conflict somewhat with punishment. In other words, 'allowing a young person to determine their intervention can appear inconsistent with an emphasis on punishment' (Beyond Youth Custody, 2014).

Young people often do not know how they can be involved in the process and have low expectations regarding how much of what they say will influence decision making (Beyond Youth Custody, 2014). This is not surprising when we consider that tokenistic approaches – rather than active involvement and shared decision making – appear to be common practice in youth justice.

Arguably, further opportunities need to be created for young people to become involved and engaged and influence decision making. This could be through establishing steering groups or advisory boards, and/or allowing young people the opportunity to advise in other settings on ways of improving service delivery (Beyond Youth Custody, 2014).

About the author

Sean Creaney teaches at the University Centre, Stockport College and is a PhD student at the School of Humanities and Social Science, Liverpool John Moores University (<https://www.ljmu.ac.uk/HSS/127708.htm>). He is also a trustee for the National Association for Youth Justice. Creaney's research investigates why young people are rarely involved in assessment planning and intervention, and also how young people can contribute, in any meaningful and participatory way, to their programme of intervention. The research also examines whether the benefits of participation differ depending where you are on the 'ladder of participation' in youth justice (Hart, 1992).

References

- Almond, T. (2012) 'Asset: An assessment tool that safeguards or stigmatises young offenders?', *Probation Journal*, 59(2) pp. 138–150.
- Armstrong, D. (2006) 'Becoming Criminal: The Cultural Politics of Risk', *International Journal of Inclusive Education*, 10(2/3) pp. 265–278.
- Beyond Youth Custody (2014) *Young people and resettlement: Participatory approaches, a practitioner's guide*. Available at: <http://www.beyondyouthcustody.net/wp-content/uploads/Participatory-approaches-for-young-people-in-resettlement-a-practitioner's-guide.pdf> [accessed June 2014].
- Case, S. P. (2006) 'Young people "at risk" of what? Challenging risk-focused early intervention as crime prevention', *Youth justice*, 6(3) pp. 171–179.
- Case, S. P. (2010) 'Preventing and reducing risk', in Taylor, W., Earl, R. and Hester, R. (eds.) *Youth Justice Handbook: theory, policy and practice*. Willan Publishing: Cullompton.
- Creaney, S. (2012a) 'Risk, prevention and early intervention: youth justice responses to girls', *Safer Communities*, 11(2), pp. 111–120.
- Creaney, S. (2012b) 'Targeting, labelling and stigma: challenging the criminalisation of children and young people', *Criminal Justice Matters*, 89(1) pp. 16–17.
- Creaney, S. (2012c) *Predicting criminality: youth justice and early intervention*. Open Democracy website. Available at: <https://www.opendemocracy.net/ourkingdom/sean-creaney/predicting-criminality-youth-justice-and-early-intervention>, [accessed August 2014].
- Creaney, S. (2013) 'Beyond pre-emptive criminalisation: towards a child-friendly youth justice', *Safer Communities*, 12(3) pp. 101–110.
- Creaney, S. (2014a) 'The benefits of participation for young offenders', *Safer Communities*, 13(3) pp. 126–132.
- Creaney, S. (2014b) 'The position of relationship based practice in youth justice', *Safer Communities*, 13(3) pp. 120–125.

- Creaney, S. and Smith, R. (2014) 'Youth justice back at the crossroads' *Safer Communities*, 13(2) pp. 83–87.
- Fitzgibbon, W. (2009) 'The conveyor belt of criminal justice: the Sonnex case, risk and de-skilling in probation', *Criminal Justice Matters*, 78, pp. 6–7.
- Fox, D. and Arnull, E. (2013) *Social work in the youth justice system: a multi agency perspective*. Milton Keynes: Open University Press.
- Green, D. (2012) 'Involving young children in research', in Palaiologou, I. (ed.), *Ethical practice in early childhood*. London: SAGE.
- Gough, M. (2010) 'User involvement: user led approaches in adult care – who is in charge?' in Barnard, A. (ed.) *Key Themes in Health and Social Care: A Companion to Learning*. Routledge: Abingdon.
- Haines, K.R., Case, S.P., Charles, A.D. and Davies, K. (2013) 'The Swansea Bureau: A model of diversion from the Youth Justice System', *International Journal of Law, Crime and Justice*, 41(2) pp. 167–187.
- Hart, D. and Thompson, C. (2009) *Young people's participation in the youth justice system*. London: National Children's Bureau.
- Hart, R. (1992) *Children's Participation: From Tokenism To Citizenship*. Florence: UNICEF.
- McAra, L. and McVie, S. (2007), 'Youth Justice? The Impact of System Contact on Patterns of Desistance from offending', *European Journal of Criminology*, 4(3), pp. 315–45.
- McAra, L. and McVie, S. (2010) 'Youth Crime and Justice: Key Messages from the Edinburgh Study of Youth Transitions and Crime', *Criminology and Criminal Justice*, 10(2), pp. 179–209.
- McNeill, F. (2009) 'What Works and What's Right' *European Journal of Probation* 1(1) pp. 21–40.
- Nacro (2008) *Principles of participation in youth justice (Youth crime briefing)*. London: Nacro.
- Nacro Cymru (2009) *Youth Justice and Participation in Wales*. Nacro Cymru: Youth Offending Unit.
- National Youth Agency (2011) *Participation in Youth Justice: Measuring Impact and Effectiveness*. Leicester: National Youth Agency.
- Scruton, P. and Haydon, D. (2002) 'Challenging the criminalisation of children and young people: securing a rights-based agenda', in Muncie, J., Hughes, G. and McLaughlin, E. (eds.) *Youth Justice: Critical Readings*. London: Sage/Open University. pp. 311–328.
- Smith, R. (2007) *Youth Justice: Ideas, Policy and Practice*. Willan Publishing: Cullompton.
- Smith, R. (2011) *Doing Justice To Young People: Youth Crime and Social Justice*. Cullompton: Willan Publishing.
- Smith, R. (2014) *Youth justice: Ideas, policy and practice*. Routledge: Abingdon.
- Smith, R. and Fleming, J. (2011) *Welfare and rights – Interim report of the UR Boss project*. London: Howard League.
- Yates, J. (2010) 'Structural disadvantage: Youth, class, crime and social harm' in Taylor, W. Earl, R. and Hester, R. (eds) *Youth Justice Handbook: theory, policy and practice*. Willan Publishing: Cullompton.
- Youth Justice Board, Children's Commissioner and User Voice (2011) *Young people's views on safeguarding in the secure estate: a user voice report for the Youth Justice Board and the Office of the Children's Commissioner*. London: Youth Justice Board.

Participation and practice: youth justice

Ross Little, De Montfort University, Leicester

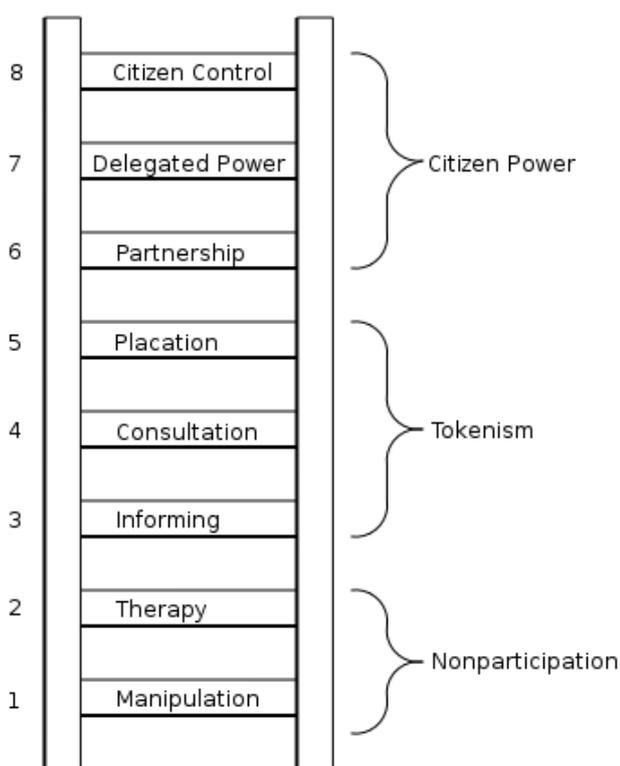
In recent decades, particularly since the adoption of the United Nations Convention on the Rights of the Child in 1989 (Barn and Franklin, 1996), there has been increasing interest in young people as citizens and as active participants in our communities. Over a similar timeframe, successive governments have suggested policies that have sought to devolve power, or rather decision-making responsibility, to communities and individuals across different sectors in public life. Such developments have been slow in relation to the criminal justice system and the people who are subject to its interventions. However, if people are to be able to move on effectively from life inside prison, for instance, there must be an acceptance that they should be able to participate meaningfully in society.



This is particularly true for young people who need to remain (or become) connected with civil life, not disconnected from it at such an early stage of their

development. This piece briefly considers why participation is an important concept in relation to the youth justice system and what it can mean in practice. It draws partly on work I was involved with as part of *UR Boss*, a youth participation project based at the Howard League for Penal Reform.

As citizens in contemporary consumer society we are well accustomed to being asked for our feedback on a wide range of products and services we consume and experience. This creates an opportunity to sell us even more things, but also – we hope – helps improve the services we use. Which of these activities our information supports determines the level of our participation – whether we are merely consulted (and potentially ignored) or whether we have a genuine say in how a service is designed and delivered. Sherry Arnstein, writing in 1969 on citizen involvement in planning processes in the United States, was the first to describe a hierarchy of citizen participation, expressed visually as a ladder. One might question the words chosen for each of the eight rungs in the ladder, and even the nature of a hierarchy, but it helped to demonstrate that not all forms of participation are equal. Arnstein described some forms of ‘participation’, such as ‘therapy’ and ‘manipulation’, as inherently non-participative. Other forms, such as ‘informing’, ‘consultation’ and ‘placation’



Participation ladder

tend to be rather tokenistic in nature. Real citizen power, she wrote, is confined to activities such as working in 'partnership', 'delegated power' and 'citizen control' of resources. This represented an important step forward in recognising the complexity of people's involvement in social projects and the relevance of underlying power relations.

