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Introduction



This edition of the ECAN bulletin demonstrates the diversity of the issues supported, debated and developed at the Howard League, covering everything from the challenges facing today's police service to the work of penal reformers in the

nineteenth century. There is space for all these issues and we use these ideas and debates to contribute to real change.

ECAN continues to grow and develop. We have re-ordered your entries on the network so that you can search by research interest as well as by name. Do give us feedback on this and if you wish to update your entry email [Jenny Marsden](mailto:jenny.marsden@howardleague.org).

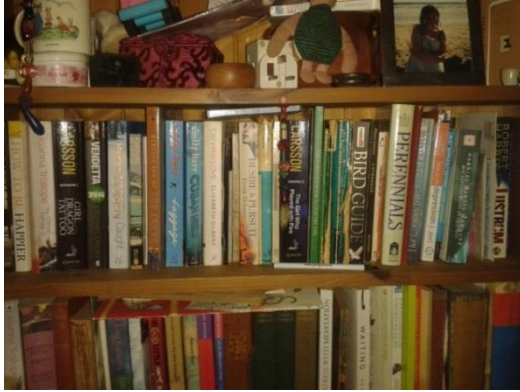
Please join me at the Howard League's *What is Justice?* reception at the BSC conference in Liverpool on Friday 11 July at 6.30pm. I will be asking you for your one idea for change in the criminal justice system to make it more effective and just, while still maintaining public confidence.

Lastly, I would like to congratulate the recipient of the Howard League's bursary to the BSC conference, Linnéa Osterman from Surrey University. An article based on her conference paper looking at women's routes out of the criminal justice systems in Sweden and England will appear in a future ECAN bulletin.

Anita Dockley, Research Director

News

Books for prisoners



Following the Government ban on ‘perks and privileges’ for prisoners in November 2013, Howard League Chief Executive Frances Crook wrote an [article for politics.co.uk](http://politics.co.uk) calling for Secretary of State for Justice Chris Grayling to reverse his “nasty and bizarre policy”. Since then we’ve joined forces with scores of distinguished authors, prison staff, members of the public, and politicians who share our belief that reading is crucial for rehabilitation, and we’ve had a fantastic response to our [#booksforprisoners campaign](https://www.howardleague.org/campaigns/books-for-prisoners).

The Howard League believes that the blanket ban on books is unjust. Books are not a privilege, they are essential. Time in prison should be used for education and rehabilitation; without books, this is impossible. The Government claims prisoners will still be able to access books through prison libraries, yet [our research](#) shows library access and resources are severely underfunded – a situation that has been worsened by recent cuts.

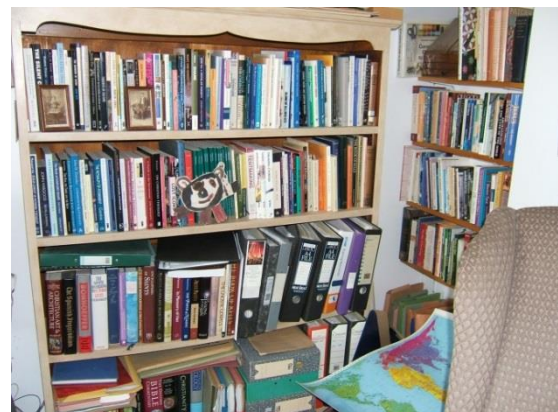
As well as books, this policy stops prisoners receiving things like underwear, clothing, stationary and even homemade Christmas presents from children. Prior to the introduction of this rule, prison governors had discretion over how many and what type of parcels prisoners could receive. The Howard League for Penal Reform and English PEN requested a meeting with

Mr Grayling to discuss changes to the policy, which was refused.

We invited supporters of the campaign to tweet or email in a #shelfie – a picture of their bookshelf to represent the books they would like to send to a prisoner. There’s still time to show your support: just send a picture to @MojGovUK using the hashtags #shelfie or #booksforprisoners. If you don’t use social media you can send a picture to us at info@howardleague.org.

The campaign gained further traction and media coverage with ‘The ballad of not reading in gaol’, a poetry reading and demonstration outside Pentonville Prison, attended by, among others, Poet Laureate Carol Ann Duffy, Vanessa Redgrave and Kathy Lette. We have also asked supporters to write to their MP about the restrictions, and tell us which book they would like to send to a prisoner. A Night in the Cells (#CellNight) sees a range of high-profile figures from the literary and arts world, including publishers and literary agents, competing in a charity auction to be one of six people locked up in cells in the Pavilion Books offices on the night of Thursday 19 June – sponsor Howard League Chief Executive Frances Crook [here](#). See our [Act Now](#) page for more details on how you can get involved in the campaign.

The campaign has attracted a large amount of media coverage, including articles in the [Guardian](#), the [Independent](#) and the [Telegraph](#).



Brinsford: A prison of filth and failure



Following a damning [report](#) by HM Inspectorate of Prisons (23 April), Chief Inspector Nick Hardwick named Brinsford prison as the worst prison he has come across during his tenure. Responding to the report, Chief Executive of the Howard League Frances Crook said “This report should also be a wake-up call for magistrates who need to stop sending teenagers to dangerous and failing institutions... and should instead make use of robust and effective community sentences run by probation services and available in their local areas”. The report finds higher rates of self-harm than other prisons, unsafe arrival procedures, and 15 out of an earlier 18 recommendations still to be met.

Bar G4S and Serco from bidding for government contracts

[A new dossier](#), outlining years of failure by G4S and Serco in delivering justice contracts, has been compiled by the Howard League and was presented to police on 13 May. The two multinationals are being investigated by the Serious Fraud Office (SFO) and have agreed to repay a total of more than £180million after it emerged that they had overcharged the taxpayer for electronic tagging. Presenting the dossier was a protest against ministers’ decision to allow G4S and Serco to resume bidding for contracts while the SFO, itself a government department, continues its investigation. The report, titled *Corporate Crime? A dossier on the failure of privatisation in the criminal justice system*, features a litany of deeply

concerning cases, and can be read on the [Howard League website](#). Read about the police response to the dossier on [Frances Crook’s blog](#).

Child arrests research published



the Howard League for Penal Reform

Key points

- In 2013 there were 150,273 child arrests in England and Wales.
- The number of child arrests since 2008 has reduced by almost two thirds (59 per cent).
- There were 4,127 arrests of primary school age children (aged 5 and 11 years old) in 2013.
- Numbers of child arrests are affected by offender policing styles, with variations across police service areas. A review deep from target-driven policing to community resolution and restorative justice has helped to reduce unnecessary child arrests.
- Between 2008-2013 overall numbers of child arrests fell, with 80 per cent of police service areas successfully reducing child arrests by at least half over the six-year period.
- Most police forces have identified successful local initiatives that involve police, parents and community, involve victims, and avoid criminalising children.
- This analysis is based on freedom of information data from 43 police service areas and the British Transport Police in England and Wales. Data was provided on the number, age, gender and ethnicity of child arrests in the study period.

The Howard League has published new research on child arrests in England and Wales in 2013. The briefing presents analysis based on freedom of information data from all 43 police service areas in England and Wales, and the

British Transport Police. The data shows that the number of child arrests since 2008 has reduced by almost two thirds (59 per cent). This reduction follows a successful Howard League campaign aimed at keeping as many children as possible out of the criminal justice system. Frances Crook, Chief Executive of the Howard League for Penal Reform, said: “Most police services in England and Wales have developed successful local initiatives that resolve issues quickly and cheaply, involve victims in the justice process and, crucially, avoid criminalising boys and girls.” The briefing is available to download on the [Howard League website](#).

Prison deaths rise to highest level since records began

Figures released by the Ministry of Justice (24 April) reveal that the number of people dying in custody has risen to its highest level since records began. The [‘Safety in Custody’ statistics](#) indicate 215 people died in England and Wales in 2013, a 9 per cent increase from the previous year. Seventy-four deaths were recorded as self-inflicted – a rise of 23 per cent from 2012.

The number of serious assaults in prisons rose by 25 per cent from 1,255 in 2012 to 1,575 in 2013. Frances Crook, Chief

Executive of the Howard League for Penal Reform, said: “The statistics could hardly be starker...A complacent attitude towards overcrowding and overuse of custody, combined with cuts to budgets and staffing, is making prisons into dangerous places.”

Sex commission update



Commission on Sex in Prison



Key points

- Prisons in prison are particularly vulnerable and are more likely than other places to have a history of sexual violence or sexual abuse.
- Prisoners are at greater risk of sexual violence than other prisoners.
- There is evidence that some women have sexual relationships with staff who offer them protection and other prison services.
- Prison staff reported that women were more likely to have sexual relationships with staff than men.
- The Prison and Probation Inspectorate found that intimate relationships between women could be a source of tension or of trading in drugs.

- Her Majesty's Inspectorate of Prisons found that there was a lack of evidence in some prisons to show that sexual violence and sexual abuse were being prevented or responded to.
- Prisoners are at greater risk of sexual violence than other prisoners.
- Some women prisoners have been forced to have sexual relationships with staff who offer them protection and other prison services.
- There is evidence that women have sexual relationships with staff who offer them protection and other prison services.
- The Prison and Probation Inspectorate found that intimate relationships between women could be a source of tension or of trading in drugs.

Key points

- There is evidence to show that men in prison have sexual relationships with staff who offer them protection and other prison services.
- It is difficult, if not impossible, for prison staff to be able to distinguish between consensual and coercive sexual relationships.
- Prisoners need to ensure that they protect their individuality.
- Prisoners should be able to access condoms confidentially to minimise the risk of sexually transmitted infections.
- Prisoners have a duty under the Equality Act 2010 not to discriminate against anyone.
- Prisoners who are vulnerable to sexual violence in prison can be protected by staff as disciplinary measures to ensure they are protected.
- The prison population is a high-risk group for sexually transmitted infections and HIV.
- Prison staff need training on how to deal with sexual violence between prisoners.
- Most prisoners will return to the community.
- Sexual health services are important for all prisoners and for the wider society.

