Long sentenced women prisoners: rights, risks and rehabilitation

Introduction

This article has evolved from two interconnected concerns about the treatment of women in prison. The first relates to the re-emergence of rehabilitation in penal policy and its justification as a strategy to reduce reoffending and protect the public. Historically, the development and delivery of correctional programmes for women prisoners have met with criminological criticism, focusing on the failure of policy to distinguish the gendered needs of men and women and on the development of treatment interventions that infantilise women and pathologise the causes of their offending (Carlen, 1983; Rock, 1996). Our second concern stems from the lack of criminological attention paid to women convicted of serious offences and sentenced to long terms of imprisonment. For women serving short sentences, there is a growing consensus that rehabilitative interventions are more effectively applied in a community rather than custodial setting. Whilst an emphasis on short sentenced prisoners is understandable and defensible given their numerical dominance and the demonstrable lack of social utility that attaches to these sentences, it has diverted attention from the experience and rehabilitative needs of the minority of women prisoners destined to serve long periods in custody. This oversight is strangely remiss, not least because the numbers of women falling into this category have grown substantially over the last three decades. In the early 1990s there were a little over one hundred women serving a life sentence and fewer than 30 serving a determinate sentence of more than 10 years (Home Office, 2002). By the end of 2019, the numbers serving life and other indeterminate sentences had trebled to 346, and 178 were serving 10 years or more (Ministry of Justice, 2019). For these women, the reduction of reoffending and their resettlement on release are distant objectives, overtaken by the need for immediate survival strategies that help to manage the disruption and consequential pain that attaches to long determinate and life sentences. Criminologists have consistently argued that the pains of long-term incarceration are not only gendered but uniquely harmful to women (Walker and Worrall, 2000; Crewe et al., 2017). Research into the adaptations of young women in the early stages of a life sentence for murder, has revealed group behavioural patterns that defend against the tormented grief associated with both the taking of human life and an indeterminate loss of liberty (Wright et al.,

2017). It argues that their coping strategies provide evidence not of individual pathology but of 'processes of psychic defending' that reflect a reactive rather than proactive response to the existential reality of their confinement (p.226). Under these circumstances rehabilitation in prison is as much concerned with the trauma arising from penal practices as from the traumatic life experiences that typically shape women's pathways into crime.

In this paper we aim to re-examine critically the role of rehabilitative interventions for women serving long sentences, drawing on empirical research conducted in a democratic therapeutic community (DTC) located in a women's prison. We question how far established criticisms identify insuperable difficulties that exacerbate existing harms and inequalities and whether evidence can be adduced to support rehabilitative interventions that provide tangible benefits to women in prison. We argue that there is a strong ontological justification for providing long-sentenced women with rehabilitative programmes and for the prison authorities to acknowledge a duty of care that protects the wellbeing of those who participate. Whilst we recognise that existing power relations in prisons guarantee an unpromising setting for rehabilitative efforts, we contend that a rebalancing of penal power need not be unattainable. Its achievement depends heavily upon a fundamental reappraisal of the priorities that attach to different penal theories and their underlying rationales. We shall argue that a recalibration of penal values becomes increasingly feasible by the steady accretion of human-rights values into penal policy. Embedding rehabilitative policies within a doctrine of human rights provides a degree of ontological strength that can be deployed against opposing arguments about the treatment of long sentenced women.

The research

We conducted empirical research over a 3-year period in the DTC for women in HMP Send, a closed prison for women in the southeast of England. Adopting an ethnographic approach we relied upon a combination of methods of data collection, consisting largely of observations, interviews and documentary sources. We were given unfettered access to the community and observed all the institutionalised routines: attending the community meetings, small group therapy sessions, staff meetings, therapy review meetings, staff sensitivity meetings and staff and community feedback meetings. We also

participated in special social events, including family days when the women's parents, partners, children and other family members were invited to socialise over an entire afternoon and in more relaxed surroundings than normally available during prison visits. In addition, we spent time in unstructured activities with the women, chatting in their cells or over meals in the dining hall and, during therapy breaks at Christmas and Easter, we participated in quizzes and games organised by the community.

A total of 108 semi-structured interviews were conducted with three overlapping groups of women at different stages of their therapy: shortly after their reception; when they had been on the TC for between 4 and 9 months; and when they were about to leave the community. These were designed to elicit information about their lives outside of prison; their treatment by the criminal justice system and the circumstances leading to their current offence and incarceration; their experiences of the therapeutic regime and their hopes and fears for their futures. We also instigated informal but focused conversations with the women, uniformed staff and non-uniformed therapists, in order to understand in greater depth, specific issues or events arising in the community. Finally, we explored available documentary sources, consulting both the custody and therapy records held on all women admitted into the DTC. Official prison files enabled us to gather details about the women's sentence and trajectory through the prison system, as well as basic demographic data. Risk assessments, in the form of OASys[1] documents, provided an insight into the ways in which the women's prior experiences and behaviours had been interpreted and translated into clusters of criminogenic risks and therapeutic needs. Lastly, therapy case files were examined. Of central importance were the individualised target documents and treatment plans, which revealed a wealth of information about the perspectives of staff and residents in defining the women's therapeutic needs and their progression through the therapeutic process.

The research process was iterative, so that data analysis and data collection progressed in a reflexive relationship. Both of us took detailed notes throughout the fieldwork and, at the end of each working day, built in a period of reflection, when we would discuss the emerging themes and plan the next steps. We triangulated data collected from different sources and, through our reflective deliberations in the field, developed a thematic framework. Our theoretical

conclusions emerged, therefore, from an inductive analytic process grounded in the empirical findings. Although most of the analysis was qualitative, some information from the interviews and documentary sources has been analysed quantitatively using a statistical programme for social sciences.

