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journals.sagepub.com/home/euc**Matthew Maycock** 

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Abstract

Sykes (1958) famously outlined five deprivations constituting the ‘pains of imprisonment’, later developed in a range of research, including research considering the gendered pains of imprisonment. Despite an increase in the visibility of transgender people in society and within prison settings, the specific pains of imprisonment experienced by transgender people have been largely overlooked. Within this context, this article analyses interviews with 13 transgender people in custody, facilitating an analysis of life within prison for transgender people. The article makes a unique contribution to the study of transgender people in custody within the devolved Scottish penal context, being the first to use the analytical lens of the ‘pains of imprisonment’ to consider the particular deprivations or frustrations that transgender people experience within prison settings.

Keywords

Transgender people, prison, Scotland, gender in prison, Sykes’ pains of imprisonment

Introduction

Sykes (1958) famously outlined five deprivations constituting the ‘pains of imprisonment’, later developed by Goffman (1961), Cohen and Taylor (1972) and others to analyse the multiple painful implications of imprisonment. More recently, a number of studies have suggested an evolution of the pains of imprisonment including elements of ‘softening’ and ‘deepening’ of the experience of imprisonment (Crewe, 2007, 2009, 2011), alongside the continuation of many of the pains that Sykes originally identified (Crawley, 2005; Ugelvik, 2014). In a recent paper analysing the wide influence of Sykes’s theory, Haggerty and Bucierius state: ‘The “pains of imprisonment” is a central

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analytical contribution from what is one of the most influential scholarly monographs ever written on prisons' (Haggerty and Bucerius, 2020: 1).

The pains of imprisonment Sykes and many others have subsequently explored is a means of exploring the 'deprivations or frustrations of prison life' (1958: 64). This article is the first to use this analytical lens to consider the particular deprivations or frustrations that transgender people experience within prison settings.¹

Within the context of a study analysing the gendered pains of long-term imprisonment, Crewe et al. (2017) state that female long-term people in custody report more pain than men, suggesting formative gendered differences in the experiences and implications of imprisonment. Although the analysis of the gendered pains of imprisonment is welcome, women are assumed to be cisgendered, and there is no consideration of whether transgender women might be part of the sample, and of the pains they might experience as a result of imprisonment. This is problematic for a number of reasons despite growing evidence of an increase in transgender people in society (Flores et al., 2016; Nolan et al., 2019) and in custody.² Jenness and colleagues' research in Californian prisons (Jenness, 2010; Jenness and Fenstermaker, 2014; Jenness and Gerlinger, 2020; Jenness et al., 2019; Sexton et al., 2010) has been hugely influential in the field of transgender people in custody, although the specific experiences of transgender people have not been considered in Scotland until now.

This article is the first to analyse the experiences of transgender people in custody in the devolved Scottish prison jurisdiction (Brangan, 2019; Croall et al., 2010; Maycock et al., 2018; Morrison, 2016; Morrison and Maycock, 2020). In this article there emerge particular types of pain associated with imprisonment for transgender people, including issues relating to transitioning within custody, being housed in prison wings of the gender assigned at birth and not the lived gender, misgendering, misnaming and experiences of transphobia and stigma perpetrated by other people in custody and by prison staff. The specific pains of imprisonment that transgender people in custody experience are in some senses in parallel to or an extension of the pains that Sykes originally explored and have been developed by others since. These pains not only illuminate aspects of life in custody for these people, but more widely illuminate the challenges associated with the growing diversity of gender performance being made to fit within largely binary prison systems. Within this theoretical context, I analyse interviews with 13 transgender people in custody in Scotland. The article is structured around reflections on life in Scottish custody, facilitating an analysis of the pains of imprisonment specifically for transgender people.

An overview of research on the pains of imprisonment for transgender people

A review of the relevant literature indicates that the evidence base relating to the experiences of transgender people within custody is relatively small, and peer-reviewed research that does exist tends to be largely located in the US (Bassichis and Spade, 2007; Flores et al., 2016; James et al., 2016; Jenness, 2010; Jenness and Fenstermaker, 2014, 2016; Jenness and Gerlinger, 2020; Jenness et al., 2019; Kendig et al., 2019; Sexton and Jenness, 2016; Sexton et al., 2010; Sumner, 2010; Sumner and Sexton, 2016; Westbrook

and Schilt, 2014). Critically, there have been no published studies on the experiences of transgender people in custody in Scotland, and the evidence base relating to Europe more widely is relatively limited. Research that has been published on transgender people in custody is dominated by ‘pains’ and issues relating to health (Apter, 2018; Bassichis and Spade, 2007; Brown and McDuffie, 2009; Coleman et al., 2012; Hughto et al., 2019; Kendig et al., 2019; McCauley et al., 2018). A recent literature review of research on transgender people in England and Wales indicates that ‘transgender people in prison are significantly more likely to experience more problems than other prison populations’ (Gorden et al., 2017: 11). More specifically, this review highlights three areas of concern or pains within the published research relating to transgender people in custody in England and Wales: ‘placement in the prison establishment; victimisation and treatment; and healthcare provisions’ (Gorden et al., 2017: 13).