For 18 months an independent [Commission on Sex in Prison](#), set up by the Howard League, has been hearing evidence about consensual and coercive sex behind bars. Now, the inquiry's work has been hampered because the Ministry of Justice (MoJ) has denied researchers access to interview serving prisoners. The MoJ's decision has been widely criticised after it was reported by three national media organisations – [Politics.co.uk](#); the [Independent on Sunday](#); and the [Guardian](#). The purpose of the Commission is to understand the nature and scale of sex in prisons; investigate the key issues; and offer recommendations to make prisons safer.

End to routine strip-searching of children

Routine strip-searching of children in prison has ended at last – thanks to effective campaigning by the Howard League. The change was announced in a new [Prison Service Instruction](#), which came into force earlier this week. It follows months of lobbying by the Howard League. We found that children in prison had been strip-searched more than 11,000 times in a year. In some cases, the children had been

victims of physical or sexual abuse in the past. Frances Crook explained our research in a blog last year, which you can read [here](#).

Review into self-inflicted deaths in NOMS custody of 18–24 year olds

Lord Toby Harris is leading an Independent Review into self-inflicted deaths of 18–24 year olds in NOMS custody. The purpose of the review is to make recommendations to reduce the risk of future self-inflicted deaths in custody. The review will focus on issues including vulnerability, information sharing, safety, staff prisoner relationships, family contact, and staff education and training. A call for submissions is now open and contributions should be received by midnight on 18 July 2014. [More information is available online](#).

High Court appeal against decision on legal aid cuts for prisoners

The Howard League and the Prisoners' Advice Service (PAS) announced that they will appeal after the High Court dismissed a legal challenge to legal aid cuts for prisoners. The charities claim that cuts to legal aid will create an inherently unfair system. Despite acknowledging this, Mr Justice Cranston and Lady Justice Rafferty concluded that these are political issues not legal ones.

Despite recognising that all judicial review mechanisms “have their drawbacks and gaps” and that “none may match the assistance which has been provided by lawyers...under the existing system of criminal legal aid for prison law” the High Court felt the appropriate forum to stage this battle is the political, not legal arena. Although The High Court disagreed with the current challenge, it did not rule out the possibility for successful future claims. Frances Crook, Chief Executive of the Howard League for Penal Reform stated: “We will take this to the Court of Appeal as the High Court made fundamental errors in its understanding of some of the key points.”

Policing for a better Britain

Jennifer Brown, Co-Director of the Mannheim Centre for Criminology at LSE and Deputy Chair of the Independent Police Commission

The Independent Police Commission report entitled *Policing for a better Britain* and its companion academic volume *The Future of Policing* present an amalgam of expert opinion, academic thinking and the attitudes of police and public distilled through the deliberations of a panel chaired by Lord John Stevens. The report and book contain a wealth of detail and lay out current thinking about roles for the police, qualifications, structures, policing styles and governance arrangements. The title of the Commission's report gives a clue to the role that is recommended for the police, i.e. they contribute to the well-being of the citizen by keeping them safe and free from harm.

Since the publication of the report on 28 November 2013, questions have been raised about the independence of the Commission. Whilst being conceived by Her Majesty's opposition as an alternative to a Royal Commission (the last one specifically on policing took place in 1960–62), the panel put together by Lord Stevens was no mere creature of the Labour Party, nor indeed were the 45 academics who wrote chapters for the book. They and the 39 members of the Commission collectively have a wide range of expertise and hold views across the political spectrum. The

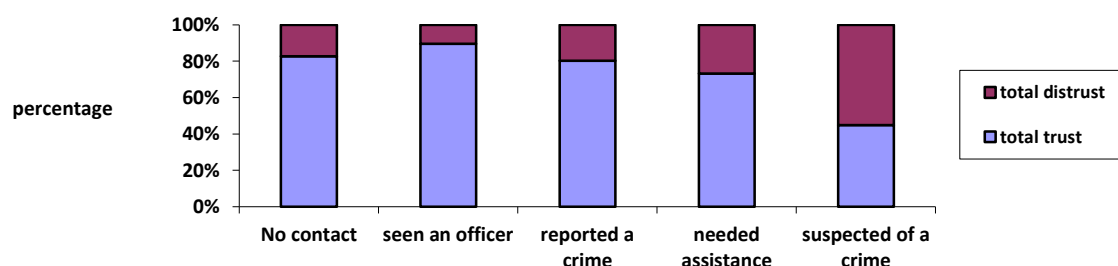


objective of the process was to mimic the workings of a Royal Commission as far as possible, take soundings from those working within the police service as well as the public,

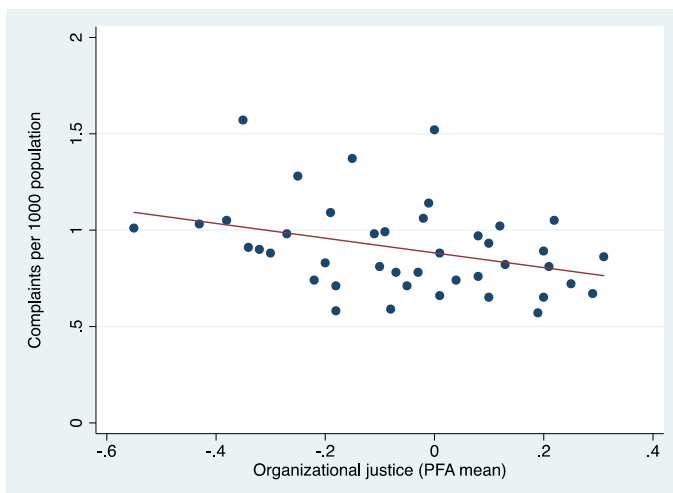
and support conclusions from a thorough review of the available academic literature on police and policing. The Commission thought it especially important to consult as widely as possible. Three surveys were undertaken of those working within the police and also questions were posed in a survey of public attitudes by YouGov. What came out of these surveys was a deep sense of discomfort about the impact on officers and staff of the present police reforms, a drop in morale and some uncertainty about the future. As Louise Casey found, the public want a police service that takes action, is approachable and supportive of victims of crime.

A crucial recommendation of the Commission is the centrality of local neighbourhood level policing, delivered in a respectful and reflective style and supported by partnerships. Underpinning all of this is the concept of legitimacy inspiring trust and confidence and the belief that officers and support staff are governed by professional

Percentage trusting and distrusting police by type of contact



Source: YouGov poll sample of 2020 adults 26–29 April 2013.



competence and ethical practice. Over the years the levels of trust in the institution of policing have largely held up, being at about 65 per cent as shown by MORI polls. Incidentally the Commission's poll evidence showed that there was a declining level of trust as people moved from no contact to potential conflictual contact with the police, with young people and those from ethnic minority communities the least trusting.

There are essays on a wide range of topics in the book by new scholars as well as established academics. Ben Bradford, Jon Jackson and Mike Hough explain the ideas behind procedural justice which at its simplest proposes that greater co-operation is obtained if people are treated fairly and within the bounds of due process. This is as true for the people who work within the police service as it is for governing the relationships between the police and the public. Our survey evidence showed that the more police officers believe their own organisation treats them fairly e.g. in terms of access to promotion and allocation of workload, the less likely the public are to make complaints after an encounter with the police.

The graph above shows that the more police officers in a particular force feel their organisation treats them unjustly, the more likely members of the public are to complain about police behaviour.

Mike Rowe makes a special mention of the case of stop and search and how this

has had the unintended consequence of disrupting both trust and confidence between young black people and the police. Louise Westmarland and Anja Johansen discuss both the ethical conduct of individual officers and the means by which police organisations are held to account. Kevin Stenson and Dan Silverstone talk about accountability in terms of who provides policing and argue that as the police are a symbol of national values they cannot simply be outsourced 'like rubbish collection to commercial providers'.

Critical to changing the ways in which policing is 'done' is an analysis of transformation in the police occupational culture. Chapters by Matthew Bacon, Penny Dick and colleagues, and Matthew Jones explore this concept and how difficult it is to ask people to give up familiar ways of working and embrace change. The route to achieving this is through higher educational standards and standards of practice based on research evaluations. Ways and means to do this are explored by Gloria Laycock and Nick Tilley who see police as professional problem solvers. Robin Bryant and colleagues from Christchurch University of Kent set out a programme to enhance the qualifications of people entering the police service and determine what level is expected of officers in order to obtain the next rank. The book also presents lessons from abroad, notably America and Australia where there have been tangible results following experiments to change through professionalisation. What is being argued for is a shift from an informal apprenticeship craft model whereby new entrants learn their practice from those within, to a formal professional model with an accredited body of knowledge setting guidance standards. As spelt out in the book (p.5) learning by sitting next to 'Nelly', whereby informal cultural knowledge of how to do things is conveyed through observing how your fellow officers behave, would be replaced by learning through evidence based practice.

Informal cultural transition of knowledge is experiential common sense which may be biased, whereas formal education is objective and externally certified.

The book covers specific areas of crime including counter terrorism (by John Grieve, a former Assistant Commissioner in the Metropolitan Police), hate crime (by Paul Johnson) and public order, by Cliff Stott and Hugo Goringe, and also by Pete Sproat. These authors all discuss changing practice underpinned by intelligence led policing (reviewed by Karen Bullock) and prevention (outlined by Alex Hirschfield and colleagues). Proactive crime prevention such as better security for cars has had an impact on the falling crime figures. Clearly, crime prevention goes beyond just the police and critical to the policing of any crime is community engagement. John Grieve in particular draws attention to the skill required in managing the balance between robust enquiries and community sensitivities in the case of counter terrorism. As he says, the peace may be lost if minority community members are antagonised and potentially radicalised by what may be experienced as oppressive policing.

