

Gender Responsive Penalty:

*A Feminist Abolitionist Analysis of Official Penal Discourse
on Women's Imprisonment Post Corston (2007)*

By

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ABSTRACT

In 2007 Baroness Jean Corston was commissioned to conduct a report, *a review of women with particular vulnerabilities in the criminal justice system*, that would review the adequacy of government initiatives for female offenders, and to suggest what improvements could be made (Corston, 2007:14). The review was conducted in response to the self-inflicted deaths of women in prison in England and Wales. Corston called for a woman-centred, holistic, cross-government response to address the complex and multiple needs of women offenders (Corston, 2007:3). Since the Corston Report (2007) has prompted some of the most recent policy developments in relation to women's imprisonment (Scott & Codd, 2010), a critical analysis of this report is important. This thesis critically investigates the publication, reception and impact of the Corston Report (2007) on official penal discourse prior to and after its publication. The thesis applies the ideas of Canadian feminist penologist Kelly Hannah-Moffat, who has highlighted the potential mutation of feminist narratives of woman-centeredness and empowerment, to that of strategies of responsabilisation (Hannah-Moffat, 2001), when aligned with the penal apparatuses of the state (Althusser, 1971). By adopting an abolitionist perspective and utilising Feminist Foucauldian discourse analysis, the thesis scrutinises how official penal discourses on women prisoners are conceptualised. The thesis highlights that the potential of the Corston Report (2007) to dislodge current conceptualisations about women offenders has failed. Corston (2007), through an adoption of discourses of responsabilisation, supported the existing regime of truth (Foucault, 2002a:45) that poor and socially excluded women are rational and responsible individuals who, through their own poor choices, have fashioned their own dire situation in life and through effective rehabilitation/training they can become self-reliant and responsible. The thesis highlights that this discourse was present both before and after the Report and highlights that Corston's use of discourses of responsabilisation

allowed for the potential positive impacts of her report to be pushed aside. In addition to this, the thesis highlights that the Corston Report (2007) reinforced the notion that women's material needs are predictive criminogenic risk factors.

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INTRODUCTION

Women constitute a minority group within the prison population; on March 31st 2013 the number of women in prison in England and Wales was 3,869 of a total of 83,769 prisoners (Ministry of Justice, 2013a), women thus represent 4.6% of the total prison population. Despite women being a minority of the prison population, the number of women being sent to prison in England and Wales has rapidly increased, growing twice as fast as men since the year 2000 (Scott & Codd, 2010), the number of women in prison in 1990 stood at 1,597, by the year 2000 this number had increased to 3,350 (Berman & Dar, 2013:20).

The minority of women in prison has resulted in what Carlen (1983) has described as the invisibility of women prisoners; the small numbers of women in prison compared to men, which on March 31st stood at 79,900 (Ministry of Justice, 2013a:8), has resulted in little attention being paid to them. It has only been since the 1980s that there has been considerable research by academics and activists that has endeavoured to highlight that the experience and impact of imprisonment is different for women (Carlen & Worrall, 2004).

One of the most influential, and recent, reports on women in prison has arguably been the Corston Report (2007). Baroness Jean Corston was commissioned in 2006 to carry out 'a review of women with particular vulnerabilities in the Criminal Justice System of England and Wales' in response to concerns over the number of self-inflicted deaths in Her Majesty's Prison (HMP) Styal within a thirteen month period.

The Corston Report (2007) acknowledged that there was a clear absence of specific penal policy for women in conflict with the law, and repeated what researchers and activists had been arguing for numerous years; that women in prison had histories of violence and abuse (Corston, 2007:3). Corston (2007) also reiterated the point that the experience of prison for women was different to the experience of prison for men, and that the women's prison population was comprised of vulnerable socially and economically excluded individuals (Carlen, 1983; 1988; Heidensohn, 1985; Kennedy, 2005; Worrall, 1990). Corston, on this basis, argued that there was a need for a holistic cross-government response to address the complex and multiple needs of women offenders and in light of this a 'woman-centred' approach should be adopted (Corston, 2007:3).

The Corston Report (2007) is of specific interest, since it has shaped some of the most recent policy developments in relation to women offenders (Scott & Codd, 2010:40). In light of concerns raised in response to gender responsive penal reforms that have highlighted the limitations of woman-centred penal reform strategies (Hannah-Moffat, 2001; Haney, 2010), a critical investigation of the reception and influence of the Corston Report (2007) is therefore important.

Kelly Hannah-Moffat (2001) has argued that feminist engagements with the state can result in strategies of responsabilisation, whereby language such as empowerment, self-esteem, and woman-centeredness are open to appropriation by the state to legitimise the existence of prisons (Hannah-Moffat, 2001; Kennedy, 2005; Haney, 2010). 'Woman-centred' strategies in this way can become methods of making socially and economically excluded women solely responsible for their actions through strategies of

responsibilisation that are deemed to enable them to learn how to manage their needs; which are perceived to be criminogenic risk factors (Hannah-Moffat, 2001; 2007).

An application of the ideas of the Canadian feminist penologist Kelly Hannah-Moffat are then essential to the aims of the M.A. thesis, which aims to scrutinise how women prisoners are conceptualised within official penal discourses since the publication of the Corston Report (2007).

In addition to this the ideas of David Scott (2006) in his text *Ghosts beyond Our Realm: a Neo-Abolitionist Analysis of Prisoner Human Rights and Prison Officer Culture* are utilised. The text critically analyses the influence of the Human Rights Act (1998) on prison officer understandings of prison human rights.

Scott (2006) provides a neo-abolitionist analytical framework that allows for the assessment of legitimacy in relation to current interpretations of human rights in penal contexts. The text, through the use of Foucauldian discourse analysis, explores the implementation of the Human Rights Act (1998) and how it has been understood within law, penal policy and prison officer occupational culture.

The use of Foucauldian discourse analysis, augmented with a neo-abolitionist framework crucially allows for an assessment of penal legitimacy, since there is an explicit acknowledgement of the descriptive nature of discourse analysis (Scott, 2006:36). The utilisation of neo-abolitionist principles recognises that prisons are places of harm, in depriving those contained within of their liberty and autonomy; prisoners are subject to isolation, cruelty, and ultimately dehumanisation (Scott, 2006:13). This crucially allows for an assessment of the legitimacy of imprisoning persons who are socially and economically excluded and allows for the recognition of prisoner's

humanity, through a clear focus on a social justice agenda that provides an empathetic focus on those who are often the most vulnerable in society (Scott, 2006:13).

The text therefore provides a highly useful analytical framework that, when utilised alongside the ideas of Kelly Hannah-Moffat (2001), allows for a union between abolitionist perspectives and those of Foucauldian Feminism, thus allowing for a critical analysis of *how* women prisoners have been conceptualised within official penal discourse since the publication of the Corston Report (2007) and crucially *why* these constructions are important.

The overall question that the thesis, therefore, aims to answer is:

Utilizing a feminist abolitionist perspective, critically analyse official penal discourse on women's imprisonment since the publication of the Corston Report (2007).

In order to achieve the above objective it is necessary to answer the following 6 component questions:

- 1) What is feminist abolition?
- 2) What is official penal discourse? and how do you apply your chosen method?
- 3) What is the political and policy context to the Corston Report (2007)?
- 4) What are the main recommendations and implications of the Corston Report (2007)?
- 5) What are the implications since the publication of the Corston Report (2007)?
- 6) What are the implications for critical analysis; has Corston (2007) had an impact?

Chapter one thus outlines the main values associated with holding a feminist perspective and highlights that there are a multitude of feminist perspectives. The

chapter then outlines what the author regards to be some of the more persuasive areas of feminist thought, namely Foucauldian feminism, and critiques those areas regarded to be less persuasive (gender/cultural feminism). The chapter finally draws upon the importance of Kelly Hannah-Moffat's work in relation to the adoption of a feminist abolitionist perspective, the aim of which is to provide a firm theoretical framework for analysing the findings of the research.

Chapter two discusses the nature of official discourse as a means of articulating specialized knowledge on penal controversies (Scott & Codd, 2010). In doing so the chapter explores what official discourse is and asks why it is important. Secondly, the chapter outlines the chosen methodology; Foucauldian discourse analysis and highlights its importance for scrutinising official discourse.

Chapter three outlines the political and policy context to the Corston Report (2007) and provides an overview of official discourse on the women's prison estate prior to the report in order to allow the thesis to critically analyse its impact.

In doing so the chapter reviews the literature on women's prisons in order to formulate a comprehensive background to the lead up to the publication of the Corston Report (2007).

Chapter four outlines the main recommendations and implications of the Corston Report (2007) and provides a critical analysis by utilizing Foucauldian discourse analysis to investigate any potential implications for women in conflict with the law.

Chapter five critically analyses current official penal discourse on women's imprisonment since the publication of the Corston Report (2007) and utilises

Foucauldian discourse analysis to unpack official penal discourse. The chapter aims to ascertain whether the use of feminists language such as empowerment, self-esteem and woman-centeredness, has indeed been appropriated to legitimise the existence of prisons (Hannah-Moffat, 2001; Kennedy, 2005; Haney, 2010).

The conclusion presents the findings of the research and proposes an alternative view on woman-centred strategies of punishment; providing a challenge to the legitimacy of imprisonment by utilising a feminist abolitionist perspective.

CHAPTER ONE

FEMINIST ABOLITIONISM

The aim of this chapter is firstly to outline the main principles associated with holding a feminist perspective and to highlight that there are a multitude of these feminist perspectives. Secondly the chapter aims to highlight some of the contentious areas of feminist thought in order to provide a rationale for the author's preferred feminist perspective; feminist abolitionism. The chapter thirdly outlines, what the author regards to be, some of the more persuasive areas of feminist thought; Foucauldian feminism. In doing so the chapter outlines the work of Kelly Hannah-Moffat and then identifies the importance her work in relation to the adoption of a feminist abolitionist perspective, the aim of which is to provide firm theoretical framework for analysing the findings of this research.

Traditional lines of feminist thought

Contemporary feminism has been argued to be a politics that has its roots in the Women's Liberation movement, a social movement which has proved to be one of the most enduring (van Swaaningen, 1989:287) and one which highlighted the issues of social, political and economic equality. The women's liberation movement was firmly rooted in the belief that the law could establish changes that would bring about equality for women by seeking welfare rights, equality of opportunity, pay and conditions, education and the right for women to choose if and when to have children (Weedon, 1997:1; Gelsthorpe, 2002; Gelsthorpe & Heidensohn, 2007). Contemporary feminism continues to highlight the gender structure of society, illustrating the material interest of men in dominating women and the ways in which they construct a variety of

institutional arrangements to maintain this domination (Gelsthorpe, 2002:115).¹ Contemporary feminism not only accepts the view that women experience oppression on the basis of their sex and works towards the elimination of this oppression (Gelsthorpe & Morris, 1990:2), but also includes an interrogation, and questioning of the very idea of what it is to be a woman, how femininity and sexuality are identified to the self and how might women start to define femininity for themselves (Weedon, 1997:1).

Patriarchy² has been a central focus in feminist theorisation and it has often been the starting point for analysis, importantly revealing and critically analysing its manifestations in society; whereby the male gender is seen as the norm (Weedon, 1997). Feminist perspectives on gender have thus been crucial in challenging patriarchy. The argument posed is that gender is as a complex historical and cultural product associated with, but not derived from, biological sex difference and reproductive capacities; it is thus deemed to be a social construction (Smart, 1976; Heidensohn, 1985; Daly & Chesney-Lind, 1988). Feminists have highlighted that women's biological capacity to give birth has seen them fixed as *naturally* more suited to caring roles, placing them firmly in the domestic realm; femininity has therefore been associated with care, passivity and gentleness. Feminists have highlighted that the recourse to the supposed *naturalness* of this state is a manoeuvre that denies the role of power in gender constructions, also, and crucially, that it is one that denies the possibility for change (Smart, 1976; Heidensohn, 1985; Putnam Tong, 1998; Hughes, 2002). The dominant male gender construct, in contrast, is aligned with notions of toughness, power, authority, heterosexuality and competition; and as such, other gender identities that do not conform to this are rendered subordinate (Scraton, 1990:15) and are placed at the

¹ It is important to note here that there is variation in the effectiveness of the law in feminist theories, some feminists have become increasingly wary of the ability of the law to realise equality, namely in the recognition that legal equality does not ensure substantive equality (Smart, 1989; Ballinger, 2000).

² The pervasiveness of men's domination of women.

bottom of what Connell and Messerschmidt (2005:848) have argued to be the gender hierarchy.

Feminists engaging with Criminology, since the late 1960s have concerned themselves with highlighting the predominance of men's interests and argued that whilst critical criminology had sought to provide a challenge to positivism, in explaining men's crimes, it had failed to acknowledge women and in this way was male centred/androcentric (Heidensohn, 1968; Bertrand, 1969; Smart, 1976; Leonard 1982; Heidensohn, 1985). As a result, feminists deemed Criminology incapable of providing a comprehensive explanation of crime³ since it did so without any theorization on gender (Gelsthorpe & Morris, 1990:3). Feminist contributions to Criminology have, thus, increased the visibility of women in Criminological theories and illuminated understandings of female offending (Adler, 1975) by highlighting that girls have often been punished for behaviour encouraged and revered in boys and men (Chesney-Lind, 1973). Feminist contributions, in addition to this, have illuminated and broadened understandings of female victimisation (Pizzey, 1974; Bowker, 1978), arguing that women and girls have been subject not only not formal mechanisms of social control, but informal controls on their behaviour in the home (Smart & Smart, 1978; Allen, 1987).

The hallmarks of contemporary feminism and feminist approaches to Criminology, thus, include a focus on gender and as principle that structures contemporary life, a clear recognition of the importance of power in structuring social relations, a sensitive and reflexive approach to the ways that social context structures human relations, a recognition that social reality is a process and research methods that take all of this into

³ It is important to note here that there are a variety of relationships between feminism and criminology. The Criminology of the 1970s critiqued by Smart (1976), for being the Criminology of men, is not the Criminology of today; like Feminism there are a myriad of perspectives in Criminology (Gelsthorpe, 2002:113).

account (Gelsthorpe, 2002:135). The feminist aim to ‘make visible the invisible’ challenges the epistemological, political and ontological assumptions that inform understandings of the world, which reflect men’s interests, with the aim of developing an anti-sexist stance that questions the assumptions made about women that are presented as truth (Gelsthorpe, 2002:135; Gelsthorpe & Heidensohn, 2007:382).

Like Criminology, feminism is not a monolithic ideology; there is no one uniform way of thinking. By providing an understanding of oppression in society at every level of life: family; education; welfare; culture; leisure and in the world of work there is an encouragement of multiple perspectives through a promotion of tolerance.⁴ There is also a need for new theoretical perspectives that can challenge the assumptions about women that social theories present as truth, thus creating new possibilities for women and other excluded groups (Gelsthorpe & Morris, 1990:2; Weedon, 1997; Hughes, 2002; Gelsthorpe & Heidensohn, 2007).

This being so, it is unsurprising to find that there are different schools of feminist thought: liberal; radical (cultural and libertarian); existentialist; eco; Marxist; socialist; postmodern; multicultural; global; psychoanalytical and gender/cultural (Putnam Tong, 1998; Hughes, 2002), which can at times converge, vary and even conflict with one another. It is however beyond the scope of this thesis to grant considerable attention to detail in regard to all the different feminist schools of thought, how they differ and the tensions between them.⁵

⁴ Feminism has productively progressed through the emergence and tolerance of new feminist perspectives. The emergence of third world feminist perspectives, cultural and multicultural feminism provided a critique of traditional feminist theories for privileging the concerns of white, middle class women, and provided a challenge to the notion of women’s sameness by highlighting that the denial of human difference is also a form of oppression, since political, economic and ideological issues of ‘race’ furthered the experience of patriarchy (hooks, 1987; Spelman, 1988:11-12, Putnam Tong, 1998:215).

⁵ Rosemarie Putnam Tong’s (1998) text *Feminist Thought* provides a thorough exposition of the key differences between these feminist perspectives.

The aim of the chapter now is to discuss those elements of feminist thought that I regard to be more persuasive, Foucauldian Feminism, and to make comparisons to those areas that I find to be less persuasive, largely the assertions of gender/cultural feminists (specifically in relation to an ethics of care). The aim of which is to provide a clear rationale for the adoption of my preferred feminist perspective, feminist abolitionism.

Foucauldian Feminism

Within the myriad of feminist perspectives it is likely that some elements will be more persuasive than others to the reader. For my part Foucauldian feminist perspectives have presented themselves as more persuasive. Before I go into detail about the main aspects and principles associated with it, I wish to state that despite favouring one particular feminist perspective over others, it is important to acknowledge that no one particular feminist perspective should be privileged over another due to the risk of promoting ones perspective as the ‘one and only, truthful feminism’ (Smart, 1989; Cain, 1990). One considers here Mackinnon’s (1983:639-40) assertion that ‘*Radical feminism is feminism*’. In such an instance there is a risk of promoting ones perspective as what Carol Smart (1989:71) terms ‘scientific feminism’. By setting one’s feminist perspective as superior to others on the basis that it, over all other feminist perspectives, can provide the most ‘truthful’ account in relation to women’s experiences; one can repress and silence the perspectives and experiences of others, which since experience is a central theme of feminism (Harding, 1987; Gelsthorpe & Heidensohn, 2007:385), is wholly an anti-feminist stance.

Foucauldian feminism has been argued to be a subset/frame of Postmodern thought (Weedon, 1997; Howe, 2008) since there is a tendency to call notions of ‘truth’ into

question by challenging dominant modes of representation and essentialist categorisation. There is often conflation between postmodernism and poststructuralism since issues of universality, subjectivity and power overlap in their concerns. One way of understanding the distinction between the two is firstly to view poststructuralism as a sub set of postmodernism and secondly, to view it as a methodology that critically interrogates how truths are produced (Beasley, 1999). What is notably, and quite obviously, unique about Foucauldian feminism is the explicit acknowledgement of the influence of the work of Michel Foucault, methodologically and textually. Foucauldian feminism draws on key aspects of Foucault's work; crucially his analysis of truth, power and knowledge, which has provided a means of understanding how women are presented in discourse (Ballinger, 2000; Mills, 2004). Whilst Foucault has been highly influential, for many feminists there are numerable tensions between Foucault and feminist theory, it is however beyond the scope of this thesis to grant considerable attention to these issues.⁶

What was crucial for Foucault, and is crucial for Foucauldian feminists, is power; discourse theory has been essential in its theorisation, since discourse (a system of language, objects and practice; both speech and action) gives the world meaning (Smart, 1989; Weedon, 1997). Foucault's work, in particular his notion of discourse, has been particularly useful for feminist scholarship as it has allowed for a more complex and comprehensive understanding of the gendered nature of knowledge and of the disciplining of female bodies (Finateri, 1999). Foucauldian feminists have highlighted that the regulation and disciplining of female bodies is wholly different from that of

⁶ Notable issues include the fact that a feminist perspective is gender sensitive, in putting gender at the forefront of analysis, whilst Foucault in his influential text *Discipline and Punish* (1977), was clearly quite indifferent to gender, as observed by McNay (1992:11-12) and Ballinger (2000:38). This gender blindness for feminists would continue the sexism within socio-political theories, since there is no recognition of the different disciplinary methods that have made women's bodies docile. Feminist theorists wishing to utilise Foucault's influential ideas have thus needed to invent 'Foucauldian feminism' (Ballinger, 2000) in order to overcome these problematic theoretical tensions.

men's and that this is according to different and specific discourses embedded within the construction of femininity. As Ballinger (2000:38) notes, female conduct such as sexuality, domesticity and women's physical appearance ensures a unique experience of the 'disciplinary society' (Foucault, 1977) for women. These key differences between disciplinary modes should not be overlooked since this would perpetuate and enforce silence on the powerlessness of those who these disciplinary modes have been enforced. Thus discipline enforced on women in the home/private sphere is a unique experience for women and girls. For Foucauldian feminists this been an integral part of their analysis of punishment since it is a pervasive male system that defines what constitutes so called 'normal' behaviour of women and girls inside and outside of the home (Ballinger, 2000:41).

