



## **Justice for Women: A Penal Utopia**

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Source: *Justice, Power and Resistance* Foundation Volume (September 2016) pp. 151-169

Published by EG Press Limited on behalf of the European Group for the Study of Deviancy and Social Control electronically 21 March 2017

URL: <http://www.egpress.org/papers/justice-women-penal-utopia>

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## Justice for Women: A Penal Utopia?

Margaret S. Malloch<sup>1</sup>

### Abstract

*For more than two decades, there has been an ongoing critique of penal responses to women in the criminal justice system. Calls to reduce the female prison population have been many, and attempts at reform have been ongoing. In Scotland, a recent decision to halt the building of a new 300-350 bed prison for women was widely welcomed, although in the aftermath of this decision, the potential of 'alternative' resources appears to be creating something of a conundrum. Despite all the academic, policy and activist research over these decades, the options for radical responses seem vague and contested. This paper reflects upon utopian traces, existing in the present and drawn from the past, to consider what a radical 'alternative' for women requires in practice and, what could be implemented to address 'social harm' in this gendered context. Looking outside the criminal justice system, the impulses of critical feminist theory are examined to consider what is required for a 'just society' for women.*

### Introduction

It is surprising in some ways, that in 2016, a vision of true gender equality remains essentially a utopian one; the administration and experience of justice is often mediated through a gendered lens. There have been many achievements on the road to equality, yet access to justice remains an area where there is considerable potential for improvement, not only in relation to gender, but also in terms of other determining structures such as class and ethnicity. Women's encounters with the (criminal) justice system, both as victims/survivors and in conflict with the law, have been the focus of repeated campaigns over the years<sup>2</sup>. In response to state punishment, calls to reduce the female prison population have been many, and attempts at penal reform have been ongoing. Nevertheless, options for radical 'alternatives' (to the prison and to criminal justice more broadly) often seem vague and potential solutions are

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<sup>2</sup> For example, see the work of Inquest, Howard League, Women in Prison, Justice for Women, Prison Reform Trust, Fawcett Society.

frequently contested. In this article, I reflect upon Erik Olin Wright's (2010) proposal for 'Real Utopias' (outlined further below) and consider the importance of critical examination of current practices, the need to envision 'non-penal alternatives', and the significance of processes of transformation that remove the binary contradiction between systems of punishment and 'their alternative'. Focusing on recent developments in Scotland, I explore some of the challenges that accompany attempts to enact 'real' utopias within structural contexts that remain essentially untransformed. I argue that utopian thought can enable critique, allow us to imagine the 'not-yet' and importantly, create a hopeful space to look beyond existing limitations of the present world.

A tentative space appears to have opened up for hopeful imaginings in the administration of criminal justice and specifically, penal practices as they are applied to women<sup>3</sup>. Recent developments in Scotland suggest that a real reduction in the imprisonment of women is a viable and feasible possibility. In January 2015, Scottish Justice Secretary Michael Matheson announced that the development of a 300-350 bed prison for women at Inverclyde in Scotland would no longer proceed, noting that 'we need to be bolder and take a more radical and ambitious approach in Scotland'. Justice Secretary Matheson instructed officials to 'undertake a period of intensive engagement with key partners, with a view to investing in smaller regional and community-based custodial facilities across the country'. Since then, substantial additional investment in women's community services has been allocated, with Michael Matheson arguing: 'Scotland already has the second highest female prison population in Northern Europe, doubling between 2002 and 2012. This is completely unacceptable and does not fit with my vision of how a modern and progressive society should deal with female offenders' (Scottish Government, 2015).

This decision was followed in November 2015, by an announcement from George Osborne that HMP Holloway in central London was being considered for closure as part of the government's Spending Review, with penal reformers quick to demand reallocation of funds to community resources. In both Scotland and in England and Wales, there have been calls to close prisons for women and to use the money from sales of land and running costs to invest in community resources such as women's centres<sup>4</sup>. In place of large prisons, penal

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<sup>3</sup> While there is much to be said about 'justice' in its broadest sense, for the purpose of this article I focus on the imprisonment of women and the 'criminal justice' context.

