Challenging the term 'criminal justice' when discussing the experiences of women who find themselves in the criminal justice system

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Past literature on an international level highlights the growth of the female arrest rate, with these trends revealing that many of these offences are non-violent or drug-related (van Wormer, 2010; Carlen, 2002; Harm & Phillips, 2001; Quinlan, 2011; Richie, 2001). The widespread established consensus indicates that female prisoners exhibit highly multifaceted and complex needs, something that must be recognised as distinctively different from their male counterparts (Malloch & Mc Ivor, 2011; Martin & Hesselbrock, 2008; Carlen, 2002; Harm & Phillips, 2001). Women who serve time in prison tend to come from disadvantaged backgrounds making them vulnerable to particular lifestyles which regularly consist of some form of criminal activity. However, when considering women offenders, there are many multifaceted issues which must be accounted for, one of which is the apparent lack of access to justice these women have experienced before they ended up on the 'wrong side of the law'.

In Ireland, the number of women who offend is relatively small compared to the overall number of convicted offenders, making up around 4% of the prison population on any given day. A large number of committals are for non-violent offences, with significant numbers imprisoned for failing to pay court-ordered fines (Irish Penal Reform Trust, 2013). In 2013, 83% of female sentenced committals were for failure to pay court-ordered fines (Irish Penal Reform Trust, 2016). What is increasingly worrying however is that this figure is rising which can be seen in the number of female offenders who are serving sentences in prisons and on community programmes. Even though the overall prison population has stabilised recently, the numbers of women committed to prisons has continued to accelerate at a rate of 8.9% in 2013 from 2012 figures (Irish Penal Reform Trust, 2016). The number of women committed to prison each year rose by 196% between 2004 and 2014 (Irish Penal Reform Trust, 2016). The majority of sentences are short-term, usually up to a year. However, the impact of even short-term imprisonment on these women and their families is profound as well as the economic and social costs to society (Irish Penal Reform Trust, 2016).

While figures and statistics can paint a brief picture around women in prison, it does not explain nor appreciate the factors behind the offending behaviour of these women. Their path to offending has been paved with poverty, substance abuse, trauma, lack of support and uneducated decisions. Many of the women who come before the criminal justice system are some of the most marginalised and disadvantaged members of society. This must be recognised when discussing what access these women have had to justice in their lives.

In 2002, Ivana Bacik's 'Women and the Criminal Justice System' appeared as a chapter in Paul O'Mahony's 'Criminal Justice Ireland' (2002) where she drew attention to the lack of empirical research on women offenders in Ireland. This can still be seen in today and is reflected in Ireland's response to women offenders. In 2011, the Inspectorate of Prisons published 'Standards for the Inspection of Prisons in Ireland, Women Prisoners' Supplement', highlighting that women prisoners warrant treatment different to that of male

prisoners in certain respects. However, there are still no open prisons for specifically for women or other gender-responsive community-based alternatives in Ireland. There is a further evident pattern in Ireland where the relative absence from public discourse and official attention of female offenders in Ireland is ignored in criminology, usually due to the presumption that offending behaviour is typically male and therefore explanations of male crime are used to explain all crime (Campbell, 2011).

The Free Legal Advice Centres Ltd. (FLAC; 2016) explains access to justice on their official website as being access to the knowledge of and access to the legal system and to whatever legal services those need to achieve a just outcome, encompassing access to fair redress systems and also includes the state's obligation to vindicate and protect human rights. Instead, in place of a just and fair system for women to have access to justice, there is an evident lack of available information for women at risk of offending regarding services, with many women not sure of where to go or who to turn to (McHugh, 2013). Many of these women learn about services available to them within the prison environment. However, the ability of the prison itself to respond effectively to the negative or abusive past experiences of women is restricted by the nature of the prison environment, which is generally based upon an ethos of control, power and surveillance (Bloom, Owen & Covington, 2003).

In 2013, a study titled 'Tracking the Needs and Service Provision for Women Ex-Prisoners' was carried out, presenting findings from research carried out with female prisoners serving short sentences in the Dóchas Centre; a closed, medium security prison for women in Dublin. The research focussed on the particular needs of women in prison, with the aim of understanding the subjective experiences of the interviewed women and primarily to give these women a 'voice'. This paper gave detailed insights into the backgrounds of these women, allowing for a different perspective of these women who are considered offenders, but could also be considered just as much victims. This piece of research was a timely reminder of a challenge that society must recognise and be able to tackle and control, if not overcome. When discussing access to criminal justice, it is important to remember that justice is a fundamental right not to be denied to anyone. The term 'justice' in itself could be challenged when discussing the past experiences of these women in prisons or those with a criminal record. Have they had access to criminal justice in a fair and equal way, before they found themselves on the wrong side of the law?