Ballinger (2000:42) further notes that 'normal' women are deemed to possess a maternal instinct and will happily, without resentment, sacrifice their own interests for the needs of their families, whereas 'bad' women will selfishly peruse a quest for a career. Thus when women deviate from the normative standards prescribed by formal and informal behavioural social controls through, for example, instigating divorce, becoming a single parent, refusing to alter their physical appearance, drinking alcohol, committing illegal acts, or engaging in prostitution, they are deemed to be female deviants/ dangerous women or girls; whereas promiscuity, aggression and drunkenness in men may just be considered 'horse play' and indeed 'natural' male behaviour, creating a double standard of morality (Carlen, 1983; Worrall, 1990; Heidensohn, 1985; Ballinger, 2000:47).

In a patriarchal society, it thus follows that women in conflict with the law will receive sentences designed to produce conformity in them; disciplining women to adopt

accepted female behavioural characteristics as a process of normalisation (Foucault, 1977; Ballinger, 2000).

Foucauldian feminists have, however, drawn attention to the limitations of the concept of patriarchy, arguing that power is not simply held by one group for the purposes of oppressing another. As Ballinger (2000) has noted, Foucauldian feminists have crucially drawn attention to power differences between women, highlighting differences such as race, age, class, heterosexuality, ethnicity and age. There is therefore a rejection of the notion of a pre-given subject; there can be no unitary category of 'woman' (Ballinger, 2000). Sexism may well be the main form of oppression for middle class white women. Other women, however, may experience different forms of oppression according to their individual histories such as forced labour, enforced migration, colonialism and imperialism (McNay, 1992). I would argue this to be a crucial development in feminist thought since it has drawn attention to the limited capacities of the concept of patriarchy (Hannah-Moffat, 2001:8) by solely ascribing power to men. Patriarchy provides no capabilities for an analysis of power relations between women, this analysis is largely absent in the work of cultural/gender feminism.

Foucauldian feminist perspectives allow for an understanding of how power can operate to produce individuals who can meet certain normative expectations. In addition to this how technologies and relations of power are regarded to be dispersed rather than centred in one place (Foucault, 1977; 1980b; Howe, 2008), such as the state. In such an instance the oppression of women can be viewed as being not solely rooted in the state or the law. The power over women can then be seen as working in a multitude of relations, permeating all aspects of life; the state may be seen as an overall effect of such relations (Weedon, 1997). Foucauldian analyses of power therefore provide a

challenge to feminist and non-feminist paradigms that simply ascribe power to one source, such as men or the state (Hannah-Moffat, 2000a; 2001).

Foucauldian analyses, unlike gender and cultural feminist analyses, allow for a problematisation of seemingly benevolent forms of power, such as maternalism and paternalism⁷ (Daly, 1989; Hannah-Moffat, 2001). In hailing motherhood as a sacred state, the power that a mother can yield over her child is ignored; this view can be extended to consider teacher-pupil relations, therapist-client, female prison officer-female prisoner relations and so forth. Gender/cultural feminists perspectives on care can therefore benefit from more sociological definitions, not all roles that fall into the caring bracket are void of coercive power relations, be it the care giver that it exploited or the recipient. These arguably are the very power relations that should be transcended, not reinforced (Hoagland, 1991:250). From a feminist Foucauldian perspective this ignores what Foucault termed the *micro-physics of power* (Foucault, 1977:26); the operation of power in *all* areas of social life (Smart, 1989; Bell, 1993; Hannah-Moffat, 2001; Haney, 2010).

In addition cultural/gender feminist claims of the superiority of women's personality traits,⁸ i.e. their inclination to resist evil, promotes an ethics of care as a desirable universal mode of justice administration. This is a problematic notion as it suggests that a system based around supposedly female traits will be more fair and just.⁹

⁷ Carol Gilligan (1982) and Nel Noddings (1984) have both argued that traits associated with women, such as a focus on wants, needs and interests, should be revered.

These traits have been termed 'an ethics of care', whilst men's traits, centred around notions of fairness and justice, have been termed as an 'ethics of justice' (Putnam Tong, 1998:155).

⁸ Noddings (1984) in particular has been associated with privileging female characteristics, since she stated them to be superior in that women were more capable of withstanding evil than men. This is arguably a problematic notion since this is based on the assumption that all women adopt an ethics of care, and all men adopt an ethics of justice; both Noddings and Gilligan have been faced with accusations of making sex based generalisations (Putnam Tong, 1998; Hughes, 2002).

⁹ There have been some crucial queries raised in relation to these ideas, whereby it is assumed that the law should be, and can be fair and impartial, ignoring the very crucial issue of the actual use of law and who it ultimately works to the benefit of (Smart, 1989; Naffine, 1990; Walklate, 2004).

There has been a growing effort in feminist scholarship to develop/search for what has been termed a *feminist jurisprudence*. The two main principles to be associated with this is adherence, firstly; to the notion that the criminal law, which is put forward as gender-neutral, is in fact not; it is formulated from an androcentric position. Secondly is the idea that there are different modes of reasoning between men and women, with women's being excluded, as associated with the work of gender/cultural feminists (Hudson, 2003:180).

The quest for a feminist jurisprudence arguably, in light of the issues raised with gender/cultural feminist perspectives, may be more accurately defined as a means of exposing how women *and* other subordinated groups views are marginalised in law. Such a perspective exposes the law as exclusionary in its inability to recognise difference between individuals, differences or race, gender, ethnicity and economic circumstances (Bartlett, 1990:836). A feminist jurisprudence arguably is more reliably generated by a feminist challenge to the laws power and not looking to the law for solutions, which refines and adds to the power of the law rather than deconstructing it as it is presently constituted (Smart, 1989:89). Thus attempts to end dichotomisation, rather than further cementing separatism based on supposed differences between *all* men and *all* women, is a preferable and a more comprehensive approach.

Essential for Foucauldian feminists has been the notion of discursive fields; competing ways of giving meaning to the world and of organising social institutions and processes; thus the law, politics, the church and the family can all be regarded as being located within a specific discursive field (Smart, 1989; Weedon, 1997; Howe, 2008). The analytical focus for Foucauldian's has then been on the discursive fields, which

constitute a given subject such as madness, punishment, sexuality, femininity and masculinity; the aim of which being able to uncover the specific regimes of power and knowledge occurring in a society and to uncover their role in the overall production and maintenance of existing power relations (Smart, 1989; Howe, 2008). Some discourses are thus argued to be more powerful than others, acquiring a dominant status, these usually have firm institutional bases such as the law and medicine. As a result of this, competing alternative meanings and practices will be disregarded as irrelevant and/or inaccurate, establishing an order of credibility (Foucault, 2002a:165). Foucauldian feminism has been posited as a theoretical position that can address forms of social organisation by contesting the social meanings and values that underpin dominant understandings and ways of conceptualising women; and to understand why women tolerate social relations that subordinate their interests to those of men (Smart, 1989; Weedon, 1997:12).

In addition to this Foucauldian theorisations of power regard it is positive rather than repressive. In this way Foucauldian feminist discourse has been argued to offer the possibility of resistance. Although feminist discourse may not have the social power and authority from which dominant discourses derive, it can still be a site of resistance by challenging dominant definitions of femininity, its social constitution and regulation (Weedon, 1997; Hannah-Moffat, 2001; Howe, 2008) through, what Foucault termed to be, “an insurrection subjugated knowledges” (Foucault, 1980a:81). This has been described as a collection of excluded knowledges that can unite to challenge the mainstream and taken for granted (Weedon, 1997:107-8), the aim of which being to *change* people’s ways of perceiving and doing things; to transform forms of sensibility and tolerance (Howe, 2008:16).

Having highlighted a number of strengths associated with Foucauldian feminist perspectives, I shall now draw upon a major criticism of those perspectives that can be associated with postmodernism. Postmodern and poststructuralist perspectives have been faced with the accusation of mindless relativism, or irrational anti-foundational theorisation. The notion that there must always be another point of view has led to the accusation that ‘truth’ can never be pinned down as one thing or another; reality is constantly disputed (Weedon, 1997; Hughes, 2002). I would argue that this criticism does create legitimate concerns, ones that should be acknowledged, since there should be a need to avoid the absurdity of perpetual relativism (Howe, 1994:164), whereby everything must be open to constant deconstruction. This has highlighted additional concerns with postmodern theorisation, that it merely is theory and no action (praxis) given that there are no guarantees that activism will work in postmodern theorizing since postmodernism does not see history as progressive, but as cyclical; in this sense all we may hope for is something different, but what exactly cannot be pinned down (Hughes, 2002:65).

I would argue there must be ‘truth’ in certain circumstances; the issue of perpetual relativism becomes most apparent when one considers that for a feminist praxis to work, feminists cannot avoid making ‘truth’ claims, for instance in asserting that women are oppressed (Howe, 1994). I would argue that this position is essential in order for societal change, particularly in relation structural inequalities of race, age, class, gender, sexual orientation and disability. Hannah-Moffat (2002:215-216) has further argued this point in relation to women in prison when stating the importance of sustaining ‘truth in punishment’; not losing sight of the reality of the experience of prison.

Foucauldian feminist analyses of power have thus, highlighted a number of issues in relation to cultural/gender feminist theorisations on ethics or care. I now go on to address the work of Kelly Hannah-Moffat, who has crucially drawn attention to implications associated with the adoption of such reform tactics in penal contexts and who I regard to be one of the more prominent Foucauldian feminist theorists.

Gender responsive penal politics in question: Kelly Hannah-Moffat

Looking at the Correctional Services of Canada, Kelly Hannah-Moffat in her text *Punishment in Disguise* (2001) analyses attempts to implement reforms to women's prisons under the premise of making them more *suitable* for women. These reforms were deemed necessary due to concerns that were raised in the media over the treatment of incarcerated women, which ultimately branded the Canadian government as unconstitutional and inhumane. The reform attempts were made from proposals made in a report titled *Creating Choices*, which claimed to acknowledge the different needs of women in prison, to men, by following a 'woman-centred' correctional model, which would be guided by five principles: empowerment; meaningful and responsible choices; respect and dignity; supportive environment; and shared responsibility (Hannah-Moffat, 2000a:5). By utilising a Foucauldian analysis of power/knowledge and drawing extensively on recent governmentality literature, Kelly Hannah-Moffat advances our understanding of how feminist knowledge can become divorced from its original contexts and meanings, when it is aligned with the penal apparatuses of the state (Althusser, 1971), claiming that *creating choices* was a flawed attempt to make the meaning and experience of punishment more 'appropriate' and 'suitable' for women (Hannah-Moffat, 2001:4).

In arguing that *creating choices* was flawed Hannah-Moffat (2001:147) crucially draws attention to the problems inherent in feminist engagements with the state in creating gender responsive penal politics (Hannah-Moffat, 2010:194). A woman-centred approach, as was adopted in *creating choices*, reflects the rhetoric of feminist theorisations on an ethics of care and empowerment, tapping into the notion that women lack self-esteem, *feel* that they are unable to create or makes choices and that they are unable to make a rewarding future for themselves; a woman-centred approach is deemed to be able to *empower* women to do so (Hannah-Moffat, 2001:147).

Drawing on recent governmentality literature, Hannah-Moffat (2001:162) draws attention to relations between the state and other modalities of governance, highlighting that governmentality relies on a society based upon sovereignty, discipline and government. Hannah-Moffat argues that actuarial risk based technologies have become infused in contemporary penal discourses by drawing upon actuarial forms of power described in the 'new penology' (Feeley & Simon, 1992; 1994). Unlike actuarialism, however, Hannah-Moffat argues that disciplinary modes of governance have not been displaced by risk based governance, instead they work in unison, in what she terms *hybrid moral/actuarial penalty*; women are not just subject to moral management, they are subject to therapeutic interventions such as cognitive behavioural therapy (Kendall, 2002), combined these are assumed to reduce overall recidivism (Hannah-Moffat, 1999:82). The concern then is not just on one particular category of behaviour, as actuarial management suggests, women may be subject to a multitude of intrusive interventions. Hannah-Moffat (2010:197) observes that women in prison are subject to scrutiny in a number of areas; assessment of their past abuse and traumas, assessment of their substance abuse, assessment of their parenting skills and of their educational and vocational training. Hannah-Moffat (1999:74) thus argues that gender responsive

reform approaches in prison genders risk. Feminist penal discourses have come to be associated with managerial discourses of risk and need; this hybrid moral/actuarial mode of penalty has produced specific means of assessing the needs of women in prison; the needs of women in prison are reflected as criminogenic needs/risks (Hannah-Moffat, 1999:72; 2001; 2007a:231-232).

Whilst women in prison are not traditionally seen as dangerous as men, Hannah-Moffat (2000a; 2001; 2010) argues that within correctional practice their life histories, needs and experiences are reframed as problematic. Self-injury, victimisation and mental health problems are recalculated as needs that contribute to criminality; for instance a woman's concern for her children may be recalculated as an escape risk rather than as a normal response to separation from children. A woman's uncertain economic circumstances upon release may be calculated as a risk of recidivism, presenting her as a risk to the public (Hannah-Moffat, 2010:76).

Hannah-Moffat (1999:79) highlights the significance of an emphasis on choice and responsibility in the modern realm of women's corrections, whereby choice and responsibility are calculated as strategies for the responsabilisation of women in conflict with the law. The responsibility for managing risk is thrown onto the individual, one must manage ones (criminogenic) needs, and the state in this sense is *governing from a distance*. Governance from a distance has been described by political theorist Nikolas Rose (1999) as an on-going processes of state partnerships with non-governmental agencies, such as charities like Neighbourhood Watch. This should, however, not lead to the assumption that the state is retrenching; it may be viewed as a means of creating diffuse state policy and for removing crime control as the sole responsibility of the state (Hannah-Moffat, 2001; Haney, 2010:16).

Responsibilisation is a highly important concept in relation to governance from a distance since woman-centred strategies ultimately operate to make women responsible for the outcomes of their lives. Strategies of responsibilisation are argued to be neo-liberal modes of governance, emphasising the importance of the *individual* as a rational subject that is responsible for the outcomes of her life; and indeed for her own reform in prison. An ethic of care or a woman-centred approach in this way can be used to create what Hannah-Moffat (2001:198) calls ‘a feminized technology of penal governance’ by being aligned with feminist narratives of care. When the prison environment is deemed to care, empower and heal, those who resist are deemed to present a risk to public safety and the order of the prison. In this way their confinement is legitimated on the basis that the public are being protected from the ‘dangerous criminal’, or, as termed by Hannah-Moffat (2000b:34) the *un-empowerable prisoner*. Empowerment can, thus, assume multiple meanings depending on how it is used and by who; empowerment arguably in a penal context has lost its radical characteristics and is now easily embraced by the state, as by reformers, in a cunning manoeuvre to add responsibilising qualities to its meaning (Hannah-Moffat, 2000b:31).

Prisoner resistance is thus interpreted as a risk rather than as a normal response to enforced empowerment in an inescapable environment. Prisoner resistance results in the imposition of greater surveillance and control, creating a newly marginalised group of un-empowerable prisoners (Hannah-Moffat, 2000b:31). In this way responsibilisation constructs the individual as a rational, free and responsible subject who is capable of managing and minimizing risk, therefore when one makes what are perceived to be ‘bad choices’, punishment is legitimated on this basis, illustrating the present success of neo-

liberal governance in its ability to silence structural constraints (Hannah-Moffat, 2001) in order to legitimise the existence of prisons.

Further questioning the notion of responsible choices in a prison context, Hannah Moffat (2001) has argued that these choices are made in a highly restrictive disciplinary environment where one is told when to get up, when to eat and when to go to bed; and the notion of choice in a supportive environment is therefore highly contestable. Prisoner choices are presumably open to the scrutiny and approval of white, middle class prison staff that may ultimately restrict choices they presume to be ill informed. In addition to this the notion that such an environment will empower all women neglects issues of 'race', 'class', age and 'gender' ultimately by assuming that one size fits all. In this way gender responsive penal politics serve to neglect issues of difference, which diminishes structural constraints by ignoring and failing to integrate the work done by intersectionality scholars (Hannah-Moffat, 2010:1) that has highlighted the impact of the operation of multiple oppressions working simultaneously (Crenshaw, 1991).

Hannah-Moffat argues that gender responsive penal politics add new coercive dimensions to women's prison regimes by substituting the male normative criteria with a 'female norm' without any critical reflection on the implications of such developments. Arguably then the tendency to link women to care by way of some innate/natural predisposition, which is present in Gilligan and Nodding's work is flawed, particularly when one considers the governance of women by women as it has the potential to permanently fix women as most *naturally* adapted for caring roles, ultimately elevating materialistic politics as essential and desirable (Hughes, 2002:181).

The use of feminist language of healing and empowerment when applied to oppressed groups is rarely challenged, ultimately constructing empowerment/ethics of care as a viable penal reform strategy (Hannah-Moffat, 2001). Hannah-Moffat (2001:139-141) has undoubtedly been highly critical of Gilligan (1982) and Heidensohn (1986) for advocating the need to restructure law on the basis of a 'female' ethic of care, or a *Persephone* principle (Heidensohn, 1986), stating that it assumes that justice can be done for women by adding in their voices. Hannah-Moffat (2001:139-141) argues that Heidensohn's (1986:292) suggestion that women's prison could be remodelled to fit an ethics of care, obscures the repressive nature of the prison and the repressive forms that welfare approaches can adopt. It also assumes that a woman's ethic of care is not at all oppressive by solely relying on the concept of patriarchy (whereby men exert oppressive power over women) and thus deny the power that women can wield over each other (Hannah-Moffat, 2001:8). These criticisms are not new, as Hannah-Moffat (2001:141) argues, Daly (1989) has also been critical of ethics of care models, in terms of penal reform, for their tendency to overlook the injustices of welfare based modes of penalty. Despite these concerns reformers continue to promote gender responsive politics in relation to prison reform through notions of care, empowerment, healing and choice, promoting the prison as a place for social justice (Hannah-Moffat, 2000a; 2001).

