

Empower, resist, transform

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2015

A collection of essays

JusticeMatters

**CENTRE FOR CRIME
AND JUSTICE STUDIES**

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Foreword	02
1. Is criminal justice a form of violence against women? Rebecca Roberts, 25 November 2013	04
2. Criminal justice and reducing the harms women face – lifting the lid on Pandora’s box Rebecca Roberts and Helen Mills, 27 January 2014	05
3. Punishing women and criminal justice failure Rebecca Roberts and Laurel Townhead, 05 February 2014	06
4. Addressing violence against women beyond criminal justice Helen Mills, 11 February 2014	07
5. Is Lady Justice blind or just blinkered? Rebecca Roberts, 19 February 2014	09
6. Taking a downsizing agenda for women forward: The challenges Helen Mills, 26 February 2014	11
7. Mitigating the harms of criminal justice Laurel Townhead, 06 March 2014	13
8. Talking about the unimaginable things to make them visible Helen Mills, 02 April 2014	15
9. A life of its own Laurel Townhead, 14 April 2014	16
10. Little to lose, much to gain Rebecca Roberts, 28 May 2014	17
11. Putting women in their place Rebecca Roberts, 13 August 2014	18
References	20

Foreword

Justice Matters

In 2013 the Centre for Crime and Justice Studies launched the Justice Matters initiative to promote radical alternatives to criminal justice. The project is motivated by the belief that the United Kingdom's over reliance on policing, prosecution and punishment is socially harmful, economically wasteful, and prevents us from tackling the complex problems our society faces in a sustainable, socially just manner.

This work is a culmination of research and work the Centre has been engaged in for over a decade, documenting and disseminating evidence on the failures of criminal justice, leading us to the conclusion that the criminal justice system is too costly, too intrusive and harmful. We want to work with others to identify, promote and develop the thinking, practices and policies that ultimately make criminal justice irrelevant and unnecessary.

Justice Matters for Women

The Centre for Crime and Justice Studies and the charity, Women in Prison, have been in an ongoing dialogue about what a radical downsizing of criminal justice would mean for women – for those at risk of violence; and for women who have broken the law. In 2013 and 2014 we began to explore these questions in online comment pieces. Some of these essays, authored by Helen Mills, Rebecca Roberts and Laurel Townhead are reproduced in chronological order here. They offer a critical and gendered analysis of current criminal justice approaches to addressing harms experienced by women.

When read as a whole, the essays illustrate how the project and our thinking evolved over time. Additional articles authored by researchers, practitioners and people working in the sector can be viewed on our website:

www.crimeandjustice.org.uk/justice-matters-women.

In March 2014 Women in Prison and the Centre for Crime and Justice Studies held a very well attended and energising event attended by a range of people. The delegates included women affected by criminalisation and/or violence as well as individuals and organisations working to support and liberate women from their experiences.

The strong feeling in the room was that we needed to build a collective confidence and voice to challenge the narrow focus on criminal justice reform. While recognising the importance of 'firefighting' to support women in the face of austerity and government reforms, many felt it is crucial to also connect with wider feminist struggles and campaigns to tackle issues of inequality. With the support of a working group a 'call to action' was published (overleaf) and signatures collected online.

In what can feel like difficult and depressing times it is really important that we continue to say the system is broken as well as try to mitigate the damage it does. We will continue to build support for the call to action and develop partnerships to find ways to challenge structural inequality and eradicate punishment and control in women's lives.

Rebecca Roberts, *January 2015*.

A Call to Action

The harms women face are widespread yet consistently ignored. Many criminal justice interventions and support services serve to replicate and reinforce unequal gender relations rather than tackle the root causes of harm. Women facing criminalisation and gender based violence are repeatedly failed by society.

We need to think about and develop social interventions that get to the root of these problems. We are calling on others to work with us to challenge structural inequality and eradicate punishment and control in women's lives. We want to start talking about and acting in ways to:

Ways we may begin to address this include:

- Offering support instead of control and punishment.
- Resisting the labels of 'offenders' or 'victims' in day to day work.
- Prioritising women's needs rather than criminal justice objectives.
- Speaking out against the harms that women face.
- Working for greater equality and justice for women.

Equality benefits everyone. By speaking together in greater numbers our voices will be stronger. Help to build a collective confidence and critical mass for change.

EMPOWER women. RESIST injustice. TRANSFORM lives.

empowerresisttransform

1. Is criminal justice a form of violence against women?

Rebecca Roberts, 25 November 2013

Today is the UN's International Day for the Elimination of Violence Against Women. The purpose of the day is to combat and raise awareness of violence against women.

The Declaration on the Elimination of Violence Against Women (United Nations, 1993) was the first international instrument officially attempting to address violence against women (VAW), defining it as:

any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

The declaration locates VAW as occurring in the family, general community, educational institutions and includes violence 'perpetrated or condoned by the State, wherever it occurs'.

These definitions are one of many offered by a variety of national and international organisations. A common thread is the complex nature of VAW. The form of violence, perpetrators and motivations may vary, but in essence we are talking about the power and control of women in a range of settings.

Criminal justice punishment forms part of a continuum of violence against women – for both so called 'victims' and 'offenders'. Revelations emerged last week about police discouraging rape victims from formally reporting violence to help massage crime figures (CCJS, 2013). Campaigners have long been critical of the lack of protections offered to women and inadequate support services for women escaping violence. This is just more evidence of how through inaction and inertia women are subject to an escalation of victimisation.

It is well documented that women caught up in the criminal justice system have histories of experiencing domestic violence, abuse and mental ill health. Some women who experience violence go on to be convicted of law breaking (largely for non-violent offences) and find themselves harmed further at the hands of the State. Punishment and imprisonment can arguably be seen as another form of violence against women. Criminal justice agencies have played a part in the further psychological, physical and sexual harm of women.

