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The Cinderella Complex: Punishment, society and community sanctions

Abstract

This article explores the neglect of community sanctions (probation, parole etc.) in contemporary punishment and society scholarship, and seeks to understand why this part of the penal field has not attracted significant attention from researchers, despite expansion and diversification in a variety of jurisdictions. Following a review of punishment and society scholarship which confirms the 'Cinderella' status of community sanctions, three arguments are proposed to help make sense of this finding. These concern the problems of language and labelling; the (in)visibility of the field; and the debateable penal character of community sanctions. The article concludes with a 'call to arms' for punishment and society scholars, which entails recognising Cinderella as a key actor in the stories we tell about penal change, and pushing her out of the shadows of punishment and society scholarship.

Introduction

In their recent authoritative introduction to the field of 'punishment and society' scholarship, Simon & Sparks describe it as one which centres on "interpreting the forms of punishments in terms of the social, political, cultural and historical conditions of the society in which those forms arise" (2013: 2). This "space of scholarship", they continue, is "*essential* [because] the powers that are activated in

the name of punishment, the resources generated and consumed, the claims made and disputed, the emotions aroused and, of course, the millions of lives around the world that are affected by the ways in which penal practices are conducted and applied, all argue for a concerted effort of understanding, clarification and critical reflection" (2013: 2, emphasis in original). Yet their own review of the field would appear to indicate that this 'essential space' has largely been filled with studies of just one type of punishment: namely, imprisonment. Meanwhile, punishment in other forms has, it seems, been neglected. This in itself is not a new observation: some 20 years ago Peter Young remarked with incredulity upon the neglect of monetary penalties in the literature, despite these being the most commonly used forms of punishment in many jurisdictions.

Financial penalties are not, however, the focus of the present discussion. In this article I want to focus upon another class of non-custodial punishment which is barely mentioned in Simon & Sparks' review. For want of a better term, I shall refer to the subject of this article as 'community sanctions' – a term which I use to include sentences – or parts of them – which include some element of supervision in the community (thus encompassing both community-based sentences and those elements of custodial sentences which are served in the community). A rarely cited fact about such sanctions is that, in many Western jurisdictions, caseloads of offenders under some form of community supervision have been swelling

significantly, such that in many parts of the world they heavily outweigh custodial populations. For example, in England & Wales, the sentenced prison population in mid-2013 was 71,233 whilst the population of offenders under some form of statutory supervision in the community was 152,517 (Ministry of Justice 2013). In 2010, 1 in every 58 adults in the US was under probation supervision, compared with 1 in every 104 adults in the custody of state or federal prisons (Glaze 2011, cited in Phelps 2013a). Yet the reality of what has been termed 'mass supervision' in the European context (McNeill et al 2011; Robinson, McNeill & Maruna 2013) and (describing a more specific sub-population) 'mass probation' in the USA (Phelps 2013b) does not appear to have attracted the attention of large numbers of scholars. It certainly has not been afforded the degree of attention that has been devoted to the parallel rise of 'mass imprisonment'. Phelps for example has recently complained that scholars in the USA have seeming "lost interest in probation...rarely engaging with it seriously as an important institution" (2013a: 52). It would appear then that there is a yawning gap in the punishment and society literature where studies of community sanctions ought to be, rendering them the 'Cinderella' of the field[1].

[1] 'Cinderella' is a term which has also been used to describe other neglected topics in criminological enquiry: among these, the children of prisoners (Shaw 1987) and the punishment system in the context of empirical enquiry (Hood 2001).

The purpose of this article is to critically explore the 'Cinderella status' of community sanctions in the (Anglophone) punishment and society literature. It takes as a starting point Simon & Sparks' overview, but it is not intended as a critique of their work *per se*. Rather, it begins by examining the representation of community sanctions scholarship in their introduction to the field, and goes on to explore the apparent gap which this throws up. It proceeds to argue that although Simon & Sparks' overview fails to highlight a significant body of work published in the 1980s, the exposure of this work does little to challenge the *contemporary* Cinderella status of community sanctions in punishment and society scholarship. In the remainder of the article, I seek to explain the Cinderella complex, focusing on three interrelated arguments. These concern the problems of language and labelling; the (in)visibility of the field; and the debateable penal character of community sanctions. The article concludes with a 'call to arms' for punishment and society scholarship, which entails recognising Cinderella as a key actor in the stories we tell about penal change, and pushing her out of the shadows of punishment and society scholarship.

Reviewing the field: Simon & Sparks on 'punishment and society'

'Punishment and society' is a field, Simon & Sparks argue, with a 'pre-history' stretching back to the early contributions of Durkheim at the close of the 19th century and Rusche & Kirchheimer (in the Marxist tradition) between the wars.

However, the field really opened up in the period between the late 1960s and the early 1980s, in the context of particular political, cultural and epistemological developments in advanced liberal states. It is in the 1970s, then, that Simon & Sparks locate the 'first wave' of literature in the punishment and society tradition. This decade, they explain, saw something of an explosion of research - much of it historical – with modes of punishment and social order at its heart. Simon & Sparks understand the coincidence, in the 1970s, of a number of key studies of changing modes of punishment in the 18th and early 19th centuries in light of then contemporary (i.e. 1970s) problems of governance and social order. This body of work, they contend, emerged on the crest of a wave of social turbulence which seemed to renew intellectual interest in social conflict and disorder as essentially "problems of government" seeming to require new (or revised) strategies of social control (2013: 8).