Feminist Abolition

Having highlighted the crucial arguments of Kelly Hannah-Moffat (2001), it can thus be argued that gender centric focuses on imprisonment are insufficient, and can, in fact, ultimately serve to further legitimate the use of the prison as a response to harm (Hannah-Moffat & Shaw, 2000).

Carlen (1990:113) has, thus, stated that there is a need for a feminist jurisprudence and a women-wise penology, arguing that women-wise penal strategies should be fashioned from overall policy calculations based at least in part upon a 'feminist jurisprudence'. As far as imprisonment is concerned, Carlen (1990) argues that the adoption of a woman-wise penology would revolve around two fundamental aims:

1. That the penal regulation of female law-breakers does not increase their oppression *as women* still further;
2. That the penal regulation of law-breaking men does not brutalize them and make them even more violently or ideologically oppressive towards women in the future (Carlen, 1990:114).

A more fundamental analysis of both male and female prisoner oppression is thus arguably preferable, since a specific focus on the needs of women in prison may contribute to an increase in the women's prison population (Hannah-Moffat, 2001; Carlen & Worrall, 2004). If the repeated message(s) of official assurance is/are that women are 'suitable cases for treatment', this may lead to the false assumption that women's imprisonment is different from men's in that it is less abrasive, which was the majority view of judges interviewed by Pat Carlen in her study *Women's Imprisonment: A Study in Social Control* (1983). This notion is crucial, as Kelly Hannah-Moffat (2001) has highlighted, since gender responsive reform politics can enhance the coercive capacities of the penal apparatuses of the state (Althusser, 1971) by creating a façade of caring for those contained within the prison (Hannah-Moffat, 1999; 2000; 2001).

The observable power of the prison to encroach upon and colonise alternative discourses, therefore makes a gender centric focus insufficient; discourses advocating penal reform are more than likely to be incorporated into official penal discourse in such a way that they become divorced from their original contexts. Gender responsive policies are then argued to be limited in their ability to achieve and sustain prison reform (Hannah-Moffat, 2001:198-199). This poses significant concerns in relation to

the proposals made in the Corston Report (2007) that was posited as a woman-centred approach and has shaped some of the most recent policy developments in relation to women offenders (Scott & Codd, 2010:40).

An application of the ideas of Kelly Hannah-Moffat (2001) allows for a critical assessment of narratives of empowerment, healing and woman-centeredness in penal contexts, with Hannah-Moffat (2001:161) arguing that their deployment in official penal discourse serves to disguise the act of punishing women. Since terms such as woman-centred and empowerment are associated with helping disempowered groups, they often go unchallenged thus creating an appearance of change that does not address underlying structural constraints (Hannah-Moffat, 2001:161). Ultimately resulting in playing down the significance of the oppressive prison environment, promoting the notion that women's prisons are environments that can empower women to lead productive non-criminal lives when they are released, this shifts responsibility for vulnerable people away from the state and onto the shoulders of individuals (Hannah-Moffat, 1999; 2000; 2001) and adds a new coercive dimension to existing power relations by transforming the original feminist vision into one that fits public, governmental and correctional agendas (Hannah-Moffat & Shaw, 2000:15-16). An acknowledgement of these inherent problems provides an important framework for examining issues of punishment and reform in women's prisons, perhaps all prisons, (Hannah-Moffat & Shaw, 2000:25) and thus such an analysis provides a crucial framework to consider the reform proposals made in the Corston Report (2007), which was posited as a holistic woman-centred approach (Corston, 2007).

Such an analysis is important, since there is a strong case for arguing that less than abolitionist approaches are unlikely to reduce the female prison population (Carlen,

1990:117). Carlen (1990:117) has, thus, argued for a strategy of abolition starting with women's imprisonment that would serve as a prototype for the gradual abolition of all imprisonment as we presently know it. Carlen (1990) suggests that for an experimental period of 5 years, imprisonment should be abolished as the 'normal' punishment for women and also suggests that only 100 custodial places should be kept for those female offenders that are accused or convicted of serious crimes (Carlen, 1990:121). Such an approach is preferable as women constitute a small portion of the total prison population, they are generally considered less dangerous than men in prison and in addition to this they are generally the primary carers of children. The reduction in the cost of keeping women in prison and thus their children in care has been posited as an approach that may be preferable and more palatable to the general public (Carlen, 1990; Hudson, 1993:155). This is also a plausible strategy in terms of a gradual process of changing dominant perspectives on the apparent need, and thus inevitability, of prison as the dominant means of punishing those who transgress the law (Davis, 2003:9).

Creating and focusing on a vision, which represents an alternative to the status quo, ultimately generates the possibility of creating a new social meaning and new language, when speaking about imprisonment, that recognises that 'perpetrators' and 'victims' co-exist in a social context devastated by social exclusion, racism, poverty, substance addiction and governmental neglect (Sudbury, 2009:26-27) and shares the common goal of ending imprisonment as a response to harm by recognising that prison is a finely attuned and deliberate mechanism for the deliverance of pain (Carlen, 1994:136). This can be argued to be the core of social change, a struggle for change that will transform the lives of all women; this is a concrete constructive element of feminism (Dobash & Dobash, 1992:288).

I argue that in order to transform social justice it is important not only to understand how people oppress/dominate one another, but also why (Weedon, 1997:3). Feminist abolition can be described as a counter hegemonic project that, not only resists the assertions made in dominant discourses, but also allows for an assessment of the rightness or wrongness of the imprisonment of women who transgress the law; as Scott (2006:36) has argued, abolitionist perspectives can allow for an assessment/evaluation of penal legitimacy. It is important to state here an obvious tension between feminism and abolitionism, which is largely relating to the punishment of men who commit violence against women.¹⁰ Many parts of the women's movement has called for more criminalisation with regards to violence against women, stating that the symbolic function of the criminal law is essential in raising public awareness and for creating collective condemnation for such violence (van Swaaningen, 1989:295; Hudson, 1998:238). Concurring with van Swaaningen (1989:295) I argue that feminism has more to expect from abolitionism since abolitionism does not reject the notion of collective disapproval for serious offences such as sexual violence and racial violence; abolitionism however acknowledges that the criminal law does a bad job in this respect. The idea of pain reduction is a common theme in both feminist justice and abolitionism and thus, the two may have more in common than is apparent at first glance (van Swaaningen, 1989:295). It is however impossible to grant the deserved attention to this debate here, since this is not the overall aim of the thesis.¹¹

Feminist abolitionism can be understood as a struggle to, in the Gramscian sense, replace 'common sense' with 'good sense' (Gramscic, 1971). Central to this, as Sim (2009:160) has argued, is firstly to challenge rhetoric that stifles debate, a trait that is

¹⁰ See Hudson (1998) for a detailed account of the challenges faced by alternatives to imprisonment, as responses to racial and sexual violence.

¹¹ For a more comprehensive debate about the similarities between abolitionism and feminism see van Swaaningen (1989) *Feminism and Abolitionism as critiques of Criminology*.

often common in official discourses. Secondly, there should be an attempt to thwart attempts or measures that intend to broaden the penal dragnet, ultimately proposing alternatives that are rooted in social, health and/or education and recognises that imprisonment aggravates problems rather than solving them and thirdly, it should form links between activists and researchers (Sim, 2009:160), the aim of which being to prompt a response to social harm that is wholly different from the damaging and destructive nature of the penal system currently in place (Scott & Codd, 2010). Thus methods of self-help and responsibility in penal reform are highlighted by an abolitionist approach as strategies that re-legitimise the prison ultimately leave the prison and central state generally more powerful than before (Feeley & Simon, 1994:33; Garland, 1996:454; Hannah-Moffat, 2000b:33).

It is the aim of the next chapter to explore the nature of official discourse, given its propensity to be taken as the truthful and objective interpretation of matters pertaining to women's imprisonment and to outline the chosen methodology: Foucauldian discourse analysis.

CHAPTER TWO

OFFICIAL DISCOURSE AND DISCOURSE ANALYSIS

The aim of this chapter is firstly to discuss the nature of official discourse as a means of articulating specialized knowledge on penal controversies (Scott & Codd, 2010). In doing so, the chapter discusses what official discourse is and asks why it is important. Secondly, the chapter aims to outline the chosen methodology, Foucauldian discourse analysis, the aim of which is to highlight its importance for scrutinising official discourse, which, given its propensity to disseminate knowledge that is taken as the impartial, rational, and truthful version of matters pertaining to women prisoners, is extremely important.

Official discourse can be defined as the language and meaning of government and is highly important in disseminating understandings of what penal controversies are (Scott & Codd, 2010); it presents a particular world view or logic. It can be wide ranging in its scope, ranging from information such as annual reports and statistics released by government organisations, to the more formal inquiry, or commission convened to review and advise on a given crisis or scandal (Gilligan & Pratt, 2004:2). Official discourse is the product of the transmission of knowledges as power relations, such power relations are realised in the practices of state, expressing the language and meaning of government (Burton & Carlen, 1979:34).

Although official discourse is less well recognised than the mass media as a source of knowledge, official discourse is inevitably a rich source of knowledge for the mass media, who then relays the information to the public. Indeed the mass media has been described as a state apparatus (Hall, Critcher, Jefferson, Clarke & Roberts, 1978), articulating the knowledge of those in positions of power (Burton & Carlen, 1979).

Burton and Carlen (1979:48-49) define official discourse as:

The systemic modes of argument that proclaim the state's legal and administrative rationality. The discourse is a necessary requirement for political and ideological hegemony. These hegemonic discourses are a requirement not only to achieve the political incorporation of the dominated classes, their pedagogy also functions to sustain the confidence and knowledge of the hegemonic fractions. State apparatuses cover disparate fields, are loosely co-ordinated and organisationally distinct. Their overall practice constantly and routinely create the effects of crisis because of their contradictory functions of reproducing accumulation and legitimation. The task of inquiries into particular crises is to represent failure as temporary, or no failure at all, and to re-establish the image of administrative and legal coherence and rationality.

Authors of official discourses often claim to be objective, this representation of objectivity claims impartiality and value freedom, assuming then that such discourse has been produced in a vacuum free of values and power. As Burton and Carlen (1979:46) argue, official discourse uses administrative rationality, normative redeemability and consensual values to declare itself as functioning within a democratic line of reasoning. In this way official discourses are deemed to be legitimate, providing an empirical truth on which to evaluate events and to assess the effectiveness of a given agency, often with the aim of re-establishing reassurance and promoting social harmony. Legitimation is one role that official discourse can play, however Gilligan and Pratt (2004:5) argue that it can also play a number of other roles; it may not just simply support the status quo, or act to repel public criticism, it may actually embarrass the government's own bureaucratic organisations.

Scott (2008a:188) has argued that, despite this, major prison reports often only arise in response to politically embarrassing scandals, such as the Woolf Report (1991) which occurred in response to prisoners rioting and the Learmont Report (1995) which was undertaken in response to escapes and absconds of Category A prisoners; such reports are often conducted swiftly in order to prevent ongoing scandal and dismay as to the

states management of offenders. Official reports may also, however, arise in response to the government's recognition of a problem, such as the Corston Report (2007), which was initiated in response to concerns over the number of deaths of women in state custody (Corston, 2007). Scott (2008a:189-190) also highlights that some responses to controversy may be reluctant, taking a number of years to be released after the controversy; the Keith Report (2006), conducted in response to the brutal racist murder of Zahid Mubarek in HMP Feltham in March 2000 took 6 years to be released. The Report ultimately acted as a means of reassurance, with Keith stating that many of his recommendations had already been implemented prior to the publication of the Report; furthermore the slow response to the murder of Zahid shows that the government does not deem contentious deaths in custody as worthy of a swift response (Scott, 2008a:188).

Scott & Codd (2010:5-7) have argued that official discourse defines particular events as controversial and worthy of attention. A common issue of discontent in the media regarding prisoners, and deemed as a controversial issue by advocates of less eligibility, is their supposed access to televisions and video games, whereby physical and emotional abuse of prisoners is deemed uncontroversial and thus not worthy of the same media attention; such issues are highlighted by the government and taken on board by mass media commentators (Scott & Codd, 2010). In this way it is fair to say that official discourse, largely, sanctions particular version of events and in doing so other knowledges on a given subject are sidelined and/or eradicated all together as simplistic, irrational and inaccurate. Authors of official discourse, therefore, act as 'authorities of delimitation' (Foucault, 2002a:46) and such authors are often of high status in society, baronesses or Lords for example.

Some reports may appear more directly to be legitimising state activities than others.¹² Gilligan (2004) reminds us of the legitimisation capacity of official discourse. It is unequivocally true that official discourse in general and official inquiry in particular may be utilised to manipulate agenda or management by state agencies, but it is important to recognise that not all official discourse will intentionally play this role.¹³ In relation to the Corston Report (2007), the central focus of this research in terms of investigating any impacts it has had on the woman's penal estate is an important point, given that many of Corston's recommendations were forward thinking; making clear recommendations for downsizing the woman's penal estate.

In addition to this, national and cultural differences regarding official inquiry are important as different constitutional structures will affect forms of official inquiry (Gilligan, 2004). Gilligan (2004:22) argues that official inquiries should be seen as a normal and continuing feature of parliamentary democracies and a reflection of expertise and meaning of the state in a given society. This expertise should however not be conflated with effectiveness; inquiries may be quickly forgotten and their recommendations poorly implemented or misinterpreted, or ignored altogether.¹⁴

The linkages between official inquiry, representations of truth and governance are critical to how society functions and undoubtedly have substantive effects on millions of people. In a criminal justice context these links are unequivocally important given the capacity of such a systems ability to deprive people of their liberty, possessions, livelihood, reputation and in many jurisdictions around the world, their lives (Gilligan, 2004:12). Notions of truth are then of considerable importance given the complex

¹² The Widgery Inquiry proactively legitimated the actions of state agents that were under investigation for the fatal shootings of 13 civilians in Derry, Ireland, 1972, see Scraton (2004:46-70).

¹³ See Leman-Langlois & Shearing (2004:222-242) on the case of the South African Truth Commission.

¹⁴ See Corston (2011:8) for a list of recommendations made in the Corston Report (2007) that have, as yet, not been implemented.

process by which some acts are ascribed criminal status and others are not. The socio-economic and political-economic contexts of definition, enforcement and application of law are wholly relevant to constructions of criminality (Scruton, 2007); undoubtedly particular criminal acts are continuously ascribed to certain groups of people, resulting in their criminalisation and punishment.¹⁵ In relation to women in prison, this notion is highly important, given that the majority of women in prison are from poor and underprivileged backgrounds (Scott & Codd, 2010:34).

The next task of this chapter is to outline the chosen methodology, Foucauldian discourse analysis, in order to highlight the importance of this chosen methodology for analysing how women prisoners are conceptualised in official penal discourse since the publication of the Corston Report (2007).

Discourse analysis was devised by Michel Foucault as a means of conceptualising the way in which language shapes our understanding of reality and ultimately, the way we react to these understandings/interpretations of the social world we live in. Discourse can be defined not just as language, but as the actions that arise from our interpretations of language; discourse has, therefore, been defined as a system of language, objects and practice (Hall, 1997) and is not interchangeable with language. Discourse analysis entails the exploration of connections between language, communication, knowledge, social practices and systems of power that shape dominant views (Yates, 1998).

Representations/interpretations of the reality of the nature of women who transgress the law may compete with one another and there may be multiple meanings/interpretations competing for dominance. Foucault (2002a) used the term ‘discursive field’ to describe

¹⁵ This notion was prominent in the work of Stuart Hall et al’s *Policing the Crisis*, particularly their analysis of the relationship between street crime (mugging), young black men and policing, emphasising the impact of negative identity/folk devils and social reaction/moral panics.

and explore the notion that discourses compete to give meaning to the world and within each discursive field some discourses support the status quo; that which has acquired a status as common sense knowledge about a given subject. Other discourses will contest the status quo and may be subsequently ignored or sidelined by the hegemonic system of meanings and practices as bad, irrational and or incorrect knowledge. This, as Howe (2008:27) argues, is often the fate of feminism and other dissenting discourses that seek to challenge hegemonic discourses.

Discursive fields can be economic, social and political. Discourses that belong to the same field often employ discursive practices, whereby particular knowledge on a given subject, women prisoners in the case of this research, will not just appear in one text or one institutional site; it will appear across a range of institutional sites within a given society (Foucault, 2002a). When the same style, argument/position or strategy can be seen within these discourses they can be said to belong to the same discursive formulation. In this way such discourses can be argued to share certain rules and structures that permit the transmission of particular modes of argument on a given subject (Howe, 2008).

Discourse analysis will then enable this research to identify common themes in official discourse that, as Scott (2006:33-35) has argued, can govern what can be said about women who transgress the law and indeed, what is suitable punishment for these women. Discourse analysis is then a particularly useful methodological tool for the analysis of official discourse, given that its very definition as *official* provides it with a certain degree of credibility over other (dissenting) discourses, such as feminist abolitionist discourse. In this way those discourses that are credited as being the

official/'truthful' version of events are crucial in producing and reproducing knowledge about women who transgress the law (Howe, 2008:27).

Discourse analysis is useful as a means of treating discourse as a set of "strategic games of action and reaction, question and answer, domination and evasion" (Foucault, 2002b:2); it is therefore undoubtedly concerned with power relations (Howe, 2008:27). Indeed Foucault stated: "discourse is the power to be seized" (Foucault, 1984:110). Foucault's approach to discourse is distinctive as he links it with power. If discourse determines action, then this action implies the exercise of power over individual subjects, which can be defined as the social and institutional effects of discourse (Weedon, 1997). Power for Foucault is exercised on individual subjects, not only through major institutions such as the penal system. Power is dispersed throughout society, resulting in its permeation through all levels of society, from the private sphere of the family, to the public spheres of economics, politics and law; this is what Foucault termed the *micro-physics of power* (Foucault, 1977).¹⁶ Therefore, utilizing Foucault's methodology of discourse analysis allows for an examination of the micro-mechanisms of power that are continuously exercised between, and over, all people from all walks of life. This is particularly relevant in relation to the governance of women by women, a method which has often been posited as being less abrasive, less coercive and more caring.¹⁷ Foucault argued, however, that the most powerful discourses in society are those that have firm institutional bases, such as the law and medicine, which often work together in a, somewhat symbiotic way, one legitimating the practices of the other. For

¹⁶ Foucault, in addition to this, argued that power is not a commodity that can be possessed by a particular class of people. He strongly opposed the notion that power was solely centralised in the state, which was a theme present in the work of Karl Marx.