Hart (1992) adapted Arnstein's ladder for the youth sector, placing youth-adult partnership or 'equality' at the top of the ladder which filled a gap in the theory of children's participation in projects and programmes. This was valuable because the approach linked the notion of involvement to the evolving notion of human rights in advanced democracies:

The confidence and competence to be involved must be gradually acquired through practice. It is for this reason that there should be gradually increasing opportunities for children to participate in any aspiring democracy, and particularly in those nations already convinced that they are democratic.

(Hart, 1992: 1)

Hart's representation of participation of young people within a democracy has been criticised for its hierarchical approach, which implies that one type of participation is inherently better than another, regardless of context (Hart later noted (2008) that his model was only ever intended as a starting point, not a defining template). Shier (2001) instead suggests five levels of participation that can each be considered useful in different contexts and suggests pathways for getting to the next level. These models represented, and generated, growing interest in children and young people having a say in issues that affected them.

Academic interest in youth participation (see for example Reynaert et al., 2009) flourished at the turn of the century. In local authorities funding sources such as the Youth Opportunity Fund and the



U R Boss young advisors at the Re-imagining youth justice conference

Youth Capital Fund emerged, as did opportunities in health related partnerships. However, interest did not extend to Youth Offending Teams and Young Offender Institutions. This may have been for reasons such as perceived irrelevance for the youth justice sector, perceived or real limitations of the participation tools on offer for the youth justice context or a lack of knowledge, understanding or imagination about what participation might mean in practice. A perceived incompatibility with a managerialist, target-driven culture (Muncie, 2006) may also have played its part. More fundamentally, the involuntary nature of children's involvement in the youth justice system and its associated interventions does not fit easily with the human rights oriented perspective from which the concept of 'participation' has emerged. Institutions with a dominant ethos of security and control (Howard League for Penal Reform, 2010) do not lend themselves well to practices associated with the psycho-social development of the individuals who live within them, particularly when the presence of dehumanising practices such as physical restraint, solitary confinement and strip searching are factored in (Howard League for Penal Reform, 2006). Feeling safe is a pre-requisite for participative practice to have a chance of existing in custody. Almost one third of children and young people reported feeling unsafe to Her Majesty's

Inspectorate of Prison in 2012–13 (HMIP, 2014). Recent calls to rethink youth justice (Drake, Fergusson and Briggs, 2014) at what has been termed a ‘crossroads’ in the sector (Creaney and Smith, 2014) have focused on seeking to understand and improve the relationships between practitioners and young people as part of the solution.

The lack of participative practice in the youth justice sector is noteworthy however, as children in conflict with the law are some of the most disenfranchised, least empowered people in our society (Bateman, 2011). Indeed, the rights of children in prison tend to lag considerably behind those of children in society generally. For example, it took thirteen years for the Children Act 1989 to be recognised as applicable to children in custodial facilities (Munby, 2002). It would have been longer still had it not been for the intervention of the legal team at the Howard League for Penal Reform and its partners, in the form of an application to the High Court.

Whilst the High Court judgement by Mr Justice Munby related particularly to children detained in custodial facilities, it is clear too that children subject to less severe interventions than prison are also treated as lesser citizens, if they are considered citizens at all. This is partly due to the punitive nature of our youth justice system



U R Boss young advisors with Rob Ffello

and a harsher environment that has developed towards children in conflict with the law in recent years (Bateman, 2011).

Given the scale of evidence produced in recent years by academics, charities and others of the multiple disadvantages experienced by children who find themselves in conflict with the law (McAra and McVie, 2010; Bateman, 2011), it is vitally important that these children’s voices are heard. Recent cases that have received widespread media attention in Rochdale and Rotherham (BBC News, 2014a; 2014b; 2014c) have highlighted the dramatic and damaging consequences of ignoring our most vulnerable children. Research suggests that children being sexually exploited can find that the first time they are recognised by mainstream services is when they come to the attention of the criminal justice system, most commonly in the form of the police (Howard League for Penal Reform, 2013).

This poses the question of how, and at what stage, children in the criminal justice system can ‘participate’ in the system and what this participation might mean in practice. It is clear that ‘participation’ can manifest itself in different ways at different stages of the criminal justice system. It means being listened to and respected from a child’s first contact with the police, being informed about – and represented through – the prosecution process, through any subsequent period of custody, and post-custody, during what might be termed the ‘resettlement’ period. The chaotic lives of children in conflict with the law mean that they often need support with a whole range of things that many people would take for granted. Having worked as part of the Howard League’s *U R Boss* youth participation project, the difficulties that young people have adjusting to life after custody are painfully apparent. Moving on, building and sustaining relationships based on mutual trust, getting a job and becoming a productive member of society following a

period in prison can only realistically take place once they have accommodation, access to a phone, a bank account and overcome barriers such as society's stigma towards people with criminal convictions. These are just some of the practical steps, but places to go, things to do, trustworthy people to talk to help provide emotional support and people they can call friends are all fundamentally important. Determining which of these an individual most needs, and when, involves speaking to the child who is in, or has emerged from, prison.

One area in which children in prison could participate more fully and effectively is in having a say in where they live once released from prison. Being given the opportunity to fully understand the consequences of their decision is a fundamental part of making these types of decision. This is particularly the case for children who are eligible for further support due to their care histories. Since the introduction of the Legal Aid, Sentencing of Punishment of Offenders Act from the end of 2012 (LASPO, 2012), all children remanded securely have been treated as looked after by the local authority. This gives them to the potential to accrue leaving care rights. This should not be a controversial suggestion in 21st century Britain, but it is clear from calls made to the legal helpline at the Howard League that giving children an informed say in where they live following a period in prison does not happen in many cases across the country, despite it being a clear legal requirement. Changes to legal aid provisions made by the current government make this participation less, not more, likely – a reminder that progress in the area of civil rights can slip backwards as well as progress forwards.

Of course it is not just within the youth justice system but the wider system of criminal justice that participation practice lags so far behind the mainstream. This is perhaps not so surprising given that one of the purposes of prison is to deprive people

of their liberty. However, the dehumanising of an individual to such an extent that their future effective participation in society is virtually impossible has to be considered. The Ministry of Justice's ban on prisoners receiving books as part of wider restrictions imposed through changes to the IEP scheme is a recent example of the government's desire to be seen to be tough on people in prisons regardless of the potential harm to their prospects of self-education and passing sentence time constructively (The Independent, 2014; Gov.uk, 2013; Politics, 2014).

Beyond important practical issues such as deciding where to live, putting participation principles into practice is helpful in other ways. This was highlighted by six young advisors working with the U R Boss project, who responded in different ways to the question "What does participation mean to you?"

Joining in without being told to get involved

Getting involved, being open-minded...getting active

Getting involved, working with people in a group, or individually

For me coming here it's like trying to make sure that other people don't have the same problems I did – with my custody and my parole

Getting people involved in an activity they're interested in. It's also a good teaching mechanism – it's a good way for people to learn how to express themselves

Taking part

Young people involved in the U R Boss project felt they had been participating in ways that were meaningful to them and different to the opportunities they had previously experienced. This is consistent with the lack of service user engagement across the criminal justice system.

Organisations such as *User Voice* and the Care Leavers Association have sought to change this over time, as excluding the voices of those with direct experience of the criminal justice system inevitably undermines the quality of services provided. The barriers encountered when trying to initiate participatory approaches have also served as a reminder that those holding power can be remarkably reluctant to give any of it up, even when to do so clearly advantages others and society more broadly.

Ross Little is Lecturer in Criminology at De Montfort University. Prior to this Ross worked in a wide range of roles in academic criminological research (University of Leicester), research consultancy (Ecorys) youth work policy and practice (National Youth Agency) and as part of the U R Boss project at the Howard League for Penal Reform.

Reference list

Arnstein, S. R. (1969) 'A Ladder Of Citizen Participation', *Journal of the American Institute of Planners*, 35(4), pp. 216–224.

Barn, G. and Franklin, A. (1996) 'Article 12 – Issues in Developing Children's Participation Rights – The Experience of Save the Children in the UK' in E. Verhellen, (ed) *Monitoring Children's Rights*. The Hague: Kluwer Law International, pp. 305–316.

Bateman, T. (2011) 'We Now Breach More Kids in a Week Than We Used to in a Whole Year': The Punitive Turn, Enforcement and Custody', *Youth Justice*, 11 (2), pp. 115–133.

BBC News (2014a) 'Knowl View: '40 victims' in Rochdale school abuse probe, 15 September 2014' Available at: <http://www.bbc.co.uk/news/uk-england-manchester-29207921>

BBC News (2014b) '250 children 'at risk of grooming in Greater Manchester, 10 September 2014' <http://www.bbc.co.uk/news/uk-england-manchester-29137965>

BBC News (2014c) Rotherham child abuse: cases in other towns, 27 August 2014 <http://www.bbc.co.uk/news/uk-28953549> [accessed 25 September 2014]

Creaney, S. and Smith, R. (2014) 'Youth justice back at the crossroads', *Safer Communities*, 13(2), pp. 83–87.

Drake, D., Fergusson, R. and Briggs, D. (2014) 'Hearing new voices: Re-viewing youth justice policy through practitioners' relationships with young people', *Youth Justice*, 14(1), pp. 22–39.

