

PRISON SERVICE JOURNAL

March 2011 No 194



The Corston Report:

Reading Even Further Between the Lines

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Introduction

In 2009 in this journal Rachel Goldhill offered an analysis of the recent Labour government's initial response to the Corston Report commissioned to look into the needs of women within the criminal justice system. Her analysis illustrates the extent to which the 'small print' of the government's response was characterised by being 'watered down by suggested partial adoption and numerous provisos'¹. Whilst we agree with Goldhill's overall assessment — that the lack of receptivity to Corston's work constituted a missed opportunity in responding to the particular nature of much female offending, (though the report itself has clearly become a benchmark for some, see the Thematic Report by HM Inspectorate of Prisons July 2010), what we do here is explore a little deeper between Goldhill's lines.

Since Goldhill's article was published the then Labour government issued *A Report on the Government's Strategy for Diverting Women Away from Crime* in December 2009. Here we offer a view of the fundamental differences in ethos between the government and Corston and an analysis of why the policy process in and of itself is simply not framed to accommodate the kind of radical re-orientation that Corston proposed. We begin with an overview of each of these reports drawing out their respective positions and understanding of crime. Then we go on to consider the extent to which the Corston Report really did offer a policy opportunity for change or perhaps merely represented a moment from which penal legitimacy was reasserted. We end, however, on an optimistic note by suggesting that an unintended consequence of the present public spending review initiated by the current coalition government could result in a revitalisation of the community-based management of female offenders which Corston proposed.

Female Offenders: harmed or criminal?

Corston was commissioned in 2006 to '... to conduct a review of women in the criminal justice system who have particular vulnerabilities'² following concerns about the number of suicides of women prisoners in Styal prison in 2002-3 and the subsequent investigations into their deaths. The Cheshire coroner who conducted the inquests into these deaths criticised the use of imprisonment for '... damaged individuals, committing for the most part petty crime'³. Corston's terms of reference were to focus on '... the group of women offenders who have multiple needs'⁴ and particularly those who might self-harm whilst in prison. One of her tasks was to define what the term 'particularly vulnerable' might mean in such circumstances. Corston, however, chose to widen the remit of her enquiries. She was clear in her insistence that the conversations and visits held during the course of her review had led her to see the problem of 'vulnerable women within the criminal justice system' in the context of the difficult and troubled lives which many women endure outside of this system. So, for Corston 'vulnerability' was not a quality intrinsic to the individual women but was the consequence of extrinsic factors acting on her individual psyche — in short the woman was made vulnerable by forces which she was unable to control. So Corston was clear that these were women, like any others, but who had been harmed by certain aspects of their experiences. Harms that could nevertheless be addressed. Her preferred term 'women with vulnerabilities' is used to encompass this approach and in the report she is careful to explain why she had chosen this terminology.

In listening to women's voices Corston developed an approach that contextualised women's offending in the wider social and economic circumstances linked to being born a female in late modernity. From this position, women who offend are seen as being subjected to wider social harms inflicted upon them both by social norms and expectations and the

1. Goldhill, R. (2009) The Corston Report: Reading Between the Lines *The Prison Service Journal* 184: 13-19 p.13.
2. Ministry of Justice (2008) Delivering the Government Response to the Corston Report. A Progress Report on Meeting the Needs of Women with Particular Vulnerabilities in the Criminal Justice System <http://www.justice.gov.uk/publications/docs/delivering-the-government-response-to-the-corston-report-web.pdf> [Accessed 10.07.10] p.4.
3. Corston Report (2007) *Women with Particular Vulnerabilities in the Criminal Justice System* London: Home Office p.14.
4. Ibid p.14.

structural position of women in society at large. Corston recognised that the effect of these harms, when combined in certain configurations (individual to the woman concerned but generally present for all women) can precipitate crises that propel particular women into behaviour destructive to themselves and those around them. When these crises lead to a women committing and being arrested for acts deemed as criminal a further set of harms can be produced by the criminal justice system itself. Thus the treatment that women receive within the criminal justice system compounds their negative experiences and inflicts further damage, once more stripping the woman of confidence, esteem, autonomy and control. Thus Corston argued for whole-scale changes — radical changes, gender-specific understandings and community-based support — before offending becomes an added problem. She contends that her approach:

... will require a radical new approach, treating women both holistically and individually — a woman-centred approach. I have concluded that there needs to be a fundamental re-thinking about the way in which services for this group of vulnerable women, particularly for mental health and substance misuse in the community are provided and accessed; there needs to be an extension of the network of women's community centres to support women who offend or are at risk of offending and to direct young women out of pathways that lead into crime.⁵

Corston's approach connects to a critical perspective which, over the last decade especially has criticised the lack of consideration given to an understanding of women's pathways into crime⁶ and of their specific needs within the criminal justice system whether this is provided in the community⁷, at court⁸ or within prisons⁹. At the heart of Corston's

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review is a clear rejection of the principle of sameness. She acknowledges that treating women the same as men in a gender-blind, male-centred criminal justice system results in significantly poorer outcomes for women.

In contrast to Corston's harm based framework the discourses of crime and criminality strongly underscore the government's *Strategy for Diverting Women Away from Crime* and it is to this document that we now turn. The very title of the document signals its move from harm to crime. 'Diversion from crime' moves the subject of the government strategy far away from Corston's emphasis on 'women with vulnerabilities' and places it, as a strategy, focally concerned with the reduction of crime with its success being measured on the basis of this particular outcome. Thus the gaze falls on to a distinctly narrower focus of diversion from crime and the individual's intent to act in ways that break the law. As a result the criminal act is de-contextualised and is divorced, not only from an exploration of the structural factors which lie behind the commission of crime, but also fails to engage with the nature of offending behaviour which, as Corston outlined, in the case of women is overwhelmingly petty in nature and rarely poses a risk to other people.

This reluctance to move outside of the crime frame is underlined by the government's choice of partner agencies invited to participate in developing present and future work in this area. While Corston suggests a multi-agency team consisting of representatives from the Home Office, Department for Communities and Local Government (which she hoped would eventually take the lead role), the Department of Health, Department for Education and Skills, Department for Constitutional Affairs and the Department of Work and Pensions — the government strategy names the Ministry of Justice including representatives from the Government Equalities Office, Department of Health and the Attorney General's Office — hardly a radical departure from the old ways of thinking and certainly no

5. Ibid p.2.
 6. Hannah-Moffatt, K. (2006) Pandora's box: risk/need and gender responsive corrections. *Criminology and Public Policy* 5(1): 183-91, Carlen, P. (1998) *Sledgehammer: Women's Imprisonment at the Millennium*. London: Macmillan.
 7. Gelsthorpe, L., Sharpe, G., and Roberts, J. (2007) *Provision for Women Offenders in the Community*: London: Fawcett Society, Worrall, A. (2002) 'Rendering them punishable' in P. Carlen (ed) *Women and Punishment: The Struggle for Justice*, Devon: Willan Publishing.
 8. Gelsthorpe, L. and Hedderman, C. (1997) *The Sentencing of Women*. HORS 170. London: HMSO, Eaton, M. (1986) *Justice for Women: Family, Court and Social Control*. Milton Keynes: Open University Press.
 9. Eaton, M. (1993) *Women After Prison*. Buckingham: Open University Press.

indication of a movement beyond criminalisation and discourses of risk. Indeed the strategy's suggested lead for developing future provision and monitoring its effectiveness is placed with Directors of Offender Management rather than Communities and Local Government.

Much of the focus of the government strategy is, not unsurprisingly, pre-occupied with labelling of women as offenders and fails to challenge the offender/victim dichotomy that Corston was keen to do. The government strategy uses the term 'victim' three times, once when highlighting good practice in Peterborough prison (where an officer has been appointed to take a lead in working with sex workers as well as victims of domestic violence and sexual abuse) and twice in a paragraph relating to the Home Office publication *Together We Can End Violence Against Women and Girls: A Strategy* (a document in which it is acknowledged that women who offend have often suffered in abusive and violent relationships). Apart from these references there is little in the document to reflect Corston's concern with crisis points in the lives of women with complex and multiple vulnerabilities. The terms race, poverty and marginalisation — concepts which are key to understanding Corston's approach — do not feature in the government strategy. Where women and vulnerabilities do feature in the document (on four occasions)

twice this is a reference to 'vulnerable women' and twice relates directly to Corston's work and therefore uses the term 'women with vulnerabilities'. Overall then it is perhaps safe to conclude that Corston's request for the latter term to be utilised to allow for the wider context of women's offending as a way of guarding against the labelling of women as individually vulnerable seems not to have been heard.

