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**Doubly imprisoned:
Transgender and non-binary prisoners experiences in England and Wales**

Olga Suhomlinova
University of Leicester
Leicester, UK

Saoirse O'Shea
The Open University
Milton Keynes, UK

RUNNING HEAD

Doubly imprisoned: Transgender and non-binary prisoners experiences

ABSTRACT

In this chapter we explore the lived experiences of transgender and gender non-conforming (TGNC) prisoners, arguably the most vulnerable minority in the prison estate, using the data from our correspondence study with transgender women and non-binary individuals incarcerated in male establishments in England and Wales. We provide a brief review of the extant literature, describe the English prison system and the regulations concerning transgender prisoners, and analyse two axes of vulnerability of TGNC prisoners: social (stemming from relationships between prisoners) and institutional (resulting from the prison regime). Along the social axes, we find, in contrast with prior research, that our respondents defied the stereotypes of trans prisoners as submissive to males in a hypermasculine prison society and as involved primarily in abusive relationships. Along the institutional axes, we find that, despite the progressive by international standards transgender prison regulations, prisoners were subject to vicissitudes in treatment that negatively affected their ability to express their gender and their health. Focusing on access to gender-affirming items (clothing, prosthetics, make-up) and gender-affirming medical treatment, we develop recommendations for the prison service that could improve the conditions of confinement for TGNC prisoners.

KEY WORDS

Transgender, non-binary, prisoners, English prison system, experience

INTRODUCTION

Within prison populations, transgender prisoners are identified by the World Health Organization and the United Nations Office on Drugs and Crime as a “vulnerable group” because they do not conform to traditional gender expectations. Their “‘otherness’ is used as a weapon against them by fellow prisoners through intimidation and violence and by prison officers through neglect and ignorance”; and their experiences are “almost uniformly more difficult than other prisoners” (Brömdal, Mullens, Phillips, & Gow, 2019, p. 4).

Studies of transgender and gender non-conforming (TGNC) prisoners is an emerging field within transgender studies. It already boasts two major international reviews: a systematic review of transgender prisoner experiences (Brömdal, Mullens, et al., 2019) and a scoping review of transgender health in prisons (Van Hout, Kewley, & Hillis, 2020). Yet, it is still thin on empirical evidence (although the studies of legislation and case law abound, starting from 1990s). Brömdal, Mullens, et al. identified only 11 studies of transgender prisoner experiences: 9 in the US and 2 in Australia, to which we would add UK studies detailed below. Most of the evidence pertains to transgender women in men’s prisons; evidence on transgender women in women’s prisons, transgender men, and non-binary prisoners is scant or non-existent. The most extensive and analysed study has been conducted on transgender women in California’s male prisons by Valerie Jenness and colleagues (Jenness, 2010, 2014; Jenness & Fenstermaker, 2014, 2016; Sevelius & Jenness, 2017; Sexton & Jenness, 2016).

It is also a field where, owing to the challenges of accessing the population of interest, evidence mostly comes from very small samples; cross-national differences in the context are significant, but still poorly understood; frequent policy changes make it difficult to keep track of the status quo; and tempers run high in public and academic debates.

The most frequent themes across the literature are mistreatment of transgender prisoners by staff and other prisoners (including stigmatisation, discrimination, and physical and sexual violence), lack of access to gender affirming healthcare, and systemic challenges of housing based on gender identity in a binary prison system based on sex assigned at birth (Brömdal, Clark, et al., 2019; Brömdal, Mullens, et al., 2019; Van Hout et al., 2020).