¹⁷ Notably the work of Elizabeth Fry, in the 19th century, presented the notion that women governing women would produce a prison environment more suitable for the needs of women prisoners. This however did not account for the potentially coercive nature of maternal power, See Hannah-Moffat (2001) *Punishment in Disguise*, for an excellent analysis of this.

instance the framing of women as ‘mad’, or ‘bad’, in court, often relies on psycho medical knowledges (Smart, 1989).

Crucially Foucault (1980b) argued that there could be no exercise of power without there being a particular economy of truth; we cannot exercise power without the production of truth. Certain discourses function as ‘truth’; these discourses were defined as *regimes of truth* by Foucault (1980b). Central to analysing regimes of truth is the acknowledgement of the effects of discourse. Truth, power and knowledge are crucial to this acknowledgement since knowledge is created/produced through the exercise of power; this is what Foucault called the power/knowledge axis (Mills, 2004).

Each society has its regimes of truth, its general ‘politics’ of truth: that is the types of discourse it harbours and causes to function as true: the mechanisms and instances which enable one to distinguish true from false statements, the way in which each is sanctioned; the techniques and procedures which are valorised for obtaining truth: the status of those who are charged with saying what counts as true (Foucault, 1980b:131).

There is then a political economy of truth involving discursive battles for ‘truth’; truth and power should be deemed inseparable. Regimes of truth limit what is deemed worthy of attention thus limiting the discursive field. This will inevitably rule in and rule out certain ways of talking about a given subject, subjugating some knowledges on a given subject as illegitimate, inaccurate, false and even deceptive discourses. Some discourses are more powerful than others, some become subjugated knowledges when they are discredited or framed as not being ‘truthful’. Foucault termed these knowledges as the buried; discredited scholarly knowledge that has been sidelined and disqualified; local knowledge that has been disqualified on the basis of being presumed naïve and/or uneducated (Foucault, 1980a).

Despite there being many interpretations, perceived meanings or realities, one interpretation will take precedence over others, acquiring dominance and prestige; attaining a position as the truth. It can be argued, therefore, that there is a common sense understanding/interpretation on the nature of women prisoners; this common sense interpretation becomes the hegemonic discourse.¹⁸ The nature of this research is concerned with ‘penal truths’ (Sim, 1994) pertaining to women in prison, ‘truths’ which voice the opinions of those in high positions of power; members of the prison service, policy makers, judiciary and Home Office officials subjugating the voices of activists and prisoners themselves.

Discourse analysis is then useful as a means of detaching the power of truth from the forms of hegemony, social, economic and cultural, within which it operates at a given time. It is a particularly useful method for uncovering how social relations are produced and sustained and how these power relations are resisted. In other words, how social inequalities are maintained, reproduced and resisted which, with regards to the meanings of femininity, generally means that those women who transgress what the hegemonic ‘true’ meaning of femininity is at a given time, or place, (or indeed culture) are often hailed as ‘abnormal’ women and are subject to dividing practices; they are separated off from the ‘normal’ women in society as mentally ill and/or ‘criminal’ women. In this way Foucault argued that the exercise of *disciplinary power* has led to a society of *normalisation* (Foucault, 1977).

Foucault argued that there was a need for an *insurrection of subjugated knowledges*, or forging counter hegemonies (Gramsci, 1971) in the Gramscian sense, that would challenge hegemonic discourses (attempting to detach the power of truth from them); in

¹⁸ The Gramscian term *hegemony* can be defined as a lived system of meanings and values, a system of reality which is, for the individual, difficult to move beyond; it is then an internalised logic (Gramsci, 1971).

this way discourse analysis can challenge domination and subordination. Subjugated knowledges can perform critical work that, when brought together in a *genealogy*, can challenge or counter hegemonic discourses. Foucault strongly argued that this union of erudite knowledges was the creation of an anti-science; they were not to be conducted in the name of some sort of scientism, they are in contrast, by their nature, opposing the institutionalisation of organised scientific discourse. Such a genealogy would function to desubjugated buried or disqualified knowledges thus rendering them capable of opposing coercive scientific discourse(s) that claims to be the ‘truth’ by its very nature of being classified scientific. Genealogies are therefore non-hierarchical, they do not privilege a particular kind of knowledge over another (Foucault, 1980a). In this way the voices of women prisoners are not rendered irrelevant or false by comparison to the knowledge of state elected/commissioned commentators.

In addition to this, utilizing Foucauldian discourse analysis allows for a multidimensional approach that does not simply see femininity as imposed ideology (discourse analysis is therefore not an ideological theory, discourse deals with material realities not ideas) which can result in the implication that all women are passive victims of oppression. Imposed ideology does not account for the multiple ways in which women resist patriarchal oppression and indeed, how women resist the oppression imposed by other women (Hannah-Moffat, 2001). The assumption that all women are passive casts femininity as homogenous, affecting all women in the same way. It does not then take into consideration that multiple individual facets of an individual (such as class, gender, race, age and sexual orientation) will interconnect to make a unique experience of the social world for each and every individual woman.¹⁹ This is a particularly important point to acknowledge in relation to women prisoners,

¹⁹ Kimberly Crenshaw (1991), through her work on intersectionality, has highlighted how an intersectional approach is more likely to recognise the undoubtedly different experiences of different women.

given that many women in prison experience multiple disadvantages as a result of class, age, race and sexual orientation amongst many other facets. This, however, does not mean for every woman that this will render her accepting and/or passive in response to her experience of prison regimes.

Despite its merits, Scott (2006:36) has acknowledged that discourse analysis is a useful methodological tool for discovering *how* a particular knowledge/truth is repeated, renewed or displaced. It is however not particularly useful for asking *why* particular discourses are hailed as common sense/truthful version of events. Discourse analysis does not provide a means of assessing *why* unequal power relations exist or *why* power exists at all. Foucault was concerned with *how* power operates, *how* subjects come in to being and therefore, *how* subjects are constituted. Discourse analysis cannot therefore uncover *why* domination of certain people takes place, it solely provides a descriptive means of how such events take place (Scott, 2006:36; Howe, 2008).

Gramsci, to a much greater extent, drew attention to unequal power relations, *why* power exists and for whom. This prompts the idea that perhaps Gramsci would be a better candidate for Feminist appropriation than Foucault, given that the descriptive nature of discourse analysis does not allow for an assessment of the rightness or wrongness of conceptualisations of women prisoners in official penal discourse (Howe, 2008; Scott & Codd, 2010). In order to reconcile these problems, Scott (2006:36) has argued that discourse analysis becomes particularly useful when converged with neo-abolitionist principles, in the case of this research discourse analysis is augmented with feminist abolitionist principles (see chapter one).

When augmented this way, discourse analysis becomes particularly useful for feminism as it allows for the evaluation of the rightness or wrongness of the current application of the punishment of women who transgress the law (Scott, 2006:36). As Scott (2006:36-37) argues, such an analysis allows for an assessment/evaluation of penal legitimacy and for providing a means of constructing, in the Gramscian sense, a counter hegemonic (Gramsci, 1971) framework for responding to wrongdoing by analysing penal legitimacy in belief systems and discourses (Scott, 2006:37).

The use of Foucauldian discourse analysis thus allows for a critical analysis of the Corston Report (2007) and official discourse prior to and after its publication, the aim being to uncover meanings and values to ascertain how women prisoners are conceptualised and to uncover potential strategies of responsabilisation. The central task of the research is to describe and evaluate how women prisoners are conceptualised within official discourse since the publication of the Corston Report (2007). In order to ascertain this Foucauldian discourse analysis is utilised to critically analyse official discourse prior to and after the Corston Report (2007) thus allowing effective and efficient analysis of the impact of the report.

As Sim (1994) and Scott (2006:44) have argued, using discourse analysis to scrutinise official discourses prompts a challenge to institutionalised 'penal truths' and thus existing social relations. In relation to the Corston Report (2007) this is particularly important, even though Baroness Jean Corston stated that the existing system of women's prison should be dismantled and replaced by smaller secure units for the minority of women who do pose a threat to public safety. She made these recommendations without a *critique* of the prison building programme and/or refurbishment programme, as Sim (2009:142) notes, without such a critique little will be done to either alleviate the current prison crisis, or indeed, challenge the central role

of the prison within contemporary political and popular consciousness. Taking this into consideration it is then possible for the Corston Report (2007) to be encroached upon, informing what Pat Carlen (2002) has termed *carceral clawback*.

The power of the prison constantly to deconstruct and successfully reconstruct the ideological conditions of its own existence (Carlen, 2002a:116).

Scott (2006:43) has acknowledged the three modes of penal reform within Carlen's (2002a) concept of *carceral clawback*: scandal driven; prison legitimating reforms; and principled reform. Scandal driven reforms are argued to occur in response to a public outcry; the Prison Service admits responsibility for the situation and looks to find a way to amend/reform these issues. However as time passes *carceral clawback* is likely; prison security will be reasserted widening the gap between policy and its actual implementation. Prison legitimating reforms may be initiated in response to long standing official criticisms; such reform strategies are supported by no real conviction to implement changes, their main objective, therefore, is to reaffirm the legitimacy of the system without actually making significant changes that will have positive impacts on the lived realities for prisoners. The longevity of such reforms is likely to be short; if successful they may actually serve to perpetuate further penal expansion (Carlen, 2002a; Scott, 2006:43).

Principled reform, the third approach to penal reform, is argued to be an idyllic reform strategy that is often aligned with liberal humanitarian reforms and human rights law (Scott, 2006:43). Scott (2006:43) acknowledges that such a reform strategy is unlikely to survive, or to be even implemented in the first place, given that security and order are often prioritised in the prison place. In such an instance *carceral clawback* is highly probable; principles associated with liberal humanitarianism may well be mutated by

the penal apparatuses of the state (Althusser, 1971) to provide a cloak of legitimacy (Carlen, 2002a; 2002b; Scott, 2006:43).

Therefore it is possible that minor tinkering of the penal system, for women, could actually result in a more refined punitive system that is perceived as being an improvement; an effective and suitable response to women who transgress the law (Hannah-Moffat, 2000b; 2001) and possibly the Corston Report (2007) may be encroached upon to legitimise the use of imprisonment.

The aim of the next chapter is to provide an account of the background to the Corston Report (2007), focusing on official discourse before its publication in order to highlight its political and policy context.

CHAPTER THREE

PENAL POLICY PRE-CORSTON REPORT (2007)

The aim of this chapter is to outline the political and policy context to the Corston Report (2007) and provide an overview of official discourse on the women's prison estate prior to the Report, thus allowing the thesis to critically analyse the Corston Report (2007). In doing so the chapter reviews the literature on women's prisons in order to formulate a comprehensive background to the lead up to the publication of the Corston Report (2007).

The visibility of women in prison

Prior to the 1980s there was very little interest in women who transgressed the law and very little interest in their subsequent punishment. This lack of interest has been attributed to the small number of women committing crimes and that the nature of these crimes were, comparable to men's crimes, not very serious (Carlen, 1983, 1990; Allen, 1987, 1988; Eaton, 1986). This lack of interest and thus visibility of women in the penal system changed from the 1980s to mid 1990s (Hedderman, 2011).

The work of feminists and activists during this time highlighted that the development of women's imprisonment had been shaped through recourse to social stereotypes about the nature of 'womanhood' and the 'criminal woman'. The concept of 'criminal womanhood' was argued to be prevalent in the discourse of prison administrators and reformers, who together had shaped women's imprisonment in three ways, firstly by the notion that women who commit crime are 'abnormal' since law breaking is deemed to be an activity conducted by men. Women who transgress the law are thus deemed to be doubly deviant for not only breaking the law, but for transcending their prescribed

gender role (Carlen & Worrall, 2004). They are, therefore, not just bad citizens, but bad and unnatural women. Secondly they argued that there is persistent pathologising and medicalisation of female prisoners who are continuously seen as being physically less robust than their male counterparts and more prone to mental instability. And thirdly they highlighted that there is a continuing anxiety over the role of women in the family and society (Smart, 1976; Carlen, 1983; Heidensohn, 1985; Eaton, 1986; Allen, 1987; Worrall; 1987, 1990; Carlen & Worrall, 2004; Walklate, 2004). Feminists have drawn attention to the idealised image of the ‘normal’ woman, arguing that it is based upon an ideal conceptualisation of femininity and reinforced by the dominant discourses of motherhood, respectability, domesticity, sexuality and pathology (Smart, 1977; Carlen, 1983; Heidensohn, 1985; Barton, 2005).

It was argued that these conceptualisations of femininity informed and legitimized the construction of very different regimes for women in prison, particularly since the nineteenth century, when it was decided that male and female prisoners should not be housed together, since women were deemed to be corrupt and easily corruptible (Dobash, Dobash & Gutteridge, 1986; Carlen & Worrall, 2004; Barton, 2005). Women were the subject of intense surveillance and control methods designed around idealised notions of femininity; these specific controls were deemed necessary not only because of their uniqueness (in that relatively few women commit crime compared to men), but also because of the perceived risk that they presented to social order, this being largely in relation to their status in family relationships as mothers and carers (Sim, 1990; Zedner, 1991).

Medicalisation has been a prominent feature in the control of women long before Lombroso and Ferrero’s book *The Female Offender* was published in 1895. Medical

practitioners, mental health physicians and gynaecologists provided an explanation of criminality in women that was wholly linked to the physiological episodes that women specifically experience. This led to the emergence of a network of institutions and practices to normalize 'deviant women' who were classified into different social groups; the prostitute, the criminal, the lunatic and the undeserving poor. Regardless of the category 'criminal' women were placed in, they were subject to intense surveillance by the male predominant medical professions and reformers, such as Elizabeth Fry, who were keen to *rescue* 'fallen women' from lives of debauchery and deviance by providing a middle class exemplar of womanly behaviour that they could follow (Sim, 1990; Hannah-Moffat, 2001).

Feminists and activists have thus endeavoured to highlight that women's experience of imprisonment differs from men's, not only from the specific regimes that they are subject to, but from the demands placed on them in society (Carlen, 1983; Dobash et al., 1986). Carlen (1983) has argued that the concept of double deviance can potentially make the experience of penal incarceration more harmful for women as patriarchal expectations render those women who do not conform to a 'naturalised ideal' of femininity 'abnormal' and/or the 'bad' woman/mother.

Women's prison regimes in Scotland, Great Britain and in the United States of America (USA) deploy gender oppressive, regulatory modes of controlling women that are common outside of the prison place, which ultimately denies women both personality and full adulthood status (Carlen, 1983; Dobash et al., 1986; Zedner, 1991; Howe, 1994). The prevalence of domesticity training and motherhood in prison regimes indicates that women who transgress the law are seen as having failed in their prescribed domestic and motherhood roles (Carlen, 1983; Howe, 1994; Carlen &

Worrall, 2004). Furthermore it has been acknowledged that the impacts of incarceration for women are different than that for men as these impacts can be potentially more damaging (Carlen, 1983).²⁰

Feminists have argued that the medicalisation and pathologising of women has entered into ideological processes, forming the basis of common-sense assumptions about the 'nature' of women's criminality. These are ideologies transmitted through the family, entered in folklore, often expressed throughout the educational system and churned out on a daily basis through the mass media. They are crucially theories that all too often omit social and environmental factors, they, therefore, give no attention to the socio-cultural basis of what precisely is defined as criminal in law and in doing so they also omit to consider the significance of power in the creation of social norms (Smart, 1976). The work of Lombroso and Ferrero (1895) and second generation theorists such as Cowie, Cowie and Slater (1968), demonstrate a history of a progressive common sense view that has to date not been entirely anaesthetised.²¹ The use of psycho-medical knowledge continues to be of enduring relevance to the nature of women's imprisonment. Kendall (2002) highlights that recent developments in cognitive behavioural therapies (CBT) have been used to pathologize women's decision making, rendering women responsible for their behavioural choices and ignoring the social and economic inequalities that they face.

²⁰ Women, to a much larger extent than imprisoned men, are sole carers of dependents; children and the elderly. They also may suffer from greater stigmatisation than men by carrying the ex-prisoner label (Mandaraka-Sheppard, 1986; Heidensohn, 1987; Eaton, 1993).

²¹ Lombroso and Ferrero (1895) postulated that females who commit crime were morally deficient and less evolved than men, women who transgressed the law on this basis could be categorized as a distinct sub-species; 'bad' and 'unnatural', compared to the good and natural law abiding, middle class, woman (Sim, 1990; Smart, 1976). The positivist tradition remained prominent in explanations of female offending, the work of Cowie et al. (1968) followed Lombroso and Ferrero (1895) closely, their study, *Delinquency in Girls*, despite rejecting the concept of atavism present in Lombroso and Ferrero's work, retained the view that criminality had a causal relationship with pathology by seeking out variables that aid in distinguishing the (abnormal) delinquent girl from the (normal) non-delinquent girl (Smart, 1977).

Two contrary trends have been highlighted in relation to women's imprisonment since the mid nineteenth century, the notions of sameness and difference. While prison policy for women has echoed that of men's, there has also been a marked repressive patriarchy that has labelled women as doubly deviant. As is so, women's prison regimes have had a heavy emphasis on notions of an ideal standard of femininity, with clear agendas of feminization, domesticization and medicalisation (Medlicott, 2007). The reopening of Holloway prison in 1983 and Corton Vale were arguably exemplars of a mental health model applied to women prisoners, pushing the notion that a therapeutic prison would normalize these doubly deviant women back to the standard expected of normal law abiding women (Carlen, 1983; Carlen & Worrall 2004; Dobash et al, 1986; Medlicott, 2007).

What has been acknowledged by researchers and activists is the resilience and persistence of the stereotyped assumptions about the 'female' subject of penology and that these stereotyped assumptions have had profound policy implications (Carlen, 1983; Heidensohn, 1987:17).

The next aim of the chapter is to outline some of the most influential policy implications for female offenders, prior to the Corston Report (2007).²²

The mid 1980s saw the founding of the campaigning group *Women in Prison* (WIP), as a result of a multitude of campaigners on women's imprisonment became more visible. During this time a liberal penological consensus, which was adopting a philosophy of penal reductionism, was enjoying a brief revival. In 1988 Home Office officials had

²² The Corston Report (2007) will be critically analysed in the following chapter since it has influenced some of the most recent policy developments on women offenders.

successfully challenged the government's retributivist penal policy with the Green Paper *Custody in the Community* (Home Office, 1988) and the probation service had been tasked with providing tough and effective community alternatives to imprisonment for offenders convicted of non-serious crimes (Carlen & Worrall, 2004). These new policies were seen to be especially important to women and the hope that non-custodial sentences would have an actual impact on the women's prison population seemed to be a realistic one. As Carlen & Worrall (2004:13) have noted, this optimism was misplaced and short lived. While plans for non-custodial sentences were being drawn up, tougher welfare and economical climates were ensuring an increase in unemployment and homelessness. These troubles were seriously undermining the task placed with the probation and social services to keep vulnerable young people out of trouble and, in addition to this, single mothers were being portrayed in the media as a new threat to family life and a threat to the welfare economy (Chadwick & Little, 1987). By the mid 1980s what was apparent was a clear process of criminalisation through anti-poor prejudices. In 1985-86 Britain, for the first time, imprisoned more people per head of population than any other West European Country (Scruton, 1987). What largely affected women during this time was the representation of single mothers as a threat to society. Studies during this time suggested that sentencers were prejudiced against unmarried women raising children alone (Worrall, 1981; Carlen, 1983) and that this punitiveness towards single mothers would have further negative impacts upon them during their passage through the criminal justice and penal systems (Worrall, 1990). During the 1980s what is particularly noteworthy was the absence of specific penal policies for women.

