



The Just Prison? Women's Prison Reform and the Figure of the "Offender-as-Victim" in Germany

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ABSTRACT *During the 1990s, the Berlin women's prison was reformed to do justice to female inmates. This redesigning of space and programs was intended to meet women-specific conditions and needs. The present paper engages with this prison reform as transformation in the name of gender justice. Based on interviews with prison reformers, criminologists, and policymakers, as well as on the analysis of historical documents, we illuminate how a specific figure of the "criminalized woman" helps to translate the abstract notion of social justice into situated practice. From the 1970s onward, a new knowledge of women's crime would emerge: it constituted female offenders as victims of patriarchal oppression and victimization, allowing the prison system to be criticized as androcentric and discriminatory against women. We argue that subsequent reform pursued gender justice in the form of difference-based, gender-responsive programs and spaces targeting individual inmates' character and mindset. Thereby, the reformers' initial critique of social justice would be unintentionally depoliticized and so gender, economic, and political inequalities remained unaddressed. Our purpose is hence twofold: first, to review the recent history of women's incarceration in Germany, and second, to add a social justice focus to the international criminological debate on gender, prison, and reform.*

KEYWORDS prison; gender; Germany; criminology; social justice

During the 1990s, the Berlin women's prison was reformed to enable rehabilitation according to women-specific needs and conditions. For about two decades, feminist criminologists and penal professionals had criticized the androcentrism of the German prison system and advocated for conditions of imprisonment that they considered fair for female offenders. In this paper, we

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engage with this transformation of the prison into a "women-specific" space and practice during the 1990s in (West) Berlin, Germany. We analyze this critique and subsequent reform as a process of transformation initiated in the name of social justice. Building on Subreenduth's (2013) approach to the latter, we understand social – especially gender – justice as both a theoretical frame that works against oppression and marginalization and as a situated practice; that is, as putting such theoretical frames into practice while also simultaneously challenging and transforming them. We illuminate the shift from, and the translation of social justice theory into, situated understandings and practices. Thereby, we analytically embrace social justice's vagueness, so that "appeals to the ideas of need, equality, a right to a decent minimum, equal opportunity and many others can be made under this broad heading" (Jackson, 2005, p. 360). Paying ethnographic attention to the "murky areas of doing social justice" (Subreenduth, 2013, p. 598) in the context of prison reform helps shed light on the ambiguous entanglements of social justice efforts with rehabilitation and security logics, thus contributing to Subreenduth's project of engaging with, and complicating, dominant social justice discourses.

Our analysis of emerging figures of crime further illuminates the translation of social justice into situated practices of imprisonment. Binder (2018, pp. 125-126) shows for "the prostitute" how such figures provide condensed constructions of the social world at large. As ideal and sometimes stereotypical images, these constructions mediate between abstract concepts and everyday experiences. They embody exaggerated descriptions of contemporary social problems and emerge in moments "in which a structural transformation is close at hand" (Moser & Schlechtriemen, 2018, p. 11). Symbolically condensed and charged with implicit instructions on how to subsequently take action, social figures are performative in that they stimulate social practices (Binder, 2012). As both description and projection, these figures are neither simply present in the real world nor merely imagined. Grounded in social constructivism, analysis of them focuses on the condensation of narratives into typified and performative patterns of perception by overemphasizing selected characteristics and conditions while downplaying others. Scrutinizing these social figures located at the intersection of crime, gender, and social justice helps illuminate how existing concepts and practices of women's confinement are criticized, as well as how claims for new, just ways of responding to women's crime are articulated.

We thus explore how one such emerging figure, namely the "offender-as-victim," contributed to German prison reform. How did it bring forth a justice-based prison critique and reform demands regarding women-specific imprisonment? We begin by situating our research within the literature on the history of women's prison reform and shifting figures of crime. Then we proceed to show how distinct developments caused a new understanding of women's crime to emerge, as rooted in socioeconomic inequalities and victimization. Subsequently, the existing prison became problematized as androcentric – a justice-based critique that would contribute to women-

centered prison reform, but which in the process became translated into strategies of gender responsiveness and integrated into the therapeutic logic of the modern prison. Finally, we reflect on these reforms' potentially problematic effects and ask how they relate to the initial claim for justice.