It is important to state that the studies cited here relate to the experiences of transgender women in custody; none have explored the particular risks and issues that transgender men experience in custody. In a further unique contribution, I include the experiences of two transgender men in custody in my analysis. The pains of transphobia have received relatively little focus within penology (Erni, 2013), with limited consideration of the forms that this might take within custodial contexts. A small number of studies have considered the challenges of the management of transgender people in custody, as well as policies relating to transgender people in custody (Jamel, 2017; Knight and Wilson, 2016; Lamble, 2012; Routh et al., 2017). Simopoulos and Khin (2014) suggest that the management of transgender people in custody concerns particular pains relating to clothing, searching and names, all pains analysed in this article.

The Scottish penal context

The prison system in Scotland is distinct and devolved from the system in England and Wales. The Scottish prison estate is composed of 15 prisons located across Scotland, all run as a uniformed service; two of them are privately run. According to the latest Scottish Prison Service (SPS) figures, the prison population in 2017–18 was 7464, which equates to 135 per 100,000 – the second highest imprisonment rate in Western Europe (only just behind England and Wales). Penal policy and criminal justice policy more widely have been led by the Scottish government since devolution in 1999 (Brangan, 2019; McNeill, 2016; Maycock et al., 2018; Morrison, 2016).

The transgender penal policy context in Scotland

In 2014 the SPS introduced a policy relating to transgender people in custody and gender identity more widely: ‘Gender Identity and Gender Reassignment Policy for those in our Custody’. The policy seeks to ‘ensure that individuals who identify as transgender people or who intend to undergo, are undergoing or have undergone gender reassignment receive respect and fairness at all times from the Scottish Prison Service’ (SPS, 2014: 5).

Unlike similar policies (for example in England and Wales), the policies and guidance around suitable housing for transgender people in custody in Scotland do not require a

Gender Recognition Certificate.³ The housing of transgender people is informed by an individual risk management approach. The SPS policy has been subject to some criticism, although this is not based on empirical engagement with transgender people or other people living or working in custody. This Scottish context within which this study is located is quite distinct from all existing studies of transgender people in custody.

Methods

At the time of ethical approval by the SPS Research Access and Ethics Committee, there were 17 people in custody who self-identified as transgender (representing 0.2 percent of the entire prison population in Scotland).⁴ All 17 transgender people in custody were approached in the first instance through their personal officer. All 17 were given the study information sheet, and 15 consented to take part in the study. However, 2 participants declined to take part on the morning that the interview was scheduled, resulting in 13 participants in this study. At the time of data collection, I was working as a researcher for the SPS, which will have had profound implications for the sorts of data collected in so far as I was an employee of the system that imprisoned the participants (Maycock, 2018). Semi-structured interviews taking a life history approach (Crewe, 2013), exploring aspects of life in prison as a transgender person, were conducted with all 13 participants. All interviews were undertaken with only the participant and myself in attendance in a private room. The interviews were digitally recorded, transcribed, subsequently checked and anonymized, followed by an inductive thematic analysis (Fereday and Muir-Cochrane, 2006) in Nvivo 12. The three main themes analysed in this article are the pains of being in the wrong hall and in the wrong clothes, the pains of isolation and the pains of transphobia.

The sample

This article analyses the accounts of 13 participants, equating to a 76 percent sample of the entire Scottish transgender person in custody population at the time of data collection. Of the 13 participants, 11 were transitioning from male to female and 2 from female to male. Both of the male transgender participants were located in the female estate with cisgender women, along with five of the transgender women (within Scotland, parts of the female estate are located in what was previously the male or young persons estate). Another five of the transgender women interviewed were located in the male estate as a consequence of risk management assessments relating to these participants. Twelve participants were in mainstream and protection halls, and one participant was in the segregation part of one of the prisons. As outlined above, these management decisions are made in reference to the SPS Gender Identity Policy.

All participants were at varying stages of their individually defined transition. Importantly, 'transition' had a very different meaning for the participants in this study – for some this meant a medical transition, for others this related more to transitions involving hormones, clothing and appearance, or social transitions. The Findings sections below illustrate the complexity of these transitions and the pains associated with being a transgender person in custody.