The book attempts not only to ask some critical questions (why do the police matter? by Ian Loader, what are the police for? by Andrew Millie) but also to offer some new directions (reinventing the office of constable by Martin Innes, blending public and private models of policing by Mark Roycroft, partnership working by Megan O'Neill.) The Commission's report states very clearly that the police have a broad mission beyond the crime fighting rhetoric of the present Government. As Ian Loader puts it, this rhetoric finds a certain resonance with the inner crime fighter beating within the breast of many a police officer. The police of course do very much more than investigating crime but, as Andrew Millie rightly says, they cannot do everything. There is much to recommend an approach

that seeks to promote well-being and improve safety by removing or mitigating the greatest harm that impacts the more vulnerable. Some forces such as Lancashire are already using more sophisticated models that take into account indicators of deprivation when considering how to allocate resources. Martin Innes in his chapter describes a direct role for the community in these decisions.

A chapter by the historian Clive Emsley reminds us of the original Peelian principles, which the Commission's report revisits and recasts, taking on board the development in thinking about human rights. 'The police are the public and the public are the police' said Peel, and Peter Manning's essay tells us about the crucial symbolic role the police have in enshrining values of fairness and integrity. Two of the recast principles are of particular note: the police must seek to carry out their tasks in ways that contribute to social cohesion, and the police must be answerable to law and democratically responsive to the people they serve. Policing is one of the means by which members of society express concern about each other. When people are victimised, the police represent one way to recognise the harm and to some extent repair the damage. To ignore or fail to properly investigate exacerbates the feelings of unfairness and hurt. Policing must be carried out within the law and also the tenets of human rights. The police are public servants, engaged in choices about how to distribute limited resources. As such it is reasonable that the citizen has some involvement in that decision making. The Commission came to the view that the democratic principle was right but the invention of police and crime commissioners was not the right vehicle by which to achieve this.

Clearly the police service has been enmeshed in scandal and criticism in recent years which can only erode public trust and confidence thereby undermining its legitimacy. *The Future of Policing* and the

Commission's report offer a road map to more effective policing, thereby making a contribution to a better Britain.

Dr Jennifer Brown is a chartered forensic and chartered occupational psychologist. Dr

Brown is currently co-director of the Mannheim Centre for Criminology with Professor Robert Reiner and Dr Mike Shiner. She is also the Deputy chair of the Independent Police Commission looking into the future of policing".

The pregnant woman in prison

Laura Abbott RGN, RM, BA, BSc(hons), MSc, Senior Lecturer in Midwifery, University of Hertfordshire, Doctorate in Health Research Student

Introduction

There are currently 4200 women in prison, many of whom are pregnant or already mothers. Pregnant prisoners have unique and complex physical and psychological needs. The need for a 'one-stop shop' for health care was recommended by Baroness Corston in 2007. However, many of the recommendations made by Corston in 2007 have not been met. This article gives an overview of the needs of the pregnant prisoner, the social inequality of women in prison and the cycle of deprivation and abuse that often leads to criminal behaviour in women. The article makes recommendations for future policy and discusses the gender issue of UK prisons, which have been historically designed by men for men but are facilitating the incarceration of women.

Facts and figures

There are approximately 4200 women who are incarcerated at any one time in the UK (Ministry of Justice (MoJ), 2013). The majority of these women are already mothers, or could be classed as childbearing women. Many women enter the prison system already pregnant and this is often only discovered when they have initial health checks (Corston, 2007). Many of the women in prison could be considered as victims themselves. They may have suffered at the hands of violent partners or be victims of sexual abuse and rape. This can in turn lead to women becoming self-harmers or substance abusers to ease the emotional pain they may be suffering (Corston, 2007; North, 2006 and Gullberg, 2013). The cycle of abuse, self-harm and substance abuse will often relate back to childhood and many women were in care as children themselves. The Social Exclusion Unit (2002) reports that the children of prisoners are much more



at risk (approximately three times) of suffering with mental health problems themselves in comparison to children whose mothers are not in prison. The Ministry of Justice (2012) figures show that children whose mothers were in prison faced a higher

likelihood of becoming criminals or committing crime when they were older when compared to those who had fathers in prison.

Pregnant women's health in prison

A systematic review in *The British Journal of Obstetrics and Gynaecology* by Knight and Plugge (2005) compared pregnant prisoners to a similar complex and vulnerable group of women who were not in prison. The study looked at women imprisoned during pregnancy and health outcomes for the woman and baby by systematically reviewing the relevant literature and research. When compared with a normal, healthy population of women, the review found much poorer outcomes for imprisoned women. However, when compared with a similar disadvantaged group of women, not in prison, physical outcomes appear better for the babies of female prisoners. This could be due to having appropriate access to healthcare, better nutrition, the unavailability of drugs and alcohol, having shelter and being away from violent partners. More pre-term labours were reported in the prison population but women were less likely to have a low birth-weight baby. However, the systematic review only looks at physical outcomes such as birth weight and stillbirth rates and not psychological health. It would be unethical to undertake a randomised controlled trial and although two populations have been

compared in this review, often the numbers used are quite small especially in relation to stillbirth. The findings of this review are interesting in that it appears that physically, when compared to a similar disadvantaged group, the physical health of women and babies fair better in prison. While it is imperative that we look at the psychological effects of imprisonment on the pregnant woman, the improved physical health outcomes do need further analysis and create a strong argument for creating and maintaining approachable and accessible health care for all vulnerable and disadvantaged pregnant women.

The female prisoner as service user

The majority of women (up to 80 per cent) in prison have mental health problems (Social Exclusion Unit, 2002). The Department of Health policy *Midwifery 2020* (2010) outlines the need to create seamless maternity services for women with complex social needs, and the Francis report (2013) recommends delivering care which is compassionate despite the circumstances of the woman, and that service users should have greater involvement in the planning of their care. The impact on the social, psychological and health needs of the childbearing population in prison is multifaceted. Price (2005) described the services available for women in prison and found a vast variation in that service provision including the difficulties that midwives have in providing care. The scarcity of research regarding the needs of pregnant and postnatal prisoners is apparent when exploring the literature. Due to the nature of the complex social, physical and mental health needs of this vulnerable group it is an area that needs further exploration if as a society we are to ensure the cycle of poor parenting comes to an end. Standardising policy to incorporate the needs of the mother and baby should be a priority in order to promote health and wellbeing and facilitate the child's rights as well as the mother's.

Denise Marshall is a midwife who coordinates the charity 'Birth Companions' in London which supports pregnant prisoners and disadvantaged women in the community, and provides women with birth partners who give support during labour. Marshall speaks of the importance of incarcerated pregnant, birthing and postnatal women feeling like 'normal women', and stresses the importance of this unique group of pregnant women not feeling that they are just prisoners (Marshall, 2010). The birth companions help to give this group of women with complex physical and mental health needs an identity.

Social inequality

Social inequality in current times impacts upon pregnancy, motherhood and children (Oakley, 1996 and Graham, 2007). Goffman (1961) wrote about the sense of discourse and separation from society that a prisoner will feel and the deep impact upon psychological wellbeing this removal from society causes a person. There is a large amount of gender inequality within prisons, due to them being designed for and usually run by men, with policies – particularly those relating to security – specific to the male prisoner (Corston, 2007). Price (2005) discusses the gender divide in her descriptive study and suggests that the fact that prison is so male dominated has an impact on the pregnant prisoner's health and well-being. Women have different needs and most women do not exhibit the same kind of security risk as men, therefore Corston (2007) and Price (2005) suggest that policy should reflect the differences in gender.

Evidence from reports into the female prison system (North, 2006; Corston, 2007 and Gullberg, 2013) and recommendations from the literature (Marshall, 2010) suggest that the global causes of crime tend to stem from poverty and cycles of abuse, and poor provisions for female prisoners contribute to the cyclical nature of reoffending. It has also been suggested that increasing investment

in the health of female prisoners saves money in the long term. Hotelling (2008) suggests that poverty, poor education and drug and substance abuse leading to prostitution are often reasons why women end up in prison. This is supported by the evidence (Corston, 2007; North, 2006; Schupak (2010) and Greigore et al (2010)). From an economic standpoint, investment is imperative to ensure adequate health promotion and facilitation of schemes that support women in prison who may have been victims themselves. Corston (2007) and North (2006) suggest that rolling out services that support women prisoners is excellent value for money and can ultimately prevent costly reoffending behaviour.

The economic benefits of Corston's (2007) recommendation of having a 'one – stop' shop for all health care professionals to tend to women prisoners would make it a wise investment, especially for prevention of ill health and promotion of physical and mental well-being. However, Gullberg (2013) reports that few of the recommendations made in the Corston report have been followed. The economic implications of reoffending and childcare costs should be considered when investing in health and social care for the female prison population.

Separation distress

One of the most negative impacts of imprisonment for a woman is the increased distress that separation from her child or children can have on her and her children (Greigore et al., 2010). Corston (2007), North (2006) and Gullberg (2013) report some of the women's own stories of traumatic separation from their children, including fostering and adoption orders that lead to the social exclusion of women entering prison. Some of the women incarcerated are among the most vulnerable in society and the mental health conditions they suffer from are often exacerbated by previous abuse. Some women are substance abusers, again shunned by wider

society, and many have been excluded from school, employment and basic housing needs (Gullberg, 2013). The anguish that separation from their babies can cause imprisoned women, for whatever reason, may further impact on anxiety and depressive disorders exacerbating mental ill health. Care for these women from health professionals needs to be tailored specifically with a level of understanding about separation distress.