The analysis builds on a multimethod approach. To trace emergent knowledge on women's crime, we examined the most influential feminist criminological writings of that time,¹ and reviewed the gray literature, namely the proceedings of public conferences on women's crime that took place from 1981 to 1993 in (West) Germany and in Switzerland.² Nine semi-structured interviews with (West) German penal practitioners, policymakers, and criminologists allowed us to reconstruct how the debates unfolded within the institutional and historical landscape. The interviewees were selected due to their close involvement in these debates: namely as authors of seminal feminist-criminological studies, contributors to said conferences, or active participants in the Berlin reform process. The thematically focused interviews lasted for 60 to 90 minutes. Lastly, we reviewed relevant protocols of Berlin parliamentary debates between 1990 and 1995, as well as the internal documentation of the Advisory Board for the Berlin Prison System stored in their private archive and covering the years 1989 to 1992. This way, we learned which aspects of the debate ultimately informed the Berlin reform process. In the Federal Republic of Germany, the responsibility for the penal system lies with the federal states. For data collection, we focused on the federal state of (West) Berlin. However, the reform debate expanded across all states. Therefore, the Berlin case delineates the logics of political debates taking place in different parts of the country, albeit with varying intensity and outcomes.

Female Figures of Crime in the History of Women's Prisons' Reform

When in West Germany of the 1980s, feminist criminologists, prisoner-aid organizations, and penal professionals started to work toward women's prison reform, they were neither doing this in international isolation nor were they first in calling for a "women-specific" prison. There has been a general lack of

¹ Not all authors refer to feminist theory. We use the label "Feminist Criminology" rather loosely "to refer to all those who, in writing of women lawbreakers, have been concerned to remedy the wrongs done to *women* criminals by criminologists, police, courts, and prisons" (Carlen, 1990, p. 107, emphasis in original).

² The conferences are: "Frauen als Täter, Opfer und Bestrafte," VI. Conference of the International Academy for Crime Prophylaxis, 1981; "Weibliche und männliche Kriminalität," Working Group Criminology of the Swiss National Committee for Mental Health, 1981; "Neue Wege der Kriminalpolitik im Umgang mit straffälligen Frauen," Conference of the AWO Federal Association, 1987; "Frauen in Haft. Für einen besseren Umgang mit straffälligen Frauen," Conference of the Protestant Academy Loccum, 1991; "Nicht länger schweigen! Fraueninhaftierung und Gewalt," Conference of the Protestant Academy Loccum, 1993. The conference proceedings were published by AWO Bundesverband (1987), Greive (1992, 1995), Haesler (1982), and Nass (1982). All translations of the conference proceedings, interviews and protocols are the authors' own.

scholarly attention paid to the history of women's incarceration (Bosworth 2000). However, some scholars have still provided analytically rich accounts of prison-reform movements' impact on gendered notions of crime and practices of women's correction (Freedman, 1984; Hannah-Moffat, 2001; Leukel, 2014; Rafter, 1983). From the origins of the modern prison in the 19th century, the penal system has segregated male and female prisoners, providing different conditions of imprisonment. Women's imprisonment in many parts of the Anglo-American and European region was organized in relation to the atavistic figure of the "criminal woman" that dwelled at the intersection of anthropological-biological theories of crime and Christian morality, constituting those concerned "as particularly loathsome and dangerous" (Hannah-Moffat, 2001, p. 28). Because women were seen as the moral force in society, embodying virtues such as piety, docility, maternity, and modesty, deviant and disobedient conduct proved the female criminal's immorality, with it threatening society's moral foundations (Rafter, 1983, p. 139). Thus, female offenders were treated as a "moral menace" (Hannah-Moffat, 2001, p. 28), even less likely to be reformed, and less deserving thereof, resulting in inferior, wretched indeed, conditions of imprisonment (Rafter, 1983, p. 139).

Mobilizing the naturalized distinction between male and female offenders, the women's prison reform movement of the 19th century succeeded in revising the figure of the "female criminal" in seeking to improve women's conditions of imprisonment (Freedman, 1984). Stressing those supposedly innate female characteristics such as mental and physical weakness and the strong attachment to social bonds and motherhood that had legitimated their harsher treatment, the reformers put forth now the image of the (white, middle-class) female offender as the wayward girl – "[being] errant, led astray by white slavery, the victim of poverty, poor heredity, or heartless men" (Rafter, 1983, p. 154; Hackl, 2016; Leukel, 2014). She no longer posed a risk to society but was rather perceived to be at risk of temptation and extravagance (Hannah-Moffat, 2001, p. 53; Leukel, 2014). Resonating with the reformers' claims vis-à-vis better conditions and correctional programs, the new child-like figure was a reformable, impressionable subject in need of training, care, and guidance – not punishment (Hannah-Moffat, 2001, p. 56; Leukel, 2014; Rafter, 1983, p. 155). In Prussian Germany, as a result, penal policy in line with criminal law's focus on sex-related offenses would focus primarily on the figure of the so-called moral girl (*Sittmädchen*) (Géliu, 2014).

Ultimately, in the early 20th century, this led to the establishment of several reformatories in, for example, the Anglo-American context (Dobash et al., 1986; Freedman, 1984; Hannah-Moffat, 2001), France (Bosworth, 2000), and Germany (Géliu, 2014; Hackl, 2016; Leukel, 2014). These correctional facilities now aimed at reforming prisoners with the help of medical and psychological expertise and sex-stereotyped programs according to the middle-class ideal of "womanhood" (Dobash et al., 1986; Hannah-Moffat, 2001; Rafter, 1983). Thus, the notion of a women-specific prison continued to nurture

the ideology of innate sexual differences between male and female offenders and corresponding dual standards of treatment (Freedman, 1984).