<sup>4</sup> For example, see statement by Women in Prison, <http://www.womeninprison.org.uk/news-and-campaigns.php?s=2015-11-25-hmp-holloway-closure>

reformers have argued in favour of small custodial units for the small number of women who have committed serious and/or violent offences (for example Commission on Women Offenders, 2012; Soroptomists International and Prison Reform Trust, 2014; All-Party Parliamentary Group on Women in the Penal System, 2015). In Scotland this may happen, indeed a new concept of ‘custody in the community’ is now being used (Scottish Prison Service, 2015)<sup>5</sup>. Although current proposals appear to favour a new 80-bed national prison for women, supported by five 20-bed units established across the country, and while still retaining a sizeable number of women in custody, this is considerably smaller than the 300-350 bed unit proposed as a new national prison at Inverclyde<sup>6</sup>. These developments, which resulted from recommendations by the Commission on Women Offenders (2012)<sup>7</sup>, contrast with the aftermath of the Corston Report’s (2007)<sup>8</sup> proposals to replace the women’s prison estate in England and Wales with geographically dispersed, small, multi-functional custodial centres; a recommendation that was rejected as being neither feasible nor desirable (All Party Parliamentary Group on Women in the Penal System, 2011: 8).

Could recent developments in Scotland signify a step change in policy and, if so, what might be their effect? What is a ‘real utopia’ in this context? Does it constitute a drastically reduced penal estate for women and fundamental change in the central position of the prison in Scottish criminal justice policy? Should we keep our sights fixed beyond this and firmly on an abolitionist horizon? How ‘real’ does a Real Utopia need to be?

In general, calls to significantly reduce (or indeed abolish) the prison, as it currently exists, have always had more potential when considered in relation to women. Across the UK and internationally, the female penal estate is considerably smaller than the male estate and women are less likely to have committed acts that would suggest they present a ‘risk’ to wider society. However, while new and innovative resources have been developed in local communities, the number of women imprisoned in Scotland has not decreased,

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<sup>5</sup> However, this is itself a problematic concept in line with similar discourse around ‘community payback’, ‘community punishment’.

<sup>6</sup> Assuming that the current national prison for women, HMP and YOI Cornton Vale, does actually close as called for by the Commission on Women Offenders (2012).

<sup>7</sup> The Commission was established by the Scottish Government in June 2011 to look at ways to improve outcomes for women in the criminal justice system in Scotland.

<sup>8</sup> The Corston Report was the product of a Commission established in March 2006 by the Home Office and chaired by Baroness Corston. The remit of the Commission was to conduct a review of women in the criminal justice system who have particular vulnerabilities.

nor have the severe social circumstances that many women prisoners appear to have experienced prior to their encounters with the criminal justice system. For me, the concept of a 'penal utopia' is a contradiction in terms. In my vision of utopia, there is no penal system – no prisons, no need for punishment – and I acknowledge that this vision is truly utopian in the 'no-place' sense of the word; a luxury of utopian imaginings. But I am also grounded in present realities, perturbed by questions of how to move forward, and how to imagine a different way that is not tied by cultural and ideological bonds to present circumstances (Jameson, 2005).

My interest in utopian thinking (Malloch and Munro, 2013)<sup>9</sup> is grounded in utopia as critique and a way of imagining things 'other-wise'. While penal 'alternatives' can be drawn upon (such as Women's Centres, 218 Project<sup>10</sup>, Healing Lodges<sup>11</sup>), such attempts to provide a service which remains within the context of the criminal justice means that they remain part of that system. They may provide useful and important support for the individuals who can access these services, but they retain the penal element that, for me, underpins all initiatives that are linked to the 'criminal' justice system. My utopian aspiration, is therefore for a process of change that involves transformations of both consciousness and social structures<sup>12</sup>.

## Transformation

*It is much easier to talk about concrete ways of tinkering with existing arrangements than it is to formulate plausible radical reconstructions (Wright, 2010: x).*

Tension between affirmative versus transformative remedies has resulted more widely, in attempts to secure institutional change rather than any 'transformation of the deep structures of capitalist society' (Fraser, 2009: 5).

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<sup>9</sup> We first presented our work on utopia and critique in 2010 at the 38<sup>th</sup> Annual Conference of the European Group for the Study of Deviance and Social Control, Lesvos, Greece (Malloch and Munro, 2010).

<sup>10</sup> The 218 Service is a Turning Point Scotland and Glasgow Addiction Service initiative that takes a person centred, approach in dealing with the issues that women offenders face (see Beglan, 2013). Providing both residential and day services for women referred by the courts, the service is designed to address issues with substance use, physical and mental health and other social needs including housing and childcare.