Gender inequality

Before imprisonment, many female prisoners have been the victims domestic and sexual abuse, have suffered from mental health conditions and have spent time in care impacting upon their social and economic existence. This results in social and gender inequality and has often led to criminal behaviour. Prison is a gender issue with prisons historically designed for men. Care for the pregnant prisoner is not standardised with no specific policy or PSO for pregnant women. There is a PSO relating to Mother and Baby units; however, this is pertaining to mother and baby units rather than pregnancy, childbirth and post natal specific. Guidance from organisations such as the National Institute for Health and Care Excellence and nursing and midwifery unions outline recommendations for pregnant women, and Prison Service Order 4800 outlines some recommendations for pregnant women albeit under the banner of women in general. Economically, no specific funding is available for the pregnant prisoner, rather, money coming from a larger pot designed for the whole community. Mother and baby units are available in some prisons but not all and so potentially women may be imprisoned far from their families and other children. Non-Government Organisations have made further recommendations but pressure groups for this cohort of women are not widely known and public sympathy is limited. There are pockets of excellent practice such as Birth Companions, but this

is not mainstream or UK wide and wholly reliant upon charity.

Recommendations

Separation of a mother from her children through maternity and social care provision has a multifaceted impact on society by perpetuating the cycle of deprivation and abuse. Many of the children born to prisoners are placed in care themselves, with the potential for a life similar to their own mothers. There are areas of good service provision but this should be made universally available and standardised. It is clear from the literature that changes need to be made, particularly in terms of specific policy, guidelines and economic investment in order to ensure a high quality of care for pregnant prisoners and their children. This in turn could go some way towards halting the revolving door of prison for the mother, and subsequently and potentially prevent her child from becoming a prisoner him or herself.

Laura Abbott qualified as a registered nurse in 1993 and a registered midwife in 2000. She has worked within the NHS and as an Independent Midwife and Supervisor of Midwives before entering education as a lecturer. Laura works fulltime as a Senior Lecturer and Admissions Tutor in midwifery at The University of Hertfordshire and is entering the 3rd year of a professional doctorate in health research. Laura will be undertaking some qualitative research into pregnant women's experience of prison. Laura is currently training to become a Birth Companion with the charity *Birth Companions* in North London who provide voluntary support for very vulnerable childbearing women in prison and in the community. She has recently been awarded funding from The Iolanthe Trust in partnership with the Royal College of Midwives (The Jean Davies Award) to go towards her work with disadvantaged women and families.

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Explaining the causes and implications of China's recent capital punishment reform

Michelle Miao, Howard League post-doctoral fellow at Oxford University's Centre for Criminology

Inspired by the worldwide campaign against the death penalty spearheaded by European countries, the reforms to capital punishment law and policies in the People's Republic of China (hereinafter PRC or China) in recent years have caught the attention of the global media. These reform initiatives, launched around 2006–2007 by Chinese political and legal authorities, signified a cautious and incremental attitudinal shift away from previously excessive punitive capital punishment policies. Compared to the extensive literature on the use of the death penalty in retentionist jurisdictions such as the United States, research on Asian capital punishment law and practices in general (Johnson and Zimring, 2009: 91) and especially China (Oberwittler and Qi, 2009: 4) is relatively thin. In particular, there has been little theoretical or empirical work focusing on the legal and institutional changes that have been made in China in recent years.

My Dphil research seeks to fill this gap in the existing literature by examining this subject from a variety of perspectives. It explains the causes, assesses the significance, and suggests the limitations of a series of capital punishment reform measures. By studying changes to the law, practices and institutions with regard to capital punishment in the past decade, my thesis endeavours to explain or further clarify several questions left unanswered by existing research.

The first of a series of questions asks *what* the causes of China's capital punishment reforms are. It has been argued that the most proximate cause for the reforms is a series of high-profile capital cases involving miscarriages of justice, which had been widely reported by the



Chinese media since the turn of the century. The suffering of capital offenders in these cases aroused significant public dissatisfaction, which may have triggered the reform movement. However, this was arguably an insufficient condition for

changes in law and practices on such a broad scale. My thesis took an alternative approach by demonstrating that reform was the product of interwoven social, political and legal dynamics that influence the administration of criminal justice in China.

In order to understand the history of the present, the thesis sets the reforms within an historical context. An overall survey of the imperial and republic capital punishment law and practices seemed pertinent to assess whether contemporary reform of capital punishment in China bears the imprints of imperial and republican historical traditions. The thesis found that pre-Communist social realities have influenced the modern law, policy and practice in various forms. Similarly, since the mid-2000s, remarkable changes in the field of capital punishment were made possible partly due to China's unique legal and cultural history, although it is unlikely that history is the sole determining force.

My thesis then moved on to study the immediate contemporary context of capital punishment reform. The research proceeded in two directions. On the international level, the research findings confirmed that the recent reform which garnered closer attention from the international community has been inspired by international influences. The thesis surveyed the dissemination of a European-

inspired 'international human rights dynamic' (Hood and Hoyle, 2009) in China, finding a 'resonance of human right appeals' (Johnson and Zimring, 2009: 9) in this non-Western country which is geographically remote, culturally different and politically distinct.

Discourses and practices with regards to capital punishment in China, in the context of the European-spearheaded abolitionist movement, have been closely entwined with discourses in the realm of human rights. China's official attitudes towards the death penalty and human rights have changed over the years. In response to international scrutiny, criticism, and pressures, China's official policies have progressed from an outright objection to a partial acceptance. The empirical evidence from the elite interviews I have conducted with Chinese legal professionals seems to suggest that international initiatives based on mechanisms of socialisation influenced China's practice and policies. Frequent reference to international jurisprudence and human rights norms during academic workshops, conferences and seminars attended by scholars, judges and practitioners is visible evidence of the impact of these external drivers on Chinese elites.

Meanwhile, paradoxically, the research also revealed significant limitations to these international initiatives in the existing political, legal and social institutional environment in China. These local conditions include political conservativeness surrounding topics of human rights and executions, hypersensitivity of political and legal organs to public punitive impulses and lack of judicial independence at various levels of the Chinese society among others.

Even with this acknowledgement of the impact of trans-local influences of European abolitionism, in today's Chinese society, human rights rhetoric and arguments still frequently meet with various degrees of scepticism and distrust. More

precisely, the dissemination of anti-death penalty ideals and norms in China has been an incremental process. Abolitionist influences have slowly made their way into the multi-layered Chinese social pyramid in a top-down fashion. China's unique socio-political terrains, coupled with pervasive information control and media censorship, substantially restrain the reach of international human rights influences.

Realistically speaking, the influence of human rights-based arguments against the use of capital punishment has been limited to a small group of legal elites. The general public, in contrast, has been deprived of the resource and channels to gain an unbiased and comprehensive view of the ideals and reasoning of a European-originated human rights language that promotes abolition. Worse still, the human rights rhetoric associated with China's death penalty reform has been demonised by state-controlled media outlets as a symbol of western hegemony and interference with China's sovereignty. Eventually, this popular resistance led to a backlash which fell upon the reform-minded advocates and judges who had pioneered China's reform.

Similarly, in the domestic realm, the thesis examined deep-seated political, juridical and social forces which inspired the authoritarian regime to limit its power to punish with death. The reform of capital punishment machinery arose in the institutional and legal conditions of the mid 2000s Chinese society. This was a post-reform-and-open era when China's politico-legal authorities became increasingly fragmented. Changes in social and political milieu have shaped – and are shaped by – the perceptions and values of the members within a given society on sensitive topics such as capital punishment. My thesis argued that capital punishment reforms have been shaped by and responded to the perspectives, attitudes and sentiments of elites and the general public in China. The connection between the reforms and

different social groups promoting or restraining reforms is key to understanding the apparent paradox between the centrality of capital punishment in the exercise of penal power in China and the apparent willingness of the Chinese politico-legal authorities to, at least conditionally and progressively, limit the use of capital punishment.

Indeed, capital punishment has been a central part of the Chinese criminal justice regime since its inception and has served an important function in terms of crime control and deterrence during China's transition towards a market economy since the late 1970s. However, the recent voluntary, top-down reform launched by China's top judiciary and sponsored by the Party-state appears to suggest that authoritarian political control does not contradict a movement towards gradual restriction and final abolition of the death penalty. How should we interpret these seemingly paradoxical facts?

In one of the main chapters of my thesis, I explain that the process of China's reform on capital punishment was defined by three pairs of tensions – central versus local, political versus judicial, and elitism versus populism. More precisely, the thesis looks at the conflict of popular impulses versus elite influences in the administration of capital punishment, the divergent interests and views between central-level and local-level penal authorities, and the tension between judicial autonomy and political interference in the context of China's use of capital punishment. This set of dialectic inter-relationships emerge from a narrative and theoretical vantage point. China is home to a vast array of complex and often conflicting ideas, values, forces, interests and sentiments. In particular, China's juridical institutions, at various levels and across a wide range of regions, are far from a monolithic body. The discursive space on capital punishment in China is a main site of competing factors and forces,

and the reform policies are essentially the outgrowth of this ongoing negotiation, competition and compromise.

Presumably, following this line of inquiry, the voluntary reconfiguration of the capital punishment machinery was a response to the prevailing forces which call for penal changes at a particular juncture of China's post-reform-and-open eras. In the early to mid 2000s, China's top court was looking for opportunities to gain back its judicial power in capital cases which had been decentralised for two decades. Similarly, with political power still dominating various aspects of social life in China, the gradual loosening of political control over the judiciary allowed the court system to consolidate its power to punish and to build its image as a reform-minded legal institution that fought hard for justice and fairness. Last but not least, the general public at the beginning of the twenty-first century was sympathetic to the victims of miscarriages of justice in several media-exposed high-profile capital cases. Meanwhile, China's legal scholars and judicial elites were excited about the new anti-death penalty ideals and norms from Europe.

Consequently, the reform of China's death penalty, in the eyes of the political leadership, may not be detrimental to political governance. On the contrary, a partial modification of China's capital punishment apparatus and a conditional curtailment of the use of capital punishment may help the Party-state to augment its control over the population and to adapt its governance to new perspectives, sentiments and attitudes in a fast-changing society. This is my why the Party-state were motivated to amend capital punishment law and practices in the first place.

