Women in Prison Prefer Legitimacy to Sex

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Since the early 1990s there has been considerable theoretical and policy interest in the role of legitimacy or fairness in prisons in the UK. Lord Justice Woolf's Inquiry into the Manchester Strangeways and other disturbances in 1990 concluded that prisoners would be less likely to participate in major disturbances, or withdraw their compliance from a regime, if they could be persuaded that they were treated reasonably and fairly by the authorities (Home Office, 1991). Empirical research on procedural justice has demonstrated that individual judgments about fairness tend to be informed disproportionately by the manner of one's treatment and by other aspects of process, rather than by outcomes alone (the *instrumentalist* model).

In other words, if an individual is treated with respect (defined in the literature as dignity and worth), and fair procedures are followed, that individual is likely to feel fairly treated even where the outcome is not necessarily personally favourable. Research on police responses to domestic violence, for example, has shown that offenders who feel treated procedurally fairly are significantly less likely to repeat the behaviour, even in the face of adverse outcomes, than offenders who are subject to mandatory arrests and who feel treated in a procedurally unfair manner (Paternoster et al., 1997; Sherman, 1992; Tyler, 1990). This evidence supports a *normative* model of compliance with the law. Aspects of fairness include being able to state one's case, before and after a decision has been made.

Six components of fairness identified in a review of the literature by Paternoster et al are: representation, consistency, impartiality, accuracy, correctability and ethicality (Paternoster et al., 1997: 167-8). A later study by Tyler and Blader suggests that competence is also significant (Tyler and Blader, 2000). Paternoster et al conclude that "being treated fairly does indeed matter" (1997: 192). Two mechanisms are hypothesised: first, that perceived unfairness weakens support for the legal system or the authority, which in turn reduces inhibitions against offending; secondly, that perceived unfairness leads to negative affect (that is, anger or strain) which reduces inhibitions against offending (Paternoster et al., 1997: 192-94). There are some hints in the criminological literature that feelings of unfairness can lead to the kind of 'negative affect' (for example anger) that may increase the likelihood of rule breaking (Agnew, 1992; Paternoster et al., 1997: 169) or to an attitude of defiance (Harris et al., 2001) (it is interesting that anger is the key emotion in question).

Consistent with these analyses, research in prison has found that prisoners' judgments about their relationships with staff make a disproportionate contribution to their overall perceptions about the fairness of their treatment. Just as in the procedural justice literature, what prison officers do, and how they go about it, communicates to prisoners significant messages about their moral status. Each interaction with a member of staff is in a significant way representative of the relationship between the prisoner and the prison as an institution. In this sense it is the case that staff-prisoner relationships 'lie at the heart of the prison system' and that much depends on prison officers getting this aspect of prison life right (Home Office, 1984; Liebling, 2004).

Empirical work by Sparks, Bottoms and Hay on '*Prisons and the Problem of Order*' (1996), and an analysis by Bottoms of '*Interpersonal Violence and Social Order in Prison*' (1999), suggest that the links between relationships, fairness and order operate at both an individual and collective level. There are some special conditions in prison that make the accomplishment of fairness particularly difficult including the ease with which prisoners can compare circumstances and decisions, the inherently coercive nature of the institution, the existence of so many rules that high levels of discretion are inevitable, and the stark imbalances of power. We know that levels of perceived fairness and respect vary between prisons (Liebling and Arnold, 2002).

One of the limitations of the analysis so far has been that most of the (especially quantitative) empirical work conducted to date on fairness in prison has included male only samples.[1] As far as I am aware, none of the authors (including Woolf) have so far considered whether this set of relationships between fairness and order, and between relationships and fairness, works in the same way for women.

The literature on women in prison

If we turn to the literature on women in prison, we find very little said about fairness. There are some important exceptions (Bosworth, 2000; Rock, 1996; Liebling, 1992), but the references are brief. There are some interesting analyses of women's perspectives on justice in criminal justice (Daly, 1989; Heidensohn, 1986) and social justice (Howe, 1987). However, the above account makes it difficult to sustain the argument that male perspectives on justice are centrally concerned with rule following. It is possible that the structural equality experienced by male offenders makes issues of dignity, respect and relationships more pertinent.