<sup>11</sup> For example, the Okimaw Ohci Healing Lodge for Aboriginal Women in Canada (see Malloch, 2013a).

<sup>12</sup> See Malloch, 2013b where these ideas are outlined further.

Economic inequality, poverty, unemployment, racism and sexism are often ignored, while solutions are sought within the individual, both in practice and theory. Chesney-Lind (2006: 9) argues: 'The centrality of both crime and gender in the current backlash politics means that feminist criminology is uniquely positioned to challenge right-wing initiatives. To do this effectively however, the field must put an even greater priority on theorising patriarchy and crime, which means focusing on the ways in which the definition of the crime problem and criminal justice practices support patriarchal practices and worldviews'. I would argue that it is essential that critical feminist perspectives take a stance that is also informed by an examination of the political economy.

Transformation requires movement within and against existing structures. How is it possible to rethink power, change institutions and structures of state as well as structures of consciousness? This requires focusing on the political rather than simply the personal, and recognising that we can only think the future differently if we think in different ways. In order to transform current systems of punishment, as they are applied to women, it is necessary to critique patriarchal structures, redistribution and reconceptualisations of power. The challenge in presenting 'real' utopias is that they too often become incorporated into existing systems: evident when considering the progressive pulse that has underpinned many developments for women in conflict with the law.

More broadly, the current international context is one of the 'globalised destruction of social safety nets' and within this context, individualising structural inequalities. Recommendations focused on the criminal justice system can result in improved services within it, but will not reduce the problems that bring women (or men) into it. The deeper social structures of society sustain the social marginalisation and disadvantage that underpin the real experiences of men and women who encounter the prison population. These issues are often seen as too overwhelming and ingrained to tackle outwith the organisational remit of reform. Calls are made instead to increase provisions in the community via criminal justice. At the same time, the 'community' is an ambiguous and contested concept that is not unproblematic for either women, or provisions for women. In this context 'community' is often assumed or presented as a solution without any real analysis of what it is or how it is gendered (Malloch et al, 2014). Transformation at the level of attitudes as well as practicalities is required.

Despite the limitations placed on many of the radical reforms proposed over the years, developments in Scotland are admirable within an international context and do create a space for optimism. Nevertheless, as Sim (2009)

highlights, liberal reform groups have had limited success in making fundamental changes to dominant penal discourses, as seen across the UK, Canada and elsewhere. But there are examples of transformative practices which can be drawn upon. The 218 Centre in Glasgow, when first established, focused on 'recovery' with an emphasis on health and well-being via a trauma-informed model which aspired to 'healing'<sup>13</sup>. Unfortunately this was overtaken by a shift in focus to ensure the service was responsive to the courts (criminal justice) and seen as 'legitimate' by sentencers (Malloch et al, 2008). Other practices include engagement by grass-roots groups, again focused on recovery but operating to create 'communities of resistance' within local environments and providing individuals with a sense of worth (individual and collective) and meaning (see Malloch, 2011).

### **Anticipatory Pragmatism**

Utopian thinking and visions of utopia have much to offer in influencing and driving change socially, politically and economically and this is particularly pertinent in attempts to conceptualise 'justice' (see Malloch and Munro, 2013). While theoretical explorations of utopia are often contested as being 'no-place' or idealistic imaginings, they have the potential to set out new ways of thinking and subsequently, of being. Wright (2010: 6) taking a more practical approach, defines 'real utopias' as: 'utopian ideals that are grounded in the real potentials of humanity, utopian destinations that have accessible waystations, utopian designs of institutions that can inform our practical tasks of navigating a world of imperfect conditions for social change'. His vision provides the basis for actual reform in the material world.

The 'reality' (both a highpoint and lowpoint) of attempts to achieve justice for women, is that the blueprints for 'accessible waystations' and 'utopian designs of institutions' have already been presented, argued for and, while they have paved the way for progress, still have some way to go in achieving either radical institutional or social change. If 'plausible visions of radical

alternatives, with firm theoretical foundations, are an important condition for emancipatory social change' (Wright, 2010: 8), what is required to achieve the enactment of radical alternatives and 'emancipatory social change' in relation to justice for women? What has prevented it happening to date? The need to

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<sup>13</sup> <http://www.turningpointscotland.com/what-we-do/criminal-justice/218-service/>

distinguish between ‘utopian realism’ (Loader, 1998) and the danger of pursuing immediately achievable goals in the short-term is that longer-term ‘revolutionary’ alternatives can be lost; a tension that exists within abolitionist visions (as well as utopian aspirations), and reformist practicalities, and where appeals to realism can often end up as a defence of the status quo (Ruggiero, 1992 and 2010).