Somewhat contradictorily the push for community provision for 'women with vulnerabilities' found within Corston does appear to have been listened to. This features very highly in the government strategy which continually references services delivered in the community (thirty occasions) and support for Women's Community Projects (twelve occasions). However the community services

referenced are without exception linked to women offenders, both at an early point in their offending history and right through to women who have left prison and need support. Even where improved access to health services is discussed, it is done so in terms of helping women who have already been in contact with the criminal justice system.

The government strategy's use of the term 'harm' is particularly telling. Corston refers to harm on ten occasions in her executive summary (and many times throughout the rest of the document) always in terms of harm done to women and primarily in respect of self-harming behaviour. The government strategy uses the term on only five occasions in its entirety. One of

these occasions refers to the fact that women in prison may self-harm, the other four are all mentioned in the context of the harm women may do to others and the extent to which they pose a low or a serious risk of harm to other people. There is little in the government strategy to acknowledge the harm which the criminal justice system can do to women but much reference to '... making a difference for women within the criminal justice system'¹⁰ and to the importance of gender-specific standards and reference to the gender equality duties of providers. It seems that the strategy's authors are genuinely concerned to see that changes take place and gender-responsive attitudes predominate throughout the

criminal justice process. It is all the more disappointing, then, that they do not use, either through design or genuine failure to understand their importance, the language and tools which Corston has provided them with to make the desired changes a reality. The emphasis in the government strategy remains throughout the diversion of women away from crime. The government strategy perpetuates a focus on offending, re-offending and rehabilitating former prisoners.

The question remains; how do we make sense of these two documents, both significant in themselves in their concern with justice for women, yet both so different in emphasis? How did Corston's concern with harm become Maria Eagle's pre-occupation with crime?

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10. Ministry of Justice *A Report on the Government's Strategy for Diverting Women Away from Crime* London: Ministry of Justice p.3.

Corston vs the Government, a policy opportunity or the renewal of penal legitimacy?

The literature on policy implementation highlights various ways in which the intended outcomes of policy-makers might not translate into desired outcomes. For instance, the change management perspective suggests that '... if sufficient energy can be elicited from those involved by enthusiastic leaders with clear vision of change then large-scale transformations can be accomplished relatively quickly and economically'¹¹. From our reading of the two documents presented, Corston did appear to have a champion in Maria Eagle and those working alongside her in government. Indeed the government, as Goldhill¹² remarks, declared itself largely support of Corston's approach and certain aspects of her report were enthusiastically taken up within the government strategy championed by Eagle (Goldhill's caveats notwithstanding). On the other hand the democratic/participatory perspective on policy implementation claims that the disjuncture between policy intentions and outcomes can be explained by the different ways that policy is conceptualised by different actors¹³. So while the authors of the government strategy may well have been 'well-intentioned policy makers'¹⁴ and genuinely interested in translating Corston's aspirations it could be argued that Corston and Eagle inhabit different 'life-worlds' '... with their own understanding of the nature of reality and how to move on...' ¹⁵. So while Eagle may have seen herself as translating Corston's intentions into practice she could only do so in the context of existing government culture, ideology and rhetoric¹⁶. This existing culture is so steeped in the politics of risk and

crime-management that the move to a gender-responsive perspective recognising the significance of generalised social harm could not be achieved. However both of these perspectives need to be situated within a broader understanding of the policy making process.