This leads to the second key question of the thesis – the appraisal of the significance of the recent capital punishment reform in China. Is the recent reform part of an incremental, step-by-step plan aimed at a

substantial restriction and even eventual abolition of capital punishment? Or is it merely a strategic response to mounting international pressure? I have argued in my thesis that neither is quite convincing. As Lubman (1999: 2) has observed, many constraints on China's legal reforms, which started in the late 1970s, can be traced back to 'the ideology and organization of the Chinese Party-state'. Therefore, the recent capital punishment reform, in my view, is a step in the Chinese authorities' instrumental plan to exert better and tighter social control. Since the late 1970s, fast-paced and profound changes took place in almost every aspect of social life, during which the Chinese authorities have exemplified their incredible resilience and adaptability. The recent capital punishment reform is an example of this systematic adjustment and consolidation of power.

Chinese criminal justice policies are pragmatic at the core. External pressure is a motivating factor for the reform, but is far from being the major determinant. The main cause of the reform is the need for the authorities to consolidate the power to punish against changing social context. The reform has yielded practice-significant outcomes. By 2011, advocates reported from a seminar held by the UN Office of the High Commissioner for Human Rights and China's Foreign Ministry that since January 2007, the overall volume of executions had dropped by approximately 50 per cent over a period of four years (Dui Hua Foundation: 2011). According to various sources of estimation, thousands of lives have been saved because of the reform. Yet it would be an exaggeration to claim that the reform was mainly spurred by external forces. Domestic political concerns are the main driving force.

Similarly, human rights values and anti-death-penalty beliefs, which were held by a small group of liberal elites in China, are not the main determining factors. At best, these Western-oriented ideals and

normative language provided the rhetoric weaponry to fight against miscarriages of justice and the abuse of power. Viewed in this light, we can be convinced that the death penalty reform is a step *towards*, not *away from*, the entrenchment and reinforcement of the political and penal power to control. It is no more than a strategic realignment of political-penal power in China. The aim of the reform, from the outset, was not to eliminate the barbaric and brutal capital punishment, but to establish a better functioning regime for social control.

Dr Michelle Miao is the current Howard League post-doctoral fellow at Oxford University's Centre for Criminology. Michelle studies the contradiction between European human rights influences on British penal politics and a rising trend of penal populism. Michelle recently completed her DPhil in Law at the University of Oxford and is currently converting her doctoral thesis *The Politics of Change: Explaining Capital Punishment Reform in China* into a book.

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Responsibility and criminal law in the late-nineteenth-century British Empire

Catherine Evans, Princeton University

I am currently a PhD candidate in History at Princeton University, in the United States. My dissertation, *Persons Dwelling in the Borderland: Responsibility and Criminal Law in the Late-Nineteenth-Century British Empire*, explores the problem of criminal responsibility – that is, when we hold people legally accountable for their actions – as it was debated and experienced across the empire in the last decades of the nineteenth century. I focus in particular on capital cases where defendants were thought to be criminally insane.

Under British common law, then as now, those deemed legally insane could not be found guilty or subjected to judicial punishment for their crimes. This legal rule was relatively easy to apply in cases where defendants suffered from severe mental illness with visible, theatrical symptoms, like hallucinations or major cognitive impairment. However, there were many people who occupied what eminent psychologist Henry Maudsley described as the ‘borderland’ between sanity and insanity, responsibility and irresponsibility, guilt and innocence. These people, who could be articulate, intelligent, and apparently rational, and who did not suffer from obvious delusions or hallucinations, deeply troubled colonial officials. Were these defendants evil and deserving of the harshest punishment, or sick and entitled to medical care? Should they hang, or wile away their lives in an asylum? When people committed shocking crimes – when they cut their children’s throats, when they poisoned their friends, when they bludgeoned the elderly for petty sums – they were transformed into shadowy figures who were too brutal to be sane, and too vicious to be insane. I argue that studying nineteenth-century controversies over legal responsibility can help us to understand how British officials understood



the nature and morality of the common law and their roles in applying it across the globe.

Murder cases were often sensational, and attracted the attention of doctors, lawyers, administrators, journalists and the general public.

Archival records related to these trials are often extensive, and can include police reports, judges’ notes, letters, telegrams, exhibits from trials, depositions, newspaper articles, cartoons, true crime books, and petitions. Rather than confining my inquiry to one colony, I bring together criminal cases from a variety of colonial jurisdictions and from England in order to tell an imperial story. As the empire grew, so did the number of communities in Asia, Africa, North America, and Australasia that were governed by law codes modelled after English law, and by the precedents, maxims, and principles of the common law itself. The Privy Council, which sat in London, was the highest court of imperial appeal. Although it was vast, the empire had a common legal culture. One of my goals in my dissertation is to describe that culture, and the impact that the imperial legal system had on the ideology and practice of imperialism. To that end, I have spent the past few months conducting research at archives in the United States, Australia, and England, and I will be working with documents in Canada this summer. The project will probably be complete, or nearly so, within the next eighteen months.

Recently, I have become interested in the history of the Howard League. The Howard Association, the nineteenth-century precursor of the Howard League, was an international organisation devoted to

campaigning for the abolition of capital punishment, the reform of criminal law, and the improvement of prison conditions in Britain and its empire. The Howard League's work today continues in that tradition. I was led to the Howard Association through my interest in Marshall Lyle, an Irish lawyer who made a name for himself in Melbourne, in the Australian colony of Victoria, through his participation in some of the most grisly murder cases of the age. The most sensational of these cases, which is the focus of a chapter of my dissertation, was that of serial murderer Frederick Bailey Deeming.



Illustration of Marshall Lyle, "The Williams Murders." *Australian Town and Country Journal* (Sydney, NSW: 1870-1907) 16 Apr 1892: 31. Web. 8 Apr 2014 <<http://nla.gov.au/nla.news-page5331077>>.

Frederick Deeming murdered his four young children and his wife at Rainhill, in Lancashire, in the summer of 1891. Only months later, he killed a second wife, Emily Mather, on Christmas Eve at their home in Melbourne. He buried her body beneath the hearthstones, changed his name, and promptly began courting another young

woman. Before he could kill again, however, Melbourne police discovered Emily Mather's body. After a thrilling manhunt, Deeming was apprehended and confined at Melbourne Gaol. On 22 April 1892, Deeming appeared in court for the first time. Deeming's defence team included his solicitor, Lyle, and barrister Alfred Deakin, a future Prime Minister of Australia.¹ Deeming pled not guilty, and his defence counsel announced that they intended to prove that Deeming was insane and not criminally responsible for the murders.²

Although Marshall Lyle's participation in the Deeming case greatly boosted his public profile and led some to include him among Melbourne's leading solicitors, he is not well known to historians.³ Lyle had a particular interest in capital punishment and in the problem of legal insanity, and his involvement in such cases stretched before and after the Deeming trial. Judging from his many letters and petitions, Lyle was passionate, ambitious, loath to bow to authority, and quick to involve the press to help his causes. He considered himself a humanitarian and a friend of cutting-edge science, including criminal anthropology and studies of mental illness. In Deeming, he saw an opportunity to inveigh against systematic injustices in both jurisprudence and legal practice which had long exercised him.

The legal test of criminal insanity in English law stems from the 1843 murder trial of Daniel McNaughtan, who shot Prime Minister Robert Peel's secretary, Edward Drummond. The so-called *M'Naghten* rules still set the standard for legal insanity today, despite over one hundred and seventy years of persistent criticism. The rules state that a defendant must prove that he suffered from a disease of the mind that prevented him from understanding the nature and quality of his act, or that his act was wrong, at the time of the crime. In the last decades of the nineteenth century, the *M'Naghten* rules were being heavily contested and the

Deeming case instantly became a focal point for these debates. Deeming was a cold-blooded and apparently motiveless killer, which led some to argue that he was insane. However, he was also well-spoken, literate and obviously dangerous, and many vehemently rejected any suggestion that he should escape the gallows by pleading insanity. 'There is no doubt,' declared one columnist for the *South Australian Register*, 'that the whole subject of insanity and its relation to crime and punishment is in a state of uncertainty and suspense.'⁴

Lyle kept abreast of 'the recent strides of medico-legal science and criminal anthropology', and felt that elite science should supersede what he saw as outdated legal tradition and popular understandings of insanity and criminality.⁵ Despite Lyle's best efforts, though, Deeming's insanity defence failed. He was hanged at Melbourne Gaol on 23 May 1892. Deeming was dead, but the problem of determining criminal responsibility in murder cases, of course, persisted. Just over a year later, in September of 1894, many of the same men – lawyers, doctors, colonial administrators – found themselves embroiled in a case that was slightly less sensational, but just as bloody.

Martha Foran, a disturbed young woman with a history of suffering domestic abuse, married Charles Needle when she was only seventeen. The couple settled in the Melbourne suburb of Richmond and had three daughters, Mabel, Elsie, and May. Within six years, all three children and Charles were dead, struck by a mysterious illness that caused severe vomiting. Martha took up with a new man, Otto Juncken. He and his brother, Louis, moved into her home in Richmond. Soon Louis was dead, a third brother, Herman, was ill, and Martha Needle had been arrested for murder.⁶ She had poisoned all of her victims with Rough-on-Rats, a potent poison.⁷

Marshall Lyle became involved in Needle's case, and bombarded the Victorian

Governor, Attorney-General, and Crown Solicitor with letters, memos and petitions claiming that Needle was insane and should be spared the death penalty. Lyle had recently become the Australian correspondent for the Howard Association, and he broadened his programme of legal reform from opposition to *M'Naghten* to include calls for the abolition of all capital punishment. Lyle even accepted that 'there are greater reasons for punishing some of the insane, than the sane', although never for putting either the sane or the insane to death.⁸ In his many letters about Needle, he repeatedly mentioned the importance of scientific jurisdiction over the criminal insane in efforts to improve public safety. 'We believe,' he wrote to Arthur Akehurst at the Crown Law Department, 'that there can be no successful warfare against crime and criminals, until the principle be recognised that the scientific examination of the dangerous members of society is the duty of the State, assisted by intelligent officers.'⁹

Martha Needle was found guilty of the murder of Louis Juncken, and sentenced to death.¹⁰ The sentence was carried out, despite the protestations of Lyle and other supporters, on 23 October 1894. Otto Juncken, Louis Juncken's brother, believed her innocent to the last, and was a frequent visitor during her time in the Gaol. Needle went calmly to her doom, standing on the trap door outside the condemned's cell steely and proud.¹¹ Lyle struggled to advance what he considered to be a humane, scientific, modern approach to the criminal law. However, after many defeats in court, he seems to have devoted himself to other pursuits. By 1899, Lyle had ceased his work as the Howard Association's Australia correspondent, and had retreated from the world of contentious criminal cases.