Ethics

Although there is limited research analysing the specific experiences of transgender people in custody in Scotland (and more widely), many of the participants in this study had taken part in previous studies on a range of topics not related to being transgender. As one research participant mentioned:

Because obviously, I've done stuff like this before [take part in research in prison], and never hear anything. So it's good to be able to have somebody say, look, we're going to give you this back so you can see. (Participant 2)

Each of the 13 participants was sent a draft of this article and given a month to respond or ask questions and to ensure that all participants were confident that their identity remained confidential; this is what Lincoln and Guba (1985) refer to as 'member checking'. My contact details were provided and a commitment to meet and discuss any concerns in relation to any aspects of the article was given to all participants. One participant requested that her narrative be explicitly attributed to her, something that was discussed with the participant and ultimately decided against. Another participant raised points in relation to the article, in particular around ensuring the confidentiality of her narrative; I address this through the use of pseudonyms and the removal of any identifying information in the article.

Findings

The findings from this study go far beyond the remit of this article and will also be reflected in a number of further associated papers (Maycock, 2020). Many of the pains of imprisonment that the participants experienced resonate with the experiences of [cis] people in custody (Sykes, 1958; Haggerty and Bucierius, 2020). However, a number of particular pains relating to being a transgender person in custody emerge in the findings. These are explored in the three sections below.

The pains of being in the wrong hall and in the wrong clothes

A number of studies have illustrated the difficulties and challenges associated with being a transgender person in the community (Melendez and Pinto, 2007; Moolchaem et al., 2015). Within these studies there emerge experiences of stigma, discrimination and exclusion. Until now, no studies have considered how being in prison might shape these experiences and how prison settings and certain staff cultures (Crewe et al., 2011) might influence particular forms of treatment of transgender people in custody. Reflecting themes identified in a wider evidence base relating to transgender people in custody (Bassichis and Spade, 2007; Beard, 2018; Brown, 2014; Brown and McDuffie, 2009; Forder, 2017; Gorden et al., 2017; Jamel, 2017; James et al., 2016; Jenness, 2010; Jenness and Fenstermaker, 2014, 2016; Jenness and Gerlinger, 2020; Jenness et al., 2019; Lamble, 2012; McCauley et al., 2018; Pemberton, 2013; Read and McCrae, 2016; Routh et al., 2017; Sexton and Jenness, 2016; Sexton et al., 2010; Sumner, 2010; Sumner

and Sexton, 2016; Tarzwell, 2006), this section explores aspects of life in custody that the participants in this study felt were important. Throughout this section I consider the implications of being in custody in relation to these areas (such as transitioning) for transgender people. This is often in contrast to the assumptions about and experiences of these processes in the community for the participants.

In an influential paper on transgender people in custody, Jenness and Fenstermaker (2014) consider the pursuit of the 'real deal' of gender authenticity. However, they do not consider the potential influence of prison staff on this 'pursuit'. In my study, authenticity also emerged, but in a different way, with a number of participants reflecting on the ways in which prison staff in particular undermined their pursuit of authenticity. For example, this took the form of staff questioning their reasons for transitioning:

And then it feels like there's suspicion on you, there was a lot of, why are you going through it, why now, and that's the first question they kept asking, why now. I don't think that's very fair, that's nobody's business, except the person. (Participant 13)

As a consequence of individualized risk management assessments (SPS, 2014), a number of the participants in this study were located in halls consistent with the sex assigned at birth as opposed to their lived gender, which constituted a further subversion of their pursuit of the 'real deal'. This caused a wide range of pain for these participants, because being located in halls of their birth gender was not something that they had experienced in the community. Being in the 'wrong' hall caused pain and difficulty for all participants who experienced this. There is very little written on transgender men in the community or in custody. Within this study, 2 of the 13 participants were transgender men, who faced quite specific pains relating to their imprisonment, shaped to a significant degree by being located in the female estate, that is, not in the estate of their lived gender. There emerged consistent differences in the ways that transgender men and women in custody were to be treated, because some transgender women were in the female estate of their lived gender (irrespective of whether they had had surgery), whereas all transgender men were in the female estate of their birth gender. A number of participants reflected on the implications of this through gendered forms of treatment by prison staff:

They do treat me like a male but sometimes it feels as though they don't because they've got me in a female prison – what else am I meant to do in a female . . . well, in a female hall.' (Participant 4)