There may be merit in opening up a dialogue about criminal justice as a form of violence against women. People working in the criminal justice sector should have common ground with those campaigning to eliminate violence against women.

As part of the Justice Matters project, the Centre for Crime and Justice Studies is keen to:

1. Develop ideas to downsize fundamentally the criminal justice systems in the UK.
2. Explore options to rebuild policy and practice alternatives to criminal justice.
3. Develop an evidenced agenda to transform policy and reduce reliance on criminal justice.

Violence against women is neither acceptable nor inevitable, whether it takes place inside or outside the criminal justice system. In 2014 we will be collaborating with others to facilitate a public dialogue about institutional violence. Our working proposal is to consider the question 'is criminal justice a form of violence against women?', and 'how can organisations working in the field collaborate to mitigate the worst effect of these harms?' It is hoped that by opening up this debate we can look at why and how we can make a contribution to combatting violence against women.

2. Criminal justice and reducing the harms women face - lifting the lid on Pandora's box

Rebecca Roberts and Helen Mills, 27 January 2014

Prime Minister David Cameron was recently questioned by the House of Commons Liaison Committee on the issue of violence against women (House of Commons, 2014). In his responses the Prime Minister emphasised the role of law, police and prosecutors in prevention. Unsurprisingly he skirted around questions relating to benefit changes, public spending cuts and women's refuges. On the role of schools, while he indicated there was more that could be done on cyber bullying and 'sexting', Cameron was reluctant to open up the debate about sex and relationship education in preventing domestic violence. He wanted to avoid:

a mega-debate about every single aspect of it.... The theocratic arguments between left and right, localist and centralist, abortion and all the rest of it.

As a 'practical person', he said,

I think we can work with some of the charities on this, rather than open up the whole Pandora's box.

Campaigns to tackle violence against women have long recognised the importance of wider issues such as gender relations, power and equality in facilitating sexual, physical, financial and psychological harm against women. Indeed a letter in today's *Times* from a number of prominent campaigners argues for compulsory sex education in schools 'as a critical child protection measure' (Bennett, 2014). However, Cameron's comments reflect a political and policy debate which has largely focused on crime and punishment as central to dealing with violence against women.

In Greek mythology, Pandora, the first woman on earth, was given a box and told never to open it. Curiosity got the better of her and seven demons escaped, spreading seven deadly sins across the world. Pandora managed to capture the final, eighth demon before it escaped – the spirit of hope. Are Cameron's concerns about acknowledging the role of wider society in tackling violence against women justified? We think not. Indeed, lifting the lid on this Pandora's box is precisely the starting point for the Centre's new project: Justice Matters for Women, part of the Justice Matters initiative.

Justice Matters for Women

Over the years the Centre has collated and published data and analysis about the criminal justice system. We have demonstrated how the law and its agencies focus narrowly on particular kinds of harm while failing to tackle other harms, particularly those produced by existing social

structures and inequalities. Informed by this, in 2013, we launched Justice Matters. Motivated by the belief that an over-reliance on policing and punishment is socially harmful and prevents us from tackling problems in a just manner, we are committed to working with others to find radical alternatives to criminal justice.

Elsewhere we have described how criminal justice is often one part of a continuum of violence against women (Roberts, 2013). Not only does the system fail women who directly experience violence, abuse and harm, it is also a source of violence against women who are criminalised. At best, criminal justice is about fire-fighting. At its worst, it is about throwing more fuel on the fire. Through a series of comment pieces, we intend to set out the case for how criminal justice is failing women. We hope challenging the centrality of criminal justice as a solution to a wide range of social problems affecting women will make space for new opportunities to identify and advocate for long term strategies to reduce the harms women face.

We do not deny that this will involve challenges and tensions. For example, while criminal justice has its limitations, who else should a woman call if threatened by an ex-partner and in fear of her life?

What about women caught up in the criminal justice system? We do need mechanisms for putting a stop to threatening and harmful behaviour but feel we need to look beyond criminal justice for more holistic and effective responses. With this in mind, our commentary pieces will also explore some of the difficulties and concerns raised by thinking about downsizing whilst working towards reducing the harms women face.

Old questions, new answers

Thinking beyond criminal justice is arguably a Pandora's box. We do not want to place women at greater risk. Working alongside Women in Prison we want to collaborate with others to identify practical and effective alternatives, as well as connect with wider debates about equality, empowerment and progress for women. Through events and online publications we want to generate discussion about violence and criminal justice failure in the context of both criminalised women and tackling violence against women. Importantly, however, this isn't just about highlighting the limitations of criminal justice. Nor is it intended to be critical of those people working to help women caught up in it. It's about forming new alliances and sharing knowledge about how we can do things differently beyond criminal justice.

If the question is how we end violence against women, criminal justice is certainly not the answer.

3. Punishing women and criminal justice failure

Rebecca Roberts and Laurel Townhead, 05 February 2014

Taking the most hurt people out of society and punishing them in order to teach them how to live within society is, at best, futile. Whatever else a prisoner knows, she knows everything there is to know about punishment because that is exactly what she has grown up with. Whether it is childhood sexual abuse, indifference, neglect; punishment is most familiar to her.

This powerful observation by former prisoner and founder of Women in Prison, Chris Tchaikovsky, sums up what campaign organisations, government reports and academic studies consistently tell us about women caught up in the criminal justice system. As famously documented by Baroness Corston (2007), women captured by criminal justice usually have personal histories of trauma, poverty and crisis. Alongside this we know that criminal justice agencies, with their primary purpose of punishment, offer limited opportunities for support and treatment so often associated with 'rehabilitation' and helping women to move forward with their lives. Criminal justice frequently does more harm than good.