Marshall Lyle is just one of many lawyers, medical men, and colonial officials who were active in imperial debates about the justice of capital punishment, and the

fairness of the common law's approach to assessing criminal responsibility. Lyle's involvement in the Howard Association speaks to how international these conversations were. His story reveals the urgency and the frustration that attended calls for criminal law reform. In my work on criminal responsibility in the nineteenth-century, I am continually surprised by the contemporary resonance of the events and ideas I follow. Despite the century between Marshall Lyle's time and our own, we still struggle to clarify and justify the border between sanity and insanity under English law, to determine who should be the judge of another's sanity, and to define what it means to be legally responsible.

Catherine Evans is currently in the fourth year of the PhD programme in History at Princeton University. She holds a BA in Jurisprudence from University College, Oxford and a BA in History from McGill University in Montreal, Canada. She works on the history of criminal law in the British world in the nineteenth century.

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² The Inquirer & Commercial News (1892) *The Windsor Tragedy*, 23 April 1892, (Perth, WA: 1855–1901), p. 5. Retrieved January 23, 2014, from <http://nla.gov.au/nla.news-article69704249>.

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⁵ Letter from Lyle to the Executive Council, 14 August 1891, PROV, VPRS/264/P0000/18, William Colston Capital Case File.

⁶ Report of Sergeant A.E. Whitney and Constable R. Fryer of the Melbourne Police, 28 September 1894, PROV, VPRS 264/P0001/02, Martha Needle Capital Case File, 1894/6254.

⁷ Testimony of George Miller, Pharmacist's Assistant, Judge's Notes of Evidence, *R v Needle*, 24 September 1894, PROV, VPRS 264/P0001/02, Martha Needle Capital Case File, 1894/6254.

⁸ Letter from Lyle to the Governor, 5 October 1894, PROV, VPRS 264/P0001/02, Martha Needle Capital Case File, 1894/6254.

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Ideas for Justice

Harry Annison, Lecturer in Criminal Law and Criminology at the Law School, University of Southampton

As part of the wider 'What is Justice?' symposium, the Ideas for Justice project is speaking to people about their understanding and experience of justice today. The interviews are being conducted by [Harry Annison](#) and [Philippa Budgen](#). In this update on the 'Ideas for Justice' project, we reflect on the interviews that have been published so far.

U R Boss

Young advisors from the Howard League's [U R Boss project](#) presented a range of views on the meaning of 'justice'. Some considered that "you can't have equal justice for everyone, because one size doesn't fit all." This connected with discussions of punishment: "The system as a whole has linked punishment to justice. But it should be more acknowledging the issue and dealing with the issue, rather than punishing." The young advisors recognised that "victims need some sort of payback and offenders need some sort of recognition that they've done wrong," but considered that systems of restorative justice, "facing your victim and having to apologise, that could be a bigger punishment on its own."

U R Boss young advisors felt strongly that people should have a greater say in how justice is done, particularly those with experience of the system: "the only way you're going to get a real insight into the criminal justice system is by experiencing it first hand, going through the whole process. Then you're in a strong position to suggest how it should be changed."

Professor Mary Beard

[Professor Mary Beard](#) suggests that "we have so internalised the idea that the bog standard form of punishment is locking people up" but that in 500 years time,



people will look back on this habit as "absolutely crazy". She notes that ancient Rome was by no means a "nice and friendly place" – punishment involved fines, exile or execution – but the prison played an extremely marginal role. Professor

Beard argues for a fundamental re-think about the purpose of prison, suggesting that without this, prisons will remain "a blot on contemporary society."

Peter Woolf and Will Riley

Peter and Will are a rather surprising double act – Will was a victim of a violent burglary committed by Peter in 2002. They are now friends and set up the charity '[Why Me?](#)' in 2008. In this powerful interview Will reflects on the effect of Peter's crime – "He destroyed the one thing I thought I could do, which was protect my family from people like him. He had emasculated me." The restorative justice process allowed Will to "get over the trauma of the crime". Peter discusses how the restorative conference had confronted him with the pain that his crime caused and has led to genuine change "in his heart" and in his life. As Peter puts it, "I've spent 18 years in prison, I've been to 34 prisons. But nothing affected me like that meeting."

Professor Albert Dzur

In his contribution, [Professor Dzur](#) argues that there is too much "professionalised justice" in the justice system. He suggests that "democratized restorative justice" is one way to involve members of the community in decision-making. He gives the example of a "restorative conference" held by a US High School teacher in response to a violent

incident at a basketball game. The teacher asked students not only to explain why violence had become an increasing problem at the school, but also to suggest ways to address this problem. “So it was rule making not from the top down, but from the students. It was spreading responsibility.” He argues that democratic participation in criminal justice is not a “moral bonus” to existing systems, but crucial.

Margaret and Barry Mizen

In a deeply affecting interview, [Margaret and Barry Mizen](#) reflect on their response to the murder of their young son, Jimmy. Instead of seeking revenge, Jimmy’s parents have campaigned for a message of forgiveness and hope. They speak about their visits to prisons where they talk to prisoners about their own experience, and the affect that this can have on these prisoners. In their view, the currently widespread belief in a “short,

sharp shock” approach is unhelpful – “understand there is a reason for the crime, and let’s work on that.”

Only brief summaries of the views of those who have been interviewed so far are presented here, so it is well worth listening to the interviews yourself, which you can do at <http://www.howardleague.org/ideas-for-justice-interviews/>.

Dr Harry Annison is Lecturer in Criminal Law and Criminology at the Law School, University of Southampton. He holds a DPhil Criminology from the University of Oxford and was a founder member of both the Howard League Oxford Society and the Howard League’s National Student Executive Committee. His research interests centre on penal politics, risk, dangerousness and sentencing.

Upcoming events

Community Sentences Cut Crime Conference Tuesday 15 July 2014

The King's Fund, Cavendish Square, London W1

The government's Transforming Rehabilitation agenda is bringing major reform to how people who offend are managed and rehabilitated. This conference will discuss government proposals for a new National Probation Service and a revised system of rehabilitation. What impact will these proposals have on the future of rehabilitation interventions?

Speakers and contributors

- The Rt Hon Baroness Corston
- Frances Crook OBE, Chief Executive, the Howard League for Penal Reform
- Sally Lewis, Chief Executive, Avon and Somerset Probation Trust
- Richard Monkhouse JP, Chairman, Magistrates' Association
- Professor David Wilson, Birmingham City University and Vice-chair, the Howard League for Penal Reform
- [Young judges](#) from the Howard League for Penal Reform U R Boss Project



Conference structure

Held at the Kings Fund's delightful Grade II listed Georgian townhouse, the conference will include plenary sessions with time for questions and debate, Community Programmes Awards, presented by HRH Princess Royal, and an exhibition of shortlisted projects.



About the Awards

This is the Howard League for Penal Reform award for the country's most successful community programmes. These annual awards celebrate best practice in community sentencing and champion the cutting edge of the criminal justice system, with work in the community that challenges and changes people for the better – be it unpaid work, drug and alcohol treatment programmes, or restorative justice.



Who should attend?

Practitioners and policymakers at all levels, including probation, youth offending teams, NOMS, prison service, children and family services, magistrates and members of the judiciary, police service, politicians and councillors, academics, researchers, voluntary and community organisations.

Book your place

You can book your place online or request a booking form by email to catryn.yousefi@howardleague.org or via the [online booking form](#).

Recent research

Mitigating Motherhood: A study of the impact of motherhood on sentencing decisions in England and Wales

Update by Katie Le-Billon, Howard League Research Intern

Shona Minson's report, *Mitigating Motherhood: A study of the impact of motherhood on sentencing decisions in England and Wales* is the second of the 2013 John Sunley Prize winners to be published. The John Sunley Prize is awarded to outstanding Masters dissertations that offer new insights into the penal system and further the cause of penal reform.

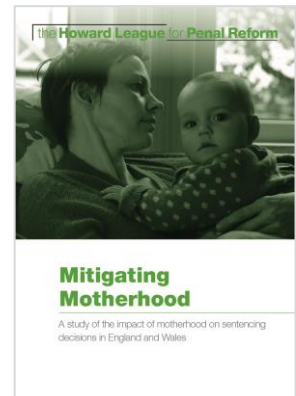
This research explores the influence that a defendant's motherhood has on sentencing, specifically whether the caring responsibilities of a defendant mother are treated as personal mitigation to reduce sentence length. The study used a mixed methods approach, with semi-structured interviews and textual analysis of secondary data gathered from Crown Court transcripts of sentencing remarks.

According to the latest figures, 17,240 children are separated from their mothers by imprisonment. Much research has focused on the damage imprisonment can cause to the attachment between a parent and child, particularly mothers. The only figures available indicate that a third of mothers in prison are lone parents. Only 9 per cent of those children are cared for by their father during their mother's imprisonment and 5 per cent remain in the family home. Many children are placed in local authority care.