The present article draws upon empirical findings that emerged from interviews conducted with 39 women immediately before their transfer from the DTC and from an analysis of 40 treatment plans, created collaboratively by the therapists and DTC residents. These identified the women's therapeutic needs and formulated a series of targets to be addressed in the therapeutic process. Together the interviews and treatment plans revealed a series of working practices that offered some protection against the devastating problems traditionally encountered in prison programmes for women.

Established critiques and lessons for contemporary rehabilitation

The concept of offender rehabilitation is both complex and contested. It has been suggested that as a starting point it refers to 'those processes and practices that aim at the successful reintegration of those who have offended' (Graham and McNeill, 2019: 11). How this can be achieved, however, has been the subject of critical scholarship and political evaluation. In the criminal justice system, it is the concept of 'personal rehabilitation' that dominates the field (McNeill, 2012). In prisons, cognitive behaviour programmes, education and employment training all aim to correct individual deficits in order to equip the offender to reintegrate more effectively following release.

Contemporary correctional policies for women in England and Wales, as well as across a number of other western jurisdictions, acknowledge the importance of differential treatment for men and women, rather than a uniform approach that is allegedly 'gender blind' (Bartells and Gaffney, 2012; Council of Europe, 2009; Ministry of Justice, 2013a, 2013b and 2014). The general ethos of the most recent strategy document for female offenders in England and Wales asserts an on-going and evolving commitment to gender equality in criminal justice, particularly in relation to rehabilitative opportunities in prison.

> If we are to achieve equal outcomes for women we should adopt a gender informed approach… We will create a custodial environment that enables … interventions that respond to their particular needs. (Ministry of Justice, 2018: 26-27)

The strategic objectives make clear that the custodial environment should be designed to reform and rehabilitate women prisoners, in order to reduce their risk of reoffending. Renewed emphasis is placed on retaining links with children and wider families and improving the safety of women prisoners by responding to their mental and physical health needs and preventing suicide and self-harm. A central organising principle is that the prison environment, and the approach to working with women prisoners, should be 'trauma informed' (P.30). This aims to promote a greater understanding of the behaviours that often stem from a history of traumatic life experiences and to facilitate more constructive working practices within establishments.

Our assessment of existing rehabilitative policy for women examines three influential and interrelated themes that can be distilled from the criminological literature critiquing the rehabilitation of women in prison: first, the individualised and psychologised focus of rehabilitative initiatives and the consequent distortion of women's experiences; second, the reconceptualization of rehabilitation as a risk-management strategy and its implications for the disciplinary control of women; third, the coercive environment of the prison and the uncertain status of prisoners' rights that shape the context in which treatment programmes must operate.

Individualised treatment

This longstanding criticism echoes broad concerns that were expressed decades earlier about the alleged pathological causes of female crime and the psychologically-driven individualised treatment of women offenders (Weare, 2013; Heidensohn, 1985). Contemporary correctional policies stand accused of continuing to decontextualize offending behaviour, relying upon psychologically-informed labels, such as 'post-traumatic stress disorder' and 'borderline personality disorder' that reduce and abstract women to only their psychiatric condition (Carlen, 2002; Chesney-Lind, 2006; Player, 2014, 2017).

Cognitive behavioural programmes which currently dominate rehabilitative provision in prisons, have been particularly criticised for their underlying premise that women's offending is rooted in their inability to reason effectively

(Kilty, 2012; Kendall, 2002). One consequence of this individualised agenda is that feminist insights into women's gendered pathways into crime, particularly the role played by their experience of male violence and abuse, are interpreted not as consequences of structural inequalities of power and systemic oppression, but as manifestations of cognitive or other psychological distortions that inhibit an individual's capacity to perceive and choose alternative courses of action. Women are therefore directed to self-regulate by taking responsibility for the choices they make and the consequences that arise from them.

The critical question here is whether rehabilitative strategies in women's prisons can be configured within a feminist frame of reference that demonstrate an ability to move beyond a pathogenic approach to treatment; and towards a model of therapy that can intuitively embrace and acknowledge the socially constructed environment, shaped by the intersection of race, sexuality and other variables, within which the women must operate.

Risk management

A second source of concern about rehabilitative programmes in women's prisons refers to the ways in which the penal-welfare environment of the 1960s and 70s has been substantially reshaped by a neo-liberal model that is largely concerned with risk management. Investment in the rehabilitation of offenders is now principally justified on grounds of enhancing public safety: 'it is no longer offenders themselves who are seen as the main beneficiaries of rehabilitative interventions, but rather communities and potential victims' (Robinson, 2008:432). One consequence of this has been to conflate the meaning of rehabilitation with the prevention of recidivism.