Risky or at risk?

In 2011, almost 300,000 women were sentenced by the courts (Ministry of Justice, 2011). Most of these sentences were fines (77 per cent) with the remainder including community sentences, discharges, suspended sentences and custody. On 3 February 2013 there were 3,786 women in prison. Why were they there?

Data collated by the Prison Reform Trust in 2013 shows that the vast majority of women entering prison under sentence have committed non-violent offences. Most are received on sentences of six months or under. The most common offence is shoplifting (eight times more women are sentenced for this than for the next most common, which is benefit dishonesty). A significant proportion are detained for breach of a court order.

A history of harm

As the opening quote says, women's experience of punishment is not limited to criminal justice sanctions. Punishment is a common thread in women's lives before they come into contact with criminal justice. Over half of the women in prison report experiences of emotional, physical or sexual abuse as children and over half report having experienced domestic violence. Although, as any women's organisation will tell you, underreporting means that these figures are likely to be underestimates.

Repeating cycles of powerlessness and punishment

There is significant need amongst women in the criminal justice system, as detailed by a recent article in *The New Statesman* (McBain, 2014). Criminal justice responses reinforce women's experiences of powerlessness and subjugation, causing further harm. The rate of self-harm by women in prison custody is 10 times higher than the rate for men (2,104 incidents per 1,000 women compared to 194 incidents per 1,000 male prisoners) (Ministry of Justice, 2011). Women are subject to more punishment once they are in prison with higher rates of disciplinary proceedings against them than men, leading the Ministry of Justice to conclude that 'women may be less able (due for example to mental health issues) to conform to prison rules' (Ministry of Justice, 2010). Just under half of women in prison have attempted suicide at some point in their life.

Voiceless victims?

These are striking facts. We must also be wary of an approach that strips women of their identities and reduces them to a few (shocking) statistics. Doing so might help focus attention briefly on women in criminal justice but it does not reverse the harm, or address its root causes. Seeing women through the lens of victimhood reinforces ideas of needing to do something to them to help them, enabling the idea of prison or other criminal justice responses 'for their own good'. Women need opportunities and resources to change their own lives.

Limiting criminal justice

It is important to reflect on the systemic and societal inequalities that women face and the failure to effectively recognise and respond to need prior to contact with criminal justice. This underpins how and why Women in Prison works with women in criminal justice, and why Women in Prison and the Centre for Crime and Justice Studies are jointly undertaking Justice Matters for Women.

This does not mean we should abandon women currently caught up in the system or ignore the harms some women have caused – quite the opposite. However, given what we know, we feel there is strong evidence in favour of reconsidering the role of criminal justice as a primary mechanism for responding to and resolving harm for women whether they are 'victims' or have broken the law – or, as indeed it seems is often the case – are both. We are keen to collaborate with others to challenge the role of criminal justice in women's lives and seek out and build on existing practical alternatives.

4. Addressing violence against women beyond criminal justice

Helen Mills, 11 February 2014

What would you do if he hit you?

Asked the midwife at an antenatal check-up. I won't go into what I said exactly, but the midwife picked up on what I didn't say and she told me;

You go to the police. Women are not alone.

Posing this question to all pregnant women seems commendable to me; a necessary acknowledgement that male violence against a partner pre- and post-birth is a common experience and should be neither a taboo or something to keep quiet about. The midwife's advice to me is understandable. As a friend of mine said, 'if my partner starts beating the crap out of me I don't want a social worker, I want to call the people who turn up with a fast car and gun.'

So why as part of the Justice Matters for Women project, are we suggesting downsizing the criminal justice system for women?

Relying on criminal justice to address violence against women is problematic for many reasons, not least of all because most incidents do not come to the attention of criminal justice agencies. In 2011/12 the police recorded the following incidents as involving women victims:

- 25,008 incidences of violence
 - 172 homicides
 - 14,767 rapes
 - 18,780 sexual assaults
- (ONS, 2013)

These figures clearly capture a significant amount of harm against women. However the vast majority of harms women experienced are omitted from these figures. Many incidents will not have been recognised as violence (including by those experiencing it). Others will not have fitted a formal crime classification. Even when recognised as violence by the person at the receiving end of it, the complex, usually intimate, context means underreporting is chronic. It is estimated the actual number of women in the UK who experience violence in a year is nearer three million (End Violence Against Women, 2014), making violence more prevalent for women 'than stroke, diabetes and heart disease' (Cerise and Dustin, 2011).

Our commitment to downsizing criminal justice is about taking very seriously the unacceptable levels of violence against women and asking whether our current approaches are sufficient. We are interested in joining with others to ask: 'Are there better ways of responding to this

violence and to the harms violence against women causes than the response offered by a criminal justice system?' By 'better' I mean responses that prioritise aspects that have long been recognised by campaigners in this field: treatment, survivor support, prevention, and protection against future violence.

Criminal justice is a process that prioritises, above any of these things, conviction and punishment of the 'guilty'. Determination of guilt is based on a legal process dependant on establishing individual guilt and a narrow concept of legitimate 'offenders' and 'victims'. Undoubtedly this is ineffective in its own terms at securing convictions (McCandless, 2013) as well as often doubly victimising women (Bowcott, 2014).

Leaving aside the suitability and potential of criminal justice and the legal process that underpins it as a response to violence against women, it is a system which addresses what we might do after an incident has occurred. Why start here? If our goal is to end violence against women, it makes sense to focus energy and resources on preventing violence occurring in the first place (for example, through a public health approach to sexual violence (McNaughton Nicholls and Webster, 2014)).

