

## ***Counterblast: Thinking beyond the punitive rationale: Promoting TCs as a radical alternative to prison***

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It is clearly evident that prisons have failed as 'rehabilitative institutions'. Since the early interventions of G.O. Paul in Gloucester at the start of the 1800s, the United Kingdom has a tragic history of more than 200 years demonstrating that 'reformed prisons' are ill-suited to the purpose of inducing positive changes among those they contain. Despite current interest in devising new ways of promoting the prison as a 'place of salvation' – such as through calls for "therapeutic prisons", "spiritual prisons" and "restorative prisons" – the prison is neither an appropriate place for mediating conflicts, building relationships, finding new meanings or fostering therapeutic alliances. Prisons have never been places of dialogue or voluntary choices. Rather, prisons are grounded in coercion, punishment and the separation of lawbreakers from their victims and [other] significant relationships in society. Despite the best of intentions of those hoping to find some virtue and promise in our current incarceration binge, with prisons in England and Wales housing today some 85,000 people, the punitive rationale, which underscores the prisons very existence, inevitably undermines humanitarian attempts to bring about desired personal transformations of prisoners.

What we urgently require then are plausible and historically immanent radical alternatives to prisons that can reach beyond the punitive rationale and offer us a new way of responding to troubled and troublesome individuals. Such alternatives must engender both the humanitarian impulse to engage right now with the tragedy of imprisonment, but also be something that maintains fidelity with, and commitment to, the wider idealised aspirations of living in world without prisons and extensive recourse to punishment. There are of course many very real difficulties when attempting to promote alternatives to prison, varying from 'net widening', where alternatives become add-ons to existing sentences, to 'falling through the net', where people with problems are abandoned and neglected and

nothing is done to help them at all. Radical alternatives must be genuine alternatives - that is, *in-place of* a prison sentence and must also promote humanitarian care and support looking to address need where and when appropriate.

Below we briefly sketch one radical alternative that could be adopted for some lawbreakers whose offending behavior is heavily influenced by substance use - the Therapeutic Community [TC]. Whilst 'substance use problem' is a wide category entailing a broad range of behaviours undertaken by an equally broad range of people, what we have in mind is the promotion of the TC as a non-penal intervention that could be feasibly considered *in-place of* a custodial sentence for some of the 75,000 people passing through the gates of prisons in England and Wales every year who are defined by the UK government as 'problematic drug users' (Scott and Codd, 2010). We believe that TC's incorporate both an engagement with the problems and possibilities of our historical moment *whilst at the same time* disrupt punitive ideologies. TC's may also be an intervention whose time has come given the media-led dissatisfaction with substitute prescribing policies and interventions that have saturated the alcohol and drug treatment field for the last two decades (Yates, 2012). In this sense they have an existing independent advocate whilst at the same time may be seen as an intervention that can implicitly or explicitly compete with, and contradict, existing punitive policies and practices (Mathiesen, 2014).

Generally speaking, the term Therapeutic Community [TC] is used to describe a setting in which people with problems associated with substance use live together in an organised and structured way in order to promote change and make possible a life whereby they no longer rely on substances. This is an approach that is typically referred to as *community-as-method* (DeLeon, 2000). Each TC forms a miniature society in which staff and residents are expected to fulfil distinctive roles that are designed to support the transitional processes that individuals embark upon during their residency. Although day-to-day activities and interventions vary depending on the population and the setting of the programme, all TCs use a holistic approach

based on principles of self-help and mutual aid that emphasises the need to encourage constructive participation amongst all its members and engage with people's problems whatever they may be. TCs provide an opportunity for its residents to explore the underlying and outstanding issues that surround their use of substances and develop tools, resource and skills that they can transfer into the wider community to aid their recovery.

With this in mind TCs are likely to provide a 'better place' in comparison to prison. They provide a better way to work alongside individuals who end up in the criminal process as a result of their substance use, as they fundamentally seek to protect human dignity and minimise human suffering; they respect and define clients as human beings not entities that need to be managed and risk assessed; and provide a historically imminent way in which we can move beyond existing punitive rationales (Scott, 2013). TC's have both an alternative conception of individuals deemed to be problematic that is much more positive than dominant beliefs about substance users and help to promote positive social relationships *and* aim to start a process of socialisation that encourages a more productive way of life (Siegel and Senna, 2007).

In the United Kingdom the TC is not utilised as a radical alternative *in-place of* a prison sentence. Rather, they are very much integrated with the criminal process; utilised during and after a prison sentence. On both accounts the current use of the TC is inadequate – prisoners are likely to wear a mask rather than fully engage with their problems and therapeutic prisons are always at risk from securitisation and the colonisation of the therapeutic rationale by the disciplinary and hierarchical nature of imprisonment, whilst placing a person in a TC *after prison* may result with the resident having to now deal with the issues generated by the prison sentence alongside any pre-existing difficulties as well as combat the stigma of incarceration. We therefore need to expand our imagination and consider the potentiality of the TC to be deployed in place of a custodial sentence. Although the comparative literature

is sparse, there is some evidence that in other countries in Europe and around the world, the TC has been adopted as a sentence *in place of prison*.