Gov.uk (2013) 'Major shake-up to prisoner incentives', Ministry of Justice press release 1 November 2013'. Available at: <https://www.gov.uk/government/news/major-shake-up-to-prisoner-incentives> [accessed September 2014].

Hart, R.A. (1992) *Children's participation: from tokenism to citizenship*. Florence: UNICEF Innocenti Research Centre.

Hart, R. A (2008) 'Stepping Back from "The Ladder": Reflections on a Model of Participatory Work with Children', *Participation and Learning*, pp. 19–31.

Her Majesty's Inspectorate of Prisons (2014) *Children and Young People in Custody 2012–13 – an analysis of 15-18 year olds' perceptions of their experiences in young offender institutions*. London: Her Majesty's Stationery Office.

Howard League for Penal Reform (2006) *An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children's homes*. London: Howard League for Penal Reform.

Howard League for Penal Reform (2010) *Life Inside 2010: a unique insight into the day to day experiences of 15–17 year old males in prison*. London: Howard League for Penal Reform.

Howard League for Penal Reform (2011) *Life Outside: collective identity, collective exclusion*. London: The Howard League for Penal Reform.

Howard League for Penal Reform (2013) *Out of Place – the policing and criminalization of sexually exploited girls and young women*. London: The Howard League for Penal Reform.

The *Independent* online newspaper (2014) 'Top writers outraged at ban on books for prisoners' Wednesday 26 March 2014 Available at: <http://www.independent.co.uk/arts-entertainment/books/news/top-writers-outraged-at-ban-on-books-for-prisoners-9215424.html> [accessed September 2014].

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (2012) Chapter 10, part 3, chapter 3, section 104. Available at: <http://www.legislation.gov.uk/ukpga/2012/10/section/104/enacted> [accessed September 2014].

McAra, L. and McVie, S. (2010) 'Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime', *Criminology and Criminal Justice*, 10(2), pp. 179–209.

Munby, M. J. (2002) 'Judgement by Mr Justice Munby on the application from the Howard League for Penal Reform 29 November 2002'. *Neutral Citation*, (2002). Available at:

<http://www.crae.org.uk/media/33603/R-on-the-Application-of-Howard-League-v-Secretary-of-State-for-the-Home-Department.pdf> [accessed September 2014].

Muncie, J. (2006) 'Governing young people: Coherence and contradiction in contemporary youth justice', *Critical Social Policy*, 26(4), pp. 770–793.

Politics (2014) "Why has Grayling banned prisoners being sent books?", comment piece by Frances Crook, Chief Executive at The Howard League for Penal Reform, 23 March 2014'. Available at: <http://www.politics.co.uk/comment-analysis/2014/03/23/comment-why-has-grayling-banned-prisoners-being-sent-books>

Reynaert, D., Bouverne-de-Bie, M. and Vandeveld, S. (2009) 'A Review of Children's Rights Literature Since the Adoption of the United Nations Convention on the Rights of the Child', *Childhood*, (16) pp. 518–534.

Shier, H. (2001) 'Pathways to participation: openings, opportunities and obligations', *Children and Society*, 15, pp. 107–117.

Coercion into crime: A gendered pathway into criminality

Charlotte Barlow, Birmingham City University

There is a growing body of literature which supports the claim that women follow distinct and often gendered pathways into crime (Daly, 1994; Belknap and Holsinger, 2006). These pathways can in some instances be defined and influenced by their co-offending with a male partner. While this article recognises that men also follow distinct pathways into crime and women offend for a variety of reasons, it will focus on women's experiences of a particular pathway into crime. The act of committing crime alongside one or more accomplices, particularly female co-offending, has received relatively little criminological attention. However, what research exists suggests that co-offending can have an impact on the type of offences women commit. For example, Becker and McCorkel (2011) argue that women are more likely to engage in gender atypical offences when they co-offend with men, such as robbery and murder. Furthermore, Mullins and Wright (2003) suggest that women are often introduced to offences such as residential burglary by a male partner and/or co-offender. Koons-Witt and Schram (2003) also argue that whilst women who commit crimes alone are more likely to be involved in aggravated assaults than robberies or murder, those who co-offend with men often commit more serious offences.

As well as influencing the nature of the offences that women commit, some research suggests that male co-offenders can affect women's decisions to offend and in some instances can coerce women to commit a criminal act. For example, Gilfus (1992) argued that many of the women he interviewed about their offending behaviour suggested that their involvement in crime was the result of their relationships with abusive and controlling men. Coercion is also manifest in particular types of



co-offending partnerships, for example, male and female gang members (Averlado, 2007; Brown, 2007), pimps and female sex workers (Kennedy, 2007) and men and women who sexually abuse children together (Matthews, Matthews and Speltz, 1991).

Collectively, such research suggests that in specific contexts, women can be coerced into illegal activity by their male partner/co-offender, particularly if they are involved in an intimate personal relationship together.

The personal relationship between co-offenders: Fear or enthrallment?

Research has explored the nature of the personal relationship between co-offenders. Welle and Falkin (2000) argue that women who are in a romantic relationship with their male co-offender are more vulnerable to manipulation and coercion, arguing that such female co-offenders have often experienced 'relationship policing'. Female respondents in their study suggested they became involved in criminality as a result of their fear of disappointing or disobeying their partner as opposed to making a rational decision to participate. Richie (1996: 133) also supports the case for coercion and coined the term 'gender entrapment', which helps to show how some women are forced or coerced into crime by their culturally expected gender roles, the violence in their intimate relationships and their social position in the broader society.

Jones (2008) suggests that personal relationship between male and female co-defendants can be classified in a number of

ways; for example, women who are in a coercive relationship with their partner, women who committed a crime through love and women who were 'equal' partners in their criminality. Jones (2008) argues that the nature of the personal relationship between male and female co-defendants to some extent influenced the reasons why the women became involved in criminal activity. He recognised that while women make a 'choice' to offend, this choice can in some instances be influenced by the abuse and control they experience in their relationship. Jones concluded that the high level of both mental and physical coercion reported by the women suggests that a substantial amount of female offending may be explicable on this basis (2008: 160). In a later piece of research, Jones (2011) argued that the coercive nature of such co-offending relationships helped to explain why many female prisoners had pleaded guilty to a crime they had not committed, due to an excessive desire to protect their partners needs above their own, or alternatively, out of fear towards their male co-offender.

Jones' (2008) research is particularly relevant to this article because it sparks an interesting debate around the notion of committing a crime because of being in love or enthralled with one's partner, or being in fear of them, which is particularly relevant to the current article. In Jones' research, women who committed a crime out of love or enthrallment and those who committed a crime out of fear could be separated into two, distinct categories defined by the kind of abuse the women experienced. Rather than dichotomising these experiences, however, love and fear can be considered as part of a continuum of coercive pathways into criminality. Whether the women reported committing a crime out of love or fear, both groups reiterated that they engaged in illegal activity to avoid disappointing or angering their partner. Therefore, it could be argued that irrespective of whether the women

committed a crime out of love or fear, both constitute a form of emotional coercion into crime.

An alternative conceptual framework: Coercion into crime

This notion of a coercive pathway into criminality combines Stark's (2007) definition of 'coercive control', namely, 'calculated, malevolent conduct deployed almost exclusively by men to dominate individual women by intervening repeated physical abuse with three equally important tactics, namely intimidation, isolation and control' with Kelly's (1988) notion of a 'sexual continuum'. Kelly (1988) argues that the continuum of sexual violence ranges from extensions of the myriad forms of sexism women encounter everyday through to rape or murder of women by men. She suggests that the concept of a continuum enables women to make sense of their own experiences by showing how 'typical' and 'extreme' male behaviours shade into one another.

Whilst Kelly (1988) and Stark's (2007) ideas concern domestic and sexual abuse, their concepts can be reapplied to explain the 'continuum of coercion' with relation to committing crimes. This argues that a range of behaviours should be considered as being potentially coercive within male-female co-offending partnerships, particularly those which are characterised by a personal relationship, such as physical and/or emotional abuse, control, economic abuse and/or control, obsession and/or love. Rather than being viewed as being distinct and separate from each other, such behaviours should be understood as being part of a wider 'continuum of coercion'. This conceptual framework suggests that within the context of such co-offending partnerships, the whole relationship should be explored when attempting to understand the women's reasons for offending, rather than focusing explicitly on the offending act itself. This would encourage a more in-depth

understanding of the potential influence of the relationship on the offending behaviour.

The studies discussed above (Welle and Falkin, 2000; Jones, 2008; Richie, 1996) highlight that many women who experience coercion into crime argued that they had been physically, psychologically and emotionally abused by their male partner. This suggests that the act of coercion should be viewed as being part of the wider continuum of domestic abuse as well as being understood as a continuum in and of itself. Collectively, this would not only help to highlight the biographical context in which this phenomenon occurs, but it would also aid in capturing the virtually muted experiences of coerced women.

Whilst some feminist scholars argue that women who offend should be viewed as autonomous individuals choosing to commit crime as a conscious and deliberate act, other scholars have argued that women who offend have different motivations to commit crime, some of which render them less than fully autonomous, and women may be influenced by issues such as personal circumstance, poverty or coercion (Carlen, 1988; Ballinger, 2000; Richie, 1996). Maher (1997) suggests that women who offend are typically viewed to be either wholly independent agents or as being 'out of control' of their offending behaviour. However, this dichotomisation of agency is a reductionist approach, and does not apply to all female offending behaviour, particularly female co-offending which is characterised by coercion. It is important to note that it is not the intention of this article to deny the agency of all women who offend, but rather to consider coercion as a distinct and often gendered pathway into crime.