In order to target those most at risk of recidivism actuarial risk-assessment tools have distinguished 'static' and 'dynamic' risk factors.[2] Often referred to as 'criminogenic needs', dynamic factors refer to an individual's psychological and social circumstances over which they are held to have some control and agency, and which are therefore amenable to change through corrective programming. 'Static' risk factors, on the other hand, whilst also correlated with offending, are aspects of a person's identity that are immutable and irreversible, such as an offender's age and sex. By design, therefore, rehabilitative programmes focus upon the personal deficits of offenders, excluding consideration of the structural and systemic features that also contribute to the likelihood of reoffending. As Hannah-Moffat (2016) has observed, this not

only undermines the predictive value of the assessment but also (mis) shapes the content of programmes by limiting the concept of rehabilitative need to the risk of recidivism. She argues persuasively that unmet needs that do not correlate with recidivism can still shape the choices individuals make and affect their opportunities for desistance. Assessments of rehabilitative programmes that focus exclusively on the reduction of risk factors that predict reoffending, fail to take account of the complexities of the rehabilitative process and appreciate that 'factors that are predictive are not inherently causal or aetiological' (P.3). But the narrowed focus on criminogenic risk factors is not just analytically problematic; it can also have damaging consequences, particularly for women engaging in rehabilitative interventions in prison.

Feminist criminologists have revealed how risk management has reconfigured women's experience of social harm and their consequent therapeutic needs, presenting them as individual propensities that indicate a risk of harm to the public. For example, Pollack, (2007) and Hannah-Moffat, (2006, 2004) have shown how processes of risk assessment have used women's resistance to violence and sexual abuse as indicative of their individual predisposition to violence and reoffending. Failure to resolve or manage abusive relationships is consequently understood as being symptomatic of the women's impaired cognition and distorted decision-making, and it is these deficits that constitute their risk and become the targets of rehabilitative attention. Hence, the dominance of risk management, at the expense of a more holistic appreciation of women's needs, can shape a rehabilitative response that legitimises coercive control rather than social reintegration.

The problem here is not just that women are doubly victimised by their experiences of abuse and social exclusion, but that rehabilitative processes reinforce existing systems of oppression by requiring women to corroborate and take responsibility for the individualised cause of their offending. Within this discourse, rehabilitative progress becomes synonymous with risk management, measured by the extent to which individuals accept responsibility for the harms they cause and become effective managers of their own risk factors. The significance of structural and cultural factors in shaping criminal conduct are again largely absent from this analytical perspective. So a fundamental requirement for contemporary rehabilitative interventions in women's prisons is that any understanding of past behaviours and the attribution of responsibility,

acknowledge each individual's differential access to power and the social construction of personal choice and self-determination.

The prison environment and prisoners' rights

A particularly compelling criticism of the ability of prisons to deliver interventions that help reintegrate offenders in society stems from the accumulation of sociological knowledge about the nature and functioning of prison societies. The potential of the prison to rehabilitate has been portrayed as illusory and unworkable, principally because it contradicts the dominant roles and punitive purposes that define the institution and its routine practices (Carlen and Tombs 2006; Hayman 2006). Imprisonment is first and foremost a method of state punishment and its experience is punitive in ways that extend beyond the constraint of physical liberty (Crewe et al., 2017; Chamberlen 2016). Rehabilitative programmes that rely upon therapeutic engagement between prisoners and prison staff are particularly antithetical to the adversarial power relations that prevail in penal institutions. The monopoly of coercive power by custodial staff and the sub-cultural adaptations of staff and inmates that evolve from the structural inequalities in prison societies, provide an incongruous environment for the development of therapeutic relationships.

But the problem is not just that the prison environment and its operating practices are ill equipped to deliver rehabilitative services. Arguably its overarching punitive ethos can actively circumvent intended programme outcomes to produce more extensive means of disciplinary control.

This inhospitable environment is further aggravated by the prevailing uncertainty about the extent of prisoners' rights and the duty of care that prison authorities owe to prisoners engaging in rehabilitative treatments, particularly when these are psychologically intrusive. Despite progressive recognition by the courts of a prisoner's right to be legally protected from harm,[3] it has been acknowledged that the prison service continues to fall woefully short in fulfilling its duty of care: (House of Commons Health and Social Care Committee, 2018; Care Quality Commission and HM Inspector of Prisons, 2018)

At least part of the problem is that penal policy continues to reflect a strong commitment to the principle of 'less eligibility'.[4] Providing prisoners with rehabilitative opportunities has been presented as a benevolent gesture, a

generous privilege with which prisoners are expected to engage, and whose rejection can be interpreted as an indication of on-going risk.

> ..…they will be swiftly caught and punished if they do not accept the opportunities offered to them and instead return to a life of crime. (Ministry of Justice, 2010: 25)

The possibility that inmates could be harmed by their involvement in therapeutic interventions and that the recognition of human rights should be a prominent consideration in the delivery of treatment programmes, are notably absent from the official discourse (Genders and Player, 2014). So a capacity to deconstruct the concept of 'less eligibility' and to frame the legitimacy of rehabilitative practices in relation to the protection of prisoners' human rights, are the foundations upon which programmes in women's prisons should be built.

The democratic therapeutic community (DTC) for women at HMP Send

HMP Send accommodates the only DTC for women prisoners in England and Wales. It is an accredited offender behaviour programme serving around twenty inmates held in a separate housing block with its own social space. Its design differs in important ways from the rest of the prison, reflecting an awareness of the ways in which the physical environment plays a significant role in facilitating or undermining the women's engagement in therapeutic activities. Although the DTC at Send has not had the advantage of a purpose built facility, such as that provided for male prisoners at HMP Dovegate, it has incorporated key environmental features identified as essential for healthy women's prisons, including trauma-informed care and practice (Jewkes et al., 2019). All the women occupy single rooms and have their own keys. The social areas reflect a more domestic environment than found elsewhere in the prison, and the women can exercise some choice over their appearance and use. Members of the TC have an allocated budget that they can spend collectively on hobby materials or other shared activities and have greater freedom of movement than women in the rest of the prison. In some other respects the therapeutic community at Send shares facilities with the main prison, in that all work, education and dining take place alongside other prisoners.