Kingdon¹⁷ argues that it is possible to identify different streams within the policy-making system: the problem stream (the process of identifying problems that need attention); the policy stream (the production of ideas to tackle the problem); and the political stream (understanding when the public mood was ready for the ideas generated in the first two streams). This analysis, according to Kingdon affords the opportunity for 'policy windows', when 'policy entrepreneurs' who have skill, energy and commitment, might be in a position to forge ahead with policy proposals when all three policy streams come together making conditions right for change. If we apply this analysis to the policy documents under discussion here it is possible to suggest that whilst there is agreement on the nature of the problem, there is less agreement on how to solve it, and even greater divergence on the question of the 'public mood'. It is in this latter respect that the government strategy reflects a presumption of penal populism amongst the general public not

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evident in the Corston Report (a presumption also picked up by Goldhill). Moreover whilst Corston or Eagle could be conceived as policy entrepreneurs (champions) in the punitive climate of contemporary criminal justice policy it is a moot point as whether they might ever have been successful in this role. So despite the fact that the existence of a policy network of interests was increasingly evident on the question of

11. Trowler, P., & Knight, P.T. (2002). Exploring the implementation gap: Theory and practices in change interventions. In P.R. Trowler (Ed.), Higher education policy and institutional change: Intentions and outcomes in turbulent environments (pp. 142-163). Buckingham, UK: SRHE and Open University Press p.144.
12. See n.1.
13. Shulock, N. (1999). The paradox of policy analysis: If it is not used why do we produce so much of it? *Journal of Policy Analysis and Management*, 18, 226-244.
14. Hannah-Moffatt see n.6 p.214.
15. Nudzor, H. P.(2009) 'Re-conceptualising the paradox in policy implementation: a post-modernist conceptual approach', *Discourse: Studies in the Cultural Politics of Education*, 30: 4, 501 — 513 p.504.
16. Ibid.
17. Kingdon, J. (1995) *Agendas, Alternatives and Public Policies 2/e*. New York; Harper Collins.

gender equality more generally, in the context of criminal justice policy what that actually implies was somewhat more limited. As a result the window for policy change looked rather narrow.

Jones and Newburn¹⁸ suggest that it is important to recognise that there are not only policy streams that operate at different levels within the policy making process, but '... that a distinction may be drawn between *policy styles, symbols, and rhetoric* and the more concrete and formalised manifestations of policy in terms of *policy content and instruments*' (their emphasis). The jury may still be out in relation to the latter of these two issues for the reports under discussion here, though it is useful to observe that both recognised the important work being done by women only/women centred projects at a local level. Indeed, it is on this latter point that despite their differing style and rhetoric there is some convergence between these two documents. So, whilst the window of opportunity might have been small, it is possible to suggest that opportunities still existed to take the gender specific concerns that arise from an appreciation of female law breaking behaviour forward. This offers one reading of this policy moment. Another can be located with the work of Pat Carlen.

In comparing and contrasting Canadian penal initiatives focusing on women with those being contemplated in England and Wales, Carlen¹⁹ observed that:

Since the inception of penal incarceration, the punitive function of the prison has been occluded by governmental, professional, or reformist claims that prisons — especially women's prisons — are, or could be, for something other than punishment: psychological readjustment, training in parenting, drugs rehabilitation, general education ... whatever else might provide a

legitimate rationale for locking up women who commit very serious crimes but (when there is nowhere else to contain them- for example, family, the reformatory or the factory) also those who commit very minor ones, too.

In trying to unpick why 'the myth of the benign prison persists'²⁰ she explores the ways in which common sense, theory, and official discourses close off 'alternative or 'extra-discursive' conditions shaping women's imprisonment'²¹. For the purposes of this discussion read 'women's law-breaking behaviour'. In this 2002 article Carlen documents then the ways in which concepts envisaged as having 'radical' potential by their authors (such as victim, need, risk, choice, citizenship) were transformed by official discourse on the prison and in the process of that transformation, all reference to the conditions of women's actual lived reality, such as poverty, race and class were eliminated. Whilst the transformations that Carlen highlighted have a number of elements to them, there are two that are particularly pertinent to the documents under discussion here: the 'translation of 'risk as dangerousness' from 'risk as need', and the translation of 'holism and partnership operationalised as centralism'²².