Simon & Sparks' chapter includes two tables of what they see as key literature in the punishment and society tradition, representing two significant 'waves' of scholarship which they identify. The first, spanning the decade of the 1970s, includes thirteen publications, among them Foucault's *Discipline and Punish: the Birth of the Prison* (1975/1977)*;* Melossi & Pavarini's *The Prison and the Factory* (1977/1981)*;* and Ignatieff's *A Just Measure of Pain* (1978). The second significant wave of scholarship identified by Simon & Sparks is that which, starting in the

1990s and continuing into the present, has sought to expose and explore the phenomenon of mass incarceration, which (alongside the resumption of executions in the USA in the 1990s) has been seen as indicative of a punitive turn in penal politics and practice in the USA and elsewhere. Simon & Sparks supply a catalogue of 20 items of key literature centred on this topic, which starts with Zimring and Hawkins' (1991) *The Scale of Imprisonment* and concludes with Wacquant's (2009) *Punishing the Poor.*

A striking feature of Simon & Sparks' overview of the punishment and society field is the centrality of prisons and imprisonment in the literature they review – a fact which does not escape their attention, and which they make some effort to explain. So, with respect to the first wave of (1970s) literature, they argue that: "In a variety of complex ways the prison emerged as the institution most problematized by [the social trends of the 1960s and 70s] and their points of intersection" (2013: 7). Thus, for example, they cite the rising number of ethnic minorities imprisoned in the US at a time of "widespread awakening of demands for greater social justice for minorities in the USA", as well as growing pessimism about scientific rehabilitation which undercut the legitimacy of the prison as part of a social reform agenda (2013: 7). The 'second wave' of research – centred on mass imprisonment – emanated from "a gathering concern with the shifting scale of punishment" (2013: 11) as documented in quantitative studies by Zimring & Hawkins (1991)

among others; and a desire to explain it, with reference to political, economic and cultural developments and perspectives.

So, do Simon & Sparks overlook community sanctions altogether? Not quite. The authors' final observation, in the main body of the chapter, is that "*Around* the problem of mass imprisonment, other punishment and society scholarship has looked at different modes of punishment" (2013: 11, emphasis added). In this context they refer, firstly, to recent work on capital punishment (e.g. Garland 2010); and secondly to work on "the continuing transformations of community sanctions that emerged during the era of penal welfarism" (2013: 12). To illustrate this latter vein of research, five studies are cited. Three are studies of parole in the USA (Simon 1993; Lynch 1998; Petersilia 2003); the other two are articles, both by UK authors, on the rise of surveillance technologies such as electronic monitoring (Jones 2000; Nellis 2009).

What then does Simon & Sparks' overview tell us about the extent or contribution of research on community sanctions to the punishment and society field? The implication (and the impression that doubtless would be formed by an educated newcomer to the field) is that this has been rather minimal. For example, neither of their two catalogues of 'key works' contains any item which is explicitly or centrally about such sanctions. However, it is important to acknowledge that

Simon & Sparks' introductory chapter makes no claim to be comprehensive in its coverage. They also note that the field of punishment and society is "already too complicated to be mapped in any precise sense" (2013: 12). And of course they declare, of their review of the literature from the early 1990s, an explicit focus on mass imprisonment. Thus, to the extent that there may be key literature on community sanctions in the punishment and society oeuvre, it could well be hidden, falling through the cracks between the decades on which this particular review focuses, or obscured from view in some of the other titles in their two key bodies of literature.

Mind the gap: the 1980s

To begin with the latter point, it is well known that key texts by Foucault (1977), Scull (1977) and Garland (2001) have had a significant impact on research in the community sanctions domain. But relatedly – and perhaps more importantly - it is also notable that the 'missing decade' in Simon & Sparks' overview (namely, the 1980s)[2] was actually a very productive one for community sanctions scholarship in the punishment and society tradition. Much of this work utilised Foucauldian concepts to analyse historical and/or contemporary developments.

[2] There are a couple of exceptions to the neglect of the 1980s in Simon & Sparks' overview. First, they note that the early 1980s saw Spierenburg bring Elias's (1939) theory of the 'civilizing process' to the table in his book *The Spectacle of Suffering*, in a further study of the displacement of the scaffold by the prison in Europe. Second, Garland & Young's (1983) edited collection *The Power to Punish* is also highlighted (in the text of the chapter) as a key contribution to the literature.

Firstly, the 1980s was the decade during which two key pieces of historical research were conducted (albeit that one was not published until the early 1990s). David Garland's (1985) *Punishment and Welfare* analysed the formation of modern penality in Britain and, in that context, the creation of formal organisational and legal structures for 'probation'. Jonathan Simon's (1993) US study *Poor Discipline,* (one of the small number of pieces cited by Simon & Sparks) analysed the development, over a one hundred year period, of parole in a single jurisdiction (California). Both of these accounts located the formal/legal origins of community sanctions in the context of the social, political and cultural shifts which coalesced around the turn of the twentieth century to inaugurate a specifically modern penality: one that brought the welfare/reform of the individual into the domain of state responsibility and, in that process, extended the reach of disciplinary power (in the Foucauldian sense). Both described how the modernist quest for 'normalization' was transformed in the early decades of the twentieth century as ideas about moral reformation gave way to a more 'scientific' discourse centred on diagnosis, treatment and 'rehabilitation'.