During the 1960s, a liberal-equality approach would arise complementing these reform strategies. Hannah-Moffat (2001, pp. 137-141) shows how Canadian reformers were now turning from equality-based to difference-based demands for gender responsiveness, as the latter promised to do justice to criminalized women. Henceforth, women's prisons should facilitate empowerment, healing, and choice in response to the fundamental – albeit socially conditioned – difference between women and men. As Carlen (2002, p. 12) summarizes, these campaigns and subsequent policy changes fostered an understanding of gender-equitable prison treatment as achieving parity – that is, difference – in penal programs for women, and not equality.

A number of scholars have critically reflected on these recent gender-based reforms (especially their adoption and co-option by neoliberal and punitive risk-thinking) for Canada (Hannah-Moffat & Shaw 2001; Pollack, 2007) and the United States (Bosworth, 2007; Haney, 2010; McCorkel, 2003, 2004). Yet, no similar research has yet been conducted on the respective German context. To close this gap, then, the present paper sets out to take some initial steps toward better understanding the history of the most recent reform of women's imprisonment in Germany.

Context and Conditions

Our analysis reveals how the assemblage of various historical conditions and developments in 1970s and 1980s West Germany finally made it possible for incarceration to be problematized as a matter of social justice. Following Subreenduth's call to "emphasise the context in social justice endeavours" (2013, p. 581), we outline the nature of these entangled processes. They, specifically, provided the conditions of possibility for a situated critique of social justice to emerge.

In postwar West Germany, criminalized women initially went under the radar of Criminology (Dürkop & Gipser, 1978; Dürkop & Hardtmann, 1978; Gipser & Stein-Hilbers, 1980; Maelicke, 1995). This was partly due to their low numbers: only around four percent of all prisoners were female. But in the course of the 1960s, women's crime would begin to draw public scrutiny, namely as its rates increased (Gipser, 1975, p. 7), and also with women's involvement in left-wing extremism attracting attention from criminologists and politicians regarding the phenomenon of female leadership within illegal – seditious even – activities (Bröckling, 1980, p. 1; Gipser, 1980, p. 171).

At the same time, major reforms to federal criminal and prison laws provided the legal framework for any such reactions to crime in general. These reforms followed public debate that sought to humanize the penal system against the backdrop of the crimes of National Socialism. Prisoners' treatment should henceforth be guided by respect for human dignity and the rule of law. The

prevailing custodial system and the logics of atonement and retribution did not meet this new welfare-based standard. The *Federal Prison Act*, promulgated in 1977, deemed prisoners as citizens with rights and dignity while also codifying "rehabilitation" (*Resozialisierung*) as the goal of imprisonment (Ramsbrock, 2020). This was closely linked to the international juridification after World War II that anchored human rights in the penal system starting with the United Nations' "Standard Minimum Rules for the Treatment of Prisoners" (1955). Gradually, women prisoners were discovered as a legal group whose needs and rights should be legally recognized, for example within the Council of Europe's (CoE) revised "European Prison Rules" (1987), the CoE's recommendation "Mothers and Babies in Prison" (2020), and the United Nation's "Rules for the Treatment of Women Prisoners" (2010) (Zolondek, 2007). The new liberal script allowed for problematizing imprisonment as a matter of rights and entitlements, too.

Such emphasis on rehabilitation was bolstered by Criminology's turn from biological to sociological and psychosocial explanations of crime. Biography, upbringing, and socioeconomic conditions were henceforth regarded as important factors in criminality, with which a successful rehabilitation program would have to start (Ramsbrock, 2020). This provided the grounds for a "psy-ing" of penal practices, with various mental-health professions promising to offer effective tools to reform the individual delinquent (Rose, 1998). But it also enabled, as we will show, the new subdisciplines of Critical and Feminist Criminology to explain crime in relation to social, economic, and political inequalities.

Among West German civil society, various liberation movements would critique disciplinary institutions and the situation of the incarcerated in the country. Simultaneously, the women's movement articulated a comprehensive theory of patriarchal oppression to make sense of individual female offenders' political, social, and economic situations; as our interview partners recounted, this novel frame had a significant impact on those working in the penal system.³ Some feminists would further advocate for or even actively support imprisoned women. As another outcome of the women's movement, more and more women entered politics and collectively infused policymaking with feminist concerns, for example, within some federal states' Ministries of Justice.⁴ Expanding on the legal framework and Criminology's current focus on social conditions, these liberation movements provided a moral frame for problematizing women's imprisonment as a matter of power (abuse), (in)equality, (re)distribution, and (in)justice that even reached as far as government and federal administrations.