Treatment of transgender prisoners in the UK has been described as progressive (Van Hout et al., 2020); but “UK prison system” is a misnomer. There are three independent systems: Her Majesty’s Prison Service covering England and Wales, Scottish Prison Service, and Northern Ireland Prison Service. At the time of writing, there were only two published studies of transgender prisoners in England and Wales, both of transgender women in male prisons (Disspain, Shuker, & Wildgoose, 2015 [1 respondent]; Nulty, Winder, & Lopresti, 2019; [three respondents in one prison]). Three publications incorporated transgender prisoners views (Baker, 2017 [autobiography of a trans female prisoner]; Bashford, Hasan, Marriott, & Lord Patel of Bradford, 2017 [three prisoners]; Forder, 2017 [13 prisoners]). Two monographs were in the pipeline for 2021/2022: our own based on the study reported here and another based on interviews with former trans prisoners. A study of 13 out of 17 prisoners identified as transgender in the Scottish Prison Service was recently completed

(Maycock, 2020), with further publications forthcoming in 2021/2022. Northern Ireland Prison Service reportedly “never had to deal with transgender prisoners” (Auter, 2018, p. 24).

In this chapter we present the first results from our ongoing study of the lived experiences of transgender and non-binary prisoners in England and Wales. The presentation is structured in four sections. In the first, we briefly describe the English prison system and the regulations concerning transgender prisoners. In the second we introduce our study. In the remaining sections we consider two axes of vulnerability of TGNC prisoners: social and institutional.

The *social axis*, stemming from relationships among prisoners, has been previously explored in the US context by Jenness and colleagues, who argue that transgender women in men’s prisons tend to perpetuate the gender stereotypes that exist on the outside. Their desire to “secure standing as a ‘real girl’ ... translates into expressions of situated gendered practices that embrace male dominance, heteronormativity, classed and raced gender ideals, and a daily acceptance of inequality” (Jenness & Fenstermaker, 2014, pp. 27-28). Consequently, transgender women’s victimization unfolds within the context of “male-dominant, heteronormative relationships”, in which “transgender women’s femininity is shored up and reaffirmed by the violence they experience” (Jenness, Sexton, & Sumner, 2019, p. 625). Our evidence counterparts this account by revealing practices that contest the stereotypes.

The *institutional axis*, rooted in the prison system, has not yet been explored empirically in and reflects an interplay of the “rights” and “risks” underpinning the shifting regulatory framework for TGNC prisoners. As a consequence, transgender prisoners are vulnerable to variations in treatment that accumulate to undermine their ability to express identity and adversely affect their mental and physical health. Our analysis of institutional vulnerability through the eyes of prisoners offers practical recommendations to the prison service.

THE ENGLISH PRISON SYSTEM AND TGNC PRISONERS

To understand transgender prisoners’ experiences, it is crucial to have a basic idea of the prison system. While the headlines are similar cross-nationally, it is the fine grain of context that circumscribes the incarcerated lives. The English prison system covers England and Wales and is run as a single organisation, the Prison Service, under the central governmental control. It is a part of Her Majesty’s Prison and Probation Service (HMPPS), the executive agency responsible for the delivery of custodial and non-custodial sentences within the Ministry of Justice. Individual prisons operate as “establishments” within the Prison Service.

As of 2020, the system consisted of 99 male and 11 female prisons, 1 prison holding male and female prisoners in separate units, and 7 young offender institutions and contained 79,235 prisoners (Ministry of Justice, 2020a); 4% were female. Between 0.2% (according to the Ministry of Justice (2019) that counts as trans “individuals known within prison to be currently living in a gender different to their sex assigned at birth” and excludes those who received Gender Recognition Certificate (GRC)) and 2% (according to Her Majesty’s Inspectorate of Prisons’ survey (2020, p. 43)) were transgender. Of 163 transgender prisoners recorded by HMPPS, 80% reported their identity as female, 12% - as male, and 8% did not

disclose gender. 92% of transgender women were housed in male estate, and 100% of transgender men – in female estate. Six prisoners were recorded as non-binary.

All prisons are regulated by The Prison Rules 1999 (akin to law) and operational guidance issued by HMPPS in Prison Service Instructions (PSIs) and Policy Frameworks (PFs). A prison governor can also issue local policies.