The concept of 'coercion into crime' implies that many legal explanations for offending decision-making, such as 'rationality' and 'choice', do not accurately account for the experiences of women who have been coerced into crime by a male partner. Whilst this article recognises that

both women and men ultimately make a choice to engage in a criminal act, it is argued here that this choice is often influenced by social context, individual circumstance and other external factors. Thus 'choice' needs to be situated in its social context (Daly, 1994). As outlined by Daly (1994: 451, cited in Comack and Brickey 2007: 27) 'It is important to acknowledge, however, that choices are never free and open, that the ability to 'choose' will be affected by broader social conditions.' This article contends that the legal and traditional definition of 'choice' and rationality are male-defined concepts and fail to reflect the reality of many women who offend more generally (Ballinger, 2000; 2012) and in particular, women who have been coerced into crime.

Overall, rather than continuing to mute the experiences of women who have been coerced into crime by a male partner, this article has offered an alternative way of understanding their realities, by utilising concepts such as the 'continuum of coercion into crime' and arguing that such women's offending should be understood within the individual and personal context in which it occurred. Collectively, this approach would lead to a more nuanced understanding and appreciation of coerced women's lived experiences.

Charlotte Barlow is in the final stages of her PhD at the University of Liverpool, which explores the ways in which women who are co-accused with a male partner of committing a range of crimes are framed by British newspapers, and compares such reportage with the record made in the legal proceedings of the same cases. Charlotte is also a Lecturer in Criminology at Birmingham City University.

References

- Avelardo, V. (2007) *Mexican American Girls and Gang Violence: Beyond Risk*. USA: Palgrave Macmillan.
- Ballinger, A. (2000) *Dead woman walking*. Aldershot: Ashgate.
- Ballinger, A. (2012). A muted voice from the past: The 'silent silencing' of Ruth Ellis, *Social Legal Studies*, 21, pp. 445-467
- Becker, S., and McCorkel, J.A. (2011) 'The gender of criminal opportunity: The impact of male co-offenders on women's crime', *Feminist Criminology*, 6, pp. 79–110.
- Belknap, J., and Holsinger, K. (2006) 'The gendered nature of risk factors for delinquency', *Feminist Criminology*, 1, pp. 48–71.
- Brown, V.A. (2007) 'Gang member perpetrated domestic violence: A new conversation', *Journal of Race, Religion, Gender and Class*, 11, pp. 395–413.
- Carlen, P. (1988) *Women, Crime and Poverty*. Alden: Oxford University Press.
- Comack, E. and Brickey, S. (2007) 'Constituting the violence of criminalized women', *Canadian Journal of criminology and criminal justice*, 49, pp. 1–36.
- Daly, K. (1994) *Gender, Crime and Punishment*. New Haven: Yale University Press.
- Gilfus, M.E. (1992) 'From victims to survivors to offenders: Women's routes of entry and immersion into street crime', *Women and Criminal Justice*, 4, pp. 63–89.
- Jones, S. (2008) 'Partners in crime: A study of the relationship between female offenders and their co-defendants', *Criminology and Criminal Justice*, 8, pp. 147–164.
- Jones, S. (2011) 'Under Pressure: Women who plead guilty to crimes they have not committed', *Criminology and Criminal Justice*, 11, pp. 77–90.
- Kelly, L. (1988) *Surviving sexual violence*. Cambridge: Polity.
- Kennedy, M., Klein, C., Bristowe, J., Cooper., B., and Yuille, J. (2007) 'Routes of Recruitment: Pimps' techniques and other circumstances that lead to street prostitution', *Journal of Aggression, Maltreatment and Trauma*, 15, pp. 1–19.
- Koons-Witt, Barbara and Schram, Pamela J. (2003). The prevalence and nature of violent offending by females. *Journal of Criminal Justice*, 31, pp. 361-371.
- Maher, L. (1997) *Sexed Work: Gender, Race and Resistance in a Brooklyn Drug Market*. Oxford: Clarendon Press.
- Matthews, J.K., Mathews, R. and Speltz, K. (1991) 'Female sexual offenders typology' in M.Q Patton (ed). *Family sexual abuse: frontline research and evaluation*. London: Sage.
- Mullins, C., and Wright, R. (2003) 'Gender social networks and residential burglary', *Criminology*, 41, pp. 813–840.
- Richie, B.E. (1996) *Compelled to crime: The gender entrapment of battered black women*. New York: Routledge.
- Stark, E. (2007) *Coercive Control: How men entrap women in personal life*. London: Oxford University Press.
- Welle, D., and Falkin, G. (2000) 'The everyday policing of women with romantic co-defendants: An ethnographic perspective', *Women and Criminal Justice*, 11, pp. 45–65.

Promoting empathy development with the ‘damaged, disturbed and dangerous’

A snapshot study to examine the empathy levels of prisoners at HMP Grendon Therapeutic Community

Sophie Rowe, Birmingham City University

Research Background

Theorists suggest an empathy deficit has an influence on offending (Farrington, 1998; Farr et al., 2004). However, much of the empirical research appears equivocal (Joliffe and Farrington, 2004). Empathy is central to the therapy programme at HMP Grendon, a therapeutic prison based on the principles of respect, openness, challenge, trust and responsibility (Bennett and Shuker, 2010). The aim of this study was to examine the function of time spent in a therapeutic prison in relation to the empathic ability of prisoners.

Empathy and Offending

Empathy is the ability to recognise the feelings that another person may be experiencing (Palermo, 2012). Embedded within mainstream criminological thought is a conceptual connection between low empathy and risk of offending, particularly violent offending. Miller and Eysenck (1988) suggest that the tendency to be aggressive is facilitated by low empathy because the individual is unable to comprehend the mental state of others. Put simply, it is believed that those who can comprehend the feelings of others are less inclined to act in an aggressive manner. Such conceptions imply that empathy development programmes may contribute to a reduction in violent reoffending.

Promoting Empathy at HMP Grendon Therapeutic Community

Grendon opened in 1962, when rehabilitation was a primary concern, to concentrate on the treatment of men with



complex needs in a therapeutic environment using group therapy. The therapeutic community model used at Grendon strives to create an environment that promotes individuals' awareness of their own actions and the

impact that these may have on others (Shuker and Sullivan, 2010). It differs from other offending behaviour programmes which take place in prisons, known for their oppressive, hierarchical structure and non-negotiable rules (Genders and Player, 2010), because the therapeutic community enables democratic exercise of power and encourages the development of personal identity (Shuker and Sullivan, 2010). Today Grendon is not a lone wolf in prison reform, there are several examples of 'therapeutic wings' within the penal system in England and Wales, such as HMP Channings Wood, HMP Garth and HMP Dovegate. However, Grendon still remains the only prison in Europe to operate fully as a therapeutic community.

Sessions that aim to promote empathy include psychodrama, which uses methods such as role reversal, doubling and mirroring. During psychodrama therapy, prisoners attempt to put themselves in their victim's shoes by acting out scenes from the past. In a BBC news report (2011) Noel Smith, a former Grendon resident claimed empathy was the most important thing he learned at Grendon:

A lot of armed robbers tell themselves we don't have victims... I had never really taken other people's feelings into account. When you think about what your victims must have thought, it is very hard to depersonalise them.

Prisoners often use defensive strategies when confronted with the damaging consequences of their crime as a way to avoid the negative emotions that would otherwise be activated. However, it is difficult for prisoners to maintain these defensive strategies at Grendon as their beliefs and behaviour are continuously challenged by staff and fellow prisoners.

Research Methods

This snapshot study draws on survey responses from prisoners at HMP Grendon, a Category B security prison.

Participants

Over a third of all Grendon prisoners participated in the study. Responses were collected from 70 male prisoners who had been in Grendon between 2 – 62 months (the average was 16.5 months). Characteristics such as, age, offence and sentence length of the participants are unknown, but following a study on 607 consecutive admissions to Grendon between 1995– 2000, Shine and Newton described the profile of prisoners as 'damaged, disturbed and dangerous' (cited in Shine, 2000: 23), which gives an indication of the types of offenders held at Grendon. Similarly, following an inspection in 2009, the then Chief Inspector of Prisons, Dame Anne Owers, claimed Grendon had 'some of the system's most dangerous and difficult prisoners' (McClatchey, 2011: 1).

Grendon holds a number of offenders with psychopathy, a disorder commonly associated with low empathy (Baron-Cohen, 2011). A defining condition of clinical psychopathy is 'reduced empathic responding to victims' (Ali et al., 2009: 758). Morris (2004) found that 50 per cent of

Grendon's population scored 25 or more on the Hare's (1991) revised Psychopathy Checklist, denoting them to be psychopathic, and about 25 per cent scored above 30, denoting them to be severely psychopathic and very high risk. Baron-Cohen (2011) predicts that individuals diagnosed with psychopathy are likely to demonstrate zero degrees of empathy on the Empathy Quotient test.

Due to psychopaths' duplicitousness and charm, there may be some anxiety that they will display progress while not actually engaging in therapy (Morris, 2004). While studies by Blair et al. (1996), Donal and Fullam (2004) and Richell et al. (2003) have found that adults with psychopathy have the capacity to realise another's perspective (cited in Jones et al., 2010). This is perhaps not surprising, as psychopaths are often characterised by their ability to manipulate others, which requires good perspective-taking ability.

Procedure

Participants were asked to indicate the length of time they had spent at HMP Grendon and empathy was measured using Baron-Cohen's (2011) revised Empathy Quotient tool, a self-report scale made up of 40 statements designed to measure empathy along a single dimension. Participants were asked to indicate the extent to which they agreed with statements on a four-point attitude scale. Responses ranged from strongly agree to strongly disagree. The scores for each question were then combined to form an overall empathy score. Higher scores reflected higher levels of empathy.