The DTC differs both structurally and in terms of its practices from rehabilitative programmes rooted in cognitive behavioural therapy, that

dominate provision across the prison service. It is structurally distinct in two important respects: the length of time the women spend in therapy and the holistically integrated nature of the regime. The therapeutic process requires that the women are serving sufficiently long sentences to allow a period of at least 12 months in the TC. Consequently, most have been convicted of a violent offence and around half are serving indeterminate sentences. The daily routine consists of structured therapeutic activities every weekday morning: small group therapy led by a professional therapist, on three mornings each week; and twice-weekly community meetings where domestic issues are discussed and problems affecting the community are aired. In the afternoons the women work or attend education.

The DTC regime operates as a living-learning environment that enables the women to explore their emotions, behaviours and relationships in the daily course of living together. Therapeutic activity is not confined to what happens in the small groups but is embedded in the everyday life of the community, including their work, education and unscripted leisure time. This enables a supportive environment in which residents can revisit traumatic experiences and events that culminated in their offending, and through their interactions with each other, identify and test-out safe and effective strategies of relational engagement and problem resolution. Informed by social learning theory and psychodynamic principles of group psychotherapy, the DTC avoids an exclusively pathogenic approach to therapy and fosters a socially contextualised understanding of individual life trajectories

The theoretical foundations, organizing principles and working practices of the DTC-model differ significantly from those of conventional prison regimes. Prisons tend to operate as socially divided and hierarchical societies, producing a ‘them and us’ social structure in which members of staff monopolize legitimate power. Regulation is typically imposed through a system of explicit and non-negotiable rules, which seeks to bring about conditioned obedience and is ultimately backed up by coercion. In this way, it confers on the prisoner a degradation of status that depersonalizes the individual and inhibits her expression of personal choice. In contrast, the therapeutic community aims to delegate as much responsibility as possible to its residents. It aspires to encourage the expression of personal identity and is organized to minimize social divisions and enfranchise all members in the democratic exercise of

power. Much regulation, although not all is achieved through negotiation, whereby rules are made by the community and can be changed by the community. Compliance is therefore fostered by a commitment to the agreed rules, prioritising dynamic security by facilitating and promoting a system of internalized norms rather than a system of externalized rules.

Contradictions and subtleties in the therapeutic discourse of the DTC

At first sight, the prospects of the women's TC effectively tackling the inherent problems that face prison rehabilitation are not promising. Democratic therapeutic communities in prisons are expected to comply with a Core Model[5] accredited by the Royal College of Psychiatrists (2018), which makes clear that the principal aim of all prison TCs is to reduce recidivism by addressing offence-related risk factors. Nonetheless, although the structural location of the TC within the prison matrix ensures that official therapeutic discourse emphasizes the management of personal criminal risk, the fieldwork revealed a number of contradictions and subtleties within the therapeutic process that help facilitate a broader engagement. Most importantly, at the core of therapeutic practice there remains a real concern and engagement with the broader social, psychological and emotional needs of female offenders. The holistic nature of the treatment provided in a therapeutic community inevitably engages with offenders' attitudes, thinking and behaviour more generally, even though they may not be strongly correlated with recidivism. For example, the Core Model identifies interpersonal relating as a major risk factor, typically associated with the perpetration of aggression and interpersonal violence (Ministry of Justice, 2004). Yet the relational problems identified by the women at Send, and the therapeutic targets that defined their progress in therapy, focused less on the commission of violent crime and more on understanding their victimisation, both as adults and children, particularly in relation to male violence. Notwithstanding this overt recognition of the powerful influence of past experiences on the women's current trajectories, and consistent with feminist critiques of individualised treatment programmes, therapeutic targets and the women's engagement in group psychotherapy were frequently rooted in notions of human agency and advanced the premise that each woman had the capacity to choose whether or not to enter, continue or end a personal relationship. The following extracts from three treatment plans invite women to consider why and how they have 'allowed' or 'tolerated' abusive relationships:

> ‘What has led you to choose the men in your life to date and to tolerate abusive behaviour?’(Julia)
>
> ‘What has led you to tolerate violence and abuse from men?’(Joanne)
>
> ‘What led you to choose and tolerate violent and/or addicted partners?’ (Helen)

Evidently, this approach embodies an inherent contradiction: on the one hand, it emphasises women’s own agency and fosters personal empowerment whilst, on the other, it implicitly blames the victim for making poor choices. To pull up the analytical drawbridge at this point, however, would misrepresent the women’s experience at Send and ignore other dynamic features of the process that address the contextual influences which shape human behaviour. Although women who had persisted in violent and sexually abusive relationships were encouraged to take responsibility for their behaviour and to understand their own role in sustaining their victimisation, this did not deny that a woman’s perception of her own agency had been significantly shaped and effectively inhibited by the structural and cultural world in which she operated. The following interview extracts exemplify the women’s situated understandings of their behavioural choices.