The 1980s were not however only the context for serious *historical* work on community sanctions: a number of scholars were also beginning to think about the consequences for and impact of the so-called collapse of the rehabilitative ideal

(Allen 1981) - and the broader 'crisis of penological modernism' described by Garland (1990) – for modes and patterns of *contemporary* social control beyond prison walls. In particular, attention focused on the fate of rehabilitation and 'disciplinary power' in the wake of the turbulent 1970s. As I have already noted, this was the decade during which Jonathan Simon was undertaking the fieldwork, in inner-city (Californian) parole units, that he reported in the second part of *Poor Discipline.* Simon (1993) described a decisive shift, starting in the mid-1970s, from a 'clinical' model of parole (centred on the normalization of ex-prisoners) to a 'managerial' model, characterized by significantly lowered expectations and functioning as a mechanism for securing the borders of communities by channelling their least stable members back to prison. It was these ideas which would underpin the 'new penology' thesis which was to prove so influential in the *Punishment and Society* scholarship of the following two decades (Simon 1993; Feeley & Simon 1992, 1994).

The early 1980s also saw some British scholars predicting the diminution of discipline in the community sanctions context. In a collection entitled *The Coming Penal Crisis* (Bottoms & Preston 1980), two chapters drew attention to a crisis of legitimacy faced by the English probation service, and foresaw an expansion of 'non-disciplinary' disposals such as the (then relatively new) sanction of community service (Bottoms 1980; Pease 1980). These analyses went against the

grain of other accounts which were emphasising an *extension* of discipline in the context of both formal and informal domains of social control[3]. This so-called 'dispersal of discipline' thesis was the subject of three chapters (Scull 1983; Cohen 1983; Mathiesen 1983; see also Bottoms 1983) in Garland & Young's (1983) collection *The Power to Punish*, and was further elaborated in Cohen's (1985) seminal book *Visions of Social Control,* in which the focus was the gap which Cohen perceived between the rhetoric of decarceration and diversion, and the reality of the deviance-control system as he saw it emerging at that time. Cohen utilised a much-cited 'fishing net' analogy (in which "deviants are the fish" (p.42)) to describe the increasing extension, widening, dispersal and invisibility of the (non-carceral) social control apparatus as he observed it. Both Scull and Cohen focused some of their attention on what US commentators were calling 'the rise of community corrections', characterised as "a wide spectrum" of approaches, schemes, programmes and sanctions, all constituting examples of "formal social control operating outside the walls of traditional penal institutions" (Scull 1983: 146) - though not necessarily functioning as alternatives to imprisonment (Cohen 1985).

[3] Bottoms (1980, 1983) argued that, contrary to the 'dispersal of discipline' thesis, we might be at the point of "abandoning coercive soul-transformation" (1980: 21) in favour of a wider range of sanctions with non-disciplinary aims.

Indeed, it was the apparent failure of the decarceration movement in relation to offenders (if not other 'deviant' populations) which was to spawn, in the late 1980s, a small literature centred on the notion of 'transcarceration', a term denoting the blurring of boundaries between the sites and the providers of social control[4]. The so-called 'transcarceral model of control' described by Lowman, Menzies and Palys (1987) emphasised a tendency toward cross-institutional arrangements and dynamics of social control which:

> For delinquents [will mean] that their careers are likely to be characterized by institutional mobility, as they are pushed from one section of the help-control complex to another [and] For control agents, this means that 'control' will essentially have no locus and the control mandate will increasingly entail the 'fitting together' of subsystems rather than the consolidation of one agency in isolation from its alternatives (Lowman et al. 1987: 9).

Several contributions to the edited collection *Transcarceration* (Lowman et al. 1987) examined what the editors referred to as the marriage of exclusive and

[4] Although the term 'transcarceration' has been deployed by scholars to describe and explain movements between institutional sites (e.g. O'Sullivan & O'Donnell 2012: 260-62), it should be noted that it was not devised to refer only to mobility between carceral institutions, as the extract from Lowman et al. (1987) illustrates. Indeed, Simon's (1983) model of 'managerial parole', referred to above, fits the transcarceration concept well.

inclusive modes of social control, and of the institution and the community – for example as evident in the emergence in some jurisdictions of home confinement schemes (Blomberg 1987) and the expansion in others of parole and other mandatory forms of post-custodial supervision (Ratner 1987).

We might then characterise the 1980s as the backdrop for a 'first wave' of community sanctions scholarship in the punishment and society tradition. All of the contributions referred to above constituted attempts to analyse, in theoretically informed ways, developments in the penal field beyond the prison in the context of significant changes in the social, political and cultural spheres. But has there been a second wave, accompanying the stealthy rise of 'mass supervision'?

Whither the 'second wave'?

As I have already noted, the explicit focus of Simon & Sparks' (2013) review of the 1990s literature is mass imprisonment and we must therefore expect to find within it an answer to the question of whether there has – or has not - been a 'second wave' of research devoted to the parallel rise of 'mass supervision'.

During the 1990s and 2000s, a few scholars followed Jonathan Simon's lead and set out to explore whether the displacement of rehabilitation/discipline by

managerial/actuarial approaches identified in the context of Californian parole (and in the 'new penology' thesis developed by Jonathan Simon and Malcolm Feeley) was evident in other contexts, such as in the supervision of offenders by the probation service in England & Wales (e.g. Robinson 2002; Deering 2011). This theme was also pursued in subsequent theoretical work by Garland, who continued to attend to developments in the community sanctions sphere in his wide-ranging analyses of late twentieth century penality in the UK and USA (Garland 1996, 1997, 2001). But arguably the lion's share of research attention in the last 25 years fell precisely where Simon & Sparks locate it: that is, "*around* (the problem of mass) imprisonment" (2013: 11, emphasis and parentheses added). To the extent that there has, in the punishment and society literature, been an interest in the growth and/or changing character of community sanctions, the spotlight has tended to fall principally on those sanctions or domains of punishment which are the more obvious adjuncts to imprisonment and, to a large degree, dependent upon it. I refer here to the topics of parole and re-entry (to use US terminology) and the development and rapid spread of surveillance technologies, most notably the electronic monitoring of offenders. In other words, scholarship has tended to centre upon what Simon (1993) and others have referred to as 'back door' sanctions and measures (i.e. those associated with the early/supervised release of prisoners), whilst 'front-door' sanctions and measures have tended to evade

serious attention[5]. This very much echoes Michelle Phelps' observation, referred to above, that researchers in the US have lost interest in probation.