The Prison Rules 1999 make no reference to TGNC prisoners. The first regulation concerning TGNC prisoners, PSI 07/2011 *The Care and Management of Transsexual Prisoners* (National Offender Management Service, 2011), was issued in 2011 following the Equality Act 2010, which added “gender reassignment” to the list of protected characteristics. (For a detailed account of the evolution of English prison regulations for TGNC prisoners, see Lloyd Bright (2020).) The regulation asserted the right of transgender prisoners with GRC to be located (with minor exceptions) in the estate of their “acquired” gender and permitted transgender prisoners without GRC (housed in the estate of their birth gender) access to clothing, make-up, and prosthetics to maintain gender appearance and to medical treatment for gender transition.

This was superseded, from 2017, by PSI 17/2016 *The Care and Management of Transgender Offenders* (National Offender Management Service, 2016), developed in response to the House of Commons Women and Equalities Committee’s (2016) inquiry *Transgender Equality* that raised concerns about the treatment of TGNC people in various areas, including criminal justice system. This regulation was progressive: it defined the terms ‘gender-fluid’, ‘non-binary’, and ‘intersex’, made more detailed provisions for trans prisoners healthcare and access to clothing, make-up and prosthetics, and set out a more systematic approach for placing trans prisoners in female or male estate based on assessment by a Transgender Case Board, taking into consideration the strength of evidence of living in the preferred gender.

In August 2019, it was replaced by Policy Framework *The Care and Management of Individuals who are Transgender* (Her Majesty's Prison and Probation Service, 2019). The new regulation was produced in response to the public uproar following the widely publicised case of a transgender woman previously incarcerated for violence, dishonesty, and indecent assault, who, while remanded in a female prison, committed sexual assaults against two prisoners (pressing herself against a prisoner in a queue and putting a hand of another prisoner on her breast) (Lloyd Bright, 2020, p. 183). The Policy Framework (PF) “considerably tighten[ed] the pre-existing regime”, making the initial allocation and transfers to the estate of the gender with which prisoner identifies subject to an extensive risk assessment by the Complex Transgender Case Board, even for prisoners with the GRC (Lloyd Bright, 2020, pp. 184-185). The tenor of regulations and the relative proportion of mandatory requirements shifted from the support for transgender prisoners to the risks surrounding them, particularly those that transgender women could pose to other females.

DATA AND METHODS

The data for this chapter were culled from our study of transgender and non-binary prisoners’ experiences in England and Wales that commenced in June 2019 and was ongoing

at the time of writing. The study was conducted on the cusp between the 2016 and the 2019 regulations on TGNC prisoners and reflected both the old and the new regime. The study was approved by HMPPS and our universities' research ethics committees.

We recruited the participants through an advertorial in the national prison newspaper *Inside Time*. Our sample included 19 transgender female and 4 non-binary prisoners (equating, per official statistics, to 15% and two thirds of all such prisoners respectively) located in 16 male prisons across 8 regions of England and in Wales, ranging in security levels from high to moderate. We collected the data by letter writing and to date received between three and twenty letters from each participant. The total amount of text produced by some participants was substantial (e.g., one contributed about 50,000 words). This study is unique in participants' engagement, self-reflection and voice. In the analysis, we call participants by pseudonyms they chose and reference their letters as "Lx", where "x" stands for letter number (e.g., L5 means the fifth letter).

For analysis we employed reflexive thematic analysis method (Braun & Clarke, 2006, 2019). We were yet to start coding the full data corpus, and the findings reported here came from a mix of a priori and a posteriori themes.