A recurring theme during the 1980s was that of accountability; reformers demanded that prisons should be 'accountable' and that measures should be put in place to safeguard

prisoner rights. By the 1990s the concept of ‘accountability’ was firmly embedded, but the focus became that of prisoner responsibility, women prisoners were to be responsible for their own behaviour and also, via prisoner compacts and the Incentives and Earned Privileges Scheme, for her own prison conditions and access to prison ‘privileges’ (Carlen & Worrall, 2004). In addition to this the obsession with prison security would affect women greatly (Hudson, 2002).

This notion of accountability was firmly embedded in the Woolf Report (1991), instigated in response to disturbances in prisons during April 1990. The Woolf Report was to be an independent public inquiry under the chairmanship of Lord Justice Woolf, to inquire into the events of April 1990; a time of unprecedented prison unrest in England and Wales and would outline the specific causes of the disturbances, address the underlying problems of the prison service and thus provide recommendations for change (Carrabine, 2004; Hancock & Liebling, 2004). It is undeniable that the Woolf Report provides some of the most authoritative and wide ranging opinions on prisons in England and Wales and was deemed to be a model of change for the following 25 years. Whilst Woolf did not directly inquire into the women’s prison estate, it was acknowledged that women represented a less serious and less entrenched criminal profile and thus, the proposals to adopt a just deserts approach to criminal justice provided hopes in a reduction in the women’s prison population. Since it was suggested that prison should be used for the most serious of offences (Player, 1994) there was thus a strong likelihood that his recommendations would have an immense impact on women’s prisons.

His lack of focus on women could be viewed two ways, as an attempt to treat male and female offenders equally, which would break from the usual trend that infantilises and

medicalises women prisoners, or on the other hand as a method of yet again ignoring the differing needs of women prisoners (Player, 1994). Woolf's whole sale approach to men and women was subject to a great deal of criticism, as many feminists have argued it provided further evidence for the notion that women are forced into a system that was designed with men in mind (Heidensohn, 1985) and thus women's specific needs are continuously overlooked.

Having failed to acknowledge differences between male and female prison populations, there would inevitably be implications for the implementation of Woolf's reforms. As Player (1994:207) has noted, data has indicated that far more women than men suffer from mental health problems (although such data should be considered with caution since it is formulated from within the social construction of women as psychologically unstable). Furthermore there is a different impact upon the family ties of male and female prisoners; more women in prison than men are the sole carers of children and thus many women in prison become reliant on their female family members to take on the care of their children. While some women in prison have male partners who care for their children, the large majority of children end up in care as a result; it is estimated that at least one third of mothers in prison are single and had the sole responsibility for care of their child(ren) (Social Exclusion Unit, 2002).

There was non-the less a general welcome of a just deserts approach, which prompted hopes of a break from the prominence of the rehabilitative trends of the 1970s, particularly for women who were in receipt of paternalistic and infantilising sentencing practice; it was thought that these practices accelerated them up the sentencing ladder for first time and minor offences (Hedderman, 2011; Hudson, 2002).

The *Criminal Justice Act* 1991 was thus initially met with approval for its just deserts approach; its aim to make punishment proportionate to the seriousness of the crime committed prompted hopes for a more just approach to the crimes of women, children and young people. The Act established a twin track, bifurcated system, although it was argued that punishment should fit the crime. The unifying element common to this approach was to ensure that the restriction of liberty would be common to community sentences as well as imprisonment (Hudson, 1993; 2002). Violent offences were allocated to a risk track and property offences were thus to be sentenced proportionally. The Act included gender considerations (section 95 of the *Criminal Justice Act* 1991), which required the Secretary of State to annually publish information considered to be beneficial for the purposes of enabling the avoidance of discrimination on the basis of race or gender, or any other improper ground in the administration of criminal justice. The first section 95 paper, *Gender and the Criminal Justice System*, was published in 1992, the prime issues addressed were particularly in relation to women's involvement in crime; and even their diversion from prison (Home Office, 1992). It was acknowledged that women consistently account for far less crime each year than men and far less serious crime; as accounted for in both self-reported and police recorded crime figures. It was also acknowledged that far too many women from black and minority ethnic groups (BME) were imprisoned (Hedderman, 2011).

Despite concerns raised in the first section 95 paper on women's involvement in crime, following publications, from 1999 onwards, reproduced the same concerns about the women's prison population and there was a clear failure to reduce the women's prison population, there was in fact a rapid increase in the women's prison population from the beginning of the 1990s; the women's prison population doubled between 1990 and 1998 (Carlen & Worrall, 2004). Hedderman (2011:29) has highlighted that the majority of the

issues raised in the very first section 95 paper remained unaddressed, indicating that women are still punished for who they are rather than what they have done (Cook, 1997). Sentencing practice had, thus, more closely followed a model of ‘familial justice’ rather than official penal objectives of ‘desert’ advocated in The *Criminal Justice Act* 1991 (Hudson, 2002). The Act’s focus on sentence disparity and indirect recognition of a duty not to discriminate on the grounds of race, sex or other improper characteristics had not produced an adequate response or concern for the fate of offenders after sentence. While the *Criminal Justice Act* 1991 sought to provide protection from risk of physical harm, including sexual harm, the Act defined serious harm as *death or serious injury* and that this was the risk whereby a departure from penalties proportionate to the crime was permitted. The Act allowed ‘psychological injury’ to be assigned to the risk track and thus, this allowed for a blurring between violent and property crimes (Hudson, 2002:25).

What became apparent during the 1990s was the prominence of risk in law and order politics (Bottoms, 1995; Feeley & Simon, 1992; Garland, 1996). In 1993 significant parts of the *Criminal Justice Act* 1991 were revoked or amended and the principle that prison should be a last resort for the most serious offences was largely discredited (Carlen & Worrall, 2004). Section 29 (1) of the 1991 Act, which stated that an offence is not to be regarded as more serious because an offender had any previous convictions (unless these convictions showed a pattern of targeting the vulnerable), was one of the main causes for dissatisfaction from magistrates, politicians and the public. The 1993 *Criminal Justice Act* replaced Section 29(1) of the 1991 Act and allowed for the consideration of previous convictions if they had any bearing on the current offence; the effect was to signal to sentencers that previous convictions could lead to more serious penalties than the current offence indicated (Hedderman, 2011).

Scott (2008b:76) has argued that the statement from the then Home Secretary, Michael Howard, that prison works, became firmly impeded in prison ideology through an emphasis on prisoner accountability via compacts and the Incentives and Earned Privileges Scheme. Key performance indicators (KPIs) were provided in the Prison Services corporate plan, clearly espousing a 'managerialist' ethos (Scott, 2008b:76). The triumph for official discourse was inherent in the contractual nature of the Incentives and Earned Privileges Scheme, as Carlen and Worrall (2004) have noted, it appealed to a liberal common-sense about individual freedom and self-governance, and a feminist notion that women should take responsibility for their own lives and not be seen as victims. The appeal here for middle class forms of self-governance is that they appear to be an obvious and natural solution; to give women in prison the opportunity to take responsibility for their lives and to self-govern. Women in prison whose own common sense tells them that they have very little choice as prisoners can be continuously punished in the name of therapy for exhibiting characteristic that sent them to prison in the first place, not being middle class and/or not seeing the world as if they were (Carlen & Worrall, 2004).

The 'New Punitiveness' arguably had the greatest impact on women's prisons during the 1990s. The obsession with prison security saw stories of new degradations that women prisoners were subjected to, intimate strip searching, women shackled during childbirth and mandatory drugs testing where women were required to urinate in front of two female officers with their hands held above their heads (Carlen & Worrall, 2004:16). As Carlen and Worrall (2004) have stated, by the mid 1990s the British penal system was suffering a minor legitimacy crisis in relation to women's imprisonment, a crisis that was worsening with increasing awareness raising, that drew attention to the

multitude of problems they faced (Carlen, Hicks, O'Dwyer, Christina & Tchaikovsky, 1985; Worrall, 1990).

The flames were fanned when the then Chief Inspector of Prisons, David Ramsbotham, in December 1995 made his decision to walk out of an inspection of HMP Holloway public due to his disgust at the conditions in which female prisoners were subjected to. The inspection highlighted overcrowding, filthy conditions, large numbers of women with mental health problems and alarmingly high rates of self-harm amongst prisoners. Prisoners on the mother and baby unit had reported being chained to prison officers whilst in labour, furthermore it was revealed that there was no prison induction programme, no sentence planning and no preparation for release (Scott & Codd, 2010; Ramsbotham, 2003).²³

In response to these concerns the Prison Service created a special unit within the service to be responsible for policy within women's institutions; the Women's Policy Group was established in 1998 (and disbanded in 2004). Whilst this had increased the visibility of women in prison, very little was actually done to alleviate the situation of the increasing numbers of women sentenced to imprisonment (Carlen & Worrall, 2004; Medicott, 2007).

During this time what was also apparent was a contrary discourse that portrayed a growing punitiveness towards female offenders; sentencers argued that if women wanted equal treatment they should then also expect equal punishment for their crimes. Discourses of risk, accountability, responsibility and choice became prominent in justifications for women's imprisonment, merging populist retributivist notions with

²³ See HM Chief Inspector of Prisons (1997) *Women in Prison: A Thematic Review*. London: Home Office, for the full report.

those of need and rehabilitation (Carlen & Worrall, 2004:17). This new criminology of women's crime and imprisonment, as Carlen and Worrall (2004) have noted, allowed for an increasing number of women to be imprisoned not only for the protection of the public, but also for their own good. This new interpretation of risk provided justifications for women's imprisonment, if a woman's needs were such that they increased her risk of committing crime she could thus be sent to prison for having criminogenic needs and in going to prison, it was deemed that her criminogenic needs/risks could be reduced (Hannah-Moffat, 2001; Carlen & Worrall, 2004). The needs to be addressed largely relate to psychological need; how a woman views her own behaviour and social situation, rather than that of material need (Carlen & Worrall, 2004).

In 1996 the government clearly highlighted risk as a key target in the White Paper *Protecting the Public: the Government's Strategy on Crime in England and Wales*. The risk of re-offending was regarded to be as important as the risk of physical danger; the agenda of penal policy according to this paper was to be the protection of the public from 'dangerous and persistent offenders' (Home Office, 1996). The uniting of dangerousness and persistence allowed property offences to fall from the proportionality track to the risk track, as demonstrated in the Crime (Sentences) Act 1997, which brought the 1996 White Paper into legislation, and recommended a mandatory minimum of three years imprisonment for third offences of burglary and for third offences of violent and sexual offences. This was a clear departure from proportionality modes of sentencing, as property offences were to be treated the same as offences against the person (Hudson, 2002). For female offenders this reversal of ideas of the 1991 Act, to separate seriousness and persistence, removed all hopes that their crimes (which were generally of a less serious nature) would be punished along the

proportionality track, reducing the number of women sentenced to imprisonment; from 1993-2001 the women's prison population increase by over 145% (Carlen, 1999:20; Carlen & Worrall, 2004:15).

In 1997 the Labour Government came to power and the scale of their victory meant that they were in an unusually strong position. Their Manifesto commitment to be 'tough on crime, tough on the causes of crime' was put into practice, however it was evident that Labour was more interested in being 'tough on crime' than anything else. From 1997 to 2008 more than 50 criminal justice bills were put forward and more than 3,000 new criminal offences had been created (Hedderman, 2011). The issue of 'what works for women offenders?' for the government largely remained one of 'what works for men works for women, albeit with a few minor adjustments' (Carlen & Worrall, 2004).

During this time the Wedderburn Report (2000) was published by the Prison Reform Trust. The report called for a complete overhaul of the criminal justice systems attitude towards women and reiterated past concerns about the impacts of penal incarceration on women, their families and their children:

The aim is to help women avoid further offending by increasing *their abilities to solve complex problems legitimately*, by holding in balance the demands made upon them, the external resources and legitimate *opportunities available to them*, and *their own capacities and abilities* (Prison Reform Trust, 2000:70-71, emphases added).

The report disappointingly continued a clear definition of women's needs as predictive risk factors, as Hannah-Moffat (1999; 2001; 2007a) has observed, when this occurs needs talk can quickly become risk talk. Women in conflict with the law are thus constructed as rational beings that must avoid further offending by learning to cope with the demands of life and by making use of the opportunities available to them, utilising their *own* abilities and capacities; they must be responsible.

Wedderburn's recommendation that a network of Women's Supervision, Rehabilitation and Support Centres be set up (Prison Reform Trust, 2000:70) in order to give women better access to a range of community agencies was, however met with little response (Carlen & Worrall, 2004).

In 2001 The Halliday Report was published. Halliday was a review of sentencing practices in the 1990s and provided a set of recommendations to guide future sentencing practice. It sought to reinstate the principle of proportionality in a manner that would take into account the opinions of sentencers, the public and politicians in order to respond to the matter of persistence, as well as the seriousness of an offence. The Halliday Report stated that previous sentencing practice, emanating from the 1993 section 29(1) amendment to the *Criminal Justice Act* 1991, had been inconsistent, resulting in many women whose crimes were persistent, but not serious, being thrown about between various community and custodial sentences without any clear rationale for doing so. The report identified the issues associated with short term sentences, stating that custodial sentences were often too short to enable any prison programmes undertaken to be constructive enough (Halliday, French & Goodwin, 2001:2; Cavadino & Dignan, 2007).

Halliday drew briefly on evidence provided in the Wedderburn Report (2000); drawing upon the impact of sentencing trends on women. What Halliday offered, however, was merely a few comments about the impacts of penal trends on women in the 1990s, he did not make any mention of the potential implications for women from the Reports own recommendations (Hudson, 2002).

Principally the important conceptual shift within the report was the redefining of proportionality to mean proportionality to the seriousness of the offence(s), as a whole, and the redefining of the seriousness threshold to mean that imprisonment should be used when no other sentence could be deemed adequate enough to meet the seriousness of the offence(s), whilst also taking into account the offenders history of criminality. The suggestion made was that sentencing should reflect the serious nature of the current offence and, importantly, an offender's previous record. Halliday proposed a system of entry points, whereby a previous record for an offence could thus influence whether a custodial sentence is imposed, which could also influence the length of a sentence (Hudson, 2001; 2002).

The new sentencing framework would give sentencers the discretion to impose community penalties instead of short term custodial sentences, but this did not mean that they were required to do so. Since persistent property offending is generally the crime pattern of female offenders, the new sentencing framework posed by Halliday would have serious implications for the poor, addicted, deprived female offender (Hudson, 2001; 2002). The conflation between seriousness and persistence thus meant that women were at greater risk of imprisonment, since there was no sense of a firm lower limit to the offences which were to be appropriately dealt with by way of imprisonment (Player, 2005).

It was hoped that the Labour governments Social Exclusion Report (2002), which highlighted that the needs of women in prison were often different to those of men, would be used to argue against the use of imprisonment. The report 'Reducing Re-Offending by Ex-Prisoners', however, highlighted a clear agenda, although it had been recognised that those in prison were from disadvantaged groups and that the experience

for women in prison was especially difficult (Social Exclusion Unit, 2002). The agenda at hand was that prison could be made to work, which was an essential nod towards the government's pledge to be tough on crime (Player, 2005; Hedderman, 2011).

The Government stated plans to make the Criminal Justice System more efficient and effective in punishing offenders and reducing their crimes, from an independent review of the correctional service in England and Wales, *Managing offenders, reducing crime: A new approach* (Carter, 2003), by proposing a new organizational structure that would incorporate the probation and prison services under a single authority, the National Offender Management Service (NOMS). In June 2004 the Government followed Carter's recommendations and consolidated a managerial ethos through a means of coordinating all correctional facilities in prisons and the community through working partnerships across governmental departments, and with the private and voluntary sectors (Player, 2005; Hedderman, 2011). As part of this managerial context the Government published a separate strategy for women offenders *The Government's strategy for women offenders: Consultation Report* (Home Office, 2001), and established the Women's Offending Reduction Programme (WORP) (Home Office, 2004a). This was a bid to co-ordinate cross-government initiatives that were designed to target women's offending and the criminogenic factors that underpinned their offending, which related to their family ties, health, housing, employment and training (Home Office, 2001) and thus consolidating the notion that women's needs are criminogenic risk factors. The Government stated that the aim was to aid preventative strategies in reducing the number of women imprisoned (Worrall & Gelsthorpe, 2009).

The WORP was promoted as a means of reducing women's re-offending by proposing a distinct response to the needs of women. The WORP action plan was published in 2004

and it initially seemed to be worthwhile. It highlighted what many researchers in the field knew so well, that the use of custody for women was being used more frequently, even though the nature and frequency of women's offending had not been getting worsened. The aims of the WORP, to reduce women's offending and the number of women in custody were generally welcomed, however again the agenda clearly stated its aim of reducing women's offending, even though it was recognised that their offending had not been more frequent or any more serious (Player, 2005; Hedderman, 2011) and the reiteration of women's needs as risk factors:

There will be a particular focus on meeting the *needs* of women with mental health and substance misuse problems. Establishing links between the Programme and other initiatives (for example, the Department of Health's Women's Mental Health Strategy and the National Drug Strategy), will ensure that women offenders have access to, and are retained in, services and treatment appropriate to their needs. *Understandably, sentencers sometimes see prison as the 'safe' option* for women offenders who may be a *risk to themselves or to others* because of a mental health or drug problem (Home Office, 2004a:4, emphases added).

As Hannah-Moffat (2001) has argued, when needs are defined as predictive risk factors and policy starts to talk of developing programmes that can be adapted to women's psychological needs, as opposed to addressing that of material need, the punishment of women is disguised as empowering, by fostering self-reliance (Hannah-Moffat, 2001; Carlen & Worrall, 2004). Furthermore, the notion that prison is understandably used as a place of safety for *risky* women does little to challenge the legitimacy of sending socially and economically excluded women to prison. It may indeed further the likelihood of women being sent to prison if the continued message of reassurance is that prisons can care for vulnerable women (Hannah-Moffat, 2001; Carlen & Worrall, 2004):

Its purpose is to reduce women's offending and the number of women in custody, by providing a better tailored and more appropriate response to the *particular factors* which have an impact on why women offend. The intention is not to give women offenders preferential treatment but to achieve equality of treatment and access to provision (Home Office, 2004a:5, emphases added).

