The Corrigible and the Incorrigible: Science, Medicine, and the Convict in Twentieth-Century Germany

Review Number: 2095

Publish date: Thursday, 20 April, 2017

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ISBN: 9780472119653

Date of Publication: 2015

Price: £64.50

Pages: 328pp.

Publisher: University of Michigan Press

Publisher url: https://www.press.umich.edu/8280048/corrigible_and_the_incorrigible

Place of Publication: Ann Arbor, MI

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Prisons are never far from the headlines at the present time in the UK. As I write, a new Prisons and Courts Bill is being hailed as ‘a historical shift in thinking about the purpose of prisons’, on the grounds that it sets out rehabilitation as a specific, statutory goal. (1) Critics may speculate about the value and achievability of such a goal; historians, drawn by the siren call of claims to momentous historical change, are perhaps more likely to question its novelty.

The Corrigible and the Incorrigible demonstrates that ideas and ideals of rehabilitation within prisons and wider criminal justice systems are, of course, in possession of a long history. Analyses of prisons and punishments in the modern age are frequently drawn to comment on the case of the United States, a present-day paradigm of excess in carceral state form, where the rapid growth of the prison population since the 1970s has been cast as a backlash against the goals of the mid-20th century, when rehabilitation enjoyed its moment in the sun. This earlier moment, often called the age of ‘penal welfarism’ in the Anglo-American world, saw the human sciences and the energies of growing welfare states deployed within and alongside penal systems to rehabilitate and reform.(2) From this perspective, the history of 20th-century prisons and the ideologies behind them can be folded neatly into the history of expanding liberal and progressive democracies (and the changes wrought upon them from the 1970s). But, as Greg Eghigian asks in the introduction to his excellent book, what does it mean for this understanding of the penal past to know that Nazi Germany, East Germany and West Germany all followed a similar path? Perhaps the story is not quite so straightforward after all.

From this starting point, *The Corrigible and the Incurrable* aims to disrupt Anglo-centric versions of penal welfarism and to add depth to the history of prisons and punishments in Germany. Importantly, and this is made explicit, this is not to deny the racism, brutality, and oppression for which many mid-century German camps, prisons, and policies are known. Rather – and this argument is delicately and persuasively made – it is to point out that in the midst of this, there ran a powerful stream of thought: that although some people may be irredeemably dangerous, others could be fixed, cured, adjusted, improved, corrected, reformed. A persistent preoccupation of the German penal system was therefore how to determine who fell into which category, and by what methods the rehabilitation of the reformable could be achieved.

Ideally suited to closer analysis of this, Eghigian argues, are the policies and theories that swirled around sex offenders. This group of offenders was viewed as particularly troubling and socially disruptive, particularly prone to repeating its crimes, and, potentially, particularly receptive to rehabilitative interventions. The ideas and plans of what he terms the ‘correctional imagination’ were expressed and enacted most clearly with sexual offenders. And, as he points out, using sexual crime as a case study usefully highlights the complexities surrounding this kind of history, and helps to provoke deeper analysis. ‘Sexual offenders’, after all, included men convicted of homosexual offences, now legal; women deemed to be prostitutes; exhibitionists and public urinators, and molesters of children. We cannot see them all ‘either as unfairly stigmatized outsiders or as ruthless predators’ (p. 13). When plans were laid for the corrigible amongst any of these to be rehabilitated with the tools of psychiatry, psychology, and surgery and detained indefinitely until cured, or for the incurrable to receive the most extreme penalties available, it is not easy to plot a line of increasing humanitarianism, or sexual liberation, or positive social-scientific progress. Put simply, sexual offenders as conceived in the past are, to contemporary eyes, a very mixed bag: this can throw our views of historical corrections and punishments into productive confusion.

For this reason, *The Corrigible and the Incurrable* includes two chapters focused on sexual offenders. After a valuable introduction and one chapter offering a significant reinterpretation of the correctional imaginary of Nazi Germany, it is a book of two halves: chapter three addresses corrections in the German Democratic Republic and is followed by a chapter which homes in on the example of sexual offenders there; chapter five examines corrections in the Federal Republic, and then comes the case study of managing West German sex offenders. This approach serves to draw out some of the differences between west and east, as well as the commonalities that continued to connect them: the ideals of correction, the emphasis upon prognosis, and the ongoing intrusions of practical realities upon lofty ideals.