This quote provides a unique perspective on the gendered nature of prisons (McCorkel, 2003; Thomas, 2003) from the perspective of someone transitioning from female to male within custody. Being located in a wing of their birth gender rather than of their lived gender institutionally subverted the pursuit of the 'real deal' for the participants in this study, as well as posing a number of practical challenges. Participants located in the hall of their birth gender faced significant difficulties in getting gender-appropriate clothing, make-up and hair products that would enable them to get closer to the vision of the gender they were pursuing:

I'm supposed to be able to buy make-up here. I'm supposed to be able to have access to shaving equipment. I'm supposed to be able to get prosthetics in, everything else. None of it is being authorized. But they [prison staff] won't let me have it because they don't want to fill in the paperwork. (Participant 12)

This quote points to the ways that prison institutions and the staff cultures within them can significantly curtail and divert the transitioning journey of the participants. The quote above also resonates with the institutional thoughtlessness found in other prison studies (Crawley, 2005),⁵ although this is taking a specific form here, in that transgender people in custody are being denied access to items they are entitled to, items that might enable their pursuit of the 'real deal' to have more authenticity and validation. Despite these difficulties, a number of transgender women who were located in a male wing had been able to source female clothing and make-up. Despite this, they were allowed to wear these only in their cell and not in the public spaces of the prison; this is in contrast to cisgendered women in custody, who were permitted to wear make-up outside of their cells:

I'm not allowed to wear anything other than prison clothing here, and I'm not allowed to wear my make-up [outside of] my cell. (Participant 13)

This quote highlights both an inconsistency in the application of the 2014 SPS Gender Identity Policy and, more widely, the ways in which prison staff were able to use their position of authority to undermine the pursuits of the many participants in achieving their lived gender. Liebling (2007) has suggested that prison staff cultures vary significantly, and the way in which staff use power shapes these differences.

This section has illustrated a further level of nuance in staff using power in specific ways with transgender people in custody. The notion that affirming, engaging in gender-affirming processes and/or changing gender is a *journey* is quite widely referred to within research on transgender people (Mollenkott and Sheridan, 2010; Nichols, 2013; Okumura, 2007). However, it emerges that being in prison causes pain for transgender people because being in this institutional context in many ways undermines and complicates their transitioning journey, a journey that was largely framed in terms of changing one's gender. There appeared to be limited scope for the affirmation of gender within the institutional context of the prison, which is formative in shaping the journeys explored here. The institutional policy context required the participants in this study to be seen to be trying to *change* their gender in particular ways (such as changing their name) in order to be considered 'authentic' in their transition.

The pains of transitioning in custody

Transitioning from their birth gender to their lived gender is often a stressful and difficult time for the person transitioning (Budge et al., 2013). In the community, the process of transitioning from one gender to another can take many years; in some instances it can take two years to get an initial appointment at a gender clinic (Davis, 2019). A significant proportion of the interviews with the participants focused on transitioning, and the challenges and opportunities this constituted in custody in contrast to transitioning in the

community. Analysis of transitioning gender within custody has not been explored within the existing literature on transgender people in custody, so this section provides a unique insight into the ways in which prison shapes transitioning and further complicates an already complex process. The interviews reveal significant diversity in the experience of transitioning, depending on whether the person had started their transition before, or within, custody, again implying that custody has a significant impact on the transitioning journey of the participants. A number of participants felt that transitioning in custody was particularly difficult, compared with doing this in the community:

I only started transitioning in January 2016 [while in custody]. That's the worst decision I've ever made. I've not been able to transition, just got used against me, held against me. (Participant 5)

This was a sentiment shared by a number of participants: their transgender status and the process of transitioning made them more of a target for negative attention from prison staff, and their transgender status was in some ways being used against them. Many participants stated that, for logistical reasons, they felt that the process of transitioning was slower and more problematic in custody:

Certainly, a lot harder than it would be in the community. I think it will slow it down . . . there's a lot more logistics to move prisoners, you need a bus, you need escorted, you need this, it needs to be done on certain dates. And obviously, we're law-breakers, and they say we get the same standard of health care, but we don't. (Participant 9)

This points to issues with the equivalence of access to the transitioning process, and a wider perception that healthcare provision was particularly poor in custody (Ismail, 2020; McLeod et al., 2020; Sim, 1990; Stürup-Toft et al., 2018). Transitioning in custody resulted in a number of challenges in accessing healthcare. For example, a number of participants reflected on the challenges of getting health appointments outside of the prison, given the security concerns associated with this:

It's harder for me to get my appointments with the gender clinic. On the outside I could call up at any point and get the next available one and just go. I'm not even allowed to know when an appointment is if I have to go to a hospital outside of the jail, as that can be a risk of potentially trying to escape, and I do understand that, but that can impact me quite badly as well, when I'm just woken up in the morning and told you've got to go to hospital. It means I've not got time to get ready. (Participant 9)

This quote crystallizes the issues that the participants had in accessing healthcare, issues that other prison studies have also highlighted (Plugge et al., 2008). In Scotland in 2011, prison healthcare was transferred from the SPS to the National Health Service (NHS) with the aim of reducing health inequalities and for closer integration between prison and public health systems. However, this transition has been quite problematic (RCN, 2016), and the quote above highlights continuing problems for people in custody accessing healthcare. For those participants who were at the point of considering an operation as part of their transition, this raised particular concerns shaped by the prison context. It was particularly stressful not knowing when their next appointment was, and communication

with health professionals about appointments and waiting lists was often problematic and distressing for participants; there were many accounts of letters going missing and long waits for replies to letters.

Hormone treatment is a central component of transitioning for transgender people (Den Heijer et al., 2017), and being in custody again emerges as having profound implications for this aspect of the transitioning journey for many of the participants in this study. Both transgender men and transgender women in this study indicated that prior to custody they had been buying non-prescribed hormones online, largely for convenience but also owing to negative experiences of accessing health services, both within custody and community gender clinics:

I did admit to staff before I came in here that I was buying testosterone online which I shouldn't have taken. (Participant 4)

However, as a consequence of being in custody, this wasn't possible for the participants and was slowing down their transition journey:

I would like to think that, whether I'm in prison or outside, it's [transitioning] going to go at the same pace. Sadly, I don't think it is because if I was outside I would be buying oestrogen online. (Participant 3)

Part of the reasoning for buying hormones online was the often long wait for appointments in gender clinics and a wider resistance in parts of the transgender community to medicalization (Burke, 2011). Some studies have indicated that 49 percent of transgender people in the community have resorted to buying non-prescribed hormones (De Haan et al., 2015). Being in custody made it impossible for the participants in this study to buy hormones online and they often faced long waits for health appointments, meaning they were unable to transition in this critical way.

The quotes above have been focused on the challenges associated with transiting medically. However, transitions also include social elements (Burnes et al., 2016; Olson et al., 2016). Social transitioning relates to how transgender people learn to behave socially in ways normally associated with people of their lived gender. Social transitioning within the context of being housed in halls consistent with the sex assigned at birth and not their lived gender was particularly challenging. As a transgender women stated:

From the sort of social transitioning and sort of finding out who I am, it's been very difficult. I mean the only thing that's actually different about me is my name's changed, my hair's longer and I wear make-up, that's it. (Participant 3)

Importantly, these were difficulties faced by both male and female transgender people:

It's not going to teach me a lot how to be a proper man because I'm in with females, know what I mean. See like a proper man . . . I don't know what that means, but like just like any ordinary men would do. Like I feel more comfortable spending time with guys than I do with females. (Participant 4)

The prospect of learning to socially transition with staff of their lived gender was not something that participants viewed positively; they consistently felt that it was possible to socially transition only with other prisoners of their lived gender.

Although challenges and delays with medical and social transitioning in custody were often mentioned, a small number of participants felt that custody was in fact a safer and better place to transition than the community. These views were shaped by the assumption that transphobia was increasing in the community:⁶

I think the act of physically transitioning, I think is safer in custody than it probably is outside. Well I mean outside, I mean like there's a big increase in sort of hate crimes . . . at the moment. But within prison it is a safer environment. (Participant 3)

This quote to an extent refers back to the pre-prison experiences of abuse that this participant had experienced; for them the community was not a safe place. These feelings of relative safety in custody resonate with a number of studies that have explored feelings of safety amongst other groups within prison (Wolff and Shi, 2009), although here we see this expressed in the context of transitioning – a particularly vulnerable time for transgender people (Grossman and D'Augelli, 2006).

This section has illustrated a significant range of views on transitioning in custody, highlighting particular pains and to some degree feelings of safety associated with transitioning in custody. Responses to questions around transitioning in custody point not only to how the process of transitioning is shaped by the prison context but, more widely, to how people transitioning within an ostensibly binary system illuminate the fluidity of the performance and materiality of gender within custody (Butler, 1990, 1993).