CHALLENGING THE STEREOTYPES OF SUBMISSION

The importation model of prison culture argues that inmate society largely reflects the values and norms outside of prison, often in a "warped version" (Kreager & Kruttschnitt, 2018, p. 263). Jenness et al. (Jenness & Fenstermaker, 2014; Jenness et al., 2019) similarly suggest that transgender women in men's prisons reproduce the gender stereotypes dominant in the community and even exaggerate the stereotypical female behaviours to buttress their gender identity, as they vie for the status of "authentic" trans females ("real girl") in a transnormative hierarchy of legitimacy. Rather than "undoing" gender, they "overdo" it, performing "hyperfemininity" in a hypermasculine world of male prison. A dire price these women pay for overdoing gender is a high rate of sexual victimisation, because "hypermasculinized culture makes them ever-available targets of sustained derogation" (Jenness & Fenstermaker, 2016, p. 19). The main refuge from sexual violence is a "protective pairing" with a higher ranked inmate who defends them from the general population – a relationship in which they are "still beaten, raped, and forced to be subservient" (Routh et al., 2017, p. 650). Two other types of their sexual relationships delineated by Jenness et al. – husband-wife and sex work – are similarly submissive.

The views from English and Welsh prisons are different. HMPPS regulations do not prohibit sexual acts between prisoners, but an observed sexual activity may result in a disciplinary charge. Consensual relationships "invisible" to staff are tolerated. Accusations of sexual assault are investigated by the prison, and serious assaults are reported to police (though, like in the community, most are not reported). Physical and sexual violence are less prevalent than in the US prisons. Rape "is statistically rare", and "fear of rape does not permeate British penal culture". A "numerically bigger", but "neglected and negated", problem is an "abusive and inherently exploitative" transactional sex (Stevens, 2017, pp. 1389-1392). Yet, similar to the prisons worldwide, prison hierarchies are constructed along

any dimension of difference (e.g., age, sexual orientation, nature of offence); minorities are harassed and victimised; and TGNC prisoners are disproportionately targeted because of their gender identity and as the smallest, most marginalised group in the prison social hierarchy.

Fayth, a non-binary respondent, summed up the social attitudes underpinning prison violence in the formula:

“Different = perceived weakness = easier target” (L8)

This formula applies to all TGNC prisoners, but sexual violence against them is also fuelled by three stereotypes of transgender women perpetuated in the prison community. Firstly, sex with a transgender person “isn’t seen as gay”. Secondly, there is “a wide assumption that trans women want guys”. Finally, “some people see trans as deviant in a way that means ‘they want it’ more than others as if that wouldn’t make it rape. They would be ‘doing them a favour’” (Fayth, L8). Non-binary (NB) prisoners were subjected to similar stereotypes:

“As many cisgender think NB links with sexuality, they will assume NBs like guys & more open to approach” (Fayth, L8).

Our respondents confronted these stereotypes in interactions with other prisoners. Thus, Winter Rose was often asked if she were gay, and accused of lying when she denied it (L8). Rachel wrote that

“people ... assume as a trans woman I want sex with men. Even if I was born a woman and into men, it doesn’t mean I want any or all men” (L8).

She was particularly dismayed when the stereotypes were perpetuated by the prison staff:

“I was told the policy [on sex in prison] at reception upon informing them I’m transgender. I was annoyed at the presumption of both my sexuality and ... that I’d have sex with anyone in prison. I asked equalities if it was common practice to ask all prisoners if they knew the policy. It was just me it seems” (Rachel, L8)

Both Rachel and Winter Rose developed a similar response to “indecent proposals”:

“I say to them, if I don’t want the bits I was born with then I certainly don’t want theirs” (Winter Rose, L8)

In reality, the predilections of our respondents were varied: some expressed romantic and sexual attraction to men and/or masculinity; others – to women and trans-women; yet others were bi-sexual or “gender blind” (Rachel, L8); and most non-binary respondents self-identified as pansexual.

Transgender women disproportionately bore the brunt of sexual violence. As Hotaru put it, “we are perfect targets really ... we’re vulnerable, weak, scared and alone” (L8). There are no official statistics, but, according to our calculations based on HMPPS data (Frazer, 2020; Ministry of Justice, 2020b), while the overall rate of prisoner-on-prisoner sexual assaults in male prisons for 2019 was 0.4%, the rate of assaults on transgender women was 10%.