Eghigian takes 1933 as a landmark moment, but for him it does not mark the end or interruption of the interests in rehabilitation that had characterised the Weimar era. Instead, following scholars of law rather than crime and punishment, he argues that it might be a starting point. The Law against Dangerous Habitual Criminals and on Rehabilitative and Preventive Measures of that year marked the beginning of ‘clinical correction’ (p. 9): it introduced indeterminate committals to psychiatric hospitals and substance abuse facilities and the castration of sex offenders to the menu of criminal justice, as well as preventive detention for those deemed irredeemable. These options assumed that some individuals were beyond the pale, but also that others could be saved through modern medical techniques. This has been seen by some as the outset of a punitive, rather than rehabilitative, programme. But, as we learn, it can also be viewed as a huge achievement for those who saw themselves as progressive and humanitarian penal reformers, who could finally make use of new scientific methods of rehabilitation. Incarceration was at last able to offer medico-moral treatment and the potential for a successful return to society, as well as public protection from the persistent and incurable offender.

Although the years of the Second World War had an enormous impact on the extent to which rehabilitation was actually pursued, the argument that these aspirations co-existed comfortably with, for example, the escalating use of the death penalty is persuasive. This, perhaps more than anything else, brings home the point that ideals of rehabilitation and reform are not incompatible with punishment and retribution. The capacity to reform, as we see, was always relative. Whether only a few or nearly all offenders were

presumed to be amenable to correction, the demands of limited resources meant that priorities were set and distinctions made: some convicts would be assessed as more dangerous or less easily rehabilitated than others.

The belief that this correctional potential should be established by enquiring into the mind and personality of the criminal was another common thread. It was overshadowed rather than ignored during the Nazi era, and subsequently re-emerged in both east and west. As the example of sexual offenders makes clear, factors such as age, expressions of remorse, insight, previous offences, intellect, family life, work history, and so on could all play a part as experts tried to get to grips with the inner workings and typologies of convicts, with different aetiological theories carrying more or less weight at different times. The human sciences were marshalled throughout 20th century Germany to help gather data, analyse individuals, and make predictions about criminal propensities and future threats. This information gathering and attention to prognosis was a fundamental part of the correctional imagination, and the roles of particular individuals and the psychiatric, psychological, and criminological professions in maintaining and developing rehabilitative ideals over the period in question is explored in some detail.

For the case of East Germany, Eghigian acknowledges a sizeable gap between ideals and reality, but focuses on the rhetoric and research surrounding corrections to argue that rehabilitative ideals adjusted and persisted. Their goals morphed from repairing the damage to individuals of Nazism and war and enabling the internalisation of socialism, to reforming wayward youth in order to strengthen the nation's future, and finally to pre-emptive measures to prevent rather than cure. The interpretation of sexual crimes in East Germany, equally, drew upon the past but was reframed for a new context, and the management of such offenders illustrated the workarounds that were developed even as all forms of permanent or indefinite incarceration of the incorrigible were officially abandoned. As a relic of the decadent west, sex offenders were seen to require correctional measures to remedy what was seen as their sexual and social immaturity and to civilise them; as castration and preventive detention were no longer available, psychiatric hospitalisation provided the best method to achieve this.

In the German Federal Republic, under the influence of the USA, UK and France, 'correctional rehabilitation was reimagined as a form of participatory counseling in democratic citizenship' (p. 127), showing again that the ideology behind rehabilitation could serve many masters. New international trends and standards encouraged fewer punitive measures and greater attention to psychology, personality, and social circumstances, but institutional reform came slowly and met with some resistance. Sexual offenders in West Germany were greeted with ever-more medicalisation, in which castration and newer interventions such as hormone treatments were cast as modern and humane, though of course, only suitable for some. New treatments, and indeed the debates around sexual offenders, psychopathy, and social-therapeutic facilities for indefinite confinement, all had the potential to set new parameters for curability, but just like earlier debates and equivalent discussions in East Germany, these parameters called for a solution for those who remained excluded. Determining who could be rehabilitated always demanded something akin to preventive detention, as a last stop for the incorrigible.