Community sanctions have, meanwhile, been a notable omission in the developing comparative penology literature (McNeill et al 2011). Thus, for example, there is scarcely a mention of community sanctions in Cavadino & Dignan's (2006) influential *Penal Systems*, which focuses on comparing imprisonment rates and regimes[6]. And whilst some European and international collections devoted to community sanctions have appeared, these have tended to collate separate and rather descriptive accounts of their administration in different countries; thus containing little in the way of comparative or theoretical analysis (e.g. van Kalmthout & Durnescu 2008; Zvekić 1994). It would appear then that the supervision of adult offenders in the community has become something of a neglected and under-theorised zone – despite the fact that, as we have seen, several scholars in the 1980s foresaw the expansion and diversification of forms of non-carceral control in many western jurisdictions, and the empirical reality that offenders subject to some sort of supervisory sanction in the community have, in many of those jurisdictions, come to substantially outnumber those subject to custodial confinement.

[5] Albeit that electronic monitoring may also be used in conjunction with front-door measures.
[6] Though Cavadino & Dignan do devote some attention to youth justice systems.

Explaining the 'Cinderella complex'

In this section I want to explore some possible reasons why the phenomenon of 'mass supervision' has not attracted the scholarly attention it arguably warrants. I will put forward three main arguments, which concern (i) the problems of language and labelling; (ii) the (in)visibility of the field; and (iii) the debateable penal character of community sanctions. Each of these issues, it is argued, has played a role in keeping Cinderella in the shadows and out of the spotlight of punishment and society scholarship in the last twenty years. It should be noted that I do not intend to argue that these are the sole – or even necessarily the most important – explanatory factors at work when it comes to explaining the Cinderella status of community sanctions in the punishment and society oeuvre. My concern here is to identify plausible explanations that concern the attributes of community sanctions themselves, rather than other, contextual developments in the penal and/or academic fields. Thus, rather than seeking to produce an exhaustive list of possible explanatory factors (which might include, among other things, the diversion of at least some researchers into other fields of research, such as 'surveillance studies'; the 'failure' of the decarceration movement) I advance here three arguments that, I contend, carry at least some explanatory weight.

My first two arguments are related, in that they combine to make the point that scholars could perhaps be forgiven for failing to notice a part of the penal field that is both difficult to label and virtually invisible. Scholars of prisons and imprisonment do not generally devote very much time or attention to defining the subject of their research endeavours: it is often said that the prison is the universal symbol of punishment in the public imagination, and it would seem unlikely that language and/or jurisdictional differences would confound effective communication between scholars of the prison. The same cannot be said of the subject of this article.

Let us start with the problem of language and labelling. I refer here to the lack of a commonly accepted language to define or delineate the penal sub-field occupied by what I have called community sanctions. The first point to make is that these sanctions have often been described with reference to what they are *not*, rather than what they *are*: common examples are 'non-custodial sanctions' and 'alternatives to prison'. Other labels typically suffer from sounding rather bland, or else require extensive explanations as to what they do and do not set out to capture. A good example is Morris & Tonry's (1990) notion of 'intermediate punishment', which is far from self-explanatory and in fact requires the authors to devote five full pages of their book to an explanation of its precise boundaries. Quite often, 'community' features in definitions, whether in conjunction with

'sanctions', 'corrections', 'sentences' or 'punishment'; yet the term 'community' appears to have been emptied of any substantive meaning, seeming to indicate nothing more than the physical location of their implementation *outside prison.* A related point is that labels and terminology used in this arena tend to have elastic qualities: it is often unclear, for example, whether they include *all* non-custodial sanctions, or just those (or a sub-set of those) with a supervisory component. So, for example, Morris & Tonry's (1990) notion of 'intermediate punishment' includes fines, but not 'ordinary' probation. Terminology and its usage also differs in respect of whether post-custodial supervision and/or suspended custodial sentences are or are not incorporated. So, for example, in England & Wales, Mills (2011) includes the Suspended Sentence Order within her definition of 'community sentences', whilst Cavadino, Dignan & Mair (2013) maintain (rightly, in my view) that these orders are technically custodial sentences, albeit that they are designed to be served in the community. Here then it is necessary to draw a distinction between 'community sentences' and 'community-based sentences'.

The problem of language is then not simply a problem of translation between different jurisdictions: even in single jurisdictions scholars use different terms which are more or less inclusive of different forms of supervision. For example, one of the leading UK commentators in the field has aptly described the object of his research as a "slippery fish" which is difficult to pin down (Raynor 2007: 1061).

Raynor opts for ‘community penalties’, but acknowledges the Anglo/Welsh specificity of this term, as well as its exclusion of the large populations of offenders subject to some form of supervision following release from custody. Alternative labels, popular with North Americans, like ‘community corrections’, are broader in scope but arguably imply a particular form of practice which is far from universal in its application, even in the jurisdictions in which the term is used. Meanwhile, more traditional terms like ‘probation’ and ‘parole’ have the advantage of being reasonably well established, but they do not necessarily travel well across time or space, or cover all of the potential ground. For example, in England & Wales, the institution of ‘probation’ is in the process of being dramatically reconfigured, and the label itself no longer describes any contemporary sanction (e.g. see Raynor 2012); whilst ‘parole’ refers to the post-custodial mandatory supervision of only a minority of ex-prisoners (i.e. those subject to discretionary – as opposed to automatic - early release). Scholars in the field are thus faced with a range of problematic choices, which have arguably been compounded in recent years, in some jurisdictions at least, by varying degrees of practical innovation and diversification which have tended to spawn yet more labels. We are thus dealing with a moving target which has been difficult to capture discursively, and which has rather blurred edges.