> He used to tell me what to wear and he could be cruel but he loved me and he said I was beautiful. I never got that before. My mum used to make me go with men and let them do whatever they wanted to me. (Ruth)
>
> I just did what he said. I wouldn't question him. I mean he was my big brother and when my dad died he became like the head of the family…we had to look out for my mum. (Rima)
>
> When I was 13 I was sent to clean for him and they made me stay over. He treated me like a slave and he did things to me. I told my mum but she said I had to respect him and so I kept on going. (Amal)

The same imperative towards self-regulation and personal responsibility was also evident in the DTC’s perception of criminogenic risk arising from the women’s failure to manage and control their emotions. Although frequently framed as consequential harm resulting from problematic interpersonal relationships, individual treatment plans and the psychotherapeutic interactions in the small groups, repeatedly emphasised the need for women to exercise greater control over their feelings of anger and despair. Most typically, concerns focused on impulsive reactions, volatility of mood and persistent rumination over perceived injustices. But whilst the Core Model directed

attention to reducing offenders' risk of violent offending, the actual therapeutic engagement of women at Send tended to respond to the prevalence of self-harm and the women's shared histories of drug and alcohol dependencies. Marking a significant break with past practices that have relied upon explanatory notions of psychopathology, the DTC invokes a less stigmatising, and arguably less shameful, understanding of these behaviours, treating them as coping strategies that relieve extreme emotional distress and help women survive in the face of complex trauma. For example, women explained how they had been able to desist from self-harm whilst resident in the TC by gaining a greater understanding of the functionality this behaviour had served in their lives.

> I was so ashamed of my arms that I never wore short sleeves. I knew no one in their right mind would cut themselves, but I needed it. Other women in my group had self-harmed and listening to them helped me a lot. I can now see that by giving me a feeling of relief it was my way of getting control when the rest of my life was in chaos. (Sarah)

In so doing, the therapeutic process empowers women by acknowledging the meaning and significance they themselves attribute to these behaviours, whilst also revealing alternative means of self-care. In this way, therapeutic attention to criminal risk in the women's DTC was frequently displaced by concern for the safety and well-being of the individual. This was particularly evident in the early stages of their engagement in therapy, when the women's ability to think coherently about their future tended to be eclipsed by their sense of despair and confusion that arose from the emotional pain associated with their crime and lengthy incarceration.

The substantive content of issues discussed in the small groups, as well as the women's documented progress in their individual therapy files, revealed personal backgrounds characterised by multiple instances of emotional trauma. These emerged not just from abusive relationships but also from wide-ranging loss and bereavement and from the shame and guilt associated with the harms resulting from their offences. Enabling women to understand the sources of their emotional turbulence, whilst also challenging the utility of coping strategies that cause harm to themselves and others, does not necessarily communicate blame and censure that translate into gendered strategies of discipline and control. Approached in a non-judgmental way, it can engender a radical reinterpretation of the dynamics of cause and effect. Addressing low self-confidence and self-esteem by enabling women to reflect on and gain some

understanding of how and why their lives have crossed prescribed boundaries, does not inevitably pathologise their behaviour and trigger disciplinary controls. Rather, it can render behaviour intelligible and thereby capable of transformation if understood in the social context in which it was generated. The following extracts from personal therapy plans explore some of these contextual issues and the more situated understandings that were sought:

> To explore why you feel so undeserving with regard to relationships, and how this relates to your self-worth. Why do you feel you have nothing to offer others? How does this relate to your early experiences, especially with regard to abusive incidents? (Emma)
>
> To examine past lifestyles, friendships, relationships in order to understand what is beneficial and what is damaging for you. (Marie Ann)
>
> To develop your understanding of a healthy relationship and recognise the warning signs of relationships with men which are destructive. (Julia)

These statements illustrate the predominant culture of enquiry that shapes the therapeutic process, which is not specifically directive towards prescribed conclusions but indicates priority areas for exploration. These departures from more normative, didactic rehabilitative practices were evidenced not only in the aspirations recorded in the therapeutic plans but also in the women's accounts of their experience and their evaluations of the benefits they derived from participating in the TC. Interviews conducted with 39 women who were leaving, or had recently left, the therapeutic community, which included premature leavers as well as those who had reached the end of therapy, revealed, with only one exception, that their assessment of the TC experience was almost entirely positive. However, their comments rarely related to the control of criminogenic risk factors and the reduced likelihood of their reoffending. Instead, they focused heavily on the psychological relief they had found in gaining some understanding of how their life circumstances had unfolded and the role they had personally played in that process. They frequently described how their stay in the therapeutic community had enabled them to experience an emotional connection with substantive events from the past and to locate the source of their poorly understood emotions and coping strategies that had characterised these life experiences. For example, Lesley, who was serving a life sentence for the murder of her abusive partner, described how she had experienced physical and sexual abuse by her father and how her relationships with men had always been violent. She claimed that even if her

relationships with men did not start off that way, she would provoke violence. Leaving the TC after two years she stated:

> Now I can see the deep-seated fear of men that has been with me… I see the links, my father and being gang raped at 14… I feel as if a burden has been lifted… now I understand it … I no longer fear the thought of a relationship with a man... I no longer fear intimacy… I no longer see all men as the same. (Lesley)

Jane, serving a life sentence for the murder of her husband's lover, said that her principal concerns in therapy had been her inability to trust anyone and the shame and guilt she felt over abusive events in her childhood:

> I used to feel my problems were [all] my fault, caused by me … now I'm able to attribute blame more appropriately. (Jane)

It was possible to identify ways in which these insights had been translated into behavioural changes that could be described as pro-social and less harmful to the individual and other members of the TC. The reduction of self-harm was one of the most significant and measurable benefits of life in the therapeutic community, but the women also referred to changes in the ways they interpersonally related, most notably their ability to verbally communicate and express emotional feelings that previously were either repressed or likely to result in violence to themselves or others. Having left the TC and been relocated in another part of the prison, Jane explained:

> The first thing I would do whenever I moved cell was to check out all the possible ligature points, just in case…. I don't do that anymore. I don't need to. (Jane)

Challenges posed by the penal context

Despite the women's testament to change, the overarching context in which the therapeutic community at Send operates is that of a prison, which systemically challenges its organising principles (Stevens, 2013, Genders and Player, 1995). The successful assimilation of the DTC into the prison relies upon the extent to which the two conceptually distinct institutions are able to tolerate each other's demands, albeit that the prison occupies a position of dominance. For example, a functioning therapeutic community is dependent upon trusting and mutually supportive relationships, which in a prison context requires staff to respond to two frequently incompatible sets of obligations: one therapeutic, the other custodial. Where a conflict of interest arises, the distribution of power is heavily weighted in favour of the custodial duties as these define the primary

status of the prison as a penal rather than therapeutic institution (Genders and Player 1995, 2010).