Sentencing in England and Wales is at the discretion of the judge. All judges are able to request a pre-sentencing report which provides information about the defendant's background, family life and any mitigating circumstances. This enables



Shona Minson



judges to choose the sentencing approach they feel is best suited to the offence and the individual. Using the information gathered from the pre-sentencing report, judges can apply 'personal mitigation' to ensure the sentence best fits the defendant's circumstances. The research reveals the inconsistency in the application of personal mitigation to sentencing due to the exercise of judicial discretion.

Minson found judges with a greater understanding of the impact of prison on women are more likely to order pre-sentence reports. If a judge has a pre-sentence report the defendant's motherhood has a greater likelihood of mitigating the sentence. Mothers appearing before judges who have a lesser understanding of the impact are less likely to have their sentence mitigated by motherhood. Minson calls for greater judicial education on the impact of maternal incarceration so judges have the same level of understanding, in order to provide a balanced approach to sentencing.

The full report is available to download on the [Howard League website](http://www.howardleague.org).

U R Boss: Campaigning for change and Public legal education: An evaluation by evaluators from the Centre for Social Action at De Montfort University

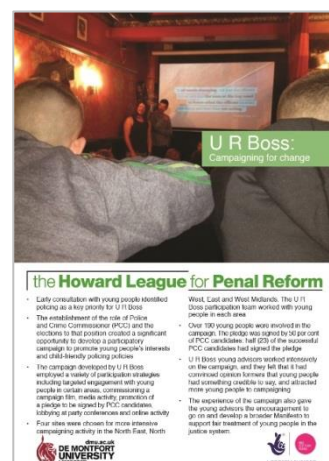
The Howard League's U R Boss project is a participatory programme of work aimed at improving processes and outcomes for young people in the criminal justice system. The work of U R Boss has been independently evaluated by a team from the Centre for Social Action at De Montfort University. The Howard League recently published two interim evaluations looking at different aspects of the work of the U R Boss project.

U R Boss believes that young people are the experts in their own experiences, and participation is key to the work of the project. Participation is not only about taking part, or being present and consulted – a truly participatory approach allows people to influence decisions and actions. Young people in the criminal justice system are often ignored, left out or silenced. By supporting young people in the criminal justice system to secure their legal rights and to have an impact on policy, practice and the services that affect them, the U R Boss project attempts to combat this and move towards a criminal justice system that has young people's interests at the core.

While recognising that some people need support in order to feel able, or be able, to participate, and different types of participation are appropriate for different areas of work, the U R Boss project (of which the legal team is a key part) shows the benefits that can derive from working to meet the needs of young people in custody for individuals and wider society.

PCC campaign

The first report, [*U R Boss: Campaigning for change*](#), focuses on a U R Boss campaign to promote young people's interests in the criminal justice system that was designed to coincide with the establishment of the role of



Police and Crime Commissioners and the first PCC elections in November 2012. Early consultation with young people identified policing as a key priority for U R Boss, and more information about the wider work of the project in this area is available on the [*U R Boss website*](#). The report suggests that the campaign was important to the young people involved with the U R Boss project, who successfully convinced opinion formers that they had something credible to say, and also encouraged a wider group of young people to get involved with campaigning, U R Boss and the Howard League.

Young people were asked about their experiences of participating in the PCC campaign:

For me the PCC campaign and the children and police conference [in December 2012], it was really important just for the fact that it was getting out there to professionals and people that were actually working with young people in positions... to make changes that in a sense motivated me.

(Young Advisor)

And a lot of the feedback that I did get was really interesting, 'it was great having you there'. And I think it's something, especially in those situations because it's so formal

they don't expect a young person to be there and to be able to [express themselves]...actually, I don't think they expected that level of communication from someone who has come from that background. So I like to think regardless it would be educational, it makes people think.
(Young Advisor)

Public legal education

[Public legal education: An evaluation](#) looks at the Public Legal Education (PLE) strand of the programme. PLE training was undertaken on the issue of resettlement, which had been identified by young people as a major issue, both by the number of enquiries to the legal helpline about resettlement issues and from the participation work done with young people by U R Boss participation officers. U R Boss young advisors had some involvement with the development of the materials for practitioners and participated in several training sessions, and young people more widely played a key role in the development of new resources for use by young people. The PLE training and resources, including a [resettlement guide](#) for practitioners, received very positive feedback from a wide range of participants, and PLE around issues of resettlement was found to have increased the awareness of practitioners, with some participants reporting it had led them to change their practice in ways that they expect will improve outcomes for young people.

Members of the Howard League legal team report they have always sought to ensure the young people they provide legal advice to understand the law and how it relates to them, and how they are using the law to develop rights and entitlements. They understand that if they do this, young people are, for example,

much more able to hold their own in meetings, and see the legal pathway to their ultimate aim of supported safe accommodation.
(Interview with member of legal team)

The evaluators also spoke to young people who had taken part in the training sessions:

I am coming from a young person's perspective in the group... I think that it's not an opinion that they expect to hear. I think if you are trying to provide a service for someone but you have never been the person in need of the service, if you have got someone that is working next to you that has been the recipient of the service, but is trying to understand how you give the service, then I might see something that they wouldn't. So I hope to think that, no one has told me, but I hope to think that me being there it does make a difference because I don't think it happens all the time.
(Young Advisor)

Other young people were involved in the PLE through the production of leaflets for distribution. U R Boss staff worked with young people at Warren Hill YOI over a period of three months. The boys who took part discussed what issues were associated with their resettlement; and whether there were other subjects they wanted to know more about. As a result of the interest shown in the issue, it was agreed that a separate guide to MAPPA should be produced, as well as the Moving On leaflet. Young people were involved in prioritising and grouping topics, and also decisions regarding the 'look and feel' of the leaflets, using card and paint chart examples. In following sessions proofs were taken into Warren Hill, and the boys continued using materials to create their own designs, folding suggestions, and font ideas. Leaflets for young people on [MAPPA](#), [Moving on](#) and young people and the police, can be ordered for free, by contacting urboss@howardleague.org.

The evaluators concluded the project used an 'innovative model of working with young people in custody ... listening to children was integral to this work and integrated into the PLE resettlement strategy and approach'. PLE training is ongoing, and adjudications training has now

begun, in response to what young people involved with the project consider important.

Benefits of participation for young people

U R Boss staff have spoken to young people more generally about their experiences of participation and the U R Boss project. Young people were asked what they thought the benefits of participation were:

I think it's endless. I think it can be so many different things. I think it can be a big confidence builder, help people's self-esteem. And I think as well, it just helps the cause just cuz it gives real substance to help the situation, rather than people just guessing it's like, in a sense, participation is like a forum, so people can actually hear and learn different experiences.
(Young Advisor)

I was working with a youth charity that was about going round the estates, playing with children and just trying to get them away from things, but I realised it wasn't really changing. This is getting to the roots of the problem and solving it ourselves.

Two years ago I knew nothing about the law other than what it did to you. Now we have an understanding of the law from a different perspective. Before what I knew of the law was in a police cell waiting for my solicitor, now we are looking at the law.
(Young Advisor)

[W]e are trying to help young people's needs and trying to get their voices heard. We are breaking the communication barrier. I've had experience of being on panel, the awards, events, experiences most young people don't have.
(Young Advisor)

I've done loads of things with U R Boss. We went to the Houses of Parliament. I was excited as you could probably tell! I've never had a chance to do anything like before so having the chance, it was really good. And meeting [a senior Shadow Minister] – that was a good thing and he was on our side.

He's like at the top so – it's not like in here when you put a complaint sheet in – you're going to the top person, he's got the power. 100% U R Boss makes a difference. I think it [working with the young advisors] helped me because it made me think about things from other people's point of view. When you get a point across it means a lot – to me and to the things that I'm changing. When I know I've made a change it makes me feel better and it makes the things you want to change better as well. You're not just helping yourself you're helping other people in a situation like you.
(Young Advisor)

Young people's manifesto

The experience of the PCC campaign gave U R Boss young advisors the encouragement to go on and develop a broader Manifesto to support fair treatment of young people in the justice system. At the 2013 party conferences young advisors launched their [manifesto for change in the criminal justice system](#). Developed with 350 young people in custody and in the community this charter for change outlines their priorities for the youth justice system, and has been created to focus on the key things young people have identified as important. Visit the [U R Boss website](#) for more information about the project.

Both evaluations and the manifesto are available to download:

[U R Boss: Campaigning for change](#)

[Public legal education: An evaluation](#)

[A young people's manifesto](#)

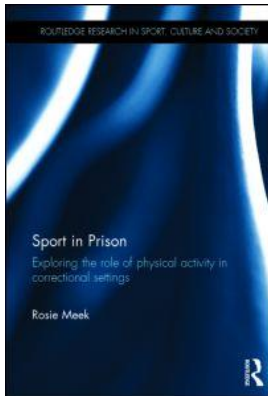
Evaluation team

Roger Smith, Professor of Social Work at the School of Applied Social Sciences, Durham University, Jennie Fleming, Co-Director of Practical Participation and Jean Hine, Reader in Criminology, De Montfort University.

Book reviews

Sport in Prison: Exploring the Role of Physical Activity in Correctional Settings by Rosie Meek (Routledge, 2014)

reviewed by Lydia Buckley



Sport in Prison critically examines the role of sport within the penal system, drawing on research from the fields of criminology, psychology, and sociology. Utilising a substantial body of empirical data, the book highlights the beneficial

role that sport plays in promoting behavioural change among prisoners and assisting reintegration into the community. It argues that by providing an alternative source of excitement to criminal activity and promoting pro-social values, including teamwork and self-discipline, sport can effect a real change in the lives of prisoners caught in the cycle of reoffending and imprisonment.

The book also provides a thorough analysis of sport in prison culture, based on interviews with former prisoners and prison gym staff. This analysis allows the narratives of those who work and engage in sport in prison to be identified and debated for the first time, providing an important contribution to the literature on prison culture in the U.K.