In this article (and elsewhere: see Robinson, McNeill & Maruna 2013) I have opted for the label 'community sanctions', derived from the Council of Europe's broader category of 'community sanctions and measures', defined as:

> [those] which maintain the offender in the community and involve some restriction of his liberty through the imposition of conditions and/or obligations, and which are implemented by bodies designated in law for that purpose. The term designates any sanction imposed by a court or a judge, and any measure taken before or instead of a decision on a sanction as well as ways of enforcing a sentence of imprisonment outside a prison establishment (Council of Europe 1992, Appendix para.1).

The key strength of this definition, I would argue, is its inclusivity: it succeeds in capturing not just the wide array of penalties handed down by the courts (sometimes, following Simon (1993) called 'front door' measures) which fall between non-supervisory penalties (such as fines) and custodial sentences; but also statutory post-custodial ('back-door') measures associated with early release schemes (such as parole) and suspended sentences of imprisonment which entail community-based conditions. Community sanctions and measures thus have in common some form of oversight or supervision of individuals' activities whilst

maintaining them in the community, but they do not include financial penalties[7]. A weakness, however, is that the distinction between *sanctions* and *measures* is not fleshed out in more detail by the Council of Europe, which leaves open questions about whether (for example) a period of statutory post-custodial supervision in the community is a sanction or a measure.

The absence of a commonly accepted language to define or delineate the penal sub-field that I have called community sanctions is then a significant issue, but it is arguably compounded by its relative invisibility. Unlike prisons, community sanctions have no obvious physical architecture or structural locus (beyond probation and parole offices and supervisees' homes) and those who administer them tend not to wear uniforms, such that both the sanctions and those who enact them fail to generate ready images or occupy any significant space in the public imagination. As Mike Nellis has recently observed, "probation...is not very photogenic [and] the great majority of people have no source of information about what probation does" (2012: 5-6). Again, the comparison with prisons is an unfavourable one: as Mathiesen (2000) notes, prison serves an 'action function' in society by virtue of being the most observable type of sanction (and thus the strongest form of evidence that something is being done about crime and disorder).

[7] Morris & Tonry (1990: 4) discuss a different use of the term 'community sanctions' by the Canadian Sentencing Commission, in which it was used to denote all non-custodial punishments (including financial penalties, for example).

It is difficult to make similar claims for community sanctions[8]. They have no obvious iconography. It is then perhaps the case that the scholarly attention which has been devoted to electronically monitored punishments (e.g. see Nellis et al, 2012) is partly attributable to its relative visibility in an otherwise obscured field. However, it is also notable that electronic monitoring falls squarely within the purview of 'surveillance studies', which has developed as a significant sub-field within the sociology of social control (e.g. Lyon 2007), and which has perhaps played a role in deflecting attention from the broader field of community sanctions as an object of serious scholarship.

Coupled with the complexities and uncertainties around language and labels, the problem of visibility could thus be a significant part of the reason why community sanctions have come to be the Cinderella of punishment and society scholarship. Each of these problems arguably detracts from the sense of there being a penal territory or 'sub-field' which is easy to identify, visualise and/or articulate, and which might prove attractive to scholars of punishment and society[9]. Ironically, it would seem, the very diversification and expansion of community sanctions

[8] Compare the results of 'Google images' searches for 'prison', 'probation' and 'community sanctions'. Electronic monitoring is perhaps an exception, in that the ankle bracelet is a relatively well-known image.

[9] It is worth noting here that a recent review of research on the practice(s) of offender supervision in Europe found that a significant number of researchers who are or have been active in this area are former practitioners, who will of course come to the field with prior knowledge, understanding (and images) (Robinson & Svensson 2013).

anticipated in the 1980s by Bottoms and others - which ought to have incentivised serious scholarship after that decade - may in fact have had the effect of inhibiting research attention by virtue of their contribution to the obfuscation of a community sanctions 'field'.

This, however is not the end of the story. Not only are many scholars confused or failing to agree about what to call community sanctions, if they are noticing them at all; but there is further uncertainty about their 'penal character': that is, the question of whether such sanctions are in fact instances of *punishment* at all. If community sanctions are not understood or taken seriously as forms punishment, then it would follow that scholars of punishment and society would tend to overlook them.

It has often been noted that imprisonment trumps most other sanctions (apart from capital punishment) in the punitive stakes, and that in societies which prize the liberty of the individual, the deprivations of imprisonment and threats to human rights which it poses are most pronounced among available penalties. These are important and legitimate reasons why imprisonment has attracted significant scholarly attention, not least from human rights scholars (e.g. van Zyl Smit & Snacken 2009). Whether imprisonment constitutes 'punishment' or has 'punitive weight', then, is not questioned; and (again, with the exception of capital

punishment) other sanctions tend to look somewhat less significant or at least 'softer' in comparison. Interestingly, it is precisely for this reason that Morris & Tonry advocate the term 'intermediate punishments' in their book:

> Why "punishments" and not "sanctions"? This is almost, but not entirely, a question of taste rather than analytic substance. One of the reasons why American criminal justice systems have failed to develop a sufficient range of criminal sanctions to apply to convicted offenders is that the dialogue is often cast in the pattern of punishment or not, with prison being punishment and other sanctions being seen as treatment or, in the minds of most, "letting off" (1990: 5).