Nonetheless, the governance of the TC at Send was clearly distinguishable from the regime that existed elsewhere in the prison. A critical difference was that resident inmates and staff in the TC experienced more egalitarian relationships within the therapeutic process, enabling women to exercise some autonomy over the direction and speed of their therapy. However, as noted earlier the therapeutic community at Send is not a self-contained institution but shares some resources with the wider prison. This gave rise to acute anxieties about the risks such proximity posed to the confidentiality of information disclosed in therapy. Common sources of fear and intimidation derived from the women's acute sense of shame that variably attached to their offences, their experiences of violence and sexual abuse and the negative impact their behaviour had caused their children. So too did they express misgivings about the use that the prison authorities could make of information voluntarily divulged in therapy.

On the whole, however, the women were not naïve about the conflict of interest that characterised the role of the staff, as this was sharply defined when parole reports were prepared. Women with pending applications were keenly aware of how information could be 'misinterpreted': how 'needs' and 'vulnerabilities' could be reconstructed as criminal risks. Nonetheless, although many women were initially guarded and cautious in their engagement with the formal practices of therapy, they were also powerfully driven by a pressing need to alleviate their immediate experiences of distress and suffering. Whilst much of this torment was triggered by their imprisonment it was principally rooted in the trauma of their personal experiences outside prison. Women's engagement with therapy, therefore, was not motivated by the ambitions of the criminal justice system to reduce their risk of reoffending, but was compelled by their quest for a rehabilitation that enabled some understanding and resolution of problems deeply embedded in their personal histories. Consequently, their willingness to trust in the integrity of the process was often relatively fragile and susceptible to set back in the face of events that challenged the confidentiality of the TC.

But although the distribution of power and the priority of risk management in the wider penal environment ensure that the therapeutic community at Send is imbued with coercive elements, there are limited concessions that help the women to foster a degree of personal autonomy. Crucially, admission is voluntary: women choose whether to apply for a place in the first instance and

they can withdraw at any time. Women engage with therapy at their own pace and choose what they want to discuss in their small group, although this can be subject to challenge by other members. In addition, the principle of democratic governance in the TC requires the women to make collective decisions, not just about routine domestic matters, but also disciplinary concerns and sanctions that can result in someone being expelled from the community.

Arguably, these choices bear little resemblance to the kinds of decision-making that would be described as autonomous in the outside community. Nonetheless, we would argue that the permitted agency enjoyed in the DTC assumes a greater significance precisely because it is exercised in a setting where the wider penal context demands inmate subordination and disenfranchisement. Behaviour that would attract a punitive response in the prison can be tolerated quite extensively in the DTC, where it can be examined and understood as part of a wider pattern of conduct. Crucially, this enabling environment is protected by the professional ethos and independence of the therapists, who also empower the uniformed staff in their attempts to uphold therapeutic priorities in the face of other institutional pressures.

On-going ontological concerns

Our research on the DTC at HMP Send illustrates the possibility of providing rehabilitation for women in prison that is holistic in nature and that does not pathologise nor box them into a risk-management framework. Yet rehabilitative practices within the DTC, and other prison programmes, are vulnerable to erosion and dilution by the exercise of penal power. We contend that part of the reason for this is that the theoretical justifications and supporting assumptions that promote retributive and deterrent punishment, are more deeply entrenched in the politics of criminal justice than the ontological case for rehabilitation that goes beyond concern for criminogenic risk to embrace and advance the wellbeing of the individual. Progressive arguments developed in the 1970s against the disproportionality and lack of transparency in rehabilitative decision-making, left behind a prevailing disconnection between the pursuit of justice and the operation of offender treatment programmes. Arguably the DTC at Send exists in a theoretical landscape that lacks an epistemological framework capable of defending the integrity and legitimacy of its practice and purpose, leaving it vulnerable to dominant penal narratives. To challenge this

we propose a human rights discourse that confronts underlying arguments and assumptions about the relationship between the offender and the prison authorities. In particular, we explore three specific imperatives that re-shape the cultural landscape in which rehabilitation is understood and pursued in custody: the duty of care owed by the prison authorities to prisoners engaging in intrusive psychological therapies; the attribution of 'less eligibility' that routinely embodies the status of prisoners; and the meaning of gender equality in the realisation of rehabilitative opportunities.

A duty of care

Where the therapeutic community at Send, along with other prison TCs, remains highly problematic is that it continues to operate in the absence of a specific and legally enforceable duty of care that is owed to prisoners who engage in the therapeutic process. This reflects the deeply held resistance to recognizing the special rights owed to prisoners because of their vulnerability and dependence on the prison authorities. Unlike the attrition of clinical management that has prevailed in the male TCs (Genders and Player, 2010, 2014), the women's therapeutic community has maintained a clinical presence during all therapeutic activities. Undoubtedly, this provides an important safeguard in establishing and defending professional practices in the therapeutic functioning of the community. But there is a notable lack of external reference points detailing what these are and the rigour with which they are independently monitored and enforced (Rawlings and Haigh 2017; Brown et al., 2014).