Research findings

The results revealed a statistically significant correlation between empathy levels of prisoners and time spent at HMP Grendon. The longer the time spent at Grendon, the higher the empathy. This suggests that a change in behaviour takes time as new behaviours need to be constantly reinforced

by other prisoners and staff. It is also interesting to note that the average level of empathy was noticeably greater than anticipated, based on the assumption that people who offend have significantly lower empathy than people who don't. The Empathy Quotient scores ranged from 11 to 74 (maximum score that can be obtained is 80), and the mean score was 43. Fifty-three per cent of participants reported to have 'average empathy' and 26 per cent 'above average empathy'. In fact, only 15 out of the 70 participants can be defined as having what Baron-Cohen (2011) considers 'low empathy'.

Due to the snapshot approach, cause and effect cannot be determined. However, findings from the study show promising indications that Grendon is effective in inducing empathic ability. The longer prisoners spend at Grendon, the more opportunity they have to make sense of the impact of their actions and practice what behaviours they need to address (Farr et al., 2004). This is consistent with the findings in relation to a snapshot study conducted by Genders and Player (1995), where men who had been at Grendon for longer than a year reported they had a greater understanding and empathy for the problems faced by others. A great opportunity for future research could use a longitudinal approach to further investigate empathy and its relation to offending.

This study suggests that empathy development programmes at HMP Grendon represent a large step towards an appropriate and humanising way of addressing offending behaviour. However, 'graduating' from Grendon with greater empathy does not automatically indicate a reduced likelihood of reoffending, as there is always the possibility of reversion to non-empathic behaviours. In reality it is likely that empathy levels will drop after release, as there is no structured support for men when they transfer into lower security prisons. This chimes with Taylor's research



Image credit Yakubov Alim

(2000) which suggests prisoners that were transferred to other prisons, rather than directly to the community, have higher levels of reconviction on their subsequent release. Genders and Player (2010: 442) argue that this may be explained by men having 'to harden off to cope with criminal values in the mainstream' where empathy is seen to be a weakness and ridiculed for its feminine connotations (De Waal, 2009). Such a stark change in environment may cause empathy erosion, consequently putting the prisoner at greater risk of reoffending.

For those released directly into the community, it is possible that their empathy will decrease as therapeutic communities do not mirror reality. Frank Cook, a former Grendon resident, supports this notion, "I was able to make progress, but that was an artificial situation and the real world was a different prospect altogether" (Cook and Wilkinson, 1998: 60). Despite the introduction of a staff cross-posting policy in 1982, which introduced female staff into therapeutic communities (thereby creating an increased degree of social reality) therapeutic communities are still predominately staffed by men, and individuals constantly challenge each other's behaviour (Genders and Player, 2010). This is not typical of the outside world, where challenge often leads to confrontation, and sometimes aggressive situations. It is therefore important for further research to investigate the ways in which prisoners can

be supported on release from Grendon, to help maintain the valuable empathic skills they have learnt.

Sophie Rowe was awarded the Howard League Bursary to study towards her Masters in Criminology. Sophie's primary research focused on the empathy levels of offenders at HMP Grendon using the Empathy Quotient tool.

References

Ali, F., Amorim, I.S. and Chamorro-Premuzic, T. (2009) 'Empathy deficits and trait emotional intelligence in psychopathy and Machiavellianism', *Personality and Individual Difference*, 47(7), pp. 759–762.

Baron-Cohen (2011) *Zero Degrees of Empathy: A New Theory of Human Cruelty*. London: Penguin Books Ltd.

BBC (2011) *HMP Grendon: Therapy for dangerous prisoners*. 16 November 2011. Available online: <http://www.bbc.co.uk/news/uk-11947481> [accessed September 2014].

Bennett, P. and Shuker, R. (2010) 'Improving Prisoner-Staff Relationships: Exporting Grendon's Good Practice', *The Howard Journal*, 49 (5), pp. 491–506.

Cook, F. and Wilkinson, M. (1998) *Hard Cell*. Liverpool: The Bluecoat Press.

De Waal, F. (2009) *The Age of Empathy*. London: Souvenir Press Ltd.

Farr, C., Brown, J. and Beckett, R. (2004) 'Ability to empathise and masculinity levels: comparing male adolescent sex offenders with a normative sample of non-offending adolescents', *Psychology, Crime and Law*, 10(2), pp.155–167.

Farrington, D.P. (1998) Individual differences and offending. In Tonry, M. (Ed.) *The handbook of crime and punishment*, Oxford: Oxford University Press.

Genders, E. and Player, E. (1995) *Grendon: A Study of a Therapeutic Prison*. Oxford: Clarendon Press.

Genders, E. and Player, E. (2010) 'Therapy in Prison: Revisiting Grendon 20 Years On', *The Howard Journal*, 49(5), pp. 431–450.

Jolliffe, D. and Farrington, D. P. (2004) Empathy and offending: A systematic review and meta-analysis, *Aggression and Violent Behaviours*, 9(5), pp.441-467.

Jones, A.P., Happe, F.G.E., Gilbert, F., Burnett, S. and Viding, E. (2010) 'Feeling, caring, knowing: different types of empathy deficit in boys with psychopathic tendencies and autism spectrum disorder', *Journal of Child Psychology and Psychiatry*, 51(11), pp. 1188–1197.

Miller, P.A. and Eisenberg, N. (1988) 'The relation of empathy to aggressive and externalising/ antisocial behaviour', *Psychological Bulletin*, 103(3), pp. 324–344.

Morris, M. (2004) *Dangerous and severe – Process, Programme and Person: Grendon's Work*. London: Jessica Kingsley.

Palermo, G.B. (2012) 'Do Psychopaths Feel Empathy?', *International Journal of Offender Therapy and Comparative Criminology*, 56(8), pp. 1147–1148.

Shine, J. (ed.) (2000) *A Compilation of Grendon Research*. HM Prison Grendon.

Shuker, R. and Sullivan, E. (eds.) (2010) *Grendon and the Emergence of Forensic Therapeutic Communities: Developments in Research and Practice*. Chichester: Wiley-Blackwell.

Taylor, R. (2000) 'A Seven Year Reconviction Study of HMP Grendon Therapeutic Community', *Home Office Research, Development and Statistics Directorate, Research Findings No.15*, London: Home Office.

Upcoming events

Through the gate: Transforming rehabilitation and the future of prisons

Wednesday 19 November 2014, 9.30am–4pm
The King's Fund, 11–13 Cavendish Square, London W1G 0AN

More is being demanded of our prisons than ever before, the prison population is rising and major reforms are sweeping across the penal system. This national one-day conference will see leading speakers from the sector discuss how the Transforming Rehabilitation agenda will change the penal system.

The conference themes will include:

- Through the gate and achieving desistance
- Beyond the gate and key issues in focus
- Within the gate and change inside prison.

Speakers and contributors

- Frances Crook OBE, Chief Executive, The Howard League for Penal Reform
- Charlie Gilmour
- Nick Hardwick CBE, HM Chief Inspector of Prisons
- Baroness Linklater of Butterstone
- Paul McDowell, HM Chief Inspector of Probation
- PJ McParlin, National Chairman, Prison Officers' Association
- Professor Mike Nellis, University of Strathclyde
- Campbell Robb, Chief Executive, Shelter
- Jackie Russell, Director, Women's Breakout
- Lucy Scott-Moncrieff CBE, Managing Director, Scott-Moncrieff and Associates Ltd
- Chris Sheffield OBE, Chair, Commission on Sex in Prison
- James Timpson OBE, Chief Executive of Timpson



Paul McDowell



Jackie Russell



Campbell Robb

Why attend?

The conference will offer an opportunity for the delegates from across public, private and voluntary sectors to examine the impact of the government's strategy so far, debate the current issues facing your organisation, discuss best practice and network with key stakeholders.

Book your place

[Conference rates and online booking form](#). For any additional information email: barbara.norris@howardleague.org

The conference will be followed by the [Howard League Annual General Meeting](#).

Upcoming events

No Fixed Abode: The implications for homeless people in the criminal justice system

Wednesday 12 November 2014

6.00 - 8.00pm

80-98 Mount Pleasant, John Foster Building, Room: JF/111A
Liverpool John Moores University, L3 5UZ

This joint Howard League ECAN and Liverpool John Moores University event will begin with **Dr Vickie Cooper** presenting the findings of her research [No Fixed Abode](#). This will be followed by short presentations from **Professor David Clapham**, Reading University and **Helen Mathie**, Head of Policy at Homeless Link.

These presentations will be supported by discussion and viewpoints from invited stakeholders.

To reserve a place at the event email: jenny.marsden@howardleague.org

Research events in 2015

What if police bail was abolished? 13 January 2015

Evening event at the LSE with primary speaker
Professor Ed Lloyd-Cape, University of the West of England



Penal policy, NGOs and the media. 22 January 2015

Evening event at the LSE based on research by
Dr Marianne Colbran, University of Oxford and Mannheim Centre, LSE



The event will explore how to improve the media's coverage of penal issues.

What if key neo-liberal criminal justice policies were rescinded? 5 February 2015

Evening event at the LSE with primary speaker
Professor Stephen Farrall, University of Sheffield



Look out for more details about these events on our website over the next few weeks. If you would like to reserve a place for any of them in the meantime please email:

Marie.Franklin@howardleague.org

Recent research

The experience and ethics of conducting research with prisoners convicted of sexual offences

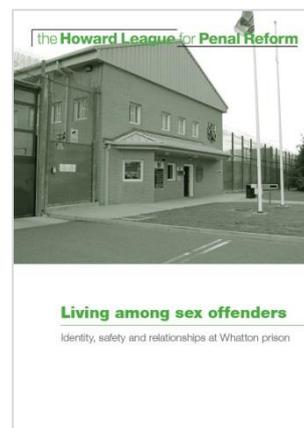
Alice levins was a winner of the 2013 John Sunley Prize. A version of her Masters dissertation, *Living among sex offenders: Identity, safety and relationships at Whatton prison* will be published by the Howard League in November.