Most respondents (including non-binary prisoners) suffered sexual harassment and several survived serious assaults:

"On numerous occasions I've been the subject of unwanted attention ranging from nicknames (such as wifey) to groping. [...] The most extreme being [...] when I was raped" (Rachel, L8)

"I was struck to the head with a wooden chair leg punched to the mouth my breast groped and a shank [razor blades melted into toothbrush] put 2 my neck [d]ragged by my hair and raped ... there was 3 guys ... I was raped by two of the three ... then punched, spat on and the one who didn't rape me urinated all over me" (Brittany, L2)

Many reported assaults to the staff, and in some cases the reports were acted upon (e.g., a rapist was transferred to a different prison). In other cases, no action followed due to the "lack of evidence", and the respondents stopped reporting. Some respondents did not report assaults for fear of reprisals. Thus, Hotaru was "groomed" into an abusive relationship to which she initially consented because she was happy someone liked her "feminity [femininity]" and which quickly turned into abuse that continued daily for several weeks. Yet, Hotaru did not report it: "I'm a big enough target as it is, I don't need the reputation of being a "grass" or the reprisals I would face" (L8).

In the face of constant threats to their safety, a few remained openly defiant. Brittany, a self-professed "girly girl", has breast implants, is undergoing the gender-affirming hormone treatment, and is secure in her standing:

"I'm fairly female and pass easily" (L4)

Despite the dangers of displaying her femininity, she refuses to capitulate and dresses the way she feels, favouring a "sexy sassy smart look" (L7). Yet, she is not "overdoing" gender, she is living it the way she has done openly since age 10 (L7).

Others developed self-protection strategies, but such strategies did not rely on any sexual arrangements with male prisoners. Thus, Rachel, afraid of another sexually assault, no longer fully "'present[s]' as female". She still wears make-up and "prosthetic breasts", but, instead of more feminine clothing, opts for "jeans and a t-shirt" (L3). She feels the need to explain:

"It's not a case of hiding who I am, but more about not flaunting it" (L7)

She also rebels against stereotypes:

"a woman doesn't need to dress a certain way, have a certain hairstyle or act a certain way. I identify as female, therefore everything I do is what a woman would do" (L4)

Poppy has never been sexually violated in prison, but, since coming out, has "had shit thrown all over [her], called a tranny bitch", "been spat at" (L2) and had her nose broken by a transphobic prisoner (L8). Yet, she remains obstinate:

"When not locked up I will wear whatever female clothing I can get away with that doesn't bring me abuse... I feel that not to wear some form of female clothing means that the biggots have won and I for one won't let that happen" (L3)

Despite the risks, none of our respondents sought protective pairing. Many reported that transactional sex was common in their prison (e.g., Wildgoose, L8); and some were propositioned. Yet, only two admitted having had engaged in transactional sex, and only for a short period of time, when in dire straits. The rest vehemently refused to even consider it.

There were no “make-believe” husband-wife pairings; though a genuine romance did bloom. For instance, Sharron fell in love with a fellow prisoner who treated her “like a ladie”, and the two were engaged to be married (L3). Similarly, Fayth, a non-binary respondent, found their “primary for life” in prison and the two intended to get engaged in prison and to marry upon release (L8). Such romantic relationships that endure beyond prison are very different to the abusive sex reported by Jenness and colleagues.

On the whole, the main strategies employed by TGNC prisoners were defensive: “not flaunting” and exercising “extreme caution”. Neither strategy relied on subjecting to male dominance for protection or status. Although female respondents expressed the desire to be accepted as women, it was rarely accompanied by an acceptance of gendered inequality. While they wrote about their need to express femininity, they also challenged the stereotypes of submissiveness and subjugation. For them, living and “presenting” as transgender women in prison was not an act of compliance with gender norms but the struggle to stay true to themselves against the odds.