The pains of isolation

Issues with access to services through the transition process had wider implications than those outlined above for many participants, given that accessing support in relation to transitioning often proved challenging. Many participants expressed the sentiment that getting support or help of any kind in relation to their transitioning journey was more challenging within custody than in the community. The importance of a transgender 'community' within custody has been established in other studies (Sexton and Jenness, 2016). Within this study, in contrast, the sense of a transgender community was more fleeting and precarious. Transgender participants were often located in different prisons or separate wings, meaning that support from other transgender people in custody was limited (this was true for both the transgender men and the transgender women in this study). More widely, there was limited evidence of a transgender 'community' within custody that might be able to provide support to people transitioning. This resonates with other studies indicating low trust between prisoners (Liebling, 2004) and an increasing atomization of prisoner relationships (Crewe, 2009). Consequently, there were limited opportunities to be part of either prisoner or transgender communities in custody.

In contrast, for those participants who had begun transitioning prior to coming into custody, they often expressed feelings of membership of the lesbian, gay, bisexual and transgender (LGBT) community, something that being in prison separated them from:

Outside I can go to the LGBT community. I was going to the support meetings once a month. And I was going clubbing in the LGBT community and all that. But obviously I don't have that support in here. So I've lost . . . I just feel lonely and isolated most of the time. (Participant 13)

The lack of access to transgender support groups within custody was something that a number of participants reflected on as a particular issue in custody, because this resulted in feelings of isolation:

I think there's a lot more acceptance, and help, and support, outside. You're very isolated in prison, and nobody gets it. Nobody gets it. I'm not saying people get it outside, but there's a wider acceptance, and I suppose, knowledge outside. In here, there's just nothing. Outside, I really miss the fact that I can't get to support groups, or I can't go and do my own shopping with another group of trans people. (Participant 2)

Issues of isolation and a lack of support had an impact on a number of levels for the participants. The availability of support to discuss the implications of potential surgery was of great concern to transgender people in custody considering surgery.

It's not just about being comfortable, but I think it's important that I've got people there that know me, that have worked with me, and that I trust. Because it's a huge operation. There's a possibility of having staff from here come down, and stay with me, because I'll be there for a while, recovering. And also, as well, there's the problem of, if I was to go down with GEOAme⁷, I'd have to get put into a prison down there [in England]. (Participant 2)

Support that would reduce feelings of isolation in this context would be given by prison staff, bringing to the surface a number of issues for the transgender people considering surgery. Additionally, financial resources for writing to or calling support groups in the community were often limited for the participants. Although a growing body of evidence suggests that family support in custody can be particularly important (La Vigne et al., 2005; Wallace et al., 2016), this provided another challenging area for many participants. A number of participants had not told their family that they were transitioning, resulting in limited familial support during their transition *and* their time in custody:

Obviously, people here can help me. But on the outside, I'm limited to what I can ask, like, I can't obviously ask members of my family, since they don't know about transitioning. (Participant 10)

In relation to families and support from families, a number of participants reflected on problematic relationships as a consequence of both being in custody and being a transgender person. These intersectional forms of stigmatization and marginalization illuminate the multiple, overlapping challenges of being in custody as a transgender person, indicating that their transgender status and transitioning journey added additional pains of imprisonment for this group.

The pains of transphobia in custody

A number of studies have explored the experiences of discrimination and stigma in the community, suggesting that 59.9 percent (Budge et al., 2013) or 63.0 percent (Grant et al., 2011) of transgender people have experienced transphobia or a type of discrimination. The 2015 US Transgender Survey (USTS) states: 'In the year prior to completing the survey, 46% of respondents were verbally harassed and 9% were physically attacked because of being transgender' (James et al., 2016: 5). In terms of the UK context within which this study is located, the latest British Social Attitudes Survey (Curtice et al., 2019) suggests that societal attitudes in the UK towards transgender people are broadly positive, although there is nuance within these views:

The [British] public sees transphobia as wrong and is more likely to have positive than negative feelings about transgender people. However, this isn't the whole story; attitudes to transgender people are more nuanced in relation to specific situations and vary according to demographic characteristics. (Morgan et al., 2020: 3)

Within this wider context, all participants in this study outlined experiences of transphobia while they were in custody, implying that custody is more transphobic than the community. Responses to questions relating to transphobia are clustered around two groups of relationships, those with other people in custody and those with staff.

Interactions between people in custody are often complex, with research illustrating elements of bullying (Ireland, 2005, 2013) and violence (Bottoms, 1999; Cooke et al., 2008; Liebling and Arnold, 2012). Solidarity is rarely observed within a context of the increased atomization of prisoner relationships (Crewe, 2009). Comments in this section sought to comprehend the participants' interactions with other people in custody, and the extent to which transphobia was evident in these interactions. The transphobia the participants experienced in interactions with other prisoners often took sexualized forms, with comments referring to genitalia:

There have been comments about, this is a man's hall, we don't want you here. I've had comments, for instance, there's one gentleman in specific was shouting at me, get your tits out, are your tits real? Have you had the operation, are you getting your dick cut off, I have had these comments, but it's the minority. (Participant 11)

In some instances, transphobic comments took quite aggressive forms, with the threat of violence occurring: she's [a female prisoner] made comments about taking an AK47 and shooting us, because we're not real women' (Participant 2).