The uses of preventive and therapeutic detention were not, as Eghigian indicates, unique to Germany. What was more distinctive was the preoccupation with triaging offenders to identify the most curable, and the extent of deference and reliance upon medical and social science expertise in this process. As is made clear in the concluding chapter, this approach relied upon individualised, discretionary decision-making. It could also create an atmosphere of suspicion, in which the possibility of incorrigibility always had to be considered and wide-ranging interventions in the name of risk management were encouraged, from court-ordered committals for treatment to widespread CCTV.

These ideas are suggestive of the potential for rich cross-national comparisons. Although exploding prison populations in the late 20th-century Anglo-American world have been taken as a sign of the vanishing relevance of rehabilitative thought in these locations, might the prevalence of similarly interventionist measures suggest otherwise? What might we learn about the role of expertise in countries where preventive

detention remained out of favour, and what of those places where the ideals of correctional rehabilitation seemed to find a particularly welcoming home – in Denmark, for example, with its much-admired Institute for the Treatment of Criminal Psychopaths? What have the legacies of these different approaches to crime and corrections been?

As we go on to think about such questions, Eghigian's formulation of the 'correctional imagination' is a useful one, encompassing as it does not just policies and practices, but also people and places, topics of debate, and national or cultural values. This does make *The Corrigible and the Incorrigible* a fairly dense read, as there are a great many details to be explored, but it adds depth to the history of incarceration by considering intentions and beliefs even when these could not be put into practice. Inevitably, it also raises questions about the two-way relationship between ideas and practice: ideas have clearly shaped practice, but how have practical limitations shaped correctional ideals? This is hinted at in the observation that one leading doctor's prognoses were tailored to fit the options available to judicial authorities (p. 110), but do these decisions eventually become reified on medical rather than practical grounds? Perceptions of castration might also be significant here: castration may have been designed as a therapeutic intervention, but work on the Netherlands, for example, has suggested a certain confusion in practice over whether it was therapeutic or punitive.⁽³⁾ Would a view of castration as a cost-effective punishment amongst medical and penal administrators entice the correctional imagination towards new justifications and new ideals?

The use in *The Corrigible and the Incorrigible* of sex offenders as a recurring case study is particularly useful, and points towards some of the diverse fields to which this book contributes. It has much to add to histories of sexuality, and histories of psychiatry as well. As Eghigian has argued elsewhere ⁽⁴⁾, 20th-century psychiatry should be studied not only within its clinical setting, but in its many other spheres of operation as well, and this demonstrates why. The operation of correctional thought upon women perhaps remains to be uncovered in more depth; although the weight of gender roles is discussed in some detail in places, the fact remains that majority of convicts were men. Ideas about rehabilitation and corrigibility as they related to women may only be revealed by looking in different places, where criminal convictions were not necessarily a feature.

As Eghigian notes, penal reformers and others involved in these debates across the 20th century may have presented themselves as progressive, but 'correctional rehabilitation was not founded out of an unbridled optimism about the capacity of people to change, but, rather... a chronic anxiety about the threats posed by others' (pp. 199–200). This might offer a significant insight for contemporary policy makers as they clamour to make rehabilitation their own: rehabilitative ideals are not an uncomplicated mark of progress. When motivated by fear and suspicion, they bring with them great potential for drastic measures – especially for anyone singled out as irredeemable.

Notes

1. Rachel O'Brien and Jack Robson, 'The prisons and courts bill creates a duty for prisons to reform', RSA, 23 February 2017 <<https://www.thersa.org/discover/publications-and-articles/rsa-blogs/2017/02/prison-reform> [2]> [accessed 16 March 2017].[Back to \(1\)](#)
2. David Garland, *Punishment and Welfare: A History of Penal Strategies* (Aldershot, 1985) and *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford, 2001).[Back to \(2\)](#)
3. Theo van der Meer, 'Voluntary and therapeutic castration of sex offenders in The Netherlands (1938–1968)', *International Journal of Law and Psychiatry*, 37 (2014), 50–62.[Back to \(3\)](#)
4. Greg Eghigian, 'Deinstitutionalizing the history of contemporary psychiatry', *History of Psychiatry* 22 (2011), 201–14.[Back to \(4\)](#)

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