These different developments would come together in the pioneering work of Helga Einsele (1994), legal scholar and director of Frankfurt women's

³ Interview with id28, February 15, 2022; interview with id30, March 16, 2022; interview with id31, March 18, 2022.

⁴ Interview with id27, February 9, 2022; interview with id26, February 2, 2022.

prison from 1947 to 1975. Motivated by a feminist perspective, her first-hand experience of the US criminal justice system of the 1930s, and her everyday encounters with female offenders, she oversaw the making of many progressive changes in the treatment of incarcerated women – ones later codified in law and made the standard. Einsele was well-known and respected among German prison reformers and often cited by feminist criminologists. Some interviewees praised her leadership style and interaction with imprisoned women as respectful, empathetic, and less hierarchical. Thus, Einsele's successful implementation of women-specific penal practices centered on reintegration contributed to the broader envisioning of a humane and gender-responsive form of imprisonment in (West) Germany. The intersection of these developments helped create momentum vis-à-vis the emergence of new knowledge on gender and crime now allowing the women's prison system to be criticized from a social justice perspective.

New Knowledge on Women's Crime: Reimagining Women as Victims

In 1970s West Germany, feminist scholars Elsbeth Bröckling, Marlis Dürkop, Dietlinde Gipsner, Gertrud Hardtmann, and Marlene Stein-Hilbers were pioneers in criticizing both Criminology's and the criminal justice system's implicit and sole focus on male offenders. Respective theories of crime and subsequent forms of imprisonment, they argued, could not be applied to women. Instead, they provided the first comprehensive studies on women's criminal conduct, reconstituting women's lawbreaking as a phenomenon in its own right – this time doing so in sociological and psychosocial rather than biological terms. This stimulated focused debate in the decade to come: several conferences and subsequent proceedings mapped out a variety of heterogeneous approaches that over the years would merge into shared knowledge. Criminologists, psychiatrists, social workers, prisoner-aid organizations, politicians, bureaucrats from the respective ministries, prison administrators, and even formerly incarcerated women began to criticize the criminal justice system's responses to women's criminality. These conferences and publications thus helped translate between and mesh different ways of knowing – both scientific and nonscientific – in creating a shared, welfare-based understanding of women's crime.

Penal practitioners, based on their day-to-day experiences, characterized criminalized women as beset by dependencies and low self-esteem, and as falling short in the ability to build trusting and respectful relationships. As Einsele and Hanna Dupuis would write:

They mostly come from the social underclass, very often grew up in different foster homes, or lived in dysfunctional families. What is striking about all of them is their low self-esteem and their strong egocentricity. They are easily aggressive and mistrustful; behind this lies a deep longing for contact. (1978, p. 63)

Furthermore, these practitioners described imprisoned women as being passive, caring, and helpful, as dependent and focused on relationships, particularly on their roles as wives and mothers. Oftentimes, these perceived character traits were associated with women's reported experiences of childhood abuse and neglect as well as continuing forms of domestic violence and abusive relationships (see Dürkop, 1981; Einsele, 1982; Lichthardt & Rabenschlag-Fixan, 1991).

The first feminist criminological studies provided a materialistic theorization of gender inequality in seeking to understand the observed characteristics resulting from women's inferior and exploited socioeconomic position. Based on their group-therapy work with criminalized women, Dürkop and Hardtmann theorized that: "Women are subject to oppression in our society in two ways. Like men, they are subjected to the conditions of capitalist wage labor, and they are additionally oppressed by men" (1974, p. 226).

Embedding analysis of women's crime now in socioeconomic conditions, a new understanding of their criminality emerged. Although the paradigm of "intersectionality" had not yet entered Criminology in the West German context, theories on women's crime accounted for the perceived entanglement of class-based and gender-related life conditions but, simultaneously, left other social relations of inequality such as race or age unaddressed (Althoff, 2010). Pointing to the fact that women commit different offenses to men, namely primarily nonviolent "petty" crimes, women's lawbreaking came to be explained differently to men's. Feminist criminologists explained women's lesser involvement in crime as being based on their greater passivity and as a particular women-specific strategy for dealing with conflict – one resulting from their position of dual social oppression (Dürkop & Hardtmann, 1974; Gipser & Stein-Hilbers, 1980). As Bröckling would posit: "The concentration of female criminality on certain crimes is an expression of specific female conflict situations, ones that are inherent to the contradictions of the social situation of women in the capitalist-patriarchal structured society" (1980, p. 3). Shoplifting, theft, and fraud, from this view, serve to compensate for economic dependencies and insufficiencies, Gipser (1980) argued. Substance abuse (and subsequent crime) functions as a passive coping strategy, resulting from "a lifetime of education in conforming to others and adherence to social norms" (Stein-Hilbers, 1980, p. 100), or even as an auto-aggressive means of coping with abusive relationships and trauma (Nabholz-Haidegger, 1982, p. 34). Physically harmful acts, such as child neglect or (rare) incidents of murder and manslaughter (often of abusive partners) were framed as directly related to the social role of women, even as attempts to escape it (Bröckling, 1980; Dürkop & Hardtmann, 1974; Gipser, 1975; Maelicke, 1995). In the words of the then Justice Minister of Lower Saxony, Heidi Alm-Merk, these deeds are a "consequence of a, at least subjectively seen, hopeless situation" (1992, p. 35).