Where this systemic neglect has been most damaging is in the protection of women who after joining the TC and engaging in therapy then leave prematurely, and often abruptly, before completing their therapeutic programme. By common agreement amongst the staff, the problems that motivate women to apply for admission to the TC are complex, deeply embedded in histories of emotional trauma and seriously damaging to their sense of well-being. Therapeutic engagement in the TC is, by design, psychologically intrusive, requiring women to reveal intensely personal and often degrading and pitiful events that they may never have disclosed before. Women who embarked and then abruptly withdrew from therapy frequently found themselves entrapped in a state of unresolved conflict that left them poorly defended and yet facing a heightened awareness of the traumatic experiences that spurred them to seek help in the first place. The potential this has for causing serious harm has been recognised and warnings publicly issued

by the Prisons and Probation Ombudsman (2008, 2009) in fatal incidents reports relating to self-inflicted deaths by women who left the TC at Send prematurely. The Ombudsman's reports demonstrate both the legitimacy and the invisibility of the special rights owed to women undergoing rehabilitative interventions in prison. They reveal both the women's heightened vulnerability, purposely generated by the therapeutic process, and the women's unavoidable and immediate dependency on the prison authorities for their safety and psychological well-being (Genders and Player, 2014).

Clearly, these tragic cases can provide powerful arguments against the provision of rehabilitative services in women's prisons, particularly those like the therapeutic community that involve intrusive psychological methods. Critics reasonably doubt the ability of policy makers and practitioners to regulate the integrity of their own programmes in the face of competing interests. But the abandonment of rehabilitative opportunities for women serving long sentences is equally problematic. The therapeutic community at Send addresses immediate harms arising from the gendered pains of imprisonment and many of the women it receives have been identified as suicide risks at some point in their sentence

Under Article 3 of the European Convention, these women have an absolute right to be protected from torture, inhuman and degrading treatment. Our argument is that the provision of therapeutic services in prison should be legally and morally embedded in an epistemological foundation of human rights. This robust framework can generate safeguards for the delivery of services that address the welfare needs of individuals and defends against a discourse that justifies rehabilitative programmes only on grounds of public protection. Most importantly it dictates standards of care that are non-negotiable. Nonetheless, we recognise that there are counter narratives that can weaken the human rights imperative when applied to prisoners. In our view, the two most compelling of these are first, the status of less eligibility bestowed on offenders serving long prison sentences and mutated from the prevalent concept of 'desert'; and the second is rooted in the aspirational concept of 'gender equality' and what that means for equal treatment and equal opportunities in custody.

Redressing the concept of less eligibility

A major obstacle for providing rehabilitative facilities or services to prisoners is the claim that they are undeserving recipients of public resources that would be

better spent on their victims or other 'innocent' parties. The reluctance to be seen to 'reward' offenders has been discernible in policy documents that date back to the start of the Transforming Rehabilitation agenda in 2010 (Ministry of Justice, 2010, 2013c). The underlying sentiment is based on the ontological argument that prisoners, by virtue of their offending behaviour, have broken the social contract that exists between the state and individual citizens. Because of this, they are deemed 'less deserving' of society's benefits than those who live obediently within their contractual terms and conditions. Becoming a prisoner confers a status of 'less eligibility', most clearly reflected in the resistance of successive governments to the legal recognition and protection of prisoners' human rights.

The difficulty with this interpretation of the social contract is that it focuses exclusively on only one side of the deal, the breach by the offender, and steadfastly ignores how effectively the State has fulfilled its own contractual obligations. Reports on women prisoners have consistently revealed their vulnerability in custody, detailing extensive experience of social exclusion and abuse (Corston 2007; Prisons and Probation Ombudsman 2017). The population received into the TC at Send has followed unhindered pathways into crime, their journeys characterised by the failure of public authorities to protect them as children and adults from male abuse and violence, from mental and physical ill-health and from economic marginalisation. The concept of 'precarity' developed by Judith Butler (2009) in her exploration of performativity and sexual politics, captures the conditions under which these women have lived:

> ..”precarity” designates that politically induced condition in which certain populations suffer from failing social and economic networks …[it] also characterizes that politically induced condition of maximized vulnerability… [against]which states do not offer adequate protection (P.ii).

The implicit sense of fairness to which contract theory refers is also seriously compromised by the observable inequalities that exist in the nature of the contracts awarded to different individuals and groups in liberal democracies such as England and Wales. Uneven allocation promotes an asymmetric distribution of power and varied capacity amongst individuals to meet the normative expectations necessary to fulfil their contractual duties. Although social contract theory can provide a useful framework within which the relationship between the individual and the state can be examined, the way in

which it is has been selectively interpreted in contemporary penal politics fundamentally undermines the duty of care owed to women prisoners engaging with therapeutic programmes. Respect for the duty of care rejects the presumption of 'less eligibility' and acknowledges the social justice of treating women's needs as an entitlement that is not annulled as a consequence of their offending. It promotes a perspective that directs policies to attend to the violence of precarity, to the structural inequalities that shape the decisions women offenders make, simultaneously rendering as irrelevant and misguided those corrective programmes that pathologise the cause of individual life choices.