## Diagnosis and Critique

The starting point for Wright (2010) is to consider in what ways existing social institutions and structures systematically impose harms. This is not difficult to evidence when it comes to the imprisonment of women. It would be reasonable to say that there is a good awareness and general acknowledgement of the ‘problem’. The harmful effects of current systems of imprisonment are recognised across the UK (and internationally) and, in relation to the imprisonment of women, have been reflected in a plethora of ‘official’ reviews, reports and inquiries, informed by academic research and third sector agencies, which have set out practical recommendations for the radical reform of current practices. There are significant similarities in the definition of ‘the problem’ and potential actions required in England, Wales and Northern Ireland<sup>14</sup> and in Scotland<sup>15</sup> and the attention that has been given to the imprisonment of women and application of criminal justice more broadly, has been considerable.

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<sup>14</sup> In England and Wales: *Justice for Women* (Prison Reform Trust, 2000); *Lacking Conviction*, (Prison Reform Trust, 2004); Prisons and Probation Ombudsman Report into the series of deaths in HMP and YOI Styal (2003); Corston Report (2007) as well as reports by the Commission on Women and the Criminal Justice System (2009) and ongoing follow-up reports undertaken by the Fawcett Society. The New Economics Foundation (2008) set out an economic justification for the use of alternatives to prison for women. In Northern Ireland: *The Hurt Inside* (Scruton and Moore, 2005) and Convery (2009) *Addressing Offending by Women* for the Northern Ireland Office. Add to this, the series of reports by HM Inspector of Prisons; and a similar outpouring of reports and reviews internationally by organisations such as Amnesty International, Human Rights Watch, Inquest.

<sup>15</sup> In Scotland, Social Work Services and Prisons Inspectorates for Scotland (1998) and the Ministerial Group on Women’s Offending (2002), Equal Opportunities Committee of the Scottish Parliament review on *Female Offenders in the Criminal Justice System* (2009) McIvor and Burman (2011), HM Inspector of Prisons for Scotland, Commission on Women Offenders (2012), Soroptomists (2014). The Scottish Prison Service (SPS) were proactive in the aftermath of the Commissions’ Report, commissioning Reid Howie Associates (2012) to chair a series of meetings across the country intended to consider the Commission Recommendations (specifically the six recommendations that were addressed to the prison). In 2015, the Scottish Prison Service held an international symposium which considered how to best move

Prisons are filled with the most marginalised members of society, highlighting the underlying structural inequalities that characterise capitalism. Recognition of this inequity is reflected in many of the various enquiries and reports which have been produced. Perhaps inevitably, recommendations focus upon responding to women's 'needs' within the context of the criminal justice system, either through programmes and interventions in prison, or in specifically devised services for 'women offenders' in the community. There is ample evidence to illustrate that many women in the criminal justice system, and specifically those who end up in prison, have significant experiences of poverty, problematic drug and alcohol use, mental health problems, abuse, violence and bereavement (Carlen, 2008; Commission on Women Offenders, 2012; Malloch and McIvor, 2013; Malloch et al, 2014). Despite widespread acknowledgement of the significance of structural social problems (poverty and inequality) in relation to women's criminalisation, 'official' inquiries have consistently focused upon the penal context; even though most people involved recognise the limitations of addressing social justice issues via the criminal justice system (Carlen, 2008; Malloch et al, 2008). The circumstances of many women in prison highlight the inequity of attempts to obtain criminal 'justice' in a society characterised by inequality, poverty and marginalising structures. As Ruggiero (2010: 5) notes: 'There is nothing utopian in attempts to redress "remedial injustices"'.

There is general agreement that the ongoing increase in the number of women who are imprisoned in Scotland, can be attributed to the increasing criminalisation of experiences of distress (Malloch and McIvor, 2011), responded to by the increasing application of more punitive sentencing policies (McIvor and Burman, 2011). Piven and Cloward (1971) showed how the function of welfare was to 'regulate the poor', and more recently, Wacquant (2009) illustrated how welfare and penal interventions are increasingly merged. Gelsthorpe (2010) has pointed out that this merging is particularly pertinent to women, with a welfare system which both punishes and controls through what Wacquant (2009, 2012) calls the 'double regulation of the poor'. Within the penal context, women's 'needs' are often reinterpreted as potential criminal 'risks' (Hannah-Moffat, 2001; 2008).