In recent years, many prisons researchers have followed in the footsteps of the 'autoethnographic turn' of anthropology and sociology, calling for scholars to analyse and articulate their research experiences, emotions and political standpoints (see, for example, the 2014 edition of *Qualitative Inquiry* on 'Doing Prison Research Differently', edited by Yvonne Jewkes). There are many risks to such an approach, in particular that focusing on the experiences of the researcher might not leave space for the research itself. On the other hand, talking honestly about our experiences can be beneficial for less experienced researchers (Jewkes, 2011). More importantly, it is crucial that we scrutinise 'the theoretical impact of [the] methodological choices' we make (Presser, 2004: 99). Everything, from our choice of topic to our interactions with our participants, is affected by our values and emotions. The way we feel about our participants affects what we think about them, and hence how we write about them. It is therefore important to evaluate and discuss our experiences as researchers – as long as our ultimate aim is to accurately and sensitively describe and explain the social world.

It is with this aim in mind that this article explores my own experiences of interviewing prisoners convicted of sexual offences. In 2012, I spent two weeks in Whatton prison, interviewing nineteen prisoners about their experiences of



Alice levins



imprisonment, with particular reference to their safety, identity and relationships. Three more prisoners were interviewed by my supervisor. These interviews formed the basis of my MPhil dissertation and will be built on in my PhD research, which also focuses on sex offenders' experiences of imprisonment. In this article, I will briefly discuss other researchers' discussions about the experience of interviewing sex offenders, before considering some of my own experiences and their implications.

Perspectives on researching sexual offenders

People convicted of sex offences have been the focus of significant amounts of criminological research, most of which is psychologically-oriented and concerned with offending behaviour and how best to treat it. These studies imagine their subjects as sex offenders, rather than as prisoners, probationers or people in treatment, and much that has been written about the process and experience of conducting research with this group reflects that this is their 'master status' (Becker, 1963).

Conducting research on sex offenders seems to raise numerous ethical issues for researchers, including their justifications for doing it. The main

motivation given seems to be to reduce further sex offending (Scully, 1990; Cowburn, 2007; Waldram, 2007), rather than to understand the lives of its perpetrators. This can lead researchers to limit their appreciation (Matza, 1969) of their participants' perspectives. Researchers describe their active attempts to reduce the development of empathy and rapport, both in order to protect themselves from the perceived risk of being groomed, and so as not to collude in any denial or cognitive distortions on the part of their interviewees (Scully, 1990; Roberts, 2011). This contradicts the standard practice in qualitative research in general and prisons research in particular, in which empathy is seen as central to understanding (Liebling, 1999). Those who do develop friendly relationships with interviewees report finding this morally problematic, worrying that by listening to people's perspectives they are reinforcing their (presumed) wrong viewpoints (Hudson, 2005; Blagden and Pemberton, 2010; Digard, 2010). Their construction of their research participants as 'sex offenders' therefore risks shaping the knowledge curated during the research process.

Researching prisoners convicted of sexual offences

My research differed from the aforementioned projects in its focus and motivation: I was not interested in my research participants' offending, but in their experiences in prison, their position at the base of the prisoner hierarchy, and the existential consequences of the stigma (Goffman, 1963/1990) that comes with their conviction. Their master status was therefore 'prisoners convicted of sexual offences', not 'sex offenders'; this is how I referred to them during my fieldwork (despite the fact that many participants comfortably referred to themselves as 'sex offenders'), and this affected how I tried to interact with them. It was both methodologically and morally imperative that

I did not judge my participants; it would hinder my attempts to build rapport, and more importantly, it was not my place. The interview schedule did not include questions about the offence, and if prisoners brought it up, I tried to move the conversation on. Several prisoners contested the harm they had caused, as well as their moral (if not legal) culpability, but only two categorically denied their guilt. Fortunately, I was never asked to offer my opinion on such matters (unlike Blagden and Pemberton, 2010), and as it was not the focus of my research, I was generally able to ignore prisoners' assertions. The ethical risks of this strategy became clear when, while transcribing my interviews, I realised that I had politely laughed at a joke made by a prisoner convicted of having sex with a fifteen-year old girl about the difficulties of guessing people's ages. Moral and methodological impartiality can be taken too far.

The conscious effort involved in treating my participants as prisoners rather than sex offenders shows the potency of their stigma. I spent one interview oscillating between distaste for the overweight, bearded and sweating prisoner I was interviewing – every inch the stereotypical image of the paedophile – and anger with myself for succumbing to such thoughts. Goffman (1963: 30) argues that when unstigmatised people interact with stigmatised people, 'attention is furtively withdrawn from its obligatory targets', leading to self-consciousness and 'interaction-uneasiness'. The times at which I felt most uncomfortable were when my attention was drawn to my participants' stigmatised identities as sex offenders. These incidents tended to be gendered, based on the perceived risks of a young woman being left alone with a sex offender. Prisoners often seemed surprised at my presence in the prison, and several asked me after the formal interviews if I was uncomfortable talking to them or afraid walking around the prison. On more than

one occasion, staff members half-jokingly warned prisoners to behave themselves with me, sexualising the situation far more than most prisoners did.

One prisoner peppered our interview with sexualised comments intended to test my reactions. They ranged from implying he wanted to be whipped by me to considering the acceptability of fantasising about me; after every such comment, he speculated about its appropriateness, often joking about me running out of the room, and I stubbornly acted as though I was not uncomfortable. My determination to treat participants as prisoners rather than sex offenders led me to the verge of dishonesty, and potentially beyond it. In one interview, I was simultaneously sexualised and idealised as a paragon of feminine forgiveness:

Say I met you on the out and I told you what I was in for and everything and we sort of hooked up, you'd probably understand it after it basically being explained. But other females won't and won't take you on.
(Prisoner)

This prisoner had already explained his offence to me, and while I understood his actions, I did not approve of them. I also felt, and feel, that it was insincere of me to let him think that I would be willing to have a relationship with someone with a conviction for a sex offence. On the other hand, to have told the truth would have been cruel.

My moral dilemmas reflected those of my participants. They struggled every day with the dilemma of how best to live as someone convicted of a sex offence with people convicted of a sex offence. They managed this situation by trying to live as though they did not judge people for their offences, but this attitude was difficult to maintain. Like them, I tried to treat my participants as people rather than sex offenders. Like them, I struggled to do so, a testament to the strength of their stigma.

Conclusion: Honesty as a methodological imperative

Yvonne Jewkes (2014: 389) argues that there is an 'unwritten professional code' that criminologists do not discuss any 'fear, intimidation or repugnance toward our respondents': '[t]o confess to responding to inmates negatively risks alienating our peers, "stitching up" our subjects, appearing to be politically and ideologically positioned on the "wrong side," or publicly acknowledging "failure" (e.g., to blend into the field or build rapport)'. This holds true for prison sociologists, if not for those who study and write about sex offenders. To construct our research participants as (sex) offenders and nothing more is dehumanising, essentialising and intellectually dishonest, but to act as though we are not affected by their offences is misrepresentative. This matters less because of an obligation to be authentic about our own experiences than because of our obligation to describe the social worlds we care about in as truthful a way as possible. Emotions are data (Liebling, 1999, 2014), and the way we feel about our participants can reflect their position in society. Despite my best intentions, my perceptions of and interactions with my participants were affected by their stigma. Rightly or wrongly, being convicted of a sexual offence changes an individual's social identity in a way which is difficult to overcome.

Alice levins is studying for a PhD at the Institute of Criminology, University of Cambridge, where she is a member of the Prisons Research Centre.

References

Becker, H. S. (1963) *Outsiders: Studies in the Sociology of Deviance*. New York: The Free Press of Glencoe.

Blagden, N., and Pemberton, S. (2010) 'The challenge in conducting qualitative research with

convicted sex offenders'. *The Howard Journal of Criminal Justice*, 49(3), pp. 269–281.

Cowburn, M. (2007) 'Men researching men in prison: The challenges for profeminist research'. *The Howard Journal of Criminal Justice*, 46(3), pp. 276–288.

Digard, L. (2010) *Sex Offenders and their Probation Officers' Perceptions of Community Management in England and Wales*. PhD Thesis, University of Cambridge.

Goffman, E. (1963) *Stigma: Notes on the Management of Spoiled Identity*. London: Penguin Books.

Hudson, K. (2005) *Offending Identities: Sex Offenders' Perspectives on their Treatment and Management*. London: Willan Publishing.

Jewkes, Y. (2011) 'Autoethnography and emotion as intellectual resources: Doing prison research differently'. *Qualitative Inquiry*, 18(1), pp. 63–75.

Jewkes, Y. (2014) 'An introduction to "doing prison research differently"'. *Qualitative Inquiry*, 20(4), pp. 387–391.

Liebling, A. (1999) 'Doing research in prison: Breaking the silence?' *Theoretical Criminology*, 3(2), pp. 147–173.

Liebling, A. (2014) 'Postscript: Integrity and emotion in prisons research'. *Qualitative Inquiry*, 20(4), pp. 481–486.

Matza, D. (1969) *Becoming Deviant*. Englewood Cliffs, NJ: Prentice-Hall.

Presser, L. (2004) 'Violent offenders, moral selves: Constructing identities and accounts in the research interview'. *Social Problems*, 51(1), pp. 82–101.

Roberts, S. (2011) 'Doing research with imprisoned adult male child sexual abusers: Reflecting on the challenges'. *Child Abuse Review*, 20(3), pp. 187–196.

Scully, D. (1990) *Understanding Sexual Violence: A Study of Convicted Rapists*. Boston: Unwin Hyman Inc.

Waldram, J. B. (2007) 'Everybody has a story: Listening to imprisoned sexual offenders'. *Qualitative Health Research*, 17(7), pp. 963–970.

John Sunley Prize 2015 now open for submissions!