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The discursive strategies that shift Corston's emphasis on harm done to women alongside her avowed commitment to a 'holistic, radically different, woman centred, integrated approach', are clearly transposed in the government strategy: 'harm done to' into 'harm done by' and partnership as centralism both pointed to in Carlen's analysis. Chesney-Lind²³ suggests that such processes constitute a strategy of co-optation that is contributing to the rising female prison population. A processes through which, what she calls 'the emergence of vengeful equity' (the problem of sameness) does little to take account of women's needs (the question of difference). Indeed the subtlety of these mechanisms has

18. Jones, T. and Newburn, T. (2002) Policy convergence and crime control in the USA and the UK; streams of influence and levels of impact. *Criminal Justice* 2 (20): 173-204 p.182.

19. Carlen, P. (2002) Controlling measures: the repackaging of common-sense opposition to women's imprisonment in England and Canada. *Criminal Justice* 2(2): 155-72 p.159.

20. Ibid.

21. Ibid p.161.

22. Ibid p.167.

23. Chesney-Lind, M. (2006) Patriarchy, crime and justice; feminist criminology in an era of backlash. *Feminist Criminology* 1(1): 6-26 p.17.

Conclusion

been observed in relation to the wider question of risk. Hannah-Moffatt²⁴, for example, points to the way in which the unacknowledged gendered nature of risk assessments are being transformed into similarly unacknowledged needs assessments for females 'at risk' of offending thus reflecting presumptions of sameness (see also Kendall and Pollack²⁵ on regulating prisoners). Indeed Davidson and Chesney-Lind²⁶ add that such presumptions may result in an over-classification and under-classification of women at risk all at the same time.

Why is this happening? For Carlen²⁷ the answer to this question lies with the 'political problem [of] the management of penal legitimacy' so that 'more and more women can be locked up in the future — so that their 'criminogenic' needs can be met' — legitimately. Of course, as her later work intimates, this does not mean that alternative work does not go on within the penal estate and elsewhere. There is indeed a co-existence of the 'imaginaries' of policy and the 'imaginaries' of those charged with implementation of policy²⁸ both of which take their toll (on female offenders) in different ways. So following Carlen, the likelihood that a woman centred approach would be taken forward within the criminal justice system in the aftermath of Corston was small indeed. Put simply, in the 'risk crazed'²⁹ governance of crime — however well-intentioned — policy-makers and politicians, as a collective, just 'don't get it'. Moreover they are unable to see that they 'don't get it' that is how deeply ingrained the risk frame of reference has become.

In May 2010 the era of New Labour came to an end. The subsequent Coalition Government is getting to terms with the kinds of financial measures that they have deemed are required to meet the current economic circumstances in which we find ourselves: popularly referred as 'austerity measures'. Whilst at the time of writing the outcome of the public expenditure review has yet to be revealed, Kenneth Clarke has already made some telling interventions on both the expense of imprisonment and the appropriateness of its use. Although contra-indicated, these circumstances might be those in which we can spot a shaft of light at the end of the risk-crazed tunnel. As the public spending review takes a grip, it is always possible, that the community alternatives proposed by Corston, could be the means to which both politicians and policy-makers (it will need the like mindedness of both groups) turn in order to manage female offending. This turn, of course, will not be generated from within the ethos of holism that featured so strongly in Corston, but will be driven instead by cost-effectiveness. This may be an unintended consequence of the present financial crisis, of that there is no doubt, but it is a consequence that may be possible, and which could result in some benefits for those female offenders for whom at present the penal response does very little.

24. Hannah-Moffatt, K. (2006) Pandora's box: risk/need and gender responsive corrections. *Criminology and Public Policy* 5(1): 183-91.

25. Kendall, K. and Pollack, S. (2005) Taming the Shrew: regulation prisoners through women-centered mental health programming. *Critical Criminology* 13: 71-87.

26. Davidson, J. and Chesney-Lind, M. (2009) Discounting women: context matters in risk and need assessment. *Critical Criminology* 17: 221-245.

27. Carlen (2002) see n.19 p.170

28. Carlen, P. (ed) (2008) *Imaginary Penalties*. Cullompton, Devon: Willan.

29. Ibid.