It will, I imagine, be uncontroversial to state that, if you started from scratch and wanted to address the problem of violence against women, you wouldn't design something that looks like our criminal justice system as a solution.

What is open to interpretation is what to best do about this: *where should criminal justice feature in strategies to address violence against women?*

Starting a conversation

There have undoubtedly been important gains in making criminal justice work better for women. And anyone seeking a difference for women can't afford to ignore criminal justice or pretend it doesn't exist. However, it is important to be clear about the limitations of these efforts, and, if we are interested in long term strategies to end violence against women, we should acknowledge that criminal justice has a relatively minimal role to play.

I expect such a position is pushing against an open door for those campaigning around violence against women. This movement has long embedded its work in addressing wider structural issues such as patriarchy, inequality and power; advocating initiatives including better sex and relationship education, community mobilisation, and alleviating gender inequality. By implication, criminal justice is marginalised in such

strategies. But it is a sector that has typically stopped short of a critical perspective about criminal justice.

We'd like to open up a dialogue with those working to tackle violence against women about this. In the Coalition's 2010 strategy to address violence against women and girls (HM Government, 2010), on the first page, Theresa May states:

The causes and consequences of violence against women and girls are complex. For too long government has focused on violence against women and girls as a criminal justice issue – dealing with the fallout of these terrible crimes.

The government has made little progress thinking through the consequences of this acknowledgement of the limits of criminal justice. For example, see the End Violence Against Women coalition score sheet (Dustin and Shepherd, 2013) and Ingala Smith's analysis (2013). Thinking through the practical implications leads to some more difficult questions for those who want to tackle the harms women face. There are tensions here. These challenges will be the subject of a future comment piece in the Justice Matters for Women series. But there are good reasons why those pursuing strategies to downsize criminal justice and those interested in long term strategies to tackle violence against women could share common ground in looking beyond criminal justice.

We hope others will think this is a conversation worth having.

5. Is Lady Justice blind or just blinkered?

Rebecca Roberts, 19 February 2014

Most people will be familiar with ‘Lady Justice’ – a statue or picture of a woman often blindfolded, holding a set of scales. Lady Justice is intended to represent objectivity and impartiality in the legal system.

As part of the Justice Matters for Women project we have published a series of comment pieces highlighting the failings of criminal justice in the context of women – pointing out the possibility that Lady Justice may not be as ‘blind’ or impartial as we are often led to believe. Firstly, the system fails women caught up in criminal justice, magnifying and reinforcing existing social injustices experienced by people who have been punished. Secondly, the criminal justice system (CJS) fails to protect or respond adequately to victims or survivors of violence. Alongside this, there is the overlapping nature of law breaking and victimhood where women with experience of abuse, assault and sexual violence are frequently swept up in the CJS as ‘offenders’.

Is criminalisation the route to emancipation?

So what are we to do? Accept the limitations of criminal justice and operate within its boundaries by improving police responses, witness support and protection, prison programmes, support for prisoners?

There are problems with focusing predominantly on CJS interventions – for women who have broken the law and/or for women who have been subject to harm or violence. As Mimi Kim, in an analysis of anti-violence work and criminalisation in the USA argues, the ‘constraining logic of criminalisation’ has resulted in ‘the alignment of the anti-domestic violence movement with the criminal justice system and foreclosed alternative conceptual frames and remedies’ (Kim, 2012). Kim describes a widening of the criminal justice net and institutionalisation of social work responses within a criminal justice framework:

The dominating framework of a social problem as a crime and the accompanying reliance upon criminalisation and alliances with the institutions of crime control have contributed to the unwitting participation in the current policy of mass incarceration....

Despite the anti-violence movement's commitment to social justice, the emancipation from gendered violence has become bound to the ceding of feminist power to the patriarchal and racially biased authority of the state.

Research in the UK has reached similar conclusions. Based on their study of violence against women initiatives

in Merseyside in the late 1990's, Tina Hall and David Whyte (2003) conclude:

the marginalisation of the expert knowledge of non-statutory women's organisations is closely linked to the reinforcement of the traditional concerns of crime control.

They add:

The most effective way to challenge police supremacy and to start to rebuild effective means of protection for women with violent partners is to re-divert resources from the traditional axis of criminal justice and into adequate, stable sources of funding for women's services.

The argument here is that criminalisation and criminal justice crowds out wider acknowledgement of the roles that patriarchy and systemic inequality play in creating and allowing violence to take place. Uncritically engaging in what might on the surface seem like criminal justice ‘toughness’ may unwittingly tether those who want better outcomes for women to an approach which undermines recognition of the harms women face. Below I outline key statements put forward by other organisations that have also thought about this issue. There are pros and cons to these approaches, and they may not be entirely relevant to our context – both are based in the USA – but they are worth a look.

Incite! Critical Resistance: Statement on gender violence and the penal industrial complex

We call on social justice movements to develop strategies and analysis that address both state AND interpersonal violence, particularly violence against women.

Currently, activists/movements that address state violence (such as anti-prison, anti-police brutality groups) often work in isolation from activists/movements that address domestic and sexual violence. The result is that women of color, who suffer disproportionately from both state and interpersonal violence, have become marginalized within these movements. It is critical that we develop responses to gender violence that do not depend on a sexist, racist, classist, and homophobic criminal justice system. It is also important that we develop strategies that challenge the criminal justice system and that also provide safety for survivors of sexual and domestic violence.

To live violence free-lives, we must develop holistic strategies for addressing violence that speak to the intersection of all forms of oppression.
(Incite, 2001)

One Billion Rising

This is what justice looks like.

One Billion Rising for justice is about envisioning justice for all survivors of gender violence. Justice can take many forms.