The aim of the WORP action plan thus concerned itself with the needs of women including poverty, physical illness and debt and added support and impetus to the notion that women's needs were risk factors, largely relating to that of recidivism. The conflation of risk and need largely ignores social factors and can lead to strategies of responsabilisation (Hannah-Moffat, 2001). Furthermore the emphasis on access to existing provision was a clear indication that no new or specific funding would be allocated to secure delivery of the action plan (Player, 2005; Hedderman, 2010; 2011).

Despite this, the WORP did support other initiatives such as improving community based responses to the needs of women with mental health problems (Hedderman, 2011). However the notion supported by the WORP, that providing sentencers with community based alternatives would reduce their use of custodial sentences (Home Office, 2004a:19), was largely unfounded and unsupportable. This approach had not worked in England and Wales in the 1980s, or the 1990s, nor did such tactics work in Scotland (Hedderman, 2011; Tombs, 2004) and thus it was highly unlikely to work this time around.

Furthermore the implementation of the *Criminal Justice Act* 2003 did not halt the use of imprisonment. As the WORP was being published a range of provisions were being implemented which increased magistrates sentencing powers and decreased their discretion to use non-custodial penalties (Hedderman, 2010). Whilst the Act stated a need to abandon the disparity in sentencing for the same types of offences, it abandoned any clear sentencing rationale by stating that the purpose of sentencing should be firstly

for the punishment of the offender, secondly for the reduction in crime, thirdly for the reform and rehabilitation of offenders, fourthly for the protection of the public and fifthly for the reparation by offenders to those persons affected by their offending (Player, 2005). As Player (2005) has noted, this allowed for widely differing penalties to be imposed, since there was no clear indication of what circumstances should lead to the prioritisation of rehabilitation of the offender, or for ensuring that an offender makes reparation to his/her victim. The weight that should be applied to proportionate punishment thus became obscure and seemed largely to be dependent on the type of sentence a court wished to impose (Player, 2005).

Whilst the government had sought to provide a strategy for women offenders by acknowledging that there was a need for coordinated services beyond the Criminal Justice System and that in particular, greater restraint should be used in considering custodial sentences for women; the new sentencing framework provided in the *Criminal Justice Act 2003* produced a series of hazards by creating an inconsistent and incoherent framework for sentencers. There was a contradictory message about the use of custody for women; whilst the WORP had been promoted as an action plan for decreasing the use of custody for women, the government presided over a period of unprecedented growth in the women's prison population and had commissioned the building of two new women's prisons. The reforms to the sentencing framework contained in the *Criminal Justice Act 2003* failed to implement an affective break on the courts increasing use of custody for women, exposing even larger numbers of women in conflict with the law to the risk of a prison sentence (Player, 2005; Hedderman, 2010).

This risk was realised as the number of women serving short sentences increased. The Ministry of Justice (2007) claimed that the increase in prison populations was due to

longer prison sentences being imposed, however this statement was arguably made on an assessment of the men's prison population (Hedderman, 2012). In 1993 one third of women received into custody were serving sentences of six months or less (Home Office, 2004b), by 2008 this had increased to two thirds (Ministry of Justice, 2010a). Imprisonment for women had thus escalated, with the majority of women being sent to prison for arguably less serious offences, such as theft and handling of stolen goods (Hedderman, 2012). The accelerated use of imprisonment by the New Labour government was, thus, underpinned by a discourse of risk and risk assessment, where persistence/recidivism had been equated with seriousness (Hannah-Moffat, 2001; 2007a).

In 2006 a pressing concern drew the government's attention to the women's prison population; the self-inflicted deaths of six women in women's prisons between 2004 and 2006. As a response to this the government commissioned Baroness Jean Corston in 2006 to carry out 'a review of women with particular vulnerabilities in the criminal justice system in England and Wales' (Corston, 2007). It is the aim of the next chapter to review the main recommendations and implications of the Corston Report (2007), since Corston has been one of the most influential reports on women's prisons to date and has shaped some of the most recent policy developments in relation to women offenders (Scott & Codd, 2010).

CHAPTER FOUR

THE CORSTON REPORT (2007)

The aim of this chapter is to outline the main recommendations and implications of the Corston Report (2007). The chapter provides a critical analysis of the Corston Report (2007) by utilizing Foucauldian discourse analysis to investigate any potential implications for women in conflict with the law, since the Corston Report (2007) has been one of the most recent and significant official reports on women in state custody and has prompted some of the most recent policy developments in relation to women's imprisonment (Scott & Codd, 2010).

In 2006 Baroness Corston was commissioned by the then Home Office Minister, Baroness Scotland, to carry out 'a review of women with particular vulnerabilities in the Criminal Justice System in England and Wales'. The circumstances that provoked the need for the report were the self-inflicted deaths of six women in HMP Styal within a thirteen month period (Corston, 2007:14). These events forced the government to consider the high numbers of women sentenced to imprisonment and to consider the negative effects that this had on them and their families (Hedderman, 2010). The then Home Secretary, Charles Clarke, was called upon to hold a public inquiry, he concluded, however, that it was unlikely that a public inquiry would add significantly to what had already been brought to light in the investigations into the deaths of the women in HMP Styal (Corston, 2007:14).²⁴ Corston was thus commissioned to conduct a review that would examine the various initiatives that the government was taking forward to address the issues raised in the investigations, with public involvement, and take a view on the adequacy of these initiatives and suggest what more could be done

²⁴ See the report by Stephen Shaw; Prisons and Probation Ombudsman (2005) *The Death in Custody of a Woman and the Series of Deaths in HMP/YOI Styal August 2002–August 2003*, London:Prisons and Probation Ombudsman.

(Corston, 2007:14). The decision to not have a public inquiry is no doubt a political one as official reports are chaired by those in positions of power, such as judges and lawyers (in the case of Corston an ex-member of parliament and a Baroness). The choice to conduct a review results in an inquisitorial/investigative process, as opposed to prosecutorial and adversarial. The aim is to identify problems, distribute responsibilities to rectify identified problems and thus to make recommendations for change and reform (Scruton, 2004); such recommendations are subject to the discretion of government officials.

The Corston Report (2007) was conducted over a nine month period and was stated by Corston to be ‘a short economic review, not an in-depth lengthy resource intensive commission’ (Corston, 2007:2).

The methodology of the review was subject to Corston’s discretion, but she was instructed to define ‘particularly vulnerable’ for the purposes of the review, to focus upon women with multiple needs, particularly on women whose risk factors could lead them to harm themselves in prison and to identify and invite partners and an advisory panel to assist her. It was stated that those willing to assist would be largely government officials from the Home Office WORP team or Prison Service Women’s Team, Fawcett, Women in Prison, Prison Reform Trust, Howard League and INQUEST (Corston, 2007:90). The use of ‘particular’ vulnerabilities is somewhat revealing as this can lead to the assumption that the system works for the majority of women and it is just a handful of vulnerable women that are in need of special consideration (Hedderman, 2011).

Corston stated that she sought to interpret her term of reference liberally, aiming to include all women she regarded to be inappropriately located in prison, and all women who on the outside were at risk of offending. The scope of the report was thus deemed to be to look at vulnerable women; her interpretation of 'vulnerable' focused on key areas, which she argued culminated in a multitude of risk factors. This included women with serious mental illness or serious drug use/addictions, women with 'lower-level' mental health problems (such as personality disorders which were exacerbated by prison), women who were persistent low-level offenders living chaotic lives, who may have a less serious drug addiction problem (who end up in prison because the courts have run out of options) and women with histories of sexual abuse, or other violent abuse (Corston, 2007:91). She deemed these vulnerabilities to fall into three categories: firstly domestic circumstances and problems, such as domestic violence; secondly personal circumstances such as mental illness, low self-esteem, eating disorders and substance misuse; and thirdly socio-economic factors such as poverty, isolation and unemployment (Corston, 2007:15).

Corston visited six women's prisons, three women's community centres and one medium secure women's hospital. She held over forty meetings with individuals and groups and overall there were more than two hundred and fifty people contributing to the report (Corston, 2007:2). Corston stated that her method was to listen to as many people as possible with expertise and experience of working with women throughout the criminal justice system and states that she had drawn on a wealth of academic research, conducted over the past thirty years, the majority of which was commissioned by the Government (Corston, 2007:i). In stating this it is fair to acknowledge that Corston (2007) on the whole, privileges the voices of experts and professionals.

The Corston Report was published in 2007 and made some distinctive acknowledgements about the women's prison population, and proposed the need for a holistic cross-government response to address the complex and multiple needs of women offenders. She acknowledged that most women in prison could be described as victims themselves, since they had histories of violence and abuse (Corston, 2007:3). Her review highlighted what researchers and activists have been highlighting for numerous years; that the women's prison population is comprised of individuals who are socially deprived (Carlen, 1983; 1988, Heidensohn, 1985; Kennedy, 2005; Worrall, 1990).

Corston stated that often women: were mothers; were pregnant; were drug users; were alcoholics; looked very thin and unwell; had been victims of sexual and emotional abuse; were not in control of their lives; did not have many choices; were frail and vulnerable despite often appearing brash and confident; had self-harmed; had mental health problems; were poor; were not all the same, they were individuals; were disproportionately from black and minority ethnic (BME) groups compared to their representation in the population as a whole (Corston, 2007:27). She also highlighted that the nature or seriousness of women's offending had not worsened and thus the increase in the women's prison population was likely due to an increasing willingness to use custodial sentences for less serious offences (Corston, 2007:16).

Having highlighted the multiple issues that women in prison face, Corston from the outset of her report argued that when women are exposed to vulnerability factors (domestic circumstances, personal circumstances and socio-economic factors), it is likely to lead to a crisis point that results in imprisonment:

It is these underlying issues that must be addressed by *helping women develop resilience, life skills and emotional literacy* (Corston, 2007:2, para.1, Emphases added).

What is apparent here is the notion that women in conflict with the law are solely responsible for the dire outcomes of their lives. Their inability to cope, their lack of resilience, is therefore deemed to be something that should be remedied in order for them to become self-sufficient members of society; the remedy undoubtedly would involve ‘helping’/training such women to adopt the ideals of ‘mentors’.

From the outset of the Corston Report (2007), it could thus be argued that there is a clear theme of responsabilisation and a conflation between the gendered needs of women and the criminogenic risks that these needs are deemed to produce (Hannah-Moffat, 2007a). This apparent vulnerable/deviant dichotomy shifts to a focus on responsabilising women; arguably there is room to interpret the need to develop emotional literacy as something that vulnerable women should take some personal responsibility for in order to overcome their apparent emotional illiteracy. This is not a new theme; the notion that women can be trained to make the right choices was a notion present in official discourse prior to the Corston Report (2007).²⁵ These discourses of responsabilisation, in focusing upon notions of resilience and life skills, draw attention away from the material realities of socially and economically excluded women’s lives, they are also discourses that support modes of governing from a distance, whereby self-reliance/individual responsibility is hailed as an effective way for women in conflict with the law to improve their own lives with supposed state support in learning how to do so (Hannah-Moffat, 2001; Carlen & Worrall, 2004).

²⁵ See the Women’s Offending Reduction Programme (Home Office, 2004a), outlined in Chapter three. This report espoused the notion that women offenders required assistance to make appropriate life choices in order to reduce their risk of recidivism.

Corston, however, concluded that it was time for a radical change in the way women are treated throughout the whole criminal justice system and that this must not just include those women who have offended, but also those at risk of offending. She argued that women were isolated within a system that had been designed by and for men (Corston, 2007:2) and thus stated that a radical new approach was required, one that would treat women holistically and individually. In doing so Corston drew upon a wealth of academic research, conducted over the past thirty years and the majority of which was commissioned by the Government (Corston, 2007:i). Corston is sympathetic to the plight of vulnerable women in prison and does make reference to interviews that she had conducted with women prisoners across the country (Corston, 2007:15). Her recommendations for change were, however, formulated on evidence derived predominantly from professionals involved in the administration of criminal justice (Corston, 2007:i).

Corston made 43 recommendations which would be a blue print for what she called 'a distinct, radically different, visibly led, strategic, proportionate, holistic, woman-centred approach' (Corston, 2007:82). She stated that such an approach would recognise that women and men are different and thus equality does not mean that women and men should be treated the same. This approach, she argued, would be a gender responsive approach (Corston, 2007:3); this being so, Corston recommended that every agency within the criminal justice system must accelerate and prioritise the implementation of the gender equality duty (Corston, 2007:3). The gender equality duty is deemed to mean that men and women should be treated with equivalent respect, according to need; Corston argued that equality must embrace inclusivity as well as fairness, and recommended that the duty be taken on board by every public body within the criminal justice system (Corston, 2007:24).

Corston stated that during her review she could not get an answer to the question of who was in charge of the provision of care and services for women who come into contact with the criminal justice system (Corston, 2007:36). On this basis she suggested that a mainstreaming of services for women would be more likely to reduce the risk of re-offending, and that partnerships between agencies would create joined-up thinking and would be a more efficient and successful way of providing services for women. Having argued this Corston went on to suggest that this could not be achieved without a top level “champion” for women who would have sufficient power to govern required changes (Corston, 2007:37). She also strongly recommended that an Inter-Departmental Ministerial Group for women be immediately established, for women who offend or are at risk of offending and that this should be of a cross departmental structure and would incorporate the Women’s Offending Reduction Programme (WORP) (Corston, 2007:48).

Drawing on the report *Reducing re-offending by ex-prisoners*, published in July 2002 by the Social Exclusion Unit (SEU), Corston highlighted the government response to the report in developing the seven “pathways to resettlement” which identified what it perceived to be and the dominant concerns of prisoners upon release. These were: accommodation; education, training and employment; health; drugs and alcohol; finance, benefit and debt; children and families; and attitudes, thinking and behaviour (Corston, 2007:41).

Corston states that she looked closely at accommodation, since she deemed this to be women’s most pressing concern on release (Corston, 2007:43). It was recommended that it is this pathway that requires a speedy, gender specific reform, essential to this

reform is education, learning, training and skills (Corston, 2007:44). Corston states that she acknowledged a lack of emotional literacy during her visits and meetings and regards life skills to be the base from which all learning must take place:

Respect for one another, forming and maintaining relationships, developing self confidence, *simply being able to get along with people without conflict* must come before numeracy and literacy skills. *Life skills*, for example, how to live as a family or group, *how to contribute to the greater good*, how to cook a healthy meal, are missing from the experiences of many women in modern society who come in contact with the criminal justice system (Corston, 2007:44, para 4.27, emphases added).

The focus on life skills allows for the assumption that women in conflict with the law somehow have a faulty way of thinking and in order to remedy this they need to be taught how to get along with people and to avoid conflict; it is this faulty thinking that is deemed to be the most important factor of all. This unfortunately allows for the responsabilisation of women in conflict with the law and completely ignores the material realities of their existence prior to their contact with the criminal justice system; this is sadly, again, a reflection of the exact position that has been endorsed in previous official discourse.

Corston, however, recommended that the seven pathways to resettlement should be coordinated strategically. Of all the pathways, she states, it is accommodation that is in need of the speediest reform. In addition to this Corston recommended that a much greater priority must be given to the education, training and employment pathway, stating that women must be assessed to ensure that their needs are being accommodated (Corston, 2007:8). Corston also stated that such a strategy reduces stress experienced by disadvantaged women:

A woman at one prison interviewed for a study on Real work in Prisons said that for the first time she felt *independent*, having completed a life-course Independence. She said she *no longer had to rely on her family for support* (Corston, 2007:44, para 4.28, emphases added).

Whilst such training programmes may indeed reduce stress, the focus on independence training is problematic, as Hannah-Moffat (2001), and Haney (2010) have observed, independence training within the prison place is a neo-liberal mode of governance; making individual women solely responsible for their own governance by training them to be self-sufficient and to minimise their risk of reoffending.

Corston argues that these strategies for women are stepping stones and that they are vital before women can proceed to vocational accredited courses; higher education and work placements (Corston, 2007:44-45). It would be wrong to assume that in all instances such an approach is negative, indeed personal activity in prison is likely to reduce boredom. However, the issue of teaching independence courses within prison highlights a potential implication of the recommendations made by Corston, since such strategies may well mutate into modes of responsabilising prisoners and, specifically, when such strategies are catered to the specific needs of women, they may well become feminized modes of governance (Hannah-Moffat, 2001). In addition to this notions of independence and the privileging of self-sufficiency are not new modes of governing women; such strategies place women in conflict with the law as solely responsible for their lives and the lives of their children (Hannah-Moffat, 2001; Carlen & Worrall, 2004).

Acknowledging the high number of new receptions in HMP Holloway being for that of a breach of licence, Corston stated that there needs to be more tolerance for women who fail to make appointments because of their domestic responsibilities and their underlying anxieties, which affect compliance, such as lack of self-esteem and confidence and for their distrust in service providers (Corston, 2007:9). She acknowledged that women are sometimes remanded into custody pending additional

information about them, on this basis Corston stated that sentencers should require convincing evidence that a defendant is fit for prison, since it can cause serious damage to women. Corston importantly acknowledged that sending a woman to prison for ‘her own good’, or as a ‘place of safety’ is appalling and must stop (Corston, 2007:9). As is so Corston called for proportional sentencing, stating that women should only be given custodial sentences for serious and violent offences that pose a risk to the public and recommended that women who are unlikely to receive a custodial sentence should not be remanded into custody. Women, for Corston, should be treated as individuals, she stated that she was pleased that this was mentioned in the Home Secretary’s statement in the House of Commons on July 26th 2006, which observed the presence of vulnerable women in prison (that should not be there), stating that these women, who are involved in a cycle, should be addressed in a sensible way that not only observes the needs of the public to be protected, but also observes the view of the individual (Corston, 2007:49):

Treating people as *individuals* is key to any successful intervention (Corston, 2007:49, para 5.3, emphasis added).

This initially may seem to be a worthy cause, not treating women as a homogenised group, since individual needs, experiences and coping strategies will differ. Implications become more apparent when treating a person as an individual is aligned with notions of individual responsibility, a strategy which is sadly endorsed by Corston.

Corston argued that women’s community centres are the right way to treat women, highlighting Asha and Calderdale as pioneers of a woman-centred approach:

Their broad approach is to treat each woman as an *individual* with her own set of *needs and problems* and to increase their *capacity* to take *responsibility for their lives* (Corston, 2007:10, para 18, emphases added).