Arguments pointing out the qualitative difference to male criminality were, like a mantra, complemented with statistics stressing women's significantly lower involvement in lawbreaking in general, and in physically harmful acts in

particular. Hans-Jürgen Wieben, criminal investigator and pedagogue, would state this during a discussion arising at one conference:

The share of women offenders in total crime is constantly low; it is about 23 percent in the (old) federal territory including West Berlin. In the statistics on convicted offenders, the share is only 20 percent; of all prisoners and detainees serving time, women only account for just under 3.5 percent. (1992, p. 73)

This narrative of a victimization individually experienced but grounded in patriarchy and economic circumstances would be bolstered with empirical data detailing the harmlessness of women's offenses. This ultimately allowed for constituting imprisoned women as primarily passive and deserving, not as threatening or notorious. Such perspectives hence facilitated in this way the emergence of a new social figure of female criminality, namely the "offender-as-victim" (Snider, 2003).

A New Figure of Women's Crime

German Feminist Criminology was influenced by Anglo-American theorizing on the correlation between women's oppression and their deviant behavior.⁵ Lauren Snider (2003) shows how a victimization discourse came to dominate anglophone Feminist Criminology from the 1970s. Building on Elizabeth Comack (1996), she describes the new subject of women's crime as that of "Women in Trouble" – the story of "the caregiver, the impoverished, aboriginal, and/or victimized woman" (Snider, 2003, p. 367) whose criminality is "reactive and trivial" (Snider, 2003, p. 370). This way, Feminist Criminology deemed female prisoners to be women first and offenders second. Detaching notions of threat and violence from the criminalized subject, the offender-as-victim figure would overshadow others such as "the predatory, rational, calculating Female Criminal, the violent gang girl or the irresponsible, out-of-control Bad Mother/Child Abuser" (Snider, 2003, p. 367; see also Fili, 2013).

This new subject had the performative ability to stimulate claims toward, and ultimately reform, prison policy and practice in Germany. We therefore conceptualize the offender-as-victim as a social figure that embodied a condensed version of contemporary social problems – those of androcentric punishment and social (in)justice – as well as representing a call for action. By making marginalization and victimization central narratives in understanding women's norm violations, this figure overemphasized select underlying conditions to and types of women's criminal conduct; it successfully replaced previously existing figures too, such as the female terrorist. By locating the

⁵ See, for example, Dürkop's reading list in Dürkop & Hardtman (1978), and the critical review of Freda Adler's (1975) book *Sisters in Crime* by Dürkop (1977) and Gipser (1980). Marie Andrée-Bertrand's (1996) comparative study of women's prisons received special attention already while the research for it was still in progress (Krüger & Einsele, 1995; Maelicke, 1995).

causes of women's crime in socioeconomically unequal gender relations, the new figure turned corresponding criminal-policy responses into a matter of social justice – or, more precisely, of gender inequality. However, following Subreenduth (2013), we need to account for the local and historical particularities not only of figures of crime but of the subsequent conceptualization of the “gender just” treatment of criminalized women.

At the German conferences, a wide range of demands were voiced to ensure that policy would respond appropriately to the specific situation of criminalized women and did not perpetuate gender inequalities. These included significant reform of the existing penal system (Alm-Merk et al., 1992, 1995), the abolition of prison sentences for women (Alm-Merk et al., 1992), the decriminalization of women-specific offenses (Kawamura & von den Driesch, 1995, p. 35; Simmedinger, 1992), the strengthening of alternatives to incarceration, and the increase of aid and welfare support to offending women (AWO Bundesverband, 1987; Maelicke 1995, pp. 111-113; Simmedinger, 1992). Since most reformers were professionals in the field of women's correction, the debate soon focused on aspects that fell within their area of responsibility. Accordingly, criticism of the conditions of imprisonment became increasingly elaborate, with many continuing to question women's incarceration *per se*.

Reformers problematized the existing penal system as androcentric, as neglecting the socioeconomic realities and corresponding needs of imprisoned women. Having identified women's crime as having a different nature to men's, the argument was made that a system treating women according to theories and practices designed for male offenders would ultimately discriminate against women. This androcentrism would cause two major disadvantages for women, argued both sociologist Renate Simmedinger (1992) and criminologist and social worker at Frankfurt prison Hannelore Maelicke (1995); due to their low percentages among the total prison population, women were treated as the “fifth wheel” (e.g., by lacking sufficient and adequate vocational training programs; Kümpfel & Schlagenhauf, 1978). Being governed by the same administration and often incarcerated within the same facilities, women were confined under security conditions tailored to men (see Schulz & White, 1993).