The disparity in visions between what is most 'needed', at a broader level, is resonant of Nancy Frasers' analysis of discursive power surrounding the struggle

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forward following the decision not to proceed with plans for HMP Inverclyde, producing a report, *From Vision to Reality: Transforming Scotland's Care of Women in Custody* (SPS, 2015).

for the interpretation of ‘legitimate social needs’ as inherently political. She notes: ‘Dominant groups need interpretations intended to exclude, defuse, and/or co-opt counter-interpretations’ (Fraser, 2013: 59). These interpretations are themselves ‘acts and interventions’.

With all major reviews into the female penal estate, and despite their broad vision for change, there has been ongoing selective endorsement of key recommendations, thereby limiting their overall potential for radical reform. A number of recommendations of specific relevance to the prison were set out by the Commission for Women Offenders (2012), including the reiteration of previous concerns about links between mental health programmes and interventions in prison and the community, use of remand, staff training and, significantly, a call to replace Cornton Vale with a smaller, specialist prison<sup>16</sup>. While proposals put forward for change may indeed be ‘radical’ within a context of current penal policy, they can hardly be described as such in the broader social, political and economic landscape. Indeed, proposed reforms have frequently been based on establishing the ‘vulnerabilities’ of women who encounter the criminal justice system, arguing in favour of compensatory programmes, therapeutic interventions (on an individualised basis) and improved relationships (multi-agency collaborations, individual and agency and often aimed at enabling women to improve their interpersonal skills when dealing with others) (Corston, 2007; Commission for Women Offenders, 2012; Scottish Prison Service, 2015).<sup>17</sup>

However, until attention is turned to diagnosis and critique **outside** the criminal justice system, the circumstances of the women who come **into** it, are unlikely to change. There have been attempts to address this through policies aimed at ‘social inclusion’, improved support to access benefits on release from prison, inclusion of welfare rights workers<sup>18</sup> in prisons and community-based services for women, and mentoring aimed at linking women into mainstream services. However, the challenges of securing effective through-care provisions continue (Dryden and Souness, 2015). In essence, the bounded knowledge of

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<sup>16</sup> A call previously made by Carlen in 1982 on the basis that most women could be more appropriately dealt with by non-custodial measures; the minority of women who merited secure custody could be held in a small unit; and an open unit should be provided for long-term female prisoners.

<sup>17</sup> And practically all ‘official’ inquiries into women and the criminal justice system both in Scotland and internationally.

<sup>18</sup> Welfare rights workers, also known as welfare benefits advisers, provide free information, support and advice about welfare benefits and other areas such as housing, work and money.

criminal justice isolates a problem that is much more generic and explicitly linked to the structural organisation of capitalist society.

### **Penal versus non-penal ‘alternatives’**

*‘There can be few topics that have been so exhaustively researched, to such little practical effect, as the plight of women in the criminal justice system’ (Corston, 2007:16).*

Lack of significant progress has not been the result of disagreements about the need or desire to change things as they apply to women who encounter the criminal justice system; nor is it the result of lack of imagination. However, most ‘official’ attempts at reform, while they have much to offer, are limited by partial implementation, short-termism, and the deleterious effects of structural issues outside the criminal justice system itself. The ‘realist’ vision of simply reducing the female prison population runs into competing visions and this has a significant impact on the alternative practices that are presented. On the one hand, there has been an acknowledgement that advocates of the abolition of the prison system would do well to begin with women prisoners (Pate, 2013). Indeed, explicit blueprints have already been presented by Pat Carlen when, as far back as 1990, she provided clear arguments about the possibility of significantly reducing the female prison population and proposed practical steps regarding how to achieve this. Contrast this however with the visions of those with interests in retaining existing institutions, such as the Scottish Prison Service (SPS) and HM Prison Service. Their ‘penal utopia’ involves improving the penal estate, transforming ‘imprisonment’ for women within limited boundaries, and to be fair, with aspirations to deliver a useful and ‘effective’ service. SPS in particular, following the recommendations of the Commission for Women Offenders (2012), immediately began to develop plans for a new prison which would address the shortcomings of the existing system and which would provide an establishment that catered for those incarcerated within it, arguing that prison **can** provide interventions that address the ‘needs’ of women who come into conflict with the law. For abolitionists, and many penal reformers, this development was met with horror, highlighting existing concerns about the creation of the ‘therapeutic’ prison; a feature in the ‘exponential growth in the international women-prisoners reintegration industry’ (Carlen and Tombs, 2006: 339). The therapeutic language of intervention which has characterised provisions defined as ‘gender-responsive’ in relation to community