It can be an apology or reparations. Taking legal action. It can be about making the truth visible. It can be prosecuting, or pushing to create change, or implementing policies and laws that ensure the protection of women's rights. It can be calling for an end to all forms of inequality, discrimination, misogyny and patriarchy.

It can be naming or shaming perpetrators – whether they be individuals, groups, corporations or the state.

Demanding accountability. It can be rising for justice be it personal, social, economic, cultural, environmental or political. It can be a revolutionary call to restore dignity and respect for all women.

It can be about transformation.

(One Billion Rising)

Taking off the blinkers

Lady Justice is far from blind – she is blinkered, biased and discriminatory. Women who have been subject to violence know this. Women who have been convicted of an offence know this. Research and official reports back this up. Violence is harmful whether it is a threat, a rape, a punch, a smack. Individuals commit individual violent acts. However, such acts should be understood against backdrop of injustice that forms part of a continuum of harmful experiences. As suggested by Incite!, Critical Resistance, and One Billion Rising – among many others – violence is more than just a criminal act. It is a process. It is endemic.

Is it possible to articulate a political analysis and understanding of the role that the criminal justice system plays in maintaining existing power relations in the United Kingdom? If so, what might that conversation involve? Can we shift the debate in the UK?

Through Justice Matters for Women our hope is to stimulate discussion about how we might remove the blinkers. We hope there may be scope for a conversation that recognises the limitations of criminal justice and seeks a structural analysis of violence and its solutions that recognises the impact of race, gender and class.

6. Taking a downsizing agenda for women forward: The challenges

Helen Mills, 26 February 2014

Previous posts in this series have identified various limitations of the criminal justice system for women in keeping with the Centre's analysis that:

- Current responses to criminalised women are seriously flawed and harmful to women.
- Prioritising the criminal justice system in our response to violence against women has undermined the development of more effective ways to address the harms women face.

I suspect many are likely to agree with the analysis that has informed the Centre's downsizing agenda: that current criminal justice responses to women are inadequate. However, the symbolic significance of criminal justice for taking harm seriously and signifying acts as socially unacceptable may make it difficult for some to conceptualise that our commitment to downsizing criminal justice could mean anything other than rolling back protection for women.

The difficulty of simply beginning to articulate strategies which look beyond criminal justice is well established. Writing nearly 25 years ago, Carol Smart (1990) considered feminism had well identified the limits of the legal system for achieving justice for women but that:

[it] may not be able to articulate alternative accounts because of the real fear that law will snatch back the minimal protection it offers.

Rejecting criminal justice as the starting point for a conversation about reducing harms for women is destabilising. Particularly for those working within it. But also because criminal justice has been so firmly equated with a robust response to harm and so much criminal justice logic has entered the realm of common sense. In addition the use of criminal justice as a 'social services of last resort' has made it difficult to define the problems being addressed. For example, the women currently in prison are among the most discriminated against and traumatised. I do not accept the criminal justice logic that defines these women as the most dangerous to our society.

I offer the following as important considerations in taking forward this challenging work.

1 We must focus on identifying alternatives

To date the Centre's work has called into question the use of criminal justice to address a wide range of social issues. However, this does not do enough to respond to

concerns about how the harms facing women could better be addressed. This must refocus our work going forward with others.

One of the main concerns I have is that our lack of readymade alternatives will be off putting – particularly to those involved in 'front line' practice supporting women. My concern is that some who share our frustrations about the limitations of criminal justice for women will tune out upon the discovery we aren't proposing to have the answers (or at least not yet); that as a result this project will lose out on the benefit of their knowledge, expertise and experience. Or, alternatively, that the conversation we are hoping to start about looking beyond criminal justice will be forestalled by the belief we can't afford to look beyond what we can do to bring positive change now.

2 What should justice look like for women?

Answering this question requires an open conversation. Drawing on structural analyses of the harms facing women must be part of this process. So must the experiences and voices of women affected by the criminal justice system.

I think doing so will result in our reaching different conclusions about the interventions most relevant to women than those offered within the criminal justice system. This will likely involve a broad platform of alternatives and a range of responses – including those not about prosecution and punishment. It will also mean acceptance from downsizers about what a re-specified criminal justice system would look like. For example, criminal justice is currently the only access to containment women have. For some women this containment (of men) will make them feel/be safer.

3 Working alongside reforming criminal justice

As we have previously outlined, we are not setting out to make criminal justice work better for women. Not because this work isn't important or necessary. But our starting point here is different. This sets apart our work going forward from a criminal justice reform agenda.

There will inevitably be tension between efforts to reform and efforts to transform criminal justice. But both interventions are necessary and should find ways to work together.

Notwithstanding the importance of this distinction between reform and our work here, this project is not opposed to the function of law or to collective disapproval in society. Nor to there being a place for sanction and containment in society's apparatus to protect its citizens. As such there will always be a role for making criminal

justice work better for women. I welcome those engaged in this work to reform criminal justice.

Going forward

I don't underestimate the challenges in thinking beyond criminal justice. Nor the strength of attachment some may feel to the promises of criminal justice – protection, rehabilitation, and justice – whatever we know about its current realities for women.

Taking forward Justice Matters for Women will require a spectrum of interested, engaged, knowledgeable people,

committed to addressing deep-seated structural issues. Criticisms, concerns and differences should all be part of this conversation. Those who participate in the March 2014 meeting won't be asked to sign up to a set of alternatives which will deliver better outcomes for women and address the structural inequalities women face. I hope this doesn't limit our ability to think differently about women and criminal justice and to have the space for a conversation about thinking beyond criminal justice. The end point is not predetermined. We need others to join us to shape this journey.