In 1983, for example, women were detained in 33 different facilities across the territory of West Germany. Only three of those were women-only prisons (Stöckle-Niklas, 1989). Also, reformers such as Alm-Merk (1992) criticized how women did not receive differentiated education, labor, and recreational opportunities. Both the oversecritization unnecessarily restricting women's contact with the outer world and the lack of support offered would make them suffer disproportionately under incarceration and also diminish their right to rehabilitation, and thus significantly discriminate against them.

Equipped with a critique of justice rooted in gender difference and mobilized within a multiprofessional and change-seeking context, the offender-as-victim indicated new ways of reacting to women's crime and incarceration. Some

reformers further lamented how the specific situation of women without German citizenship, with experiences of flight, migration, and racism, was not given sufficient attention (Schack & Cobus, 1995). Such voices remained isolated, however, and unlike with regard to gendered and economic considerations these women's situation was not systematically mobilized in justice-based demands. Thus, the reform debates did not comprehensively account for racial and citizenship inequalities, and kept imagining the "criminalized woman" as a rather homogenous subject. Doing justice to women, in this context, would become reconceptualized as a matter of gender equity achieved by offering different conditions of incarceration.

Making Berlin Women's Prison Gender Just

In postwar West Berlin, women had been detained in a former Prussian military detention center in the borough of Charlottenburg. In an interview one prison officer remembered the old brick building as "martial" and "oppressive," with

...no individual detention rooms or anything else. Showering took place in communal showers, at fixed times... There were few working facilities. We had domestic workers in the kitchen, a tailor shop and an occupational therapy workshop. But there were very, very few workplaces and accordingly women were much under confinement. (Interview with id8, July 20, 2022)

In the 1970s and 1980s, West German criminal policy was predominantly concerned with the fight against left-wing terrorism (Belina, 2018). After the successful escape of four so-called female terrorists from the 2nd June Movement, politicians reacted with performative security measures such as the construction of a high-security prison and wings (Heinemann, 1976). In 1985, the women's prison moved to this newly built, high-security facility for a maximum of 330 prisoners. The security architecture – with its five observation towers, a 5.3-meter-tall wall, surveillance cameras, intercoms, and sight screens – was clearly designed for the threatening figure of the "left-wing terrorist" (Géliu, 2014, pp. 46-47). However, the moving of premises also allowed ideas on a treatment-oriented and women-specific prison to be implemented. With the exception of the wing holding terrorists, the interior of the facility was designed to be as open as possible in accounting for the low level of violence among female inmates. A so-called *Wohngruppenvollzug* policy was enacted. This meant the placement of prisoners in housing units of relatively small size with kitchens and living rooms permitting structured communal life. The same prison officer as quoted above would recall:

It was possible to respond much more to the needs of women. The mother-child house was an outstanding story, being where women and their children were accommodated. There was a governess who took care of the latter. And yes,

women-specific workplaces and things like that existed. And colleagues, who then really just focused on the women. (Interview with id8, July 20, 2022)

Furthermore, the new prison housed a social-therapy ward and a separate open prison. The cells were described as bright and friendly, each equipped with a bathroom. The courtyards were green and complemented with sports fields, a gym, and rooms for recreational courses, labor, and schooling.

However, as a large number of detention places were never occupied, the building turned out to be too large. And in light of the new knowledge on criminalized women – in tandem with terrorist attacks declining and no further escapes – this prison became regarded as too secure:

...a high-security prison that disregards criminological findings about women's specific needs... In general, the danger posed by women in the penal system is considered to be low. Willingness to aggression and tendency to escape are generally low. It follows from this: correction that does justice to female prisoners was and will not be possible within the walls of this prison for women. (Task Force "Open Prisons," 1990, p. 24; see also Berlin House of Representatives, 1991, p. 25)

In 1989, a coalition formed between the Social Democrats and the Green Party replaced a conservative-led one. Immediately they initiated general prison reform, despite the concerns of the conservative opposition regarding security. The new government set up several task forces, among them one on the said women's prison consisting of penal professionals (social workers and law-enforcement officers) and the renowned criminologist Bernd Maelicke, husband to the earlier-mentioned Hannelore Maelicke.⁶ The task forces were supposed to evaluate the current situation, and according to the aims of the reform process, to suggest new penal practices that would no longer focus on figures of "serious crime" (*Schwerverbrecher*). Attention should instead be directed toward those who had been "forgotten" in the closed prison system so far, as one protocol of a conference coordinating the different task forces and organized by the Ministry of Justice clarified (Senate Administration of Justice, 1990, p. 4).