The Howard League for Penal Reform is seeking to reward and encourage Masters students who generate outstanding research dissertations that are both topical and original; and can also offer genuine new insights into the penal system and further the cause of penal reform.

There will be three recipients of prize, each of whom will receive £1,000, and the winning dissertations will be published by the Howard League.

The deadline for entries is **27 March 2015**. Find out how to apply [on our website](#).



John Sunley Prize 2014 winning and highly commended candidates at the Howard League Parmoor lecture with Joan Tice DL, who presented the awards.

Use your situation to change your destination: Evaluation of The Howard League for Penal Reform's U R Boss

The [final evaluation](#) presents the work and achievements of U R Boss, and lessons for the future. The report was prepared by Jennie Fleming, Co-director, Practical Participation; Jean Hine, Reader in Criminology, De Montfort University and Roger Smith, Professor of Social Work, Durham University. U R Boss was a five-year participation project. During this time it helped hundreds of children to secure their legal rights, and enabled disenfranchised children and young people to campaign for change, by lobbying MPs, PCCs, police and other policy-makers on how it could be improved. A major achievement of the project was to secure an end to routine strip-searching of children in prison. More than 350 young people, some of whom were in custody, contributed to a 10-point [manifesto for change](#), which was presented at party



conferences and the Howard League's annual general meeting. The evaluators found that the close relationship between U R Boss participation work and the charity's legal service, which worked to protect children's

rights and helped them understand the legal system, was key to achieving success. The evaluators said that the 'groundbreaking and innovatory' project achieved 'significant impact which will have a direct and beneficial effect on treatment of young people in the justice system'. A [summary document for young people](#) is also available online.

Commission on Sex in Prison



The Howard League for Penal Reform has established an independent [Commission on Sex in Prison](#) to undertake the first ever review of sex inside prison. There is currently little reliable evidence available on consensual or

coercive sexual activity in prisons in England and Wales. Throughout 2013 and 2014, [Commissioners](#) have focused on three broad themes: consensual sex in prison; coercive sex in prison and healthy

sexual development among young people in prison. The purpose of the Commission is to understand the nature and scale of sex in prisons, investigate the key issues and problems and make recommendations with a view to make prisons safer.

Three Commission briefing papers have now been published by the Howard League. They are all based on the written and oral evidence submitted to the Commission from voluntary and statutory agencies, prison governors and serving prisoners.

Consensual sex among men in prison
The first of these looked at [consensual sex among men in prison](#). There is evidence to show that sex in prison does happen, and there is no prison rule prohibiting sex

between prisoners, but prison staff do not allow prisoners to have sex. Consensual sex in prison is an issue which creates embarrassment, controversy and conflict among politicians and policy makers, prison staff, healthcare staff, prisoners and the public. Tensions exist between the need to protect the vulnerable in prison, maintain public health both within prisons and in the wider community and prevent discrimination on the grounds of sexual orientation. Specific issues around sex in prison, such as the provision of condoms, need to be approached pragmatically to protect the health of prisoners, their partners and the wider public.

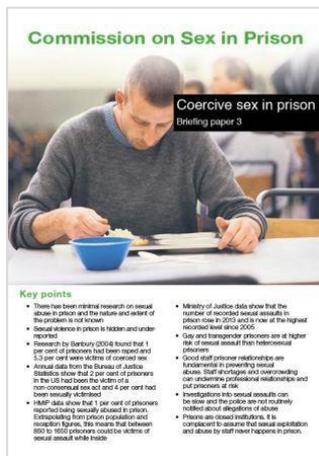
Women in prison: Consensual and coercive sex



The second briefing paper considered the [experiences of women in prison](#). Relationships between women prisoners are very different to those found in men's prisons, and women in prison have different sexual health needs to

men in prison. Many of the women who enter prison are vulnerable and prison can exacerbate existing mental health problems or generate new problems. There is evidence that some women form relationships in prison as a source of comfort and support. However, some relationships can become coercive or abusive. Staff working with women in prison need training and guidance on how to support women, identify relationships between prisoners and recognise bullying. The working relationships between prison staff and women can be beneficial, however, there is the potential for close relationships

to become coercive and staff need to be able to recognise signs of grooming or abuse.



Coercive sex in prison

The third briefing looks at [coercive sex in prison](#). Sexual violence in prison is hidden and under-reported, but the number of sexual assaults in prison is now at the highest recorded level since 2005,

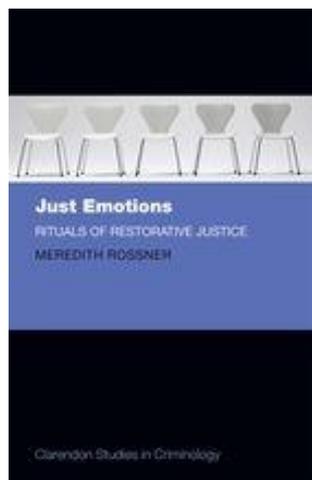
and so there is an urgent need to determine the nature and scale of sexual abuse in prisons in England and Wales. Prison culture, particularly in male prisons, may be a significant factor in victims' reluctance to disclose they have been sexually assaulted. Prison staff must acknowledge that assaults can happen in prison and should take allegations of rape or assault seriously. Gay and transgender prisoners are more likely than heterosexual prisoners to face sexual victimisation. Prisons must identify, support and respond to the needs of vulnerable prisoners at greater risk of sexual abuse in custody. Closed institutions, including prisons, are often not open to wider scrutiny and prisoners may be more susceptible to abuse by staff. All prison staff must receive training on recognising the signs of abuse and grooming and prisons must encourage a culture where staff and prisoners are encouraged to come forward if they suspect abuse.

A briefing paper on the healthy sexual development of children and young people will be published by the Howard League shortly, and research conducted by the Commission will be published in 2015.

Book reviews

***Just Emotions: Rituals of Restorative Justice* by Meredith Rossner (Oxford University Press, 2013)**

reviewed by Ruth Jones



'Just Emotions: Rituals of Restorative Justice' considers Restorative Justice as a transformative event by looking at the rituals involved in the Restorative Justice conference and the emotions that can arise amongst participants.

Rossner first defines Restorative Justice and gives an overview of how Restorative Justice Conferences are deemed successful. In doing so, she argues that criminological theories in relation to Restorative Justice and offending more widely; do not effectively consider the role of ritual or link ritual to emotions. Rossner highlights the ritual processes that are embedded within the Restorative Justice Conference and posits that these and the emotional responses engendered by them "hold the key to understanding, monitoring and measuring success" (p. 11) including 'victim' satisfaction and reduced recidivism. She draws on existing literature and her own empirical research to evidence this, resulting in a theory of restorative justice that is unique; not so much in looking at emotions as this has been done before (Grasmick & Bursik, 1990; Nagin and Paternoster, 1993), but in linking emotions to ritual within the Restorative Justice Conference.

Rooting her theory in the ideas of Braithwaite (1989) Rossner identifies the influence of ritual on producing 'reintegrative shaming'. Braithwaite looked at the emotion of shame in relation to offenders and

differentiated 'stigmatic shaming' i.e. the shaming of the offender and 'reintegrative shaming'; the shaming of the offence rather than the offender and argued that the latter could lead to reduced recidivism as the offender feels able to express remorse and feel valued as a person in this process. Rossner argues that 'reintegrative shaming' is vital for the Restorative Justice Process and that ritual through skilled facilitation mediates this. She goes on to say that this process creates an 'emotional energy' in the offender that can lead to behavioural change including reduced recidivism. Though her research does not look at long term outcomes specifically, she does argue that 'emotional energy' is hard to sustain in a society that uniformly uses 'stigmatic shaming'. Thus public and some professional attitudes towards offenders need to change to enable long term impact.

Rossner expresses her theory well in this interesting book that uses case studies to bring her discussion to life and relates the theory to practice. Her empirical multi method research critically examines notions of what makes a Restorative Justice Conference successful according to secondary data, conference facilitators and her observation of ritual. She looks at the role each individual at the conference plays in the process, briefly touching on gender and stresses the importance of training skilled Restorative Justice Conference facilitators in ritual and emotion as well as facilitation skills and this is valid. Her findings contribute to existing knowledge about Restorative Justice Conferences and add to theory by focusing on ritual as symbolic interaction and this is interesting and useful. By her own admission, however,

her study is small in scale and heavily reliant on data from others, i.e. facilitators, and only one Restorative Justice Conference is observed (recorded). She does though offer a number of possibilities for future research, showing an awareness of the gaps in her research. I would suggest that future research includes the application of her theory to different types of offences and considers the socio-demographic factors of offenders and victims to see how these impact on ritual and 'emotional energy'. I would also like to see a long term study on how 'emotional energy' can be sustained and if this does indeed lead to reduced recidivism.

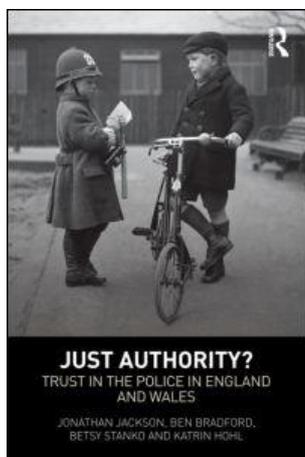
Overall, I thoroughly enjoyed reading this book which is interesting and though written from an academic standpoint; makes discussion and findings relevant to practice. This book will be on the reading list for students on our new BA in Criminology at the University of Worcester but I would equally recommend it to postgraduate students and practitioners. At the very least, this book will create debate about the Restorative Justice Conference process and the role of each person involved, but it also has the potential to challenge perceptions of offenders and shape responses to them.