There is an obsession in the literature on women in prison on relationships, but the emphasis is almost always on women's relationships with each other, and how sexual and family-like they are (see Bowker, 1972; Giallombardo, 1966; Heffernan, 1972, Ward and Kassebaum, 1965, and reviews by Howe, 1994 and Kruttschnitt and Gartner, 2002). The main emphasis is placed on the private, the domestic and the sexual. There is an emphasis on emotion, but not the emotion of anger, at least not on anger as any meaningful expression of anything else.[2] Studies of women in prison have tended to focus on themes relevant to their status as 'women' rather than on themes relevant to the prison: such as power, authority, and justice. The most interesting of these studies explores the trade in information detectable in women's prisons, showing how the relative lack of economic bargaining power in women's prisons leads to higher levels of 'snitching' than tends to be found in men's prisons. This preparedness to give unofficial information to staff was in the end not related to 'femininity', as hypothesised, but to a lack of other sources of power (Ward, 1970). A brief review of the recent literature on women in prison found the a range of themes to be prominent, as shown in Box 1.

There now exists a growing and valuable body of literature on women in prison, in which some interesting and important themes arise. However, research on women's imprisonment is still to a large extent led by expectations concerning gender behaviour - for example, the assumptions that "the female identity and social standing is primarily relational" (Erez, 1992: 121); and that the location of the origins of women's offending is in their deviant sexual identities.[3]

[1] The Paternoster et al study included a small sample of females but they were eliminated from the analysis due to insufficient numbers and the possibly 'fundamentally different' nature of female spouse assault (Paternoster et al., 1997: 175).

[2] Campbell points out that aggression shown by men is seen as an attempt to exert control, whereas anger and aggression shown by women are regarded as *losses* of control (Campbell, 1993). Male anger is constructed as instrumental, women's as expressive.

[3] Other important exceptions in progress include work by Sarah Tait and Abigail Rowe.