7. Mitigating the harms of criminal justice

Laurel Townhead, 06 March 2014

The previous post in this series highlighted the potential conflict between focussing our efforts on reforming the criminal justice system or aiming for wider social transformation. There is an additional task and that is mitigating the harm the criminal justice system (CJS) causes. Women in Prison's experience of doing this for thirty years has given us an insight into both the reform needed in the CJS and the transformation needed in the approach to women especially those who are criminalised.

The work done to mitigate the harm the criminal justice system causes to women has lessons for those working for reform and transformation. This work can tell us about what transformation should be founded on. We need to be clear about the reasons upon which we base our call for transformation and which shape our vision of an alternative. A programme of rehabilitation 'transformation' is underway. This government programme of transformation is embedded in the CJS and doesn't aim to downsize criminal justice in the way we are exploring. As a result I fear that this transformation (with marketisation as a central plank) will be detrimental to attempts to reform, transform and mitigate the CJS's harms.

So what does it mean to try and mitigate the harm the CJS does to women caught up in it? It means providing independent support to women to avoid the system and, where that is not possible to survive it and exit it. This is not about working against the criminal justice system. But it is also not about working for it. It is about working for and with women. If we take each individual woman as our starting point it is clear that there is much that can be done to prevent further offending behaviour but very little of that comes from the criminal justice system.

Women-centred action

Being women-centred in your thinking and action is key to mitigating the harm the criminal justice system causes and key to the transformation that is needed. It means asking not what needs to be done to a woman, but what she can do and what she wants to do, and how you can provide the support she needs to achieve this. Rarely (if ever) will locking her up be the answer. Indeed, we question if locking someone up for punishment is ever an appropriate response (containment for public safety may be necessary but this is not the reason that most women are incarcerated as the earlier post on why women are in prison showed).

Unsurprisingly, each of the 50 members of Women's Breakout working with women to mitigate CJS harm do so in different ways, but all come from a starting point of providing a women-centred service. These services are wide ranging including: budgeting, healthy relationships,

prostitution exiting, substance misuse, self-esteem, domestic violence, parenting; in short, supporting women in every aspect of their lives. It is as much about how we work as about what we provide and an individualised, women-centred approach is core.

From action to abandonment

Unsurprisingly, the most successful programmes are those that involve building a relationship with a woman and working with her to achieve the changes she wants to make. Women in Prison's Through the Gate project for Black and Minority Ethnic women provided intensive one-to-one support to 43 women; only one of whom had been reconvicted six months after the end of the project. It is cost effective: one social return on investment study found that for every pound invested in support-focused alternatives to prison, £14 worth of social value is generated over 10 years (Lawlor, Nicholls and Sanfillipo, 2008).

Surprisingly, these programmes are under threat (although sadly in the current political climate this is unsurprising too). There was a period of investment in diversionary work with women following the Corston Report (2007). However, the government's Transforming Rehabilitation programme has no specific contracting for women and as this gathers pace, women centred services are at risk of disappearing and the women they support left once more to the excesses of the CJS. Women are harmed by a CJS designed for men, and then the services that support them are disadvantaged in an evidence/measurement culture because the numbers of women they work with are small. Another part of the transformation that is needed is a perspective shift to a culture that values self-assessed progress and not cost effectiveness and standards of effectiveness that fail to put women first.

Transforming services

Impacts like a reduction in reoffending and saving public money are very persuasive arguments for this work – but they are not the motivating force for support services, nor for the women themselves. Women's services like ours and others are motivated by ensuring that women get the chance to address the abuse, trauma and inequality they experience. And I believe it is this that should inform our vision of a transformed response to the harm women experience. For example, if levels of gender-based violence were reduced, if more women could access support and find safety then I have no doubt that women's involvement in the criminal justice system would fall.

This view is not new; it was clearly outlined in the Corston Report (2007) that the radical change needed should focus on support and diversion because there was no good reason for the vast majority of women to be criminalised. One of the boldest recommendations, that has sadly been quietly shelved, was to move responsibility for managing criminalised women from the Ministry of Justice to the Department for Communities and Local

Government. Because, as we are exploring in Justice Matters for Women, the criminal justice system need have no place in the lives of most women branded as 'offenders' if there was adequate support in the community.

Is it time to return to this recommendation again and ask: why this is viewed as a criminal justice issue when it could more effectively be addressed as a social justice issue?

8. Talking about the unimaginable things to make them visible

Helen Mills, 02 April 2014

‘Dauntingly good’, was the description Laurel Townhead of Women in Prison, who is working with the Centre on Justice Matters for Women, used to describe those who had signed up to the event last Wednesday. The sign ups to the Justice Matters for Women event had grown over the 30 or so we’d originally anticipated, to more than 100 registered to attend. I was delighted, but with some trepidation. We booked a bigger room. And even then, at last week’s event, every seat was taken. It was hugely stimulating to meet such engaged, knowledgeable, thoughtful and experienced people at Wednesday’s Justice Matters for Women event.

My colleague Rebecca Roberts, Laurel Townhead, and myself set out to share the ideas informing the Justice Matters for Women project, our responses to it, what we see as the challenges and difficulties, and our thoughts about how to go forward. You can read our presentations online (CCJS, 2014).

The most important thing we wanted to get from the day was a sense about what next: what would people find useful? How do we take forward this challenging agenda? I know I speak for all of us when saying the learning and thoughtful contributions those who attended shared was immensely helpful in this respect. These contributions came from various places: practitioners, women’s centres, campaigners, those with direct experience of criminal justice, those committed to improving outcomes for women, those tackling violence against women and those involved in research about women’s criminal justice involvement. To have all these people in one room, contributing, was fantastic. It also made for a difficult job for our dedicated scribes for the day Zoe Ellis and Jordan Beaumont, interns at the Centre, so thanks to both of them.