Yet, there was also a third, bolder strategy: building up support for transgender prisoners, through increasing awareness of transgender issues and alliance with LGBTQ groups. At the time of study, the English prison regulations on transgender prisoners had been in place for nearly a decade, and the organisational structures adapted to incorporate staff responsibilities for trans matters (e.g., each prison had an Equality manager with the remit for protected characteristics, and many had prisoner-led LGBTQ forums). Our respondents mobilised these structures to combat transphobia and build support for trans community. Rachel was a prisoners Equalities representative and a member of the team that dealt “with any issues of bullying or discrimination based on the 9 protected characteristics” (L5). She resurrected the local LGBTQ group and organised a “Trans Gender day” and a LGBTQ barbeque. Wildgoose produced prison LGBTQ newsletters. Batgirl and Poppy were members of LGBTQ groups, and Jerika Ramone organised the first Transgender Day of Remembrance in her prison (L4). Where the formal structures were inactive, trans prisoners launched personal crusades. Brittany’s prison did not provide transgender women with adequate access to clothing and make-up, so she contacted a charity to arrange donations and was collecting local transgender policies from different prisons to push for the same access in her establishment. Other prisoners submitted letters that described their experiences to the national prison newspapers. Last but not least, many respondents wrote that they joined our study to further the cause of TGNC prisoners by sharing their experiences. Most wanted us to create a pen pal network of project participants to encourage TGNC links. Jerika Ramone developed a questionnaire (implemented in our study) to gather the information about transgender prisoners’ access to hair care and make-up across prisons in order to advocate for the better access in her prison.

To sum up, while the TGNC prisoners' vulnerabilities are considerable, we also discern a strength in their steadfast struggles to maintain identity against the odds, a resilience in their ability to develop loving relationships, and a power in their valiant efforts to strengthen TGNC community.

OVERCOMING THE INSTITUTIONAL VULNERABILITIES

The complexity of and frequent changes in regulations on transgender prisoners created challenges for implementation. Given the shortage of prison resources, it was difficult for the staff in prisons that housed one or few TGNC prisoners to keep abreast of new requirements:

"Some staff on the wings are aware that a PSI [prison service instruction] exists but no idea of its content. Certainly at the start even management didn't know what was in the PSI as I often ... told them what relevant sections say" (Samantha, L3)

While many prisons endeavoured to implement the regulations, "translating [them] into operational reality [was] impossible", as Sapphire explained:

"This prison is experiencing a major crisis - ... increasing availability of drugs, assaults on staff increasing, high staff turn-over rates, shortage of experienced staff, and a shortage of just staff in general – and because of this crisis there is no additional resources to enable prison staff ... to think about how to practically implement the [regulations]" (L3)

Below we discuss two problem areas highlighted by our respondents as particularly important: access to gender-affirming items and access to gender-affirming medical treatment.

Access to gender-affirming items

The new 2019 regulation expanded the requirements for various risk assessments relating to trans prisoners but condensed the requirements on access to items necessary for "living in gender", decentralising decisions to the establishment level:

"The Policy ... do[es]n't give no definitive on what is/isn't allowed etc ... [The previous regulations] clearly stated whatever applies to the female estate must be sought for those living acquired gender in male estate ... [but] with this one now each jails making own choice" (Brittany, L5)

The decentralisation led to inequities across prisons. Some prisoners were allowed access to the clothing lists/catalogues provided in the female estate, others were not. Some were provided with free prison-issue female underwear, others had to purchase it. Some were permitted to use prosthetics (such as breast forms), only to be told that the prison had no approved supplier for the items. When a prisoner was transferred to a different establishment,

“the availability of ‘gender affirming’ items ... might differ or not exist”; and such “lack of consistency inevitably ha[d] a detrimental effect on a Trans person’s ability to ‘present’ and ‘express’ their gender identity” (Sapphire, L5)

The decentralisation also opened up the room for differences in interpretation within a single prison. Samantha described how one prison department had given her the permission to order female clothing, but another stopped the order saying that “female attire was not allowed” (L3a). While the new regulation permitted TGNC prisoners “to present and express themselves in the gender with which they identify”, it specified that “clothing, hair, make-up and other accessories may be subject to risk, security and operational assessments” (PF Para 4.44, 4.46). Wildgoose opined that