Indeed, the punitive character of community sanctions – or, to put it another way, their status *as instances of punishment* - has been a perennial topic of debate, not just in the U.S. This is arguably at least partly to do with the fact that many such sanctions emerged in the context of welfare- and reform-oriented strategies (which often targeted youth), and have strong associations with missionary work and, later, social work (e.g. Garland 1985). Further, in legal terms, many such sanctions have, at certain points in their history, enjoyed the status of *alternatives to* punishment, typically requiring the consent of the offender (e.g. see Raynor 2012; McNeill 2013). In other words, to return to (one possible interpretation of)

the Council of Europe definition discussed above, they have tended to start out as *measures* rather than *sanctions*, signalling diversion from punishment. McNeill (2013) has recently argued that earlier incarnations of community sanctions as diversionary measures (or, worse, as apparently undeserved acts of mercy) may well explain why scholars with an interest in human rights have been relatively slow to notice them (though see von Hirsch 1990 and van Zyl Smit 1993, 1994 for exceptions). But a more general point for the purposes of the present discussion is that the identity of community sanctions in relation to punishment and penal sanctions is potentially unclear and/or ambiguous, suggesting a possible explanation for its relative neglect. To complicate matters, the international picture is rather varied, with differential availability and use of community 'sanctions' and 'measures' (and of course varying labels to describe them) between jurisdictions.

It is also arguably the case that associations with notions of mercy, welfare, help and treatment have generated, in some minds at least, a rather 'feminine' image for community sanctions. The same has of course been said about restorative justice (e.g. see Daly 2001, 2013), and just as restorative justice has often been caricatured as the opposite of (masculine) retributive justice, community sanctions have been dogged by an equally stark juxtaposition with custodial sanctions, a.k.a. 'real' (masculine) punishment. Part of the explanation for the relatively low status

of, and low interest in, community sanctions in punishment and society scholarship could thus relate to a more or less subconscious association with femininity. Cinderella has, after all, a female face[10].

Cinderella must go to the Ball

More than twenty years ago, Peter Young (1992) posed the question of why so much attention is paid by criminologists to the use of imprisonment when, in statistical terms, it could be described as a minor sanction. Young anticipated a number of reactions to his question from fellow criminologists, among these a degree of incredulity at even being asked to justify the attention paid to the prison[11]. Young does not of course argue that the prison is unimportant as an object of research, but he does maintain that the focus on the prison as exemplar "serves to mystify the way in which the penal system actually works" and is experienced by the majority (1992: 435).

[10] It is worth noting, in the context of this discussion, some recent scholarship around the 'feminization' of workforces in probation and allied organisations, both in England & Wales (Annison 2007, 2013; Mawby & Worrall 2013) and the USA (Holland 2008).

[11] "It would be said that the prison is at the heart of contemporary penal practice; that, historically, it is so closely associated with the rise of capitalism as to make it the epitome of the type of modern social relationships involved in the exercise of punishment. The responses could be couched in a number of vocabularies, from a conventional penological one to a radical or critical one, or a Foucauldian one emphasizing concepts such as discipline and power-knowledge. Interlaced with these there could well be an understandable humanitarian concern with the socially damaging nature of imprisonment to those who are imprisoned, indeed, to the social fabric in general; and again this will take on a number of inflections, from talk of the abuse of rights to a focus upon the critical sociology of power" (1992: 434).

This is a very important observation. Twenty years on, it remains the case that far greater numbers of individuals are, at any one time, subject to non-carceral penalties than to penal confinement, and in many countries, the range of non-carceral responses to offending has multiplied and diversified. Yet the myth that the prison is the dominant form of punishment continues to be perpetuated. For example, in her excellent recent book about the high security prison estate in England & Wales, Deborah Drake rightly observes an increasing reliance on the prison as a crime control tool, but goes on to state that imprisonment is "the most widely used form of punishment" (2012: 15-16). It is not entirely clear what Drake means here, but her point is certainly misleading. It is also unfortunate that she fails to acknowledge that other types of punishment have, in many countries, also been expanding, illustrating a general tendency in the literature on imprisonment to ignore other forms of punishment and their relationships with each other. It is, meanwhile, rare to see community sanctions 'quarantined' in this way from the subject of imprisonment. I have already noted, for example, that post-custodial community supervision (parole etc.) has tended to receive the lion's share of research attention (see also Phelps 2013b); and questions about whether community sanctions function as genuine alternatives to prison continue to occupy researchers (e.g. Bottoms et al. 2004; Mills 2011).

However, the issue is not simply a quantitative one. If the field of punishment and society scholarship centres, as Simon & Sparks argue, on "interpreting the *forms of punishments* in terms of the [various] conditions of society in which those forms arise" (2013: 2, emphasis added) then one might expect to see much more interest in the development of community sanctions in qualitative terms, and the similarities and differences evident between societies. There is some evidence that interest in this area is growing (e.g. Nellis, Beyens & Kaminski 2012; Robinson, McNeill & Maruna 2013; McNeill & Beyens 2013), but it nonetheless remains true that the community sanctions field is something of an untapped mine of valuable data about the qualities of contemporary punishment. It is often argued (or perhaps taken for granted?) that the prison is "a useful barometer for tracing the methods and parameters of state power" (Drake 2012: 14), but it is not the only such barometer; nor is it necessarily the best in relation to all of the questions that researchers might wish to ask about punishment and society. A good example concerns the debate about trends in punitiveness. To date, this debate has largely been conducted with reference to imprisonment rates, with little (if any) reference to the changing 'penal bite' of community sanctions[12]. It is then heartening that some recent research has begun to examine this issue in a range of contexts (e.g. Durnescu 2011; Robinson, McNeill & Maruna 2013). This work has begun to

[12] Although she does not refer directly to community sanctions, Drake has observed that "the question of whether imprisonment rates are the best indicator of punitiveness or penal severity remains unanswered" (2012: 18).

recognise a trend, in some jurisdictions, toward what we might call the 'penalisation' of community sanctions, which in some places (such as England & Wales) has involved a shift away from measures requiring the offender's consent, toward compulsory sanctions which do not. This is just one example. My contention then is that community sanctions have an important but underestimated role to play in the stories we tell about the changing penal field. Without them, we have only a partial story. A key character is missing.