Ruth Jones OBE, Director, National Centre for the Study and Prevention of Violence and Abuse (NCSPVA)

Just Authority? Trust in the Police in England and Wales

by Jonathan Jackson, Ben Bradford, Betsy Stanko and Katrin Hohl (Routledge, 2012)

reviewed by Emma Smith



Fitting with its title, Jackson et al.'s *Just Authority?* provides a critical examination of UK policing, focusing on some of the key issues and questions underpinning relations between police and the public: trust, legitimacy and cooperation. It is within the context of

this relationship that Jackson et al. situate their analyses.

From the outset, Jackson et al. clearly outline the overall purpose of their study: based on findings from a large-scale empirical study (of the London public's perceptions, experiences and behaviours in relation to the police), they aim to interrogate the issues of public trust in and cooperation with the police, and police legitimacy. The study is also contextualised from an early stage; located within the

context of increasing debate and scrutiny over police decision-making and involvement with the 2011 riots, among other events, and framed by psychological and sociological thinking. This extends to the main contributions of the text, addressed as: the main test to Tom Tyler's procedural justice test out with the USA; the development of a new theoretical definition of police legitimacy; an exploration of the social ecology of trust and legitimacy, and an examination of the relationships between trust, legitimacy and cooperation, and whether these differ according to social group and/or situation.

The layout of the text is similarly clear, demonstrating how and where chapters account for the methodology, background, research findings, and implications drawn from the study.

The main content of the book is well written and articulated. Although largely empirical in form, the text is balanced throughout by a thorough consideration of relevant-qualitative and quantitative

approaches and concepts, for example: multilevel models of public trust in the police, and theories of police legitimacy. The text moves from a consideration of British Crime Survey trends and trajectories over twenty-five years that have been associated with public confidence and interactions with the police, to the London-based study. Initial focus is on public trust in police and how it is defined and built – taking into account the effects of media, neighbourhood, and contact with police, with particular focus on young BME men, and when public-police encounters are self-initiated (in the case of victimisation). Police legitimacy is then examined, including a consideration of definitions, and the impact of factors including neighbourhood and public contact with police. The procedural justice model underpinning and referred to throughout the study is re-examined in the final chapters; shown to be important more generally across social groups and contexts, as well as specifically in the case of young BME men, who have an antagonised relationship

with police. Given this, Jackson et al.'s conclusions tend towards a model of police authority based on fairness; as a means of harbouring people's trust in and cooperation with police, and ultimately, shaping the legitimacy of the police and justice system in the eyes of the public.

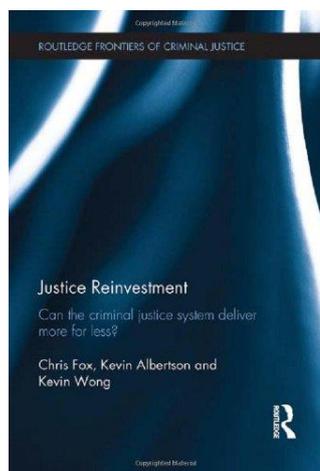
On the basis of this review, I would recommend the text for its engaging content, and relevance within current literature on the subject. It has the potential for a wide readership, drawing as it does upon theory and empirical findings in an accessible way, to discuss a timely and significant topic in the form of public and police relations. That there are important implications to be gained from such discussions, notably in terms of increased challenges for police where public support is lost or damaged, may also highlight the innovative nature of this text.

Emma Smith is a PhD student at the University of Stirling

Justice Reinvestment: Can the criminal justice system deliver more for less?

by Chris Fox, Kevin Albertson and Kevin Wong (Routledge, 2013)

reviewed by Andrew Neilson



For many people hoping we might see a reversal of two decades of rising prison numbers, the justice reinvestment (JR) movement has seemed a promising route to lasting reform. In the run-up to the last general election in 2010, two substantial reports

from the Commission on English Prisons Today (set up by the Howard League for Penal Reform) and the House of Commons Justice select committee, both advocated for

a new approach to criminal justice reform, rooted in the principles of JR. This book provides a timely overview of the success, or otherwise, of JR approaches as we near a new general election and the end of a political cycle.

Justice reinvestment can be understood as a movement originating from the United States, which seeks to find solutions for crime outside of the criminal justice system – ‘reinvesting’ money that would otherwise be spent on incarceration on holistic measures which can be broadly described as crime prevention, or ‘prehabilitation’. In fact, as the authors discuss in detail, there is some dissent on a precise definition of JR and, in particular, a

clear difference in both the history and application of JR approaches in the UK compared to the US. At the same time, the authors admit that at 'the theoretical level, JR is underdeveloped.' One interviewee for the book goes as far as to say that 'three or four people will give you five or six definitions of what it is.'

Despite these challenges, the authors usefully highlight three distinct elements to JR, and deal with each in turn through separate chapters: data analysis and justice mapping at a local level; the application of economic methods to analyse costs and potential savings; and, using evidence to negotiate politics.

It is the last of these elements that has proved most attractive to those battle-hardened individuals who survey the toxic media-political mix which bedevils contemporary efforts at penal reform. Partly through its use of data and empirical evidence, and partly through its localised focus, JR offers the hope that reformers might bypass partisan national politics, engaged as it is in an 'arms-race' on crime and justice issues, in order to effect meaningful change at a more local level. This has, to a degree, been the American experience and JR at the state level has undoubtedly played its part in the resurgence of penal reform arguments from the Republican Party and the Right on Crime movement. Yet in the UK, the track record of JR in practice is not so much mixed as nearly non-existent.

The authors are particularly strong on the application of economics in JR, emphasising the social justice aspirations of the movement as opposed to a narrower economics-based criminology informed by Rational Choice theory. This in turn

underpins an understanding, and critique, of how the momentum around JR – which culminated in the Ministry of Justice launching pilots under the regime of Kenneth Clarke – dissipated as the government steadily conflated the movement with the notion of 'Payment by Results', eventually seeing the pilots dropped by Clarke's successor Chris Grayling and the widespread roll-out of a centralised and utilitarian model of commissioning that runs quite contrary to the localist and holistic dimensions of JR.

Ultimately, the authors argue JR is 'not a criminal justice intervention; it is more a way of framing the issues under consideration. At its core it seeks to answer the question has – indeed all societies have – to address: is there a better way to deliver justice... There is no optimal intervention, but there is an optimal approach.' While it is hard to disagree with this assessment, perhaps one reason why JR is currently losing out in these times of austerity is the lack of clear definition around what it is and, perhaps more importantly, how it would work in a country considerably more centralised than the United States. By contrast, Payment by Results offers superficially easy solutions for politicians and policymakers – although we may yet see those reforms founder on the complexities they seek to evade. For now, however, justice reinvestment – and any hopes for an approach more social and criminal in its approach to the application of justice – remains in abeyance.

Andrew Neilson, Director of Campaigns,
the Howard League for Penal Reform

Member profile

Kirsten McConnachie

I am a research fellow at Lady Margaret Hall and the Refugee Studies Centre, University of Oxford. My primary research project at present studies justice and governance systems among refugees from Myanmar in Southeast Asia, though my wider research interests range from transitional justice to legal anthropology.

Much of my work to date has focused on the experience of refugees from Burma, first those living in camps on the Thailand-Burma border and more recently in the wider south and southeast Asian region. During more than five years' research in Thailand, I found that the refugee camps were complex governance environments where refugees themselves played an important role in many aspects of management, including the administration of justice. This was partly through necessity – the government of Thailand had historically taken little interest in policing the camps – but also reflected a deliberate preference for localized methods of dispute resolution. While the systems used were flawed, they were also viewed by camp residents as a legitimate and appropriate form of governance. To the extent that informal justice systems in refugee camps have been acknowledged by policymakers, they have been seen simply as unsatisfactory substitutes for access to national courts. I found that despite their limitations, the camp justice systems in Thailand played a vital role in establishing norms and maintaining order in very challenging circumstances. These findings are discussed in detail in a book published earlier this year, *Governing Refugees* (Routledge, 2014).

One of the most striking aspects of the refugee camps in Thailand was the influence of multiple normative orders, including Thai law, international human rights law, and various cultural, political and religious sources of authority. In camps, this



plurality is contained in a clearly identifiable space. More recently, I have been investigating similar questions – refugee-led governance initiatives and the intersections between different

legal orders – among refugees in urban settings. Living among a host society brings refugees into daily contact with police and other authorities yet while they are actively policed through law they receive little protection from law. In this research I have been influenced by recent work in criminology on the increasing centrality of criminal law in responses to asylum, through securitisation and 'crimmigration' policies. My work takes a qualitative, ethnographic approach to investigating these policy trends, seeking to understand what such policies mean for refugees and asylum seekers, and what kind of community-led responses arise to manage their effects.

My work focuses on the experiences of refugees in Southeast Asia but the questions it is concerned with are of universal relevance: what law means in complex societies, perceptions of legitimacy in the administration of justice, and the potential contribution of local governance structures to wider protection and security goals.

I joined ECAN to become part of a national network of academics and practitioners concerned with aspects of the criminal justice system in the UK, to stay informed about current debates and challenges in the UK context and to consider possible parallels and resonances for my own work with refugees in southeast Asia.

Guidelines for submissions

Style

Text should be readable and interesting. It should, as far as possible, be jargon-free, with minimal use of references. Of course, non-racist and non-sexist language is expected. References should be put at the end of the article. We reserve the right to edit where necessary.

Illustrations

We always welcome photographs, graphic or illustrations to accompany your article.

Authorship

Please append your name to the end of the article, together with your job description and any other relevant information (e.g. other voluntary roles, or publications etc.).

Publication

Even where articles have been commissioned by the Howard League for Penal Reform, we cannot guarantee publication. An article may be held over until the next issue.

Format

Please send your submission by email to anita.dockley@howardleague.org

Please note

Views expressed are those of the author and do not reflect Howard League for Penal Reform policy unless explicitly stated.