The potential problem of an approach that treats women as an individual with her own set of needs and problems is the conflation between women's needs and risk (of re-offending). From this statement it is highly inferable that women in conflict with the law should be trained to take responsibility for their actions; and that their needs outside of the prison place are criminogenic factors that they should take responsibility for managing. Furthermore one may also infer from this statement that women in conflict with the law are deemed to have a faulty thinking process, a process that can be managed through programmes that are designed to increase their capacity to remain law abiding; such strategies are ultimately ones of responsabilisation and are not new modes of governance (Hannah-Moffat, 2001).

The centres, according to Corston, recognise the impact that victimisation and isolation, by disadvantage, can have on a woman. This being so, Corston recommended that the Together Women Programme should be extended as quickly as possible and that a larger network of community centres should, in accordance with a centrally strategic national plan, be drawn up by the new commissioner for women who offend or are at risk of offending (Corston, 2007:10). The approach used by centres, like Asha and Calderdale, should be provided and should be appropriate to the needs of individual women. The centres, according to Corston, should be staffed by women in order to make the environment feel safer for women who had experienced abusive relationships with men (Corston, 2007:86). While this is a valid point, in that many women have experienced abusive relations with men, Corston, in adopting a cultural/gender feminist perspective that regards female traits to more caring, fails to acknowledge the potential

for negative relationships between women and as such seemingly benevolent forms of power, such as maternalism, are disregarded (Hannah-Moffat, 2001).²⁶

In addition to this, the problems of such centres adopting a principle of “supporting women with particular vulnerabilities to take responsibility for their lives” (Corston, 2007:59, para 6.1) is that such an approach runs the risk of silencing discourses of social justice, whilst promoting the notion that women are responsible for their individual governance; arguably a neo liberal concept whereby the offender is deemed a rational, free, responsible consumer of services (Hannah-Moffat, 2001; Haney, 2010). It also supports the notion that women in conflict with the law are rational, solely responsible individuals, who through their own poor choices have broken the law. This thus leads to the assumption that self-governance is the solution to the social and economic exclusion that women in conflict with the law face their ‘empowerment’ to take personal control of their lives thus removing state responsibility and adding a coercive dimension to governance (Hannah-Moffat, 2001, 2000). In this context such strategies can become modes of constituting and regulating the poor and powerless (Cruikshank, 1999), creating disciplined female bodies (Finateri, 1999; Foucault, 1977; Smart, 1989; Hannah-Moffat, 2001).

Ultimately discourses of responsabilisation serve to support the status quo by operating within regimes of truth that construct prisoners as rational, responsible individuals who are at fault for their offending; a strategy that ultimately denies structural inequality (Hannah-Moffat, 2001; Haney, 2010). Techniques such as ‘risk’, ‘empowerment’ and ‘choice’, as Hannah-Moffat (2001:18) has argued, are flexible and can be used by

²⁶ Kelly Hannah-Moffat (2001), and Lynne Haney (2010) have both crucially drawn attention to the disciplinary potential of maternalism.

reformers to advocate an alternative feminist vision of penalty and by the state to modernize existing disciplinary modes of governance.

One of Corston's most radical recommendations was that the government should announce within six months a clear strategy (to take place within ten years) to replace women's prisons with smaller custodial units that would be well dispersed and multi-functional. She argued that women needed help, care and therapeutic environments to assist them in rebuilding their lives (Corston, 2007:5). These units would be reserved for women who had committed more serious offences, warranting imprisonment of two or more years.

Despite this radical suggestion, the Corston Report (2007) largely reflects official discourse prior to its publication, the emphasis on notions such as individual responsibility, rationality, choice and the conflation of women's material needs with risk, is not new. This discourse sadly reinforces an unremitting focus on risk through hailing self-reliance/life skills training as the desired solution (Corston, 2007:49); these are ultimately neo-liberal strategies of governance from a distance (Rose, 1999; Hannah-Moffat, 2001; Haney, 2010).

It is the aim of the next chapter to critically analyse current official penal discourse on women's imprisonment, by utilising Foucauldian discourse analysis, to investigate whether the use of feminist language such as empowerment, self-esteem and woman-centeredness, has been appropriated to legitimise the existence of prisons (Haney, 2010; Hannah-Moffat, 2001; Kennedy, 2005).

CHAPTER FIVE

PENAL POLICY POST CORSTON REPORT (2007)

It is the aim of this chapter to critically analyse current official penal discourse on women's imprisonment since the publication of the Corston Report (2007). By utilising Foucauldian discourse analysis to unpack official penal discourse, the chapter aims to ascertain whether the use of feminist language such as empowerment, self-esteem and woman-centeredness, has indeed been appropriated to legitimise the existence of prisons (Hannah-Moffat, 2001; Kennedy, 2005; Haney, 2010).

Despite the limitations of the Corston Report (2007), as highlighted in chapter four, it was nonetheless distinctive. The holistic approach adopted stated the need for cross departmental responses to address the multiple and complex needs of women offenders (Scott & Codd, 2010). The report importantly reiterated an essential point; that the majority of women in prison should not be there (Corston, 2007; Carlen & Worrall, 2004; Sandler & Coles, 2008).

The Government response to the Corston Report (2007)

In December 2007 the Government published its response to the Corston Report (2007), setting out a strategy that would develop community based provisions for women (Ministry of Justice, 2007).

The Government agreed with most of the recommendations made by Corston responding by establishing the Gender Equality Scheme on 1st April 2008 (Corston, 2011:3; Ministry of Justice, 2008a:4). Corston (2011:3) argued that the benefits of this legislation for women in the criminal justice system are huge, stating that there is now a real impetus to meet the needs of women in prison, to ensure specialist provision of

resources and, that this duty extends to women outside of prison (Corston, 2011:3). The Government introduced a set of gender specific standards for women's prisons, Prison Service Order 4800 (which would provide regimes and conditions for women that meet their needs) (Prison Service, 2008). In addition to this the government established a cross departmental criminal justice women's unit and produced a more detailed delivery plan for taking forward commitments by publishing its *National Service Framework: Improving Services to Women Offenders* on May 30th 2008 (Ministry of Justice, 2008b:6) to improve the National Offender Management Service (NOMS) (Corston, 2011:4). An additional £40 million in funding was given to NOMS in order to promote effective community sentences (Scott & Codd, 2010:48; Ministry of Justice, 2008a:6) and an Inter-Ministerial Group was established and Ministerial Champion, Maria Eagle, was appointed for Women and Criminal Justice (Corston, 2011; Ministry of Justice, 2008a).

The government accepted Corston's recommendation that further work was required to ensure that prison regimes for women are effective and appropriate. The government responded by stating that there was a need to introduce training of staff in working with women and to deploy programmes designed for women (such as the CARE programme) and to introduce strategy guides for the resettlement of women (Ministry of Justice, 2008a:7). The improvement of custodial provision for women was also to include the removal of women prisoners from custodial units holding men and for the provision of two new prisons for women; HMP Bronzefield and HMP Peterborough. The assumption being that this would contribute towards addressing Corston's (2007) concerns that for those women who do need to be in custody, prisons should be designed properly to serve their needs (Ministry of Justice, 2008a:7).

The government also stated that they were committed, by February 2009, to establish woman-centred training for non-specialist staff in primary mental health/wellbeing interventions (Ministry of Justice, 2008a:8).

The majority of the responses by the government appear to be positive, however in response to Corston's proposal that women should not be remanded into custody if they were unlikely to receive a custodial sentence, the government response was to simply state that "it would not be appropriate to amend the Bail Act to the effect that custodial remands should never be used in cases where it is unlikely to lead to a custodial sentence" (Ministry of Justice, 2007:20); no further explanation was deemed necessary on this point.

Corston's most radical proposal, her recommendation that smaller local units (staffed by women) should replace women's prisons over time and only be reserved for women who had offences that warranted custodial sentences of two years and above, was sidelined. Corston (2007) had argued that the smaller units would be a real alternative to custody that would supervise community sentences and give support to women at risk of offending and those who has offended, the aim of which would be to encourage women to access support and early intervention (Scott & Codd, 2010). The government stated that the recommendations of its Working Group had highlighted that the underlying concept of the smaller custodial units should be taken as far as possible, and be taken into account when developing the women's prison estate, but the model of the small custodial units could not be accepted as the best way of embedding the principles. The Working Group identified what they deemed to be core weaknesses of the units, they stated that a range of smaller units within already existing women's prisons should instead be developed to provide a more supportive environment for vulnerable women

(Ministry of Justice, 2008a:11). They argued that these units would ideally hold 100-150 prisoners and would be more practical for dealing with the vulnerabilities of imprisoned women (Hansard, 2008):

'Self-care' units help to reduce the austerity of the institutional environment and provide *independence* and *self reliance* to build *self-esteem* (Ministry of Justice, 2008a:11, emphases added).

The emphasis on the *self* is prominent within the government's notion of how these units should function. Women within these units must be taught how to be independent, how to be reliant upon themselves (and not state welfare); the result of this will be empowering through the building of self-esteem in vulnerable women.

This taps into what Hannah-Moffat (2001) and Haney (2010) have observed as modes of governance from a distance, whereby the state dissolves itself of full responsibility for controlling crime. Self-reliance training in this sense becomes a mode of responsabilisation and operates to make women solely responsible for the outcomes of their lives; it is a neo-liberal concept that constructs the individual as a less eligible, rational subject that through her own poor choices, has crafted her own dire situation in life (Hannah-Moffat, 2001). A woman-centred approach in this way is used to create what Hannah-Moffat (2001:198) calls 'a feminized technology of penal governance' when aligned with feminist narratives of care, this ultimately leaves the state more powerful than before, since it has created the notion that it cannot be solely responsible for crime control (Feeley & Simon, 1992; Garland, 1996).

In addition to this the very suggestion of smaller units within already existing women's prisons is ironic, since this is the very system HMP Styal had in place (the Waite wing, which was fenced off from the rest of the prison), at the time of the deaths of the six women between 2002 and 2003, which instigated the Corston Report (2007).

Citing the perceived success of such schemes for women in New Zealand and Canada, the Working Group stated that such an approach would support multi-functional provision, provide a suitable environment, maintain family links and support resettlement. The objections put forward to Corston's (2007) smaller units were that they would inevitably be insufficient in providing services if there were only twenty to thirty prisoners. The provision of kitchens, education, training facilities, drug treatment and offending behaviour programmes were argued to require 'a certain economy of scale' (Ministry of Justice, 2008a:12). As was so the small scale of the units was deemed to be unable to provide these services and that these services were essential to women with complex needs; in addition to this the small scale of the units was argued to increase the possibilities of bullying.

Drawing upon evidence from Canada, the Working Group concluded that the improvement of staff training and regime provision was more important than prison design in supporting the needs of women. Furthermore they argued that in terms of value for money, the allocation of funds must be directed towards the provision of the greatest improvements (Ministry of Justice, 2008:13). Ultimately what was put forward was a strategically worded promise to "utilise any headroom gained from increased community provision to re-configure the prison estate *if necessary*, and *if* resources allow, so that women's establishments are of optimum size and specification for meeting women's needs" (Ministry of Justice, 2008a:15, emphases added), a statement full of ifs can arguably be used as an excuse for inaction in the future.

Furthermore Corston's recommendation that women who were unlikely to receive a custodial sentence should not be remanded into custody (Corston, 2007) has not been realised. Corston (2011:8) highlights that the number of women entering prison on

remand had seen an increase from 5,124 female remands in 1997 to 5,724 in 2009. In addition to this Corston highlights, that three years on from the recommendation prison should be reserved for the most serious and violent offenders, 68% of women in prison are there for non-violent offences, compared with 47% of men (Corston, 2011:8).

It is clear therefore that the fundamental arguments made by Corston have been sidelined and that her initial optimism in taking on the review that “there are signs that the government would welcome a radical approach to these issues” (Corston, 2007:8) was sadly misplaced (Hedderman, 2011:35). While agreeing with Corston’s conclusion, in principle, that the continued use of imprisonment for women offers no advantages and comes with a huge financial cost, and a social one, the government stated that sentencing was a matter for the courts; all that could be done was to re-emphasise the effectiveness of community based penalties to sentencers (Hedderman, 2010). As Hedderman (2012:9) has highlighted, since it is the government that has extended the powers of sentencers, it would seem logical to assume that the decision to restrict them would also be a decision for the government. However the assumption that providing sentencers with more information about community based punishments will make them make greater use of them, as opposed to custody, is contradicted by history. The Women’s National Commission (1991), the Wedderburn Committee (Prison Reform Trust, 2000) and the Women’s Offending Reduction Programme (WORP) (Home Office, 2004a) had all espoused the same argument; however during this time receptions into women’s prisons increased (Hedderman, 2012).

The government response to the Corston Report (2007) in the first year could thus be deemed inefficient/ineffective. While it could be argued that one year is insufficient time to produce responses that have a real impact, the Corston Report (2007) was not

unique as the issues raised in the report had been highlighted numerous times in previous years (Carlen, 1983, 1988, 1990; Worrall, 1990; Social Exclusion Unit, 2002; Home office, 2004a).

The government's detailed strategy for improving services to women offenders, the NOMS National Service Framework, was published on May 30th 2008 (Ministry of Justice, 2008b). The appointed ministerial champion for women, Maria Eagle, argued that the framework would mark a significant step towards delivering the recommendations of the Corston Report (2007) that were accepted by the government (Ministry of Justice, 2008a). She also stated that the framework would "ensure that women who come into contact with the criminal justice system are treated appropriately so as to protect the public and reduce re-offending, whilst meeting their specific and individual needs" (Ministry of Justice, 2008b:2). Even though it has been acknowledged, on numerous occasions, that the majority of women who offend do not commit serious crimes (Social Exclusion Unit, 2002; Home Office, 2004; Corston, 2007), the decision to state that the protection of the public, firstly, was a headline aim, is somewhat revealing of the tough on crime agenda of the then, in power, Labour Government (Hedderman, 2010). In addition to this the notion of individual needs may not initially present itself as a potential implication, however the overall aim of the National Service Framework is somewhat revealing:

A strategic framework to achieve improved and effective service delivery to women in the Criminal Justice System to *enable them to reduce their offending* (Ministry of Justice, 2008b:4, emphases added).

The notion that individual needs are essential in addressing women's offending was a theme present within the Corston Report (2007), since she had regarded the treatment of women as individuals as essential in building emotional literacy through life skills training (Corston, 2007:49); it was also however a theme present before the Corston

Report. The implications of this become apparent, as Hannah-Moffat (2000; 2001) has argued, when a woman's social and economic needs are assessed as criminogenic factors that require management. These needs/risks are deemed to be the responsibility of the woman/client in receipt of services and when such discourse is aligned with feminist narratives of harm minimisation they gender risk (Hannah-Moffat, 2001; 2007b). When official discourse utilises feminist rhetoric of ethics of care and empowerment it leads to the assumption that women lack self-esteem, *feel* that they are unable to create or make choices and that they are unable to make a rewarding future for themselves; a woman-centred approach is thus deemed to be able to *empower* women to do so (Hannah-Moffat, 2001:147).

In addition to this when such services promote feminist notions of '*improved well-being* and a *reduction in self harm* for women in contact with the criminal justice system' (Ministry of Justice 2008b:6, emphases added), they become increasingly difficult to criticise since they create the facade of caring for socially and economically excluded women (Hannah-Moffat, 2001). Feminism in this way becomes divorced from its original contexts and meanings when it is aligned with the penal apparatuses of the state (Althusser, 1971) and vulnerable woman are essentially managed as risks. Women who resist these services that 'improve well-being', are thus likely to be defined as failures for not taking advantage of the rehabilitative options available to them, rather than viewing this as understandable resistance to enforced choices (Hannah-Moffat, 2001; Haney, 2010). Custodial, semi custodial and non-custodial programmes are dependent upon those subjected to such programmes adopting the world view of those 'mentoring' them. Hannah-Moffat (2000a; 2000b; 2001) has termed women who resist as 'un-empowerable' in the eyes of the state and has argued that woman-centred strategies can result in the creation of a new group of marginalised women. Women who resist are

likely to be othered, placed beyond sympathy, empathy and understanding for rejecting these seemingly ‘caring’ interventions (Hannah-Moffat, 2001).

These apparent strategies of responsabilisation were ever present in the government report ‘A report on the government’s strategy for diverting women away from crime (2009):

We must give the majority of non-violent women offenders the alternatives to prison that *give them the opportunity to tackle the causes of their offending* (Ministry of Justice, 2009:3, emphases added).

This statement was included in the ministerial foreword, by the then champion for women Maria Eagle, and highlights the core theme of the government’s strategy to divert women away from law breaking behaviour. Non-custodial interventions are deemed to, in this context, be able to help women take responsibility for the causes of their offending. Hannah-Moffat (2010:197) has observed that women in conflict with the law are subject to scrutiny in a number of areas: assessment of their past abuse and traumas; assessment of their substance abuse; assessment of their parenting skills; and of their educational and vocational training. The aim then of the Labour Government’s strategy in 2009 was to affirm that women can be aided to make better choices to address these factors:

We can give these women the *opportunity* to turn their lives around, and in doing so transform their lives and those of their children (Ministry of Justice, 2009:3, emphasis added).

Women who do not take advantage of such opportunities are likely to be constructed as awkward, childish, ignorant, stubborn, selfish and as bad mothers. It is then the responsibility of the individual for failure and not the fault of the state (Hannah-Moffat, 2000; 2001; 2007b; Haney, 2010). Furthermore those who resist are likely to be branded

a risk to public; in this way their confinement is likely to be legitimated on the basis that the public are being protected from the dangerous/persistent offender:

‘Custody must be reserved for those who pose *a risk of harm or re-offending* we can propose a different route for women with vulnerabilities’ (Ministry of Justice, 2009:7, para 3.2, emphases added).

The need for proportionality, reiterated by Corston (2007), is clearly sidelined; harm/seriousness of the offence is conflated with persistence (re-offending). Furthermore the discursive field is limited ruling in a particular way of thinking about women recidivists; recidivists are constructed as not vulnerable. It can be assumed then that ‘women with vulnerabilities’ are the select group of women who demonstrate a willingness to comply with the ‘opportunities’ afforded to them by community sanctions. Since Corston (2007) had argued that the majority of women in prison are low level repeat offenders, this statement seems to obscure the reality of the female prison population, denying victim status to those who repeat offend.

Custody then is only to be deemed unsuitable for women with ‘particular vulnerabilities’, those who demonstrate a willingness to comply with the rules of community orders given by those in power.

This was a sentiment carried forward by the present Coalition Government in their paper *Breaking the Cycle, Effective Punishment, Rehabilitation and Sentencing of Offenders* (Ministry of Justice, 2010b):

Her *willingness to engage* in the process of reform and evident remorse for her crime meant that she was given a suspended sentence with supervision by probation, and a requirement to reside in managed accommodation during this period (Ministry of Justice, 2010b:31, para 107,emphases added).