This brings me back, finally, to the title of this article. The 'Cinderella complex' refers at once to the neglect and implicit 'inferiority' of the community sanctions field in punishment and society scholarship, as well as to its more concrete complexity. As I have argued, it is a field which is difficult to actually see/visualise or label clearly, and which has somewhat blurred boundaries. Indeed, I have argued that it is rarely recognised *as a field* (as opposed to a set of distinct 'silos' of probation, parole, community service etc.). This has not always been the case, however: when we revisit the research of the 1980s, reviewed above, it is evident that this body of work *did* recognise an emerging (and proliferating) field, and begin to draw attention to – and try to explain - changes in the size, position, constituents and character of this particular penal territory. In his classic study of Californian parole, Jonathan Simon, too, recognised front- and back-end community sanctions as part of the same family of supervisory sanctions (sharing,

in 1988, responsibility for around three-quarters of adults subject to 'corrections' in the USA) (Simon 1993: 11-12)[13]. The first important step, then, toward a sociology of the 'community sanctions' field, involves removing our blinkers and bringing that field into focus.

[13] As Simon noted "This study focuses on parole, but many of the same issues could be explored by taking a close look at probation" (1993: 12, fn 13).

References

Allen, F. (1981) *The Decline of the Rehabilitative Ideal: Penal Policy and Social Purpose.* New Haven, CT: Yale University Press.

Annison, J. (2007) 'A gendered review of change within the probation service', *The Howard Journal of Criminal Justice*, 46, 2: 145-161.

Annison, J. (2013) 'Change and the probation service in England & Wales: A gendered lens', *European Journal of Probation,* 5, 1: 44-64.

Blomberg, T.G. (1987) 'Criminal justice reform and social control: are we becoming a minimum security society?', in J. Lowman, R. Menzies, & T. Palys (eds) *Transcarceration: Essays in the Sociology of Social Control.* Brookfield, VT: Gower.

Bottoms, A.E. (1980) 'An introduction to "the coming crisis"', in A.E. Bottoms & R.H. Preston (eds.), *The Coming Penal Crisis.* Edinburgh: Scottish Academic Press.

Bottoms, A.E. (1983) 'Neglected features of contemporary penal systems', in D. Garland & P. Young (eds.) *The Power to Punish.* Aldershot: Gower.

Bottoms, A.E. & Preston, R.H. (eds.), *The Coming Penal Crisis.* Edinburgh: Scottish Academic Press.

Cavadino, M. & Dignan, J. (2006) *Penal Systems: A Comparative Approach.* London: Sage.

Cavadino, M., Dignan, J. & Mair, G. (2013) *The Penal System* (5th Edition). London: Sage.

Cohen, S. (1985) *Visions of Social Control*. Cambridge: Polity Press.

Cohen, S. (1983) 'Social-control talk: Telling stories about correctional change', in D. Garland & P. Young (eds.) *The Power to Punish.* Aldershot: Gower.

Council of Europe (1992) *Recommendation No. R (92) 16 of the Committee of Ministers to member states on the European rules on community sanctions and measures.* Accessible via: http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/default_en.asp [accessed 09.08.13].

Daly, K. (2001) 'Restorative justice: the real story', *Punishment and Society,* 4, 1: 55-79.

Daly, K. (2013) 'The punishment debate in restorative justice', in J. Simon & R. Sparks (eds.) *Sage Handbook of Punishment and Society.* London: Sage.

Deering, J. (2011) *Probation Practice and the New Penology: Practitioner Reflections.* Farnham: Ashgate.

Drake, D. (2012) *Prisons, Punishment and the Pursuit of Security.* Basingstoke: Palgrave Macmillan.

Durnescu, I. (2011) 'Pains of probation: effective practice and human rights', *International Journal of Offender Therapy and Comparative Criminology,* 55: 530–45.

Feeley, M. & Simon, J. (1992) 'The new penology: notes on the emerging strategy of corrections and its implications', *Criminology,* 30: 449–74.

Feeley, M. & Simon, J. (1994) 'Actuarial justice: the emerging new criminal law', in D. Nelken (ed.), *The Futures of Criminology.* London: Sage.

Foucault, M. (1975/1977) *Discipline and Punish: The Birth of the Prison.* (English translation 1977). London: Allan lane.

Garland, D. (1985) *Punishment and Welfare.* Aldershot: Gower.

Garland, D. (1990) *Punishment and Modern Society.* Oxford: Clarendon.

Garland, D. (1996) 'The limits of the sovereign state: strategies of crime control in contemporary society', *British Journal of Criminology,* 36 (4): 445–71.

Garland, D. (1997) 'Probation and the reconfiguration of crime control', in R. Burnett (ed.), *The Probation Service: Responding to Change (Proceedings of the Probation Studies Unit First Colloquium)*. Oxford: University of Oxford Centre for Criminological Research.

Garland, D. (2001) *The Culture of Control.* Oxford: Oxford University Press.

Garland, D. & Young, P. (eds.) (1983) *The Power to Punish.* Aldershot: Gower.