These quotes are representative of all the participants in this study, who had all experienced transphobic comments, but critically there were no accounts of transphobic physical or sexual violence. This is in contrast to US-based research suggesting high levels of sexual victimization of transgender women in custody (Jenness et al., 2019). Despite regular transphobic comments and the unrealized threats of sexual and physical violence, there was a sense that the punitive nature of prison might constrain expressions of transphobia. This was the result of an assumption that people might be inhibited by the implications of this for their sentence:

Even people that have very negative views are much less likely to vocalize them in here through fear of it impacting on their sentence, you know, or them getting placed on report for being abusive or insulting. (Participant 3)

It is rare to find examples of people in custody reflecting on prison rules as a positive influence on their time in custody, but for some of the participants in this study this was a means through which everyday social order (Bottoms, 1999) could be maintained. Ugelvik (2016) has written about the implications of snitching within prison, which feminized those men who are seen to behave in this way. A theme emerging across a number of interviews is participants engaging with staff around instances of transphobia. The quote below by a transgender woman is illustrative of these responses:

[A prisoner] commented, that's a guy right there, what the hell, that's a guy. And then the staff member asked me, what did they just say there, and I told her, and she went, is that right, you're on report. (Participant 12)

This resonates with Ugelvik's analysis, because for this participant informing the staff member not only had the positive outcome of the perpetrator of this instance of transphobia being punished, but also resulted in this participant being feminized as a consequence of being seen to be a 'snitch'. For the transgender women in this study, being feminized was something to be welcomed, in particular when they were located in male halls, because it contributed to their pursuit of the 'real deal'. Conversely, for the transgender men in this study the opposite was true, resulting in them tending not to report instances of transphobia. For example, the transgender man below was clearly aware of the negative consequences for him in terms of being seen as a grass,⁸ which would subvert his performance of masculinity:

The staff see it on CCTV anyway [instances of transphobia] and so do the other people see it on CCTV – then I'm getting called a grass and all that. (Participant 4)

These two quotes relate to reporting transphobia by other people in custody. Quite different responses were observed when participants reflected on their reaction to transphobia from staff. Transphobia perpetrated by staff took similar forms to that from other prisoners, including consistent misnaming, misgendering, using the wrong pronouns and questioning the authenticity of their transition and motivation for transitioning. For some participants this was a consequence of certain staff having old-fashioned views; Tait (2011) would define these officers as 'Old School':

I think they were just old-fashioned, in a way, they just couldn't see that [transitioning] as an option. (Participant 1)

However, for all participants who had been the victim of transphobia by staff, informing was something that might result in unwanted attention, resonating with other studies that have indicated that prisoners might limit their complaints to make life easier (Crewe, 2007):

Because if you do that [complain about transphobia] then you are, then you're bringing your head above the parapet and then, you know, if I start getting staff official coding or officially pulled up for that, then obviously they're going to start making my life quite difficult. (Participant 3)

This is particularly problematic, given that most participants had experienced transphobia from staff or other prisoners at some point during their sentence. There were conflicting views across the interviews, with some participants viewing other prisoners as more problematic, whereas others considered staff to be more of a problem. For the second group of participants, transphobic treatment by staff felt different because this was within a context of the overuse of power by certain officers:

I feel more transphobia from the officers than I do from the prisoners. Well, the officers . . . a lot of the officers here, they're so driven on the power. (Participant 13)

Here this participant is connecting their experiences of staff abuse of power in the form of transphobia to wider currents of staff power and use of authority that shape the experience of custody (Crewe et al., 2011). For the participants in this study, relative powerlessness was experienced from the position of being both a prisoner *and* a transgender person. One participant suggested:

I think on an institutional level there is elements of transphobia, but I don't think they would recognize it as that. I think they would just say it's a lack of understanding. (Participant 3)

The institution-wide permutations of transphobia in prisons are beyond the scope of this article, but narratives such as the one above will be critical in shaping prison policy that is sensitive to and supportive of the forms that transphobia takes in prison. This section has explored numerous examples of transphobia experienced by the participants in this study, transphobia that is shaped by the prison context. The pains associated with these experiences of transphobia constitute a unique insight both into the experiences of discrimination that the participants in this study have experienced in custody, as well as more widely into expressions of agency through the pursuit of the 'real deal' by the participants in an often hostile environment (Bottoms, 1999; Cooke et al., 2008; Ireland, 2005, 2013; Liebling and Arnold, 2012).