Gender equality

Feminist criminologists have shown how women prisoners have been disadvantaged by the 'cultural imperialism' of a male dominated criminal justice system where the dominant group establishes its own interests and perspectives as universal norms and values (Gelshorpe, 2010; Chesney-Lind, 2006). Contemporary rehabilitation policy recognises that the pursuit of equality must move beyond a rigid concept of equivalence and respond to gendered differences in the causes and patterns of criminality, in the experience of imprisonment and in resettlement needs. But although gender responsive treatment is now well established as a principle of justice, the concept is primarily directed to the achievement of *distributive* justice. Specifically, it focuses on the fair distribution of resources to enable women to access services that address their specific risks/needs. The Equality Act 2010 champions distributive justice in public services, imposing a gender duty not only to avoid discrimination, but also to promote equal opportunities and outcomes. But problems of inequality extend beyond questions of distributive justice.

Although the availability of material resources is a necessary condition of equal opportunities, injustice also arises when opportunities cannot be realised because pre-existing obstacles remain unaddressed. Women's access to rehabilitative opportunities is shaped in part by their tangible existence and, in part, by the conditions which enable or inhibit their realisation. As Young has argued, opportunities only exist if a person is not constrained from doing things *and* 'lives under the enabling conditions for doing them' (1990:26). Injustice, she argues, prevails when opportunities cannot be realised because institutional constraints inhibit an individual's self-development and self-determination. Our earlier discussion referred to the ways in which therapeutic opportunities at

Send could be undermined by the penal culture and practices of the prison. Similarly, the rational actor model that prevails across contemporary rehabilitation programmes, directs women to self-regulate by taking responsibility for the choices they make. Yet it pays scant regard to the effect which oppressive life experiences can have in shaping how women prisoners define who they are and perceive what is possible. Non-distributive forms of injustice are therefore, critical components in understanding and pursuing gendered equality in rehabilitative practices. Acknowledging offenders' subjectivities, how these have been constructed and what implications they have for understanding past and present behaviours, also has the consequential effect of requiring the boundaries of rehabilitative practices to expand beyond indices of criminogenic risk.

Conclusion

Our purpose in writing this paper has been to consider the overlooked rehabilitative needs of women serving long custodial sentences for serious offences. We acknowledge the inherent paradox of pursuing transformative ideals within a carceral system that functions to support and reproduce the precarity of the women's condition. But based on our empirical research, we have also argued that the therapeutic community at Send operates in ways that can effectively address fundamental concerns raised by feminist scholars about the distortion of rehabilitative practices in prisons and the coercive control they can generate. We contend that the DTC can provide some amelioration of harm, specifically in relation to the women's ability to understand and manage their emotional responses to traumatic life experiences. We have explored some of the ways in which detrimental consequences that stem from the pathologisation of women's criminality, the conflation of their rehabilitative needs with criminal risk and the contradictory power relations that exist in the prison, can be moderated by the ways in which the therapeutic community is given a degree of autonomy in the prison environment. And it is conceivable that the insights and behavioural strategies learnt in the DTC could extend beyond the reduction of carceral pain and support reintegration post-release. But clearly, connections need to be forged with other types of rehabilitative work, such as those identified by McNeill (2012).

However, we have also acknowledged the vulnerable status of the therapeutic community that derives from its location within a prison. The DTC at Send operates within an ontological environment that elevates retributive and deterrent values over restorative and rehabilitative principles. The practical consequence is that rehabilitative initiatives that aim to extend beyond risk management remain vulnerable and without an ontological foundation to empower their claim to authority. We have argued that the justification for therapeutic initiatives in prisons should not stand or fall on their contribution to public safety. The well-being of the prisoner, their need for reintegrative services and protection from the arbitrary harms of state punishment, are arguably the principal sources of legitimacy and are rooted in an epistemology of human rights. In recognising the contractual obligations owed by the state to long sentenced women, therapeutic services become entitlements rather than privileges, which generate a specific duty of care.

In order to meet and sustain this duty of care the cultural context within which prison rehabilitation operates requires specific reframing in ways that advance principles of human rights and social justice. In particular, we argue that the concept of 'less eligibility' that attaches to the status of prisoners must be revised, so that any evaluation of offenders' deserts is framed by an adherence to human rights and an awareness of the contractual obligations of the state. In addition, we insist that the concept of 'gender equality' must extend beyond an equivalent distribution of rehabilitative services, to incorporate an understanding of how structurally generated, oppressive experiences can shape women's perceptions of existing opportunities as personally relevant and/or accessible to them in their present circumstances. These adjustments to the wider ideological environment define more clearly the prison's duty of rehabilitative care and provide some moral authority to hold the prison authorities accountable for their performance.

Notes

[1] The Offender Assessment System (OASys) is a tool used to measure the risks and needs of offenders in prison or under probation supervision in England and Wales.

[2] See the Risks-Needs-Responsivity Model (Andrews and Bonta 2015).

[3] See Ellis v Home Office [1953] 2QB 135; Egerton v Home Office [1978] CrimLR 494; Keenan v UK [2001] ECHR (Application no. 27229/95); Price v UK [2001] ECHR (Application 33394/96); D. v. the United Kingdom [1997] ECHR (no. 30240/96)

[4] For example, the reluctance of Parliament to remove the blanket ban on prisoners' right to vote. See Hirst v UK No. 2 [2005] ECHR (Application No. 74025/01); Greens and M.T. v. the United Kingdom [2011] ECHR (application nos. 60041/08 & 60054/08),

[5] HM Prison Service unpublished internal document

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