punishments now features in the vocabulary of the gender-informed prison (Hannah-Moffat and Shaw, 2000; Hannah-Moffat, 2001).

While there is no doubt that prisons, where and when they exist, would serve society better as humane and purposeful institutions, experience has shown that when prisons are able to deliver services that are lacking in the community (i.e. drug treatment, trauma provision, education) then the likelihood of women being sent there in order to access such services increases. As a result, the many inquiries, reports and commissions which have been carried out have made recommendations which are wide-ranging and take account of the importance of 'service redesign' in the community (Community Justice Centres, multi-disciplinary teams and key workers, intensive mentoring, supported accommodation, appropriate and accessible mental health services, training for criminal justice professionals). The Commission on Women Offenders (2012) also made recommendations in relation to alternatives to prosecution (fiscal work orders, new powers for Procurators Fiscal in relation to composite diversion orders, new powers for police to divert women to community justice centres with conditional cautions); and alternatives to remand (bail supervision plus, further examination of electronic monitoring as a condition of bail, the need to ensure communication and awareness of alternatives to remand in custody). Other areas which the Commission considered and made recommendations on were sentencing and governance of community justice.

However, international evidence shows that attempts at penal reform are limited when proposals are partially implemented, particularly those which depend upon enhanced community provisions *and* a reduction in prison places. For example, a central recommendation from the Social Work Services and Prisons Inspectorate (2008) was that an expansion of community provisions should be accompanied by a cap on prison places. This was intended to ensure that community resources were used *in place of* custody, thus avoiding potential problems of 'net-widening' whereby increased numbers of women were drawn into the criminal justice system to access resources that were problematically absent in local areas. This cap was never introduced (see Tombs, 2004). Updates on the implementation of the Transforming Rehabilitation agenda<sup>19</sup> in England and Wales have also noted concerns that more women may be drawn into the

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<sup>19</sup> Transforming Rehabilitation is the name given to the government's programme for the management of criminal justice in England and Wales. The programme has involved the outsourcing to the private sector of a large portion of the probation service in England and Wales.

criminal justice system and kept there for longer (All Parliamentary Group, 2015).

The proposed closure of Cornton Vale and its replacement with smaller units across the country has noticeable parallels with Canada following the closure of Kingston Prison for Women (also deemed 'unfit for purpose') and its replacement with smaller institutions (Correctional Service Canada, 1990). Despite the involvement of campaign groups at the outset of this process, Hannah-Moffat and Shaw (2000) and Hannah-Moffat (2001 and 2008) highlight the ways in which policies aimed at enhancing the circumstances of women within the criminal justice system were highly vulnerable to distortion and manipulation in the process of implementation and practice (see also Malloch et al, 2008).

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

The search for 'alternatives' should not lead to provisions that are simply an 'alternative' to the prison. Community punishments, often presented as the antidote to custody, can themselves marginalise and stigmatise individuals and they are often upheld as solutions which fail to address the underpinning assumptions that characterise the justice system, often extending punishment into other time and space (Cohen, 1985; Christie, 2000). Problematically, debates too often become formed around resources for women as 'offenders' rather than directed towards reducing, or abolishing, the prison. Within this context, any call for closure of the women's prison is met with a 'taken-for-granted' claim that 'something needs to be done about criminal women'. The focus is retained on criminal justice solutions, or as Sim (2009: 155) has noted '(...) whenever a crisis has erupted, the prison has "always been offered as its own remedy" to its problems'.