Although very little is said in relation to women, of 307 paragraphs only four are about women, it is acknowledged that a different approach for women is required. Although

there is no direct mention of the Corston Report (2007), what is stated is that “we recognise that women offenders have a different profile of risks and needs” (Ministry of Justice, 2010b:30). The needs of vulnerable women are, again, conflated with risk. Economic and social deprivation become criminogenic factors that should be managed and minimised through rehabilitative strategies that enable women to take control of their lives, ultimately responsabilising poor and socially excluded women (Hannah-Moffat, 2001). Whilst it is stated that the aim is to reserve prison for serious offenders who pose a risk to the public, low level offenders are deemed to be a risk to the public should they not comply with the sanctions of a community based order; non-compliance may well be perceived to be an act of defiance by ungrateful, wilful women leading to the assumption that such women are un-empowerable (Hannah-Moffat, 2000b:34). In this way non-compliance is likely to result in a custodial based penalty and thus, existing penal practices are strengthened through an alignment with so called ‘woman-centred’ strategies.

Carlen (2002a:115) has thus highlighted that while alternatives to prison may appear less punitive, they are however backed up by the threat of incarceration. The prison and non-custodial alternatives are thus dual partners and the prison remains constantly as a persistent and metaphorical symbol of the state’s power to punish.

In addition to this the priority of these rehabilitative strategies is ultimately the safety and the security of the law abiding public when risk and need is conflated, as it is so often. It is unsurprising to find that there is little change in the women’s prison population, as Corston (2011:8) has observed in her second report on women with particular vulnerabilities, 68% of women are in prison for non-violent offences.

In March 2012 the coalition government published its guide ‘*A Distinct Approach: A Guide to Working with Women Offenders*’. The guide was stated to be replacement to the ‘*Offender Management Guide to Working with Women Offenders*’, published by the Ministry of Justice in 2008. This new guide is stated to aim to provide suggestions for good practice when working with women in the criminal justice system (Ministry of Justice, 2012:4).

The report highlighted key areas that would be implications for women in conflict with the law, firstly *punishment*, the core aim of which was stated to be “to ensure women offenders confront the consequences of their crimes” Secondly, *payback*, “making women offenders pay back to their victims and society for the harm they have caused”. Thirdly, *progression*, “assisting women offenders to stop misusing drugs and alcohol, address mental health problems, work through relationship issues and to get back into work”; and fourthly, *protection*, to ensure “that the risk of reoffending, and the risk of harm to the public, is appropriately assessed, addressed, and actions undertaken to minimise the risks identified” (Ministry of Justice, 2012:4). Arguably what is apparent here is the construction of women in conflict with the law, not only as a risk to themselves, but more importantly a risk to the law abiding public; the apparent solution to this is to make women offenders responsible for their offending. The ways of addressing this, according to the new guidelines, is a holistic multi-agency woman-centred approach that is designed specifically for women who are likely to re-offend (Ministry of Justice, 2012:5):

Choices, Actions, Relationships and Emotions (CARE) – is a holistic multi-agency intervention developed by the Prison Service specifically for women at high *risk* of reconviction. It is directed towards women who present with medium to high levels of *risks and needs*. The programme integrates mentoring and advocacy, narrative therapy, mindfulness training and cognitive behaviour therapy (Ministry of Justice, 2012:27, emphases added).

What is highly apparent from this discourse is risk management and the conflation of vulnerable women's needs and the risks that these are deemed to present to society. What is deemed necessary then is the rehabilitation of these women via therapies designed to help them take responsibility for their choices and actions by making them address/manage their criminogenic needs. The notion that such a strategy is woman-centred and caring is founded on a particular interpretation of the notion of empowerment, as Hannah-Moffat (2000b:30) observed, the meanings of this can vary greatly. Within this interpretation from those in positions of power, women are to be empowered by strategies that make them self-reliant and thus not state dependent. Ultimately this supports the status quo by responsabilising poor and socially excluded women and dissolving the state of any responsibility for their situation (Hannah-Moffat, 2001).

In addition to this, multi-agency approaches, or partnerships, can create the appearance of state retrenchment; in fact what is apparent from such strategies is a strategy of governance from a distance, whereby an environment of *state hybridity* has been created (Haney, 2010:16). Whilst such partnerships may appear benign, often due to the contribution of community members and therapists for example, they remain part of the state arena and they ultimately rely on the state for funding, legitimacy and authority (Haney, 2010).

Furthermore therapies, such as cognitive behavioural therapy (CBT), are not new concepts in the treatment of women in conflict with the law. The history of women's confinement is marked by biological positivism that has seen offending women subject to numerous medical interventions designed to normalize them to the acceptable law

abiding female standard (Carlen, 1983; Dobash et al, 1986; Sim, 1990; Kendall, 2002), which ultimately is the aim of disciplinary modes of power (Foucault, 1977).

In addition to this the Ministry of Justice published its *Strategic Objectives for Female Offenders* in March 2013 and outlined key priorities for transforming the rehabilitation of offenders. The fourth priority is stated to be ‘through the transforming rehabilitation programme, supporting *better life management by female offenders* ensuring all criminal justice partners work together to enable women to stop reoffending’ (Ministry of Justice, 2013d:4, emphasis added). The emphasis on life management/self-sufficiency was present in official discourse before the Corston Report (2007 and also within the Report itself. Again then, it is inferred that women in conflict with the law need to be trained to cope with life appropriately, thus women in conflict with the law have a faulty way of thinking unlike ‘normal’ women they cannot cope with everyday life constructively or appropriately and thus, they can be normalized/rehabilitated via strategies designed to responsabilise them (Foucault, 1977; Hannah-Moffat, 2001; Haney, 2010).

Whilst both the guide and strategic objectives acknowledge the Equality Duty (Ministry of Justice, 2012:9; Ministry Of Justice, 2013d:4), there is little evidence to show that the duty is actually having an impact.

Six years on from the Corston Report (2007) and two governments later, it is sadly evident that there has only been a small impact and the women’s prison population remains far too high; in March 2013 there were 3,958 women in prison (Ministry of Justice, 2013b). In addition to this, it is evident that large numbers of women are still self-harming, in 2010 52% of self-harm incidents in prison involved women, despite

only representing 5% of the prison population (Hansard, 2010a) and the numbers of deaths of women in prison remain relatively high, there were 8 deaths in total in 2010 (INQUEST, 2013).

The government response to these deaths has been somewhat minimal, however one response to the question of deaths of women in custody was that whilst these deaths were tragic “the number and rate of self-inflicted deaths of women in custody has declined from a peak of 14 in 2003 to three in 2009” (Hansard, 2010b). The solution to the continuing issue of self-harm and deaths of women in custody is deemed to be rooted in “focusing on care planning for each individual woman in custody and by seeking to ensure that all agencies concerned work effectively together” (Hansard, 2010b).

This strategy is clearly failing, during an inspection of HMP Styal in July 2011 current Chief Inspector of Prisons, Nick Hardwick, reported that “Despite the best efforts of the staff at Styal, the Keller unit remains a wholly unsuitable place to safely hold and manage very seriously damaged and mentally ill women” (HM Chief Inspector of Prisons, 2012:6). He further commented that “officers, particularly on the Keller unit, often had to use force to remove ligatures from women intent on harming themselves” (HM Chief Inspector of Prisons, 2012:6).

In addition to this it is evident that the number of women who re-offend has remained consistent, in 2007 the figure for proven re-offending was 22.6% and in 2011 this figure rose to 25% (Ministry of Justice, 2013c).

It is now the aim of the thesis to discuss the key findings of the research.

CONCLUSION

This thesis has aimed to analyse the impact and implications of the Corston Report (2007) through critical examination of official penal discourse prior to and after its publication and, has examined the extent of the Report's ability to disrupt current conceptualisation of women prisoners.

The key finding was that the potential of the Corston Report (2007) to dislodge current meanings about the imprisonment of women has failed. What was evident from Corston's Report on 'women with particular vulnerabilities' were discourses of responsabilisation, whereby women in conflict with the law were deemed to be lacking emotional literacy and poor life skills:

Life skills, for example, *how to live as a family or group*, how to *contribute* to the greater good, how to cook a healthy meal, are missing from the experiences of many women in modern society who come in contact with the criminal justice system (Corston, 2007:7, para 13.emphases added).

What is highly inferable from this is the notion that women in conflict with the law have a faulty way of thinking and that the solution to the issues faced by socially and economically excluded women is to train them to *contribute to the greater good* by making them more resilient and responsible by training them to make better choices:

It is these underlying issues that must be addressed by helping women develop resilience, *life skills* and emotional literacy (Corston, 2007:2, para 1, emphases added).

These discourses utilised by Corston (2007) were not new, discourses of responsabilisation were present before the Report, therefore Corston's discourse ultimately served to reinforce the existing regime of truth (Foucault, 2002a:45) that women in conflict with the law are rational, responsible individuals, who can solely influence the outcomes of their lives; this ultimately legitimates existing practices

within women's prisons. Women in conflict with the law, therefore, must be aided to become emotionally literate beings, in doing so they must be made aware of their poor life choices, take responsibility for these and take action to change these criminogenic factors; a manoeuvre that conflates need and risk (Hannah-Moffat, 2001; 2007a).

Corston advocated specific penal policy for women, citing a dearth of woman specific policy as a good reason to affect change in the women's prison population (Corston, 2007:8); this approach, she hoped, would adopt feminist ideals of woman-centeredness and empowerment. Corston (2007), however, did not fundamentally challenge the legitimacy of the prison as a response to social harm, nor did she challenge the prison building programme. The report was a clear regurgitation of previous reports and academic research on women's imprisonment, which had noted the unsuitability of prison for socially and economically excluded women (Carlen, 1983; Heidensohn, 1985; Worrall, 1990; Prison Reform Trust, 2000; Social Exclusion Unit, 2002; Home Office, 2004a) and sadly offered little resistance to the existing regime of truth that women in conflict with the law are rational and solely responsible, thus failing to extend the discursive field.

Whilst Corston did provide a somewhat radical recommendation in relation to the smaller units, her continuous reference to emotional illiteracy, life skills and individuality has continued to allow for the unremitting assignment of blame/culpability to socially and economically excluded women in current penal policy. As Hannah-Moffat (2000a:31) has observed, the responsabilising qualities of such strategies allows them to co-exist with more coercive, centrally defined goals of state punishment. This was highly apparent in the Coalition Government's 2012 guide '*A Distinct Approach: A Guide to Working with Women Offenders*':

Choices, Actions, Relationships and Emotions (CARE) – is a holistic multi-agency intervention developed by the Prison Service specifically for women at high *risk* of reconviction. It is directed towards women who present with medium to high levels of *risks and needs*. The programme integrates mentoring and advocacy, narrative therapy, mindfulness training and cognitive behaviour therapy (Ministry of Justice, 2012:27, emphases added).

Such rehabilitative ideas, to alter the way offending women think, are not new methods in the treatment of women in prison; the imprisonment of women is marked heavily by positivistic rehabilitative strategies (Sim; 1990; Carlen & Worrall, 2004). In addition to this, as Kendall (2002:194) has noted, the notion that women *believe* that they have limited choices is often core to such strategies and assumes that all women do have a wealth of choices. Poverty, drug addiction, physical and emotional abuse, are simply the result of their own dire ability to choose the right options in life, a denial of systemic inequalities and oppression is thus justified by such ideas; it does not however fit with the accounts of women's own pathways to imprisonment (Carlen 1998; Bosworth, 1999).

What has clearly been demonstrated from the government response to the Corston Report (2007) is that working for change in the criminal justice system is particularly difficult. Since the authority and the power of the state, as authorities of delimitation (Foucault, 2002a:46) increase the capacity for feminist concerns to be co-opted, woman centred strategies can then assume multiple meanings depending on how they are used and who uses them (Hannah-Moffat, 2000b; 2001).

This arguably makes a gender centric prison reform agenda insufficient in achieving a significant reduction in the women's prison population (Hannah-Moffat, 2001; Carlen & Worrall, 2004). As Carlen has argued, a more fundamental analysis of both male and female prisoner oppression is thus preferable. A woman-wise approach, since gender responsive reform politics can enhance the coercive capacities of the penal apparatuses

of the state (Althusser, 1971) by creating a false perception of caring for those subjected to such strategies (Hannah-Moffat, 1999; 2000; 2001).

Corston (2007) sadly allowed for the very same arguments that have been used to legitimate women's prisons for numerous years. Her discourse reflected the language of previous official discourse that conflated risk and need and highlighted neo-liberal concepts, such as individual responsibility, as essential governance methods. Her discourse also adhered to the dominant notion that offending women can be rehabilitated and normalized to the acceptable 'normal' standard of female behaviour (Carlen, 1983; Heidensohn, 1985; Dobash et al., 1986; Worrall, 1990) through therapeutic regimes designed to enable them to make suitable life choices (Hannah-Moffat, 2001; Haney, 2010). This sadly supports the regime of truth that offending women are rational, responsible beings who through poor life choices have fashioned their own poor social and economic standing in life and that they can, through effective 'mentorship' from presumably 'successful' middle class women, be trained/aided to choose appropriate life choices; this manoeuvre ultimately limits the field of the discursive (Foucault, 1980b; 2002).

The idea that we are all autonomous beings that can choose the kind of life we wish for is a deeply entrenched one, as Hudson (2002:43) has argued. It is essential then that a wider understanding of choice is accommodated by law; the law needs to recognise the fact that although an individual may be equally and fully rational, they may be acting within a constrained range of choices (Hudson, 2002:43).

The penal apparatuses of the state are overwhelmingly wielded against the poor and powerless; those whose choices are constrained (Hudson, 2002; Scott, 2006; Sim,

2009). Agency and choice are too often conflated, it is apparent that we do not all have the same choices available to us, some clearly have more choices than others e.g. opportunities to obtain primary goods, food, shelter, family life, pleasure and self-esteem. Only when people have access to such opportunities and nevertheless seek to achieve them through illegitimate means can they be said to have made positive criminal choices (Hudson, 2002:43). Such an analysis would have clear implications for the consideration of culpability in the crimes of the rich and powerful, which largely go unpunished (Sim, 2009). The conceptualisation of crime is, then, arguably biased in favour of the rich and powerful. The claims of the criminal law to fairness and equality are not legitimate, the *reality* apparent is the social and material differences between legal subjects; the unequal treatment of the poor and powerless (Hudson, 2002).

Punishment intentionally increases pain and suffering and should not be so easily equated with justice since it is known to be disproportionately wielded against marginalised groups (Social Exclusion Unit, 2002; Hudson, 2003). Ultimately custodial, semi custodial and non- custodial programmes are dependent upon those subjected to such programmes adopting the world view of those ‘mentoring’ them. When benign custodial or non-custodial reform strategies are officially defined as ‘failing’ because of ‘non-compliance’ of clients, there is likely to be carceral clawback (Carlen, 2002b). Until there is recognition of the complex nature of the majority of women offender’s material needs and past histories and the time at which it would take to overcome the financial implications of these, convicted women are not likely to respond to programmes designed to keep them out of trouble in the future (Carlen, 2002b).

The Corston Report (2007) was arguable scandal driven and a prison legitimating reform strategy (Carlen, 2002a; 2002b; Scott, 2006:43). Although Corston (2007) did

challenge the use of prison for ‘women with particular vulnerabilities’, she did so in a manner that did not fundamentally challenge the legitimacy of the prison as a whole and thus, left existing power relations unchallenged (Hannah-Moffat, 2000a; 2000b; Hannah-Moffat & Shaw 2000; Carlen, 2002a; 2002b).

By utilising discourses of responsabilisation Corston allowed for any potential positive outcomes of her report to be pushed aside. The use of neo-liberal themes such as rationality, choice and self-responsibility, were thus sadly clawed back and reinforced (Carlen, 2002a; 2002b) and therefore the potential of her report to dislodge such themes ultimately failed. It is hardly surprising that her well intentioned approach has allowed for a continuing support of a gender responsive penal politics that holds the individual woman as solely responsible for her actions; and for managing the risk she presents to the public through compliance with rehabilitative programmes designed to normalise her to a middle class ideal of non-offending female behaviour. This was apparent in the current Coalition Government's paper *Breaking the Cycle* whereby “willingness to engage in the process of reform” may result in a “suspended sentence with supervision by probation” (Ministry of Justice, 2010b:31); the threat of incarceration thus remains as a constant reminder of the symbol of the state's power to punish (Carlen, 2002a).

As Carlen (1990:117) has argued, less than abolitionist approaches are unlikely to significantly reduce the female prison population. The history of the present reveals that prison reform does not work; what we have presently is 200 years of reform failure (Sim, 2009). Whilst Corston reiterated the importance of issues faced by women in prison, her discourse was nonetheless disconnected from social justice through an advocacy of discourses of self-help and individual responsibility. Such a strategy does not challenge the legitimacy of the current regime of truth, it in fact reinforces it; the

notion that women offenders are rational, responsible, less eligible individuals is not a new concept and that they can be made to be responsible through ‘woman-centred’ strategies designed to responsabilise them. This undoubtedly re-legitimises the prison, and ultimately leaves the prison and central state generally more powerful than before (Feeley & Simon, 1994; Garland, 1996:454; Hannah-Moffat, 2000b:33; Sim, 2009). It is therefore essential that prison building and refurbishment programmes are critiqued. The absence of such an analysis little will be done to alleviate the expanding prison population, or indeed to challenge the role of the prison in the consciousness of the public as the only means of responding to social harm (Sim, 2009, Scott & Codd, 2010).

The utilisation of a feminist abolitionist perspective is therefore less likely to be encroached upon and thus, far less likely to enable the expansion of the penal dragnet by providing a discourse that, as Scott (2006:145) has argued, recognises that the current discursive formulation is not legitimate and thus requires de-legitimation. In providing a counter hegemonic discourse, that offers an alternative to the status quo by challenging state defined penal truths, there is greater chance for social change (Sim, 1994; Scott, 2006).

At the time of writing, a new report ‘Women offenders: after the Corston Report’, conducted by the House of Commons Justice Committee, was published on 15th July 2013. The report reflects upon the progress of the Corston Report and argues that progress has been far too slow and has failed to deliver the joined up approach that Corston (2007) recommended. Introducing the report, Right Honourable Sir Alan Beith MP, Chair of the Committee, states that the Government’s Transforming Rehabilitation reforms (Ministry of Justice, 2013e), have clearly been designed for male offenders. Furthermore the report argues that the Government plans to introduce payment by

results in probation services need to be redesigned with women offenders in mind (House of Commons Justice Committee, 2013).

In addressing these challenges, the report states that the majority of women are deemed to be a lower risk to the public, but then states that:

Despite these risk levels, women are very *high-risk in terms of need* as a result of the complexity of factors that often underlies their offending behaviour *requiring intensive support and specialist engagement*' (House of Commons Justice Committee, 2013:52, para.125, emphases added).

It remains to be seen what the potential implications of this report will be for women in conflict with the law, however the clear conflation of the needs of socially and economically excluded women with risk, does not provide the author with much optimism.

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