Conclusion

The marginalization of women within penology has been considered in a number of studies (Crewe et al., 2017; Moore and Scraton, 2013) that have highlighted the gendered nature of the pains of imprisonment. However, these studies are limited to the extent that they equate gender to women, underpinned by a biological essentialism that excludes the narratives of transgender people, for whom gender has a particular significance (Westbrook and Schilt, 2014). This article seeks to complement these studies through using Sykes' pains of imprisonment to analyse the particular pains of imprisonment in Scotland experienced by both transgender men and transgender women in this study.

These are the pains associated with being in custody that have not been considered within the devolved Scottish context until now.

This study has a number of limitations. The experiences of the male transgender people in custody interviewed in this study are in many ways different from those of the female transgender people in custody, in particular in relation to their management within the SPS estate. This is certainly an area for future analysis as the transgender prison population evolves, with a growing proportion of transgender men in custody. An additional limitation of this study is that it is constrained by the prison context: it is unclear what the implications of the pains transgender people experience in custody are for their transition to the community. More widely, no studies have considered what transitions from custody to the community might look and feel like for people who have engaged in gender-affirming processes while in custody, something that is consistently challenging for most people leaving custody (Western, 2018).

The contrasting views expressed in many parts of this article illustrate a significant diversity amongst the transgender people interviewed as part of this study, something reflected in other research with transgender people that medicalized and homogenized this 'community' (Monro, 2000). That such a range of views were given across and within participant interviews contrasts with the narrow representations of transgender people in custody that have in some instances reductively associated these people as a risk to women in custody (Women and Girls Scotland, 2019).

This article has uniquely illuminated a diverse range of the particular pains of imprisonment experienced by the transgender participants in this study; mitigating or reducing these would most obviously be achieved by reducing the prison population. Although the provision of specific spaces with prison settings for transgender people (such as the transgender wing at HMP Downview, a prison in England) was divisive for the participants in this study (Maycock, 2020), this study highlights many possible ways in which the pains of imprisonment could be reduced through, for example, a wider institutional effort to challenge instances of transphobia perpetrated by both cisgender prisoners and prison staff.

Although transgender people were not overtly visible in the New Jersey State Prison when Sykes undertook fieldwork in the 1950s, if he were to undertake the same research now it would be likely he would encounter transgender people in the same prison. This article has illustrated the continued resonance of Sykes' pains of imprisonment, but has extended this framework to encompass the pains associated with life in custody for transgender people. Crewe et al. (2017) outline the gendered pains of imprisonment, specifically relating to women serving long-term sentences. The pains outlined in this article are also strongly gendered, complementing yet extending the analysis by Crewe et al. (2017). The experiences of the pains of imprisonment are gendered for the participants in this study through transitioning, isolation, a lack of community and transphobia. Despite these pains, the transgender people in this study show many instances of agency within which their pursuit of the 'real deal' is intimately bound.

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Notes

1. Throughout this article, transgender is defined as: ‘An umbrella term to describe people whose gender identity and expression does not conform to the norms and expectations traditionally associated with their sex at birth. Transgender people include individuals who have received gender reassignment surgery, individuals who have received gender-related medical interventions other than surgery (e.g. hormone therapy) and individuals who identify as having no gender, multiple genders or alternative genders’ (UNAIDS terminology guidelines – 2015; URL (accessed 11 December 2020): http://www.unaids.org/en/resources/documents/2015/2015_terminology_guidelines).
2. This article uses the terms ‘custody’ and ‘prison’ throughout as terms of account for the prison context within which the participants were located.
3. In the UK, a Gender Recognition Certificate is legal proof of gender in accordance with the Gender Recognition Act 2004.
4. At the time of ethical approval there were no prison staff who identified as transgender, although this will be an area of future policy and research activity.
5. In a study exploring the experiences of elderly men in prison, Crawley is referring to institutional thoughtlessness in the sense of ‘the ways in which prison regimes (routines, rules, time-tables, etcetera) simply roll on with little reference to the needs and sensibilities of the old’ (2005: 350).
6. Home Office hate crime figures relating to England and Wales support this assumption that transphobic incidents are increasing (Home Office, 2019).
7. GEOAmeY is the company that provides transportation services to the SPS.
8. The meaning of ‘grass’ here is a prison slang term meaning an informant or someone who passes on information, particularly to prison authorities.

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