By the halfway point, the word ‘we’ was being used. What ‘we’ should do next; what ‘we’ should be saying and to whom. This is not to suggest there weren’t areas of

disagreement. Concerns were raised about how to ensure a commitment to downsizing criminal justice doesn’t come at the expense of women who want to use criminal justice interventions to address violence, for example. But it did make clear the scope and interest in collaboration.

There is a wealth of experience, learning and understanding in the women’s sector that is at risk of being obscured by the direction of travel the current transforming rehabilitation policy framework entails. Many of those present clearly felt this and wanted tools that would support them to respond to it. Part of the event involved post-it note contributions. As one such contribution stated:

I’m concerned that too much local financial resource (and the space for the discussion) has irrevocably gone and what this means for prevention and early intervention agendas.

I learnt that others are asking how we get out of the criminal justice box – not only in terms of how we get women out of prison or the criminal justice system – but how do we as campaigners, communities, practitioners, and concerned individuals avoid being trapped in a criminal justice silos that is fundamentally unhelpful for women. And for me that has been tremendously encouraging. I left feeling energised about what ‘we’ do next. When myself, Rebecca, Laurel and Rachel Halford from Women in Prison met today we were buzzing about what this could involve. Rachel mentioned one post-it that struck her in particular:

[we should] talk about unimaginable things to make them visible.

Expect an update in the coming weeks about what we’ll be doing next.

9. A life of its own

Laurel Townhead, 14 April 2014

Helen wrote about the Justice Matters for Women event in a previous blog post and mentioned that this event was not the end of the line. We planned to continue work on this following the event but we weren't sure quite what form that would take. The commitment, frustration and sense of common purpose expressed at the event have given us a kick start for the next phase of this project.

Like Helen and Rebecca at the Centre, I came away from the event buzzing with energy and ideas, with that special feeling of having been a part of a moment when something else began to feel possible. As I said at the end of the event, these are the moments that sustain me as I work for change in an increasingly challenging environment.

The key things I took away in terms of informing what happens next were:

- **Passion:** this matters, and it matters to a broad range of people from different sectors
- **Collective voice:** there is a 'we' and, whilst there will not be unanimity on all points there is enough common ground to build on
- **Energy:** we should take this on, we are ready to do something, there is a hunger to find the time to step back from the day to day and work for social justice, not just 'better' criminal justice

So what next? The Centre and Women in Prison will pull together a call for action, drawing on the discussions at

the event and coming back to you to build on the groundswell of support for action to tackle the status quo which we felt at the event.

It is no small task that we have taken on – bringing about real justice for women means tackling the economic and power structures that perpetuate inequality, it means challenging the attitudes that undermine women's safety. But by coming together, re-boosting each other's energy to keep challenging the over-expansion of criminal justice into women's lives, and equipping ourselves to articulate a vision for a just world for women, we can achieve change.

It is a challenge to articulate what it is we want to see – we are so firmly grounded in the challenges of the current system that we struggle to step back, re-think and focus on what we want, rather than on what we don't want. This is what I think was meant by the comment mentioned in the previous blog about making the unimaginable visible. And this is where I think we can have an impact: By equipping ourselves and others to speak with confidence about challenging criminal justice dominance and mission creep, and to communicate a vision of the alternative.

We will be looking to all of you to help take this forward. It no longer feels like this is the Centre's and Women in Prison's project alone. Bolstered by your energy and knowledge, informed by your ideas and frustrations it feels like Justice Matters for Women is all of ours now. It is becoming something bigger and more ambitious than we initially planned. It is taking on a life of its own – I look forward to working with you all as it grows.

10. Little to lose, much to gain

Rebecca Roberts, 28 May 2014

There is a growing sense of frustration and sadness amongst practitioners and campaigners at the economic and political situation we now find ourselves in. Many of the gains in gender equality, economic equality and fairness seem to be in reverse. Justice, it would seem, is increasingly in short supply.

Different forms of state, corporate and institutional violence were discussed at the Centre's recent 'How violent is Britain?' conference organised with the University of Liverpool. Activists, researchers and practitioners gave accounts of the violence of detention, austerity, security – to name just a few of the themes. The specific experiences of women featured in many of the sessions. We heard about the violence of austerity; where the disproportionate economic impact of cuts on women and the contraction of services and resources are hitting home. Women's (already compromised) autonomy and economic independence is increasingly under threat.

Rachel Halford of Women in Prison spoke on the violence of detention, talking about the stark realities of day to day life prior to, during and after imprisonment. She described the familiar and distressing stories of women who early in life have been abused or neglected by individuals and institutions that they, quite rightly, should have expected to nurture and protect them. We heard of the predictable and yet entirely avoidable routes of women into criminal justice institutions. Despite the brutalities of confinement, Rachel told us that that some women often felt the prison walls offered refuge from the outside world. It is a sad indictment of our society that an institution so explicitly about punishment and control is the best hope some women believe they have for safety.

The session on the violence of security covered immigration detention and women's experiences of trauma, sexual violence and torture – further tormented by so called 'asylum' policies. These are just some of the accounts that evidenced the human consequences of active decisions made by institutions, corporations and

states. Where did this leave me? Angry, frustrated and inspired. Angry with the political and economic systems that condone such brutality – and the individuals that allow it. I was frustrated that the answers on how to put a stop to it did not seem forthcoming. It left me wondering whether personally and professionally I am doing enough to work for positive change.