Box 1. Prominent Themes in the Literature on Women in Prison

1. Women in prison ***create pseudo-families*** (these are also found in social settings where resources, freedom and traditional family systems are limited (Farrell, 2000: 26).
2. They suffer from ***higher levels of past abuse*** and maltreatment increases into adulthood (McClellan et al., 1997). One recent Australian article has suggested that the informal rules of dysfunctional prison life: ('don't talk, don't trust, don't feel') are uncannily similar to the dysfunctional family histories suffered by abused women (Eastel, 2001). The cycle of abuse and addiction is reproduced within the dysfunctional prison (p. 108). Women have often experienced, then, the erratic or abusive use of authority.
3. Women import ***higher levels of vulnerability*** into prison. Their offending tends to be linked with higher levels of disorder and economic disadvantage.
4. Use of prescribed medication and ***levels of substance dependence*** are high amongst women in prison. Studies suggest that women use drugs to dull pain, and to seek order, community and calm.
5. Women in prison have stronger ***links with their pasts*** and with their ***lives outside*** (McClellan et al., 1997; Owen, 1998). 'The loss of primary ties can be viewed as the most significant "pain of imprisonment" for women' (Hart, 1995: 71); 'Men "do their own time" while women's family networks provide emotional support and a link to pre-prison identities' (Hart, 1995: 72).
6. Rates of ***self-harm and suicide*** are high in women's prisons (Liebling, 1992; 1994). Studies have found fewer distinctions than among men between suicidal women and other women in prison (Liebling, 1992, chapter 7).
7. Women are subject to ***greater informal than formal controls*** via notions of respectability and dependency, outside and in prison (Carlen, 1984; Dobash et al., 1986; Erez, 1992). They adopt strategies of self-regulation (Howe, 1994) and this is an effective mode of social control. Women's response to depression is internal and ruminative, as opposed to the active/instrumental response common among men (see Liebling, 1992: 186-7).
8. Women's ***agency*** is sometimes underestimated due to an emphasis on their passivity and victimhood. Issues of power and powerlessness are especially pertinent to women.
9. Women's ***moral decision-making*** is different. Women's 'moral strength' derives from their concern with relationships and responsibilities; men 'respect rights' (Gilligan, 1993; McClellan et al., 1997). "The female goals of law and morality focus on compromise, reconciliation, satisfying needs, and harmonizing interests. The male goals focus on noninterference, self-protection, individual achievement, separation and adherence to principle" (McClellan et al., 1997: 457).
10. ***Staff-prisoner relationships*** in women's prisons are characterised by the over-use of ***discipline***, and/or high levels of ***intimacy***.
11. There is ***little collective behaviour*** in women's prisons, but women prisoners are seen as emotional, manipulative, impulsive and resistant to taking orders. They are "less dangerous but more troublesome" (Kruttschnitt and Gartner, 2002: 86).
12. Women's prisons can be ***dangerous and competitive places*** (perhaps especially likely in coercive establishments, which reduce already low levels of trust; Mandaraka-Sheppherd, 1986).
13. There has been a rapid ***population increase*** for women (see e.g. Owen, 2003). This is accounted for by increasing punitiveness towards women and the disproportionate effects of a war on drugs. Women's prison populations in Canada and New Zealand peaked in the mid-90s (Kruttschnitt and Gartner, 2002).
14. The punishment of women has been characterised by different ***methods, goals and justifications*** from the punishment of men (Carlen, 1984; Kruttschnitt and Gartner, 2002: 55).
15. Recent scholarship has focused critically on contemporary ***policy for women in prison***, finding it characterised by contradictory themes (Carlen, 2002; Hannah-Moffat, 2001). Efforts at progressive reform are undermined or unsustainable in a prison (Hannah-Moffat, 2001).
16. The recent emphasis on ***responsibilisation*** and ***self-governance*** is particularly pertinent to women, given the emphasis in women's lives on self-control and on the construction of womanhood by the discourses of others. With few exceptions - Howe (1994) and Hannah-Moffat (2001) - this literature tends to ignore women, or is ungendered.
17. Studies of programmes for women in prison suggest that women ***need a less confrontational form of therapy***; they need to attain control over lives, develop self-sufficiency, enhance their assertiveness and communication skills (McClellan et al., 1997: 473).
18. Women are seen as having greater ***'needs'***, which increases their apparent ***risk*** (Hannah-Moffat, 1999).
19. Women in prison respond individually to prison pains, and have well developed identity-maintaining skills (Bosworth, 2000). However, female methods of ***protest*** tend to be self-destructive (Liebling, 1992) or pathological (and may function "as if in collusion with the cultural conditions which produce them", for example, in the case of anorexia; see Howe, 1994).
20. Scholars of women in prison are beginning to pay more attention to ***institutional differences*** (Greer, 2000; Krutschnitt and Gartner, 1999).

New areas for research?

There are other areas that are ripe for further and more systematic exploration. For example, given the higher levels of abuse found in almost all studies, what are women's relationships with male and female authority figures like? How does trust work in a women's prison? Are relationships among women in prison supportive or predatory? Under what circumstances? How does power flow in a prison for women? Themes relating to order, authority and justice, whilst arguably of primary importance in the lives of women, are more prominent in the research literature on men in prison. This raises the question of what the advantages and limitations are of studying women separately. The advantage of studies that combine male and female samples is that research questions are not influenced by assumptions about what is relevant to women. The danger is that such research is blindly dominated by assumptions about what is relevant to men. It is predictable, for example, that research on fairness in prison has been primarily concerned with order and disorder rather than with 'negative affect'.

Given the significance of *relationships* to *fairness*, and the apparent significance of *relationships* to *women*, it is surprising that the accounts of fairness in prison so far have not included women or even reflected speculatively on what the implications of these analyses might be for women.

Recent survey findings

The author has recently worked on a quantitative survey of prisoners, conducted with Sarah Tait, Annick Stiles, Linda Durie and Joel Harvey. Clare McLean has provided ongoing statistical assistance. The survey had a baseline sample of 1,300 prisoners (over 100 randomly selected prisoners in each of 12 establishments including two for women). It found that there was a highly significant correlation between perceptions of fairness and perceptions of relationships for *both* male and female prisoners in the study (.829, $p<.0001$ for women; and .816 $p<.0001$ for men). Yet female prisoners reported significantly higher mean levels of: "distress on entry into custody" ($p<.001$), "overall distress" ($p<.001$), "coping difficulties" ($p<.001$) and "depression" ($p<.001$). They reported significantly higher quality "relationships with staff" ($p<.01$), although the overall scores were not high. Men reported significantly higher levels of "security and order" ($p<.01$), "assistance for the vulnerable" ($p<.001$), "support on entry into custody" ($p<.01$) and a combined "family protective factor", which included level and regularity of contact with families, and "closeness to home" ($p<.01$).