“far too much is not mandatory and is left to the personal whims & prejudices of the Governor, along with the often unaccountable whims of Security” (L3)

Our respondents found some decisions arbitrary: Sapphire was refused a plastic hair clip due to security risk (L2), Poppy - “a high leg brief with a lace insert” because it was deemed “too sexy” (L7). Amelia had all her female underwear confiscated on reception and told that “these clothes are illegal here” (L3). Winter Rose could not order over the knee socks because only short socks were on the approved list in a female prison (L8).

At the extreme, Eve had been

“forced to wear prison clothing with claims this is a high security prison and the [Prison Service regulations] dont apply to them and claims the prison clothing is neutral gender despite a recent inspection by an outside inspector made it clear that prison clothing here clearly did not look female” (L3)

She poignantly concluded that her “transgender female identity is constantly used ... as a punishment by stripping of it” (L3)

“At best prison clothing is part of a complex internal prison system of regulated consumption, provision, distribution and maintenance. At worst it is about embodied punishment” (Ash, 2010, p. 6). For transgender prisoners, clothing, prosthetics and make-up constitute an important element of gender expression (Nulty et al., 2019), as well as help to produce “evidence of living in gender” for a defined period of time required to obtain access to medical treatment and legal recognition.

Our recommendation

To increase equality, we endorse a recommendation made by one of our respondents that echoes the views of US trans prisoners (Lydon, Carrington, Low, Miller, & Yazdy, 2015, p. 5):

“All registered trans AND non-binary prisoners at each security level [should] have access to the same products and suppliers, regardless of which prison they are in. This must be mandatory, not at the whim of individual Governors or Security departments” (Wildgoose, L12)

Access to gender-affirming medical treatment

The English prison healthcare is cited as a model of good practice, because it is provided by the National Health Service, effecting the principle of equivalence (“prisoners should enjoy the same standards of health care that are available in the community”) of the UN *Standard Minimum Rules for the Treatment of Prisoners* (United Nations Office on Drugs and Crime, 2015). The principle, however, is compromised by “the increasing size and complexity of the prison population, coupled with a diminishing level of resources” (Ismail & de Viggiani, 2018, p. 746).

The prison regulations uphold the principle of equivalence for access to gender-affirming medical treatment for individuals diagnosed with gender dysphoria (PF para 4.78). Yet, the principle’s fulfilment is thwarted by the difficulties of access to diagnosis. To receive the diagnosis a person must be referred by a General Practitioner (GP) to a Gender Identity Clinic (GIC) that assesses for gender dysphoria over the course of at least two appointments. Owing to the growing demand and no commensurate increases in capacity, over the 2010s the waiting times for first appointment in the community surged to at least 18 months (BBC News, 2020). In prison, the wait was even longer: Poppy was still waiting after nearly 3 years since the referral (L8); Rachel already passed 3 years mark (L8).

The difficulties in communication between the prison and GICs were partly to blame. Amelia quoted from the note made by the prison healthcare in her medical records:

“continually chasing referral updates from gender identity clinic, phone not answered or cut off, emailed but received a response stating email enquiries not accepted, have now faxed the admin team requesting receipt of referral” (L3)

Prisoners, however, experienced additional barriers:

“The gender [clinic] has now replied saying before they can fully accept my referral they will need my index offence and risk factors. ... although I have given consent for healthcare to share this the [prison] manager has refused saying he is unhappy to disclose this information. It seems to me that the staff are trying to postpone every thing for as long as they possible can” (Chloe, L3)

Those who were incarcerated after the referral or transferred to a different prison had to restart the process, which lengthened their wait (for Skye, it was approaching 6 years (L4)). Those lucky to get a consultation could be told to wait because prison did not qualify as “real life experience”. Jerika Ramone was told:

“... ‘you need to do a life test in public so we’ll wait till you get released before we treat you’. I answers, ‘I’m a lifer, I may be in for another 20 years.’ He replied ‘If you’re still in in 20 years and living in role we’ll take that as your way of life and treat you then’” (L3).