As part of the Justice Matters for Women project a working group met last week to discuss a draft 'call to action'. Surrounded by women with knowledge and experience of the issues at hand, we discussed the potential for a call to action and the opportunity for a collective voice. The wider political and economic context has the potential to have a galvanizing effect. Those working to support and empower women living at the sharp end of austerity and inequality see the missed opportunities, the collateral damage – and in particular – the impact of patriarchy and gender based violence. Our hope is that we can bring practitioners and activists together to build collective confidence to name and challenge the harms inflicted upon women.

Over the coming weeks we will be re-drafting and circulating more widely a statement and set of demands. The working group encouraged us to be bold, unapologetic and uncompromising. This is about stepping back from the daily grind to relate what we know about women's chances and choices to wider social arrangements. What I took away from the meeting was that we need to find ways to empower women, resist injustice and ultimately transform lives.

To build alternatives and transform our approaches to economic, political and gender justice, we need to dare to change. Change our mindsets. Change our practices. Change our approach.

For many this might mean stepping outside of our comfort zones. But, as one of the working group members said at the start of the meeting – we have very little to lose but an awful lot to gain.

11. Putting women in their place

Rebecca Roberts, 13 August 2014

Bea Campbell, in the final pages of her recent book, *The End of Equality* (2014), articulates a simple, yet revolutionary vision of a society in which equality is possible:

Imagine men without violence. Imagine sex without violence. Imagine that men stop stealing our stuff - our time, our money and our bodies; imagine societies that share the costs of care, that share the costs of everything; that make cities fit for children; that renew rather than wreck and waste. This is women's liberation. It is do-able, reasonable and revolutionary.

Campbell's book offers a whistle stop tour of the injustices faced by women in the UK and abroad. Written in a style familiar to feminist texts of the 1970s and 1980s (this is no criticism by the way), the book offers a concise and powerful critique of gender inequality and gender relations in the twenty-first century.

Justice Matters for Women

The Justice Matters for Women initiative starts from the position that this systemic inequality cannot be resolved by the criminal justice system. Indeed, criminal justice often plays a role in ignoring and/or compounding many harms experienced by women. A little over two months ago, we released a call to action to empower women, resist injustice and transform lives:

The harms women face are widespread yet consistently ignored. Many criminal justice interventions and support services serve to replicate and reinforce unequal gender relations rather than tackle the root causes of harm... We are calling on others to work with us to challenge structural inequality and eradicate punishment and control in women's lives.

Our call to action was drawn up to build a stronger collective voice for resituating the focus of the debate about the harms women face beyond the operation of criminal justice to wider questions of structural inequality. The strength of support we have received so far indicates that these issues have resonated with many and opportunities for change lie ahead.

Why women?

One of the very few criticisms we've had of our approach so far is 'why women?' – and 'don't men matter too?'.

Patriarchy and inequality is harmful to men and women, often in very different ways. Institutions, economy and the media operate in such a way that it is usually the norm to

place women's concerns and needs as secondary to men's. Current campaigns highlight ways in which society continues to tolerate, facilitate and promote violence against women in range of settings. For example, End Violence Against Women and Everyday Sexism.

For me, a commitment to exploring options to radically downsize criminal justice must be coupled with attempts to better address harm and violence. One of the lenses through which the Centre is approaching this is through gender and gender based violence. Karen Ingala Smith, defending her campaigning work associated with the Counting Dead Women website, neatly summarises her reasons for focusing on male violence against women and these are well worth a read (2014).

A recent article from Colin Crouch in the *Political Quarterly* (2014) caught my eye. Crouch highlights a number of dimensions of women's lives, their identities and social location that places them in a potentially powerful position to challenge inequality and the current concentration of power amongst the few:

- **Numbers:** Women are not a minority.
- **Potential of political power:** Despite achieving 'political citizenship', women still suffer from a range of gender based disadvantages in participating fully in life outside the home alongside men. Their identity therefore has a powerful political dimension.
- **Social location:** Women's dominant role in middle and lower positions in the service sectors means that they occupy 'the very social location to which one must look for any new challenge to dominance by elites'.
- **Resistant to neoliberalism:** Due to the social position and recent political history, women are more resistant to neoliberal ideas.

Crouch makes an important point in terms of highlighting the crucial and necessary role of women in contributing to social change – but I don't interpret that as meaning it is solely their responsibility. Men and women, together, need to be involved.

Ending inequality

Becky Clarke and Kathryn Chadwick (2014) explore how women experience welfare and criminal justice policies, often converging to focus on individual pathology 'which requires women (and it is mainly women at the head of those families being targeted) to receive this support or face sanctions – of imprisonment or eviction from their home'. Clarke and Chadwick argue that this should not just be of interest to women involved in criminal justice:

We hope to see the 'call to action' connect and mobilise women. In our view this should engage ALL women. The harms produced by the criminal justice system and experienced by those women repeatedly failed by it, ultimately affect ALL women.

As the Justice Matters for Women initiative goes forward we will continue to publicise and build support for the call to action. Over the coming months we will also be exploring 'non-criminal justice' approaches to tackling violence against women. In the meantime, here are some of the supportive comments from signatories received so far.

It is time that violence against women and girls was seen as a failure of our society and stopped. Women who, sometimes in the aftermath of abuse, offend, should be recognised as in need of help and support and not punished, when we have failed them by not intervening to stop the abuse in the first place.
Vera Baird, Police and Crime Commissioner for Northumbria

Inequality for women continues to pervade our society and women in the criminal justice system continue to face unequal treatment.
Elizabeth Matthews, Development Manager,
Women's Rape and Sexual Abuse Centre

Existing paradigms are largely constructed of male interpretation of women's experience.
Geoffrey Curl, Refugee Worker

I believe that gender inequality is the most widespread and endemic inequality the world is facing today.
Suzanna Oglander

If you haven't signed the call, then please consider doing so, and encourage your friends and colleagues to do the same.

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