This shift in focus did not see the previous figures of the murderer, terrorist, or sex offender disappear. However, it gave momentum to a new figure of women's crime, namely one that was considered not dangerous but needy. This imagining was lent greater credibility by both scientific and practical expertise, as seeking political relevance in the name of gender equity. The task force's report reveals how the offender-as-victim would be made pivotal here:

The female clientele in the penal system are characterized by low ego strength and associated dependencies, both social and/or addiction-related. Many women have experienced violence, be it in the form of sexual abuse or acts of rape, often already

⁶ The transformation of the women's prison started in West Berlin and continued after the reunification of the two Germanys in 1990. Subsequently, the German Democratic Republic's (GDR) penal system was abolished and replaced by that of the Federal Republic of Germany.

in childhood. Due to such injuries trust has been destroyed, which hinders the development of self-esteem, as well as social assertiveness and appropriate performance behavior. (Task Force “Women’s Prisons,” 1990, p. 4)

By stressing the character deficits specific to women and resulting from victimization – an inability to trust, low self-esteem, lack of social assertiveness, inadequate performance behavior – the working group was able to reformulate the goals of women’s correction in a way that would do justice to the specificity of female offenders. For rehabilitation and a crime-free life, penal practices should, accordingly, aim at: the development of self-confidence and self-esteem; the compensation of socialization deficits; the reduction of dependencies by strengthening the ego (*vis-à-vis* a partner, substances, social environment, or social position); the guidance to maximum self-organization, self-sufficiency, and independence; and the promotion of positive social bonds (Task Force “Women’s Prisons,” 1990, p. 4)

To enable treatment best-suited to women and their unique situation, the working group suggested two major changes. First, administrative independence from the men’s prison should prevent concepts developed for the latter from continuing to be applied to the women’s prison without adaptation, and should also prevent female offenders from being overlooked because of their relatively small numbers. Second, the decentralization of the women’s prison to four separate facilities should allow the different types of female detainees – such as drug addicts, juveniles, and those suited to social therapy or open detention – to be accounted for. Only this way, the working group stated, could clear differentiation from the security and safety concept informing men’s prisons be created – namely circumstances nurturing constructive and communicative relationships and allowing these women to open up and work on themselves (Task Force “Women’s Prisons,” 1990). Accounting for the different types of prisoners, security should be as low as feasible and the facilities should be designed and organized as openly as possible. “Open” meant not only inner spatial openness but included practices ranging from escorted temporary leave to open prison – that is, a form of incarceration in which women spend only the night behind bars and leave during the day. Organizing the penitentiary as such was understood to support reintegration, as it would allow imprisonment to be adjusted as far as possible to a life in freedom and prevent the loss of jobs and social bonds. Under these conditions, security should be replaced by trust-building between inmates and staff.

The Berlin Senate adopted this view and initiated a corresponding process of decentralization. In the course of this, one closed facility for non-drug-using prisoners moved into an old prison building that had been erected at the beginning of the 20th century, before later serving in the GDR as a pre-trial detention center of the infamous Ministry of State Security. One interviewee remembers being horrified when she first saw the building: “I simply could not imagine that the rooms that existed there would eventually become ones that

might somehow meet human requirements" (Interview with id9, July 20, 2022).

Comprehensive reconstruction work was needed to meet liberal and gender-responsive ideals of imprisonment. The small gaps in the cells' walls were expanded into luminous windows and each cell was equipped with a private bathroom, television, and telephone. The yards saw greenery added, while benches were also installed. Rooms for recreational pursuits, educational activities, and labor opportunities were set up. The corridors were widened, the stairs embedded in them removed, and a communal kitchen and meeting room added on each floor now created space for social interaction according to the *Wohngruppenvollzug* policy. It was tolerated – encouraged even – for inmates to decorate their cells and communal rooms. These new spatial practices were meant to meet the female longing for a familiar and cozy atmosphere and to strengthen communication and relational skills. Creating opportunities for prisoners and staff to come together should further enable the women to experience respectful and non-abusive interpersonal encounters, teach them the rules of social interaction, and allow them to improve their own (problematic) relational patterns.

Against the backdrop of the prison building's specific history, the figure of the offender-as-victim crucially contributed to the process of conceptualizing and establishing a modern women-centered penitentiary, namely as a low-security, treatment-oriented, and gender-responsive facility. Deeming women to be deeply involved in relations of care with a strong inclination to communication and to social bonds, alongside positioning their criminality as harmless and nonthreatening, made it legitimate – mandatory even – to design the prison as openly as possible, both to the outside and to the inside. Blurring the lines between innocence and guilt, victimhood and threat, the figure of the offender-as-victim stressed women prisoners' need of care, treatment, and therapy instead of punishment and containment. Focusing on the psychological and behavioral causes of crime, often resulting from socioeconomic inequalities and dependencies, gave reason to expand on therapeutic interventions. The reformed materiality, conditions, and programs of imprisonment brought to bear an understanding and enactment of social justice as gender equity achieved through difference-based gender responsiveness.