Consequently, only three respondents had succeeded in getting the diagnosis and were undergoing gender-affirming hormonal treatment (GAHT) (and for Winter Rose it took 6 years between first appointment and starting GAHT (L4)).

Impeded access to gender-affirming healthcare aggravates health problems afflicting transgender people through the gender minority stress caused by transgender stigmatisation. In the community transgender people suffer from higher rates of anxiety, depression, self-injury, and suicidality than their cisgender counterparts (Clements-Nolle, Marx, & Katz, 2006; Nemoto, Bödeker, & Iwamoto, 2011; Reisner et al., 2016) and in prisons these risks are amplified due to trans prisoners multiply disadvantaged status. Many respondents reported depression, self-harm and suicidal ideation as a result of waiting for assessment and treatment. When Hotaru discovered that her first appointment would be in three-four years, she

“felt that I had to do my own transition (I felt there was no help and no hope) ... so I attempted and almost succeeded in performing my own Orchiectomy” (L6)

Health problems, however, further hindered access to diagnosis and treatment, resulting in:

“a Catch 22 situation ... as our waiting list gets longer & longer leading to increased self-harm & suicide. [...] [but] GIC’s won’t help us if we’re unstable (self-harm/suicidal)” (Hotaru, L12).

Transgender prisoners who used private gender services prior to incarceration could be refused the continuation of GAHT in prison. For Amelia this led to “forced detransition” (i.e. the reversal of physical changes she attained through GAHT), which “left [her] even more depressed than [she] was prior custody” and “increased [her] anger, anxiety and frequency of suicidal thoughts” (L3)

A potential solution would be for prison GPs to offer a “bridging prescription”, i.e. prescribe GAHT as “part of a holding and harm reduction strategy until [patients] are able to access specialist services” (Royal College of Psychiatrists, 2013, p. 25). The medical evidence overwhelmingly confirms positive effects of GAHT on lowering depression (Nguyen et al., 2018), improving mental health (Iwamoto et al., 2019), and reducing suicidal ideation (McNeil, Ellis, & Eccles, 2017). Prison GPs, however, were reluctant to make bridging prescriptions. Samantha described how a prison nurse tried

“to explore all avenues of a bridging prescription but without success despite her absolute conviction that the GIC would place me on HRT [hormone replacement therapy]. [The nurse] is knowledgeable on transitioning .. [...] However she and the GP are not confident/willing to prescribe “off label” due the risk of litigation” (L3)

GPs in the community were similarly unwilling make bridging prescriptions due to prejudice, ignorance, and fear of lawsuits (Toze, 2019); but in prison the consequences of inaction were dearer.

Our recommendation

To alleviate the sufferings of transgender prisoners, we concretise Brömdal, Clark, et al.’s (2019, p. 346) recommendation to provide “gender-affirming medical healthcare ... to all incarcerated transgender people who require it” in two proposals. A moderate proposal is for the prison service to appoint a specialist prison GP with expertise in transgender care for

a group of prisons who would provide bridging prescriptions. A bolder proposal that reaches beyond the prison is to adopt the informed consent model of access to GAHT (Ashley, 2019), license GAHT medication, and allow all GPs to prescribe GAHT.

IN LIEU OF CONCLUSION

Difficulties of research access to TGNC prisoners “compound their vulnerability” by preventing “their stories being told and lived experiences shared” (Brömdal, Clark, et al., 2019, p. 344). A correspondence method of collecting data may help overcome some of the barriers and allow the trans voices to transcend the prison walls. It may also make the incarceration just a bit more bearable for those who, like many of our respondents, have been abandoned by family and friends for their transgressions against the law and the conventions of gender.

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