The book begins by giving an account of the social and historical issues which have shaped the issue of sport in prison, noting that the three main competing discourses regarding the primary purpose of incarceration – punishment, containment, and rehabilitation – have given rise to competing conceptions of physical activity over time, from exercise as a means of punishing or physically managing prisoners, to sport as a method of rehabilitation.

The various challenges that exist in promoting sport and physical activity in contemporary penal policy are then discussed. Of particular note are the significant changes in the management and staffing of prisons in recent years and the current emphasis on reducing the running costs of prisons. However, as the author points out, limiting the funding available for physical activity may be a case of false economy, given that sport can reduce reoffending and reincarceration, and thereby reduce the cost of prisons in the long run.

The book also highlights that while regulations stipulate that prisoners should be able to participate in a minimum level of physical activity, policies in relation to sport and access to physical activities vary across the prison system. The type of sports available to prisoners and the level of support offered differ from one prison to the next.

Significant differences also exist in terms of participation levels, with young offenders more likely to participate in sporting activities and female prisoners least likely to engage in sport. These differences highlight the key challenge of ensuring equality and inclusivity in the provision of sport in prison. The issue of how to promote participation among non-sporty prisoners, and specific vulnerable groups such as older prisoners and those at risk of victimisation or self harm, without replicating or enforcing existing inequalities, is considered in detail. Practical methods of encouraging participation are drawn from the experience of prison gym staff.

The manner in which theoretical insights are supplemented by data gained through interviews with prison staff and

former prisoners renders this work both informative and engaging. It is a comprehensive resource for those working within the area of criminal justice and those

with an interest in the rehabilitative value of sport and prison culture.

Lydia Buckley is a PhD. candidate at University College Cork, Ireland.

Youth justice: Ideas, policy practice
by Roger Smith (Routledge, 2013)

reviewed by Amy Parmiter



The third edition of Roger Smith's *Youth justice* offers an up to date, critical and interesting overview of youth justice. The book is a great starting point for the novice as well as a must-read for anyone working in the youth justice arena looking for a contemporary

understanding to inform their practice.

Smith guides the reader through recent youth justice history, beginning in the 1980s and explaining the shift that took place at that time away from welfare to a focus on punishment and individual responsibility. It is not surprising that Smith identifies so strongly with the 1980s, being that this is the period when he was in practice, but he does not suggest that the preceding developments in the field were insignificant. As well as drawing on the work of other authors, a range of sources that would provide the reader with a better historical understanding of earlier developments are presented. The book then proceeds on a journey through the shifts and changes in youth justice ideas, policy and practice to the present day.

Smith stresses the impact of New Labour's Crime and Disorder Act which created youth offending teams (YOTs); and the subsequent era of unintended consequences and net widening. He is

critical of the emergence of a managerial, rigid and prescriptive framework limiting the creativity of practitioners. He discusses how both pre- and post-court disposals were tightly limited and constrained, and describes the advent of the criminalisation of bad behaviour with the introduction of the Anti-social behaviour order (ASBO). The tensions between policy and practice are highlighted throughout.

The book considers the impact of the Legal Aid, Sentencing and Punishment of Offenders ACT 2012 (LASPO), brought in by the Coalition government, noting that it has undone some of the rigidity of previous disposals.

Smith details the damaging effect of national standards in youth justice, the use of Asset (a structured assessment tool used by YOTs), the development of a culture of process over outcomes and inflexibility for practitioners. Smith analyses the role of the Youth Justice Board (YJB) providing an understanding of exactly what this body is and is not. The author explores key theories and considers how important these are with regard to informing policy, practice and practitioners' understanding. Critical issues including over-intervention, racism, sexism and the misuse of restorative justice are highlighted.

The conclusion Smith comes to is that nobody in contact with the system is satisfied; not the victim, the public or the person who has offended. However, the author offers the hope that in a time of economic austerity, minimum intervention and divergence is redeveloping and first-

time entrants to the criminal justice system are reducing.

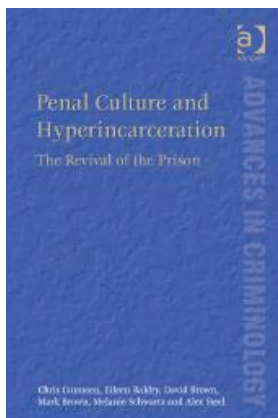
Reading the book, I was consumed by the feeling that youth justice is not in fact 'just', and the use of it is a political tool is wrong. The unintended consequences of policy making have greatly affected individuals and wider society. I can't help but wonder what has happened to all the children who were brought into the system unnecessarily, and how this will have impacted on them longer term. It is a national embarrassment that some of

society's most vulnerable children are allowed to be wielded as a political tool and afforded no protection from this. The book makes me concerned for the future as it clearly demonstrates the adverse impact of the current political agenda. We have a punitively focused justice secretary whose policies could have devastating consequences for youth justice.

Amy Parmiter is a caseworker at the Howard League for Penal Reform

Penal Culture and Hyperincarceration: The Revival of the Prison

by C. Cunneen, E. Baldry, D. Brown, M. Brown, M. Schwartz and A. Steel. (Ashgate, 2013)
reviewed by Rachelle Larocque



In recent years, the inexorable rise in prison populations has led to discussions of the 'new penology' and the 'new punitiveness' as well as the development and role of mass imprisonment. Often excluded from these discussions is the influence of

colonialism on the historical foundations of penal culture. The idea of a colonial/penal complex has become increasingly important given the high rates of imprisonment for particular groups such as indigenous peoples and the mentally ill. *Penal Culture and Hyperincarceration* by Chris Cunneen et al. provides an insightful and compelling account of the changing penal landscape in Australia and beyond. Throughout the book, Cunneen et al. trace historical and contemporary penal developments in Australia while focusing on the role of colonialism and racism in the revival of the prison in the twenty-first century. The strength of the book lies in its historical and contemporary focus on penal

culture across Australia as well as its comparative elements.

The book is divided into nine chapters, all of which address the broad notion of 'penal' as existing across different institutions with shifting meanings. The first three chapters provide an introduction to penal culture, introduce the important colonial/penal complex, and provide analysis and statistics based on research done in each state, as well as situating the reader within the broader Australian context.

Chapters four and five focus on the burden of rising imprisonment rates on penal subjects, the emergence of risk and the therapeutic prison. Throughout these chapters, Cunneen et al. continue to include discussions on colonialism, racism and the impact of hyperincarceration on socially disadvantaged groups. Chapters six and seven discuss the reinvigoration of the prison and the normalisation of the prison for particular groups. The theme of community is important in these two chapters, which illustrate that the prison can be a positive community asset while simultaneously becoming an extension of one's identity, that is, a normalised institution for particular communities.

Chapter eight focuses on winding back mass imprisonment and examining strategies to reduce imprisonment. Chapter nine summarises the main themes discussed throughout the book.

The book demonstrates a strong interest in social justice, highlighting the injustices experienced by marginalised populations. The historical and comparative elements of the book are particularly useful given the dearth of literature on the influence of colonialism on penalty. In light of penal developments in Australia, this book may encourage readers to consider the influence and role of colonialism and racism on different countries,

thereby furthering the comparative criminology dialogue.

Penal Culture and Hyperincarceration is an interesting and thought provoking book filled with important discussions and interesting concepts. It offers unique insights into contemporary penal developments in Australia and abroad. The ability of the authors to trace shifts in penal culture, both historically and geographically, makes it ideal for criminology scholars, particularly those with an interest in historical criminology, mass imprisonment and gender relations.

Rachelle Laroque is a PhD candidate at the University of Cambridge

Member profile

Manuela Barz

I am a Senior Lecturer in Digital Culture at the London Metropolitan University. My own educational background lies in Architecture (BA) and Computer Arts (MA) rather than Criminology. I *accidentally* became a prison teacher in 2005 for four months, teaching media technology in a women's prison in the UK. The project, led by the London Metropolitan University and Media for Development, opened a completely new world for me, informing my choice of PhD research. The short teaching period not only emphasised the rather scarce opportunities for women to engage in meaningful education while incarcerated, but also highlighted the transformative nature of technology as a medium to communicate with learners, reshaping individual educational narratives and providing women with the necessary hard and soft skills.

I was fortunate to be granted access to a Category A UK women's prison over three years to undertake case study research. I have undertaken a unique transformative journey from observer, interviewer and teacher into an academic.

Although debates around women's incarceration and rehabilitation have undergone profound changes over the years, women's minority status within the penal system still provides immense challenges in a regime designed predominantly for men. Further, the increasing reliance on and use of computerised devices to mediate everyday life requires digital knowledge and access, in order to sufficiently function and participate as a citizen in Western countries. This is a knowledge most female prisoners do not possess, or are unable to gain or develop further while in prison.

My research focused on the complex network of actors in a prison classroom that shape social interactions including the



environment, individual narratives of students and teachers, objects, political, social and economic discourses and ideas. It firstly highlights the processes and actors involved in the transformation of woman into prisoner and learner within the prison system.

Secondly it investigates women's perceptions of

themselves as learners, technology users, their aspirations and the reasons behind their compliance and resistance to being educated in prison. Thirdly it explores the shifting position of prison teachers within a punitive system, their educational background, use and attitudes towards technology.

The research aims to draw attention to the very narrow approach to prison education for women, which results from contemporary and historical discourses and ideas defining women, their nature, abilities and wider societal functions. The research also exposed the failings of the prison system to provide women with the knowledge to live in a digitally mediated world, and to rethink technological access and digital education for women prisoners. Most importantly, the research allows for women's voices to be heard, to understand their active role in participating or resisting prison education.

Joining ECAN provided me with access to a vibrant academic network. The ability to share ideas, draw on other researcher's knowledge and to join wider discussions is immensely important for the development of my own work.

Guidelines for submissions

Style

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

Illustrations

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

Authorship

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

Publication

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

Format

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

Please note

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