Conclusion: From Social Justice to Individual Treatment

In the second half of the 20th century, a conjuncture of different conditions made it possible to problematize women's imprisonment in (West) Germany as unjust. Meshing feminist criminological and practical expertise, a new knowledge of women's crime emerged that would position female offenders foremost as the victims of socioeconomic relations of gender inequality and capitalist oppression, as well as constituting individual accounts of violence, abuse, and neglect. This newly devised figure's performative ability stimulated

vivid critique of existing responses to women's crime that found a political echo in the subsequent reforming of the (West) Berlin women's prison.

Through the gradual translation of this articulated critique into reformed conditions and practices of women's imprisonment, this new figure helped transmit a theoretical frame for gender justice to both historically and locally situated practice (see Subreenduth, 2013). It thereby reconceptualized gender – namely femininity – in terms of substantial difference. Though now grounded in sociological explanations, the offender-as-victim continued to provide – and indeed strengthen – the imagining of women as weak, caring, communicative, and domestic, with a strong affinity for social bonds. However, in light of the international juridification of the prison system, as well as new emancipatory movements, this innovative subject matter allowed claims to be made vis-à-vis improving the treatment of women in the name of justice rather than charity. A prison that would do justice to women was reimagined in terms of gender equity achieved through differential treatment and conditions. Especially given the complex history of women's imprisonment in Germany, from the Prussian to the GDR detention facility to the high-security prison, this new vision of a gender-responsive penitentiary manifested as a low-security facility centered around the ideal of empowerment and care through therapy and treatment. The implemented prison reform gave contours to the vague notion of social justice attached to the figure of the offender-as-victim as a situated practice within a particular historical context.

Located within the anglophone body of studies on prison reform and gender, these insights raise further questions for the German context that future empirical research must address. Pollack (2007), for example, describes in detail, first, how a victimization discourse infuses correctional interactions and practices in Canada. Explorative research in Germany reveals that women adopt such a victimization discourse to make sense of their situation (Neuber, 2020). So far, though, this narrative's impacts on inmate-staff interactions, prison programs, and penal policy have been left unaddressed.

Second, an intersectional perspective on the offender-as-victim figure's impact on correctional treatment needs to be employed. Our analysis delineated this figure along gender and class lines. Despite select reformers pointing to the specific situation of women without German citizenship, experiences of flight, migration, and racism were inadequately addressed during the reform process and the preceding conferences. Accordingly, such conditions and experiences did not form part of this figure: the offender-as-victim appears to be an exclusively white subject. This raises questions about the subsequent treatment of racialized women or women without German citizenship: Could racial and racist dimensions have been neglected in correctional policies and programs, as documented for the US context (Rafter, 1990)? May these women as a result be classified as unwilling, recalcitrant, or particularly difficult to manage?

Third, the shift away from a theoretically grounded critique of socioeconomic inequalities and oppression toward individual-oriented

techniques of psychosocial intervention demands closer scrutiny. The moment reformers addressed the penal system with their new demands for justice, the target of the interventions changed in accordance with that system's scope for action. The prison is tailored to act on the individual inmate. It is, by mandate, incapable of tackling wider socioeconomic issues. Instead, social justice would be transformed into the politically pragmatic concept of gender equity, wherein gender responsiveness appears to be an easily applicable instrument, promising fairness.

In light of the modern welfare and treatment-oriented prison, however, being gender responsive meant to work on the individual prisoner's personality, behavior, and mindset. For Canada and the US, scholars critically stress that the symptoms of structural inequalities and disadvantages within personal biographies, character traits, or behavior patterns became the target of treatment interventions, and were therefore themselves constructed as problematic. Previously identified socioeconomic disparities hence risked being addressed as individual failings, as cognitive deficits, and assessed and controlled as criminogenic risk factors (Haney, 2010; Hannah-Moffat, 2000, 2010; McCorkel, 2003, 2004). It must be asked, then, how these dynamics unfolded in the somewhat different historical and political context of German penology.

Unquestionably, the emerging figure of the offender-as-victim allowed for the problematization of existing penal responses to women's crime as henceforth a matter of social justice and gender inequality. This turn of events contributed to easing conditions of imprisonment; to accounting for women's experiences of dependencies, violence, and abuse; and to blurring the lines between innocence and guilt, between perpetrator and victim. Enacted through policy reform and new practices of imprisonment, this figure bears the danger of transforming social disadvantage into individual pathology, therewith obscuring the complexity of gendered power relations. Thus, ironically, a penal system so defined runs the risk of leaving social, economic, and political relations of gender inequality and social justice untouched.

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