When considering the position of these women in today's culture, many of them will go on to be treated as offenders in society, leading to difficulties in finding housing accommodations after they are released from prison. Confronted not only with the many gaps in accommodation services provided to women after release, especially outside of Dublin, they also face long waiting lists, lack of information, lack of available accommodation and also the stigma attached to having a criminal record (McHugh, 2013). This can ultimately lead to homelessness and substance abuse and back into the vicious cycle of finding themselves back in the same position they were in setting them on their path of offending. This was evident from McHugh's (2013) report as the some of the women described a lack of homeless shelters for women or lengthy methadone clinic waiting lists within their own areas, forcing

them to relocate to Dublin in order to gain access to methadone clinics, only to become homeless as a result of a lack of appropriate accommodation.

By simply considering the positions these women have found themselves in, it would be difficult to only view these women as only offenders that should be treated accordingly. For example, according to Hooper (2003), women tend to report greater histories of sexual, emotional and physical victimisation then men. McHugh (2013) explored the high incidence rates of traumatic experiences and victimisation across her sample of women in prison. Three quarters of the sample had experienced some form of violence or abuse as either a child or as an adult. This finding is also backed up by research carried out by Lake (1995). Over half had experienced repeat victimisation, having being abused by more than one perpetrator. Some had experienced childhood sexual abuse or violence as part of a domestic violence situation. Half of the women experienced violence from an intimate partner. Just over 37% had experienced sexual abuse or rape as an adult. It was also revealed that one third of these women who had experienced violence or sexual abuse had not reported their incident or discussed it with anyone.

The only option some of these women believe they have is to turn to alcohol or drugs as a form of medication or escape. This is evident in McHugh's (2013) study, where the vast majority of the women in the study had histories of substance abuse. The extent of their substance abuse problems included long term drug use and abusing drugs from a young age. A number of the women discussed their initial primary motivation for alcohol or drug use to help them forget or as an escape from reality. Some said that their initial drug use was a direct result of childhood sexual abuse. Richie's (1996) study also found that rates of childhood sexual abuse are high amongst female offenders, with research displaying links between early child abuse and both substance abuse and criminality.

It is evident that a change is urgently required to assist these women in order to give them some chance of successfully integrating into society. Consideration towards the mental health of this population must be made a priority, with depression, incidents of self-harm and suicidal ideation often being reported by female prisoners (Hatton & Fisher, 2009). Another reason for serious change required to the imprisonment of women is the toll that incarceration has on the family unit. It has been demonstrated throughout research the affect incarceration has on motherhood and the associated strain of this (Robbins et al, 2009, Golden, 2005; Berry & Eigenberg, 2003; Ferraro & Moe, 2003).

While there is still some way to go, there is progress being made with the issue being realised that short prison sentences for women achieve nothing and are counterproductive as far as the women's lives and families are concerned. This was pointed out by Ms Justice Catherine McGuinness at the launch of the ACJRD report on women in the criminal justice system. Interestingly, she drew attention to a criticism made by Professor Gelsthorpe regarding the lack of inclusion of women in community service orders by saying 'Can women paint fences too?', further highlighting the success of women in community service programmes in England.

McHugh's (2013) report discussed the benefits acknowledged of incarceration by the women in the study. They described that incarceration removed them from the cycle of substance abuse, providing them with opportunities access to support and services that they may not have otherwise secured. There were also significant positive comments on the education services and other programmes within the prison, such as the pre-release course. However, there are certain issues and drawbacks to this approach of intervention within the prison environment. Mainly, the women would face difficulties when they are released from prison and would not receive the same level of support they had whilst incarcerated, for example, difficulties of accessing treatment on the outside. The logical solution, and one which research is pointing towards, is that the services that are accessible in prisons should be made readily available to women at risk of offending. Research has pointed towards certain factors that are associated with women offenders, therefore, intervention needs to be targeted and delivered to these women in order to ensure they receive a just and fair chance as everyone else in society. Furthermore, if the prison setting was replaced with community based services this would inevitably remove the stigma and difficulties associated with incarceration, therefore giving these women somewhat more of a chance in society.

Highlighting the issues around female offending and acknowledging the agency of women in the criminal justice system unquestionably entails the risk of more robust policing, prosecution and sentencing practices (Campbell, 2011). However it must be kept to the forefront that, given the current situation of women in the criminal justice system, a reappraisal of criminal justice intervention and sentencing in general is urgently required. Whilst the impact of effective intervention with women offenders may be challenging to measure in a financial aspect, by reducing a woman's risk of offending, helping her to address her addictions, helping with access to accommodation and employment or parent positively will reduce the enormous alternative social cost in the long term (Joint Probation Service – Irish Prison Service Strategy, 2014). Access to justice for these women involves making accessible the information and services they need to and a reform in the incarceration process of women.

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