In visits to TC's in France and Denmark we found that although the option to use this intervention as an alternative to custody was available, it was rarely utilised. This was predominantly due to a feeling that a large number of 'prisoners' would disrupt the therapeutic interventions that took place. In 1995 a project was initiated in Denmark whereby individuals with a history of substance use, who were sentenced for non-violent crimes, were given the opportunity to engage with a drug-rehabilitation programme in place of a short-term prison sentence (between 6 and 12 months). The project was locally funded for three years. During this time 29 people avoided a custodial sentence as a direct result of the initiative (Storgaard, 2002). For us, this project is indicative of an attempt to respond to lawbreakers whose offending behaviour is heavily influenced by substance use from a welfare, rather than criminal perspective. It also provides an indication of how welfare-orientated interventions provide a vehicle that can disrupt the punitive rationale that dominates existing responses to substance use.

We have also visited TC's in Australia, where this intervention is used alongside the criminal justice system either before a sentence is passed, or upon release from custody. Further the findings from our focus groups suggest that there is a general consensus amongst practitioners and residents that indeed TCs can be used *in-place* of a prison sentence for substance users who have committed non-violent offences. However, there was an evident air of caution which surrounded 'how many prisoners' a programme could accept before 'they had an impact' on day-to-day therapeutic interventions. Although this provides a stark contrast to the humanistic principles of respect and dignity for all members of society that are at the heart of TC principles and practices, it provides a perfect illustration as to how a substance users involvement with the criminal process simply adds further pressures and strains when it comes to accessing help and support. With this in mind, we suggest that using TCs alongside the criminal process is ineffective as the context of the

intervention compounds inequalities that lead people to prison in the first instance; dehumanising rather than humanising people.

There of course remain tensions. Voluntary engagement remains crucial and the need for resident to in some way choose the TC as an alternative sentence seems crucial. Inevitably this concern places an increased burden on ensuring that democratic participation is at the heart of TC practices. Fitting together the TC within the sentencing and criminal process can also result in problems of organisations, with tensions around different working credos, orientations and assumptions (i.e. treatment, punishment or welfare logics). More broadly, we need to locate the focus on the TC as a solution within consideration of broader socio-economic and political contexts, shaping both the application of the criminal label and the focus of the criminal process on impoverished and marginalised communities, which may reinforce individual pathological explanations of 'crime'. Through individualising problems, attention may be distracted from how the problem itself is generated in the first instance. An over emphasis on TC's as a solution may mystify the structural contexts shaping individual choices and must not be separated from a wider commitment to promote other radical alternatives and a wider emancipatory changes in how we deal with wrongdoers and social injustice.

There then remains the very real possibility that a TC can operate as a similar way to that of the prison, or perhaps even worse. There is no guarantee that an intervention which calls itself a 'Therapeutic Community' will automatically be better than prison (Scott and Gosling, 2015). In one large Italian TC<sup>1</sup> we observed in November 2015 the daily regime was rooted in exploitive labour practices where members were compelled to reside for 4 years. This 'TC' appeared to hide behind the claim that work is therapeutic and educational. This meant that work departments were prioritised over meetings and group-based therapy. From day one residents were allocated to workshops producing goods for local, national and multinational

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<sup>1</sup> This Italian TC was visited by the authors in November 2015 and our account draws upon testimony gleaned from interviews and discussion with residents.

capitalist corporations without recompense. This seemed tantamount to a form of servitude. Community membership ranged from 14-25 year old and whilst selection criteria may have been based on likelihood of desistance and malleability for change, at this age members are also likely to be more flexible in developing skills to ensure that they are economically productive. The division of labour in workshops was profoundly masculinist with the role of men and women reflecting a gendered hierarchy of male and female work, ensuring the overall separation of men and women working in the community. Staff pressure individualised and pathologised concerns that were expressed by residents urging the wish to leave. This ignored the very real strains, pains and pressures created by the demands for labour. An authoritarian communitarian ethos pertained, for there undoubtedly existed a rigid and dominating structure that was grounded in extensive supervision. Residents were supervised for their first year by a long serving peer, which remarkably even included even being observed and escorted to the toilet.

Care must be taken therefore to ensure that any proposed alternative intervention does *not* become a form of 'punishment in disguise' (Hannah-Moffatt, 2001) or a 'prison without walls' (Cohen, 1980). We are calling for a genuine alternatives and any proposed TC must not resemble 'semi-penal institutions' (Barton, 2005). A TC as a genuine radical alternative must be able to demonstrate that sufficient safeguards and protections for residents are in place. To avoid an unintentional or hidden escalation of pain, the TC we envisage as an alternative to custody must have sufficient transparency, procedural rights and be rooted in the principles of fairness, equality and legal accountability (Scott and Gosling, 2015).

To conclude, despite the difficulties we have discussed above, the TC remains a plausible and radical alternative to the prison sentence. A TC is something that exists right now and could be implemented immediately *in place* of prison. The TC is an alternative that would not be automatically ruled out of the debate – it is a radical alternative for substance use lawbreakers that can compete with the punitive logics of our time (Scott, 2013). There is evidence that TC's are more likely to be effective

interventions in terms of recidivism for substance use law breakers, but importantly the principles and practices of *genuine TC's* also allows us to focus upon human need and human growth as a rationale for their promotion. Despite its limitations, a TC may still offer us a 'real utopian' alternative to the current incarceration binge (Scott, 2013; Scott and Gosling, 2015).

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