## Creating Change

In Scotland, the debates and activities surrounding the Scottish Referendum on independence in 2014 were characterised by grass-root activism which has had a number of broader effects. Women for Independence (WFI) emerged at this time, as an organisation for women but which looked more broadly (and critically) at Scottish society with a view to supporting an independent nation. One of their first campaigns was to highlight the proposed development of the new national prison for women and to campaign against it. Although joining a campaign that was already well-established (in the academy and reform organisations, but with little footing amongst the wider population), Women for Independence were able to make a significant contribution to the reversal of these proposals for the national prison which, although in line with calls from the Commission for Women Offenders (2012) for the closure of HMP Cornton Vale, did not fit with their recommendations for an alternative to it. Part of this campaign brought women who had been recipients of imprisonment and/or community disposals forward to share their experiences with a wider group of women, many of whom knew little about the administration of justice and how criminal justice is experienced. The outrage that many felt on hearing these experiences led to a broader campaign, Justice Watch, which is currently ongoing and where women (members of WFI) are encouraged (and supported) to sit in courts across the country and to observe the administration of 'justice' as it is applied in practice. Although in its early stages, this will potentially do much to highlight the nature of gendered justice and it will be interesting to see what broader impact it has on the collective imagination. WFI produced a manifesto which has two aims: (i) that Scotland has the most progressive justice system in Europe by the year 2020; (ii) to achieve social and economic justice for women through campaigning, informing and lobbying for change. Their aim is to establish a Women's Justice Service – not just for women who have been charged with an offence – but for all women in need of a service. And while the emphasis is on gender, this is underpinned by a recognition that society is characterised by inequality and poverty which is manifested in the administration of 'justice'. WFI aim to use their 'Justice Watch' campaign to inform the wider public about the process of justice as it is enacted in courts across Scotland; to inform the wider population about the economic sense of change; and to achieve cross party support for their proposals. Their hope is to remove prison as an option for remand or sentence for all minor offending; for the impact on any remand or sentence decision on the woman, her children and

family and the wider community to be acknowledged and used to inform decisions; and to reinvest money that will be saved from custody in community solutions. Using this activist approach, and exploring common experiences of women inside and outside the prison, provides a space to unite around the reduction of the prison system, with an eye to the only context in which that is possible – political, social and economic change. Ultimately, change requires the reduction of poverty, inequality and social deprivation; addressing the process of criminalisation and reducing the social infliction of pain.

The 2014 Scottish Referendum was responsible for a rekindling of an ‘optimism of the will’ (an essential requirement for transformation according to Gramsci (1971 [1929]))<sup>20</sup> which also came about as the result of a desire to ‘do politics differently’.<sup>21</sup> To make substantial change we need to imagine what is ‘not yet possible’. Yet as Bammer (1991: 47) notes: ‘[ ] even as our radical theories and politics push to extend the boundaries of the possible and imaginable, we are always also bound by and to the very structures we are trying to escape’. In this respect, utopia is not ‘no-place’ but that place which is blocked from being so by the power of established society. Utopian thinking, like abolitionism, challenges orthodox views of what ‘crime’ is, particularly in relationship to property ownership and the law, and processes of criminalisation that arise from this relationship (Hulsman, 1991; Christie, 2000; Ruggiero, 2010). Both also require a reconceptualising of ‘justice’ and its position within the social structures of society.

Wright’s ‘real utopia’ is a ‘good place’ that already exists. There are pockets of inspiration within the justice system, and positive practices within the community ‘justice’ setting. However, an abolitionist utopia for me involves de-centring the prison, looking beyond community punishments and instead developing the resources that are required to support healthy communities more broadly: a citizen’s income; resourced health services; education and employment opportunities; safe places to live and work, where local communities are able to claim resources from the State and to have democratic control over how they are used. We have come some way in securing these resources – and certainly grass-roots movements like Women for Independence are prepared to stake their claims within society and will (hopefully) have an impact on how ‘justice’ is understood more broadly.

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<sup>20</sup> Gramsci stated he was ‘a pessimist because of intelligence but an optimist because of will’ (1971[1929]).

<sup>21</sup> And although the ‘Yes campaign’ which led this charge was unsuccessful in achieving independence, the legacy of local activism was evident in 2015 when Scotland’s voting patterns were transformed in the General Election.

For me, the power of utopia is the opportunity it provides to examine ‘traces’ or ‘impulses’ of hope and move towards them without necessarily enacting a pre-mapped out programme of action. Perhaps reimagining justice for women first requires breaking existing illusions of the therapeutic prison or the ‘penal community’, rather than creating them; locating practical reforms within an emancipatory social theory. If we continue to think within existing paradigms, we will recreate the structures in which we are already located, so we need to imagine in entirely new ways.

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