Holland, J.G. (2008) 'The feminization of the community corrections work force', *Corrections Today,* 70, 4: 44-47.

Hood, R. (2001) 'Penal policy and criminological challenges in the new millenium', *Australian and New Zealand Journal of Criminology,* 34, 1: 1-16.

Lowman, J., Menzies, R. & Palys, T. (eds) (1987) *Transcarceration: Essays in the Sociology of Social Control.* Brookfield, VT: Gower.

Lyon, D. (2007) *Surveillance Studies: An Overview.* Cambridge: Polity.

Mathiesen, T. (2000) *Prison on Trial.* London: Sage.

Mathiesen, T. (1983) 'The future of control systems: The case of Norway', in D. Garland & P. Young (eds.) *The Power to Punish.* Aldershot: Gower.

Mawby, R.C. & Worrall, A. (2013) *Doing Probation Work: Identity in a criminal justice occupation.* London: Routledge.

McNeill, F. (2013) 'Community sanctions and European penology', in T. Daems, S. Snacken and D. van Zyl Smit (eds.) European Penology. Oxford: Hart Publishing.

McNeill, F. & Beyens, K. (eds) (2013) *Offender Supervision in Europe.* Basingstoke: Palgrave Macmillan.

Mills, H. (2011) *Community Sentences: A Solution to Penal Excess?* London: Centre for Crime and Justice Studies.

Ministry of Justice (2013) *Offender Management Statistics Quarterly Bulletin,* January-March 2013 England & Wales. Ministry of Justice Statistics Bulletin. London: Ministry of Justice. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225195/omsq-bulletin-jan-mar-2013.pdf [accessed 08.08.13]

Morris, N. & Tonry, M. (1990) *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System.* New York: Oxford University Press.

Nellis, M. (2012) 'Representations of British probation officers in film, television drama and novels 1948-2012', *British Journal of Community Justice,* 10, 2: 5-23.

Nellis, M., Beyens, K. & Kaminski, D. (eds.) (2012) *Electronically Monitored Punishment: International and Critical Perspectives.* London: Routledge.

O'Sullivan, E. & O'Donnell, I. (eds) (2012) *Coercive Confinement in Ireland: Patients, prisoners and penitents.* Manchester: Manchester University Press.

Pease, K. (1980) 'The future of the community treatment of offenders in Britain', in A.E. Bottoms & R.H. Preston (eds), *The Coming Penal Crisis.* Edinburgh: Scottish Academic Press.

Phelps, M. (2013a) 'The paradox of probation: Community supervision in the age of mass incarceration', *Law & Policy,* 35, 1-2: 51-80.

Phelps, M. (2013b) *The Paradox of Probation: Understanding the expansion of an 'alternative' to incarceration during the prison boom',* Unpublished dissertation, Princeton University.

Ratner, R.S. (1987) 'Mandatory supervision and the political economy', in J. Lowman, R. Menzies, & T. Palys (eds) *Transcarceration: Essays in the Sociology of Social Control.* Brookfield, VT: Gower.

Raynor, P. (2012) 'Is probation still possible?', *Howard Journal of Criminal Justice,* 51, 2: 173-89.

Raynor, P. (2007) 'Community penalties: probation, "What Works", and offender management', in M. Maguire, R. Morgan and R. Reiner (eds), *Oxford Handbook of Criminology,* 4th edn. Oxford: Oxford University Press.

Robinson, G. (2002) 'Exploring risk management in the probation service: contemporary developments in England and Wales', *Punishment & Society,* 4, 1: 5-25.

Robinson, G., McNeill, F. & Maruna, S. (2013) 'Punishment in society: The improbable persistence of probation and other community sanctions and measures', in J. Simon & R. Sparks (eds.) *Sage Handbook of Punishment and Society.* London: Sage.

Robinson, G. & Svensson, K. (2013) 'Practising offender supervision', in F. McNeill & K. Beyens (eds) *Offender Supervision in Europe.* Basingstoke: Palgrave Macmillan.

Scull, A. (1977) *Decarceration: Community Treatment and the Deviant – a Radical View.* Englewood Cliffs, NJ: Prentice-Hall.

Scull, A. (1983) 'Community corrections: Panacea, progress or pretence?', in D. Garland & P. Young (eds.) *The Power to Punish.* Aldershot: Gower.

Shaw, R. (1987) *Children of Imprisoned Fathers.* Suffolk: Richard Clay Publishing.

Simon, J. (1993) *Poor Discipline: parole and the Social Control of the Underclass 1890-1990.* London: University of Chicago Press.

Simon, J. & Sparks, R. (2013) 'Punishment and society: the emergence of an academic field', in J. Simon & R. Sparks (eds.) *Sage Handbook of Punishment and Society.* London: Sage.

van Kalmthout, A. & Durnescu, I. (eds) (2008) *Probation in Europe.* Nijmegen: Wolf Legal Publishers/CEP.

van Zyl Smit, D. (1994) 'Degrees of freedom', *Criminal Justice Ethics,* 13: 31-38.

van Zyl Smit, D. (1993) 'Legal standards and the limits of community sanctions', *European Journal of Crime, Criminal Law and Criminal Justice,* 1: 309-31.

van Zyl Smit, D. & Snacken, S. (2009) *Principles of European Prison Law and Policy.* Oxford: Oxford University Press.

von Hirsch, A. (1990) 'The ethics of community-based sanctions', *Crime and Delinquency,* 36: 162-73.

Young, P. (1992) 'The importance of utopias in criminological thinking', *British Journal of Criminology,* 32, 4: 423-37.

Zvekić, U. (1994) *Alternatives to Imprisonment in Comparative Perspective.* Chicago: Nelson-Hall Publishers.