Levels of three out of four indicators of "imported vulnerability" (previous suicide attempts, previous psychiatric treatment, previous self-harm and pre-prison drug use) were higher among women than among men, although the levels in men's prisons varied significantly. Pre-prison drug use was at the high end among women, but was also high among men. Significantly more women had all three or all four indicators.

Table 1 shows an overall similarity of the relationships between almost all of the variables, and distress. The exceptions are the role of being a first time prisoner, the role of drugs, and family contact. Feelings of (un)safety, perceptions of fairness, and the provision of care were all significantly correlated with levels of distress as measured by our own dimension, 'distress', and the General Health Questionnaire. The pattern was no different for women.

Family variables (especially for first time in males), drug use, and whether or not they are 'first time in' prisoners distinguished between high and low distress males. This was not the case for women. The data suggests confirmation of the finding reported in an earlier study of suicide attempts in prison, that many of the women resemble the 'higher risk' males (Liebling, 2002).

Table 1. Relationship between importation, deprivation and family contact variables, and prisoner distress

Variables	Distress (Male) n = 1097	Distress (Female) n =203	GHQ (Male) n = 1097	GHQ (Female) n = 203
'Importation'				
Age	ns	ns	ns	ns
Att Suicide	.301**	.342**	.235**	.279**
Psychiatric Treat	.238**	.288**	.180**	.201**
Drug use	.079**	ns	ns	ns
Vulnerability 1	.333**	.389**	.261**	.304**
Vulnerability 2	.270**	.349**	.171**	.253**
First time in	ns	ns	-.070*	ns
'Deprivation'				
Relationships	-.395**	-.461**	-.355**	-.440**
Respect	-.366**	-.447**	-.335**	-.457**
Fairness	-.380**	-.452**	-.325**	-.435**
Clarity	-.295**	-.321**	-.273**	-.238**
Frustration	.438**	.469**	.279**	.329**
Security/Order	-.268**	-.334**	-.240**	-.285**
Dignity	-.439**	-.467**	-.386**	-.409**
Offending Beh	-.343**	-.416**	-.374**	-.393**
Pers Development	-.292**	-.375**	-.355**	-.432**
Physical safety	-.581**	-.576**	-.457**	-.440**
Care and safety	-.356**	-.336**	-.373**	-.373**
Individual care	-.397**	-.389**	-.374**	-.364**
'Family'				
Famindex	-.235**	-.175*	-.217**	-.133 (.06)
Receive visits	.109**	.216**	.084**	.199**
Regular contact	.214**	.121 (.08)	.181**	ns
Close home	.169**	.163*	.168**	ns

Women prisoners have higher levels of importation *and* deprivation, bringing more 'risk' into prison with them, *and* finding prison life harder. Whilst a more systematic analysis also using the data from the 'outcomes' phase remains to be completed, this early impressionistic analysis has surface validity and confirms the argument being pursued here. On this tentative analysis, women's experiences of imprisonment are not fundamentally structured by gender. All prisoners find lack of fairness and respect, and the restrictions of prison life, painful. On the other hand, it is clear that the prison experience is extremely painful for most women, and that 'entry into custody' is especially so. The very high numbers of women on suicide prevention monitoring procedures (ACCT) at any time confirm the very high levels of imported vulnerability in women's prison. Most important, however, is the finding that *lack of fairness* in prison is related to *extremely high levels of distress*, just as it is for many men, in prison. Given the high levels of past abuse in women's experience, their experiences of trust, relationships and authority in prison should of major interest to researchers and policy-makers alike. Women talked often about their need for 'calmness' rather than order, but both depended on relationships and fairness. A feeling of safety was created when relationships with staff were predictable and responsive. The importance of fairness and legitimacy to women, and the importance of staff-prisoner relationships in evaluations of legitimacy, should be taken more seriously in prisons research.

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