

# Women's Incarceration

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## Abstract

Women's prisons as a regime. Experience of women's punishment and imprisonment in different regimes and community penalties changing the character of women's punishment. What's going on and why are more and more women coming to criminal justice? Women offenders are a distinct minority in the criminal justice system, especially when compared to young men

**Keywords:** Regime, Incarceration, Trends, Transcarceralism.

## INTRODUCTION

Let me begin by outlining the topics I'll be covering: what are the trends and character of punishment?

Women continued to be marginalised in a criminal justice system established by and for men.<sup>1</sup> The number of women in prison is significantly rising in several countries. This truth was recognised as early as 1985 at the United Nations Conference on the Prevention of Crime and the Treatment of Offenders. There is a "women's imprisonment boom" in the United States. Both Australia and the United Kingdom are seeing a rise in the number of women incarcerated. Female offenders in Scotland are more likely to have been convicted of various

offences and dishonesty related crimes (mainly shoplifting). They are expected to face charges in Canada for minor property and violence offences, as well as failing to appear in court and probation violations. Women in Australia are more likely to be charged with property crimes (such as larceny and receiving) and crimes against "good order." Male and female minor offenders in the United States can be detained for criminal crimes as well as status offences that violate parental authority (such as running away or being "beyond control"). Women's criminality is influenced by status offences and minor property offences such as shoplifting. Neoliberal policies exacerbate poverty and wreak havoc on social services. Actually, women are generally poorer than men. Special attention may need to be paid to ensure that they do not automatically end up in prison if they default on penalties. According to Garland, as a result, there is a confusing web of penal policies and programmes aimed at reforming, regulating, and disciplining "unruly" populations. Punitive forms of correction intersect with therapeutic frameworks in this network, resulting in the integration of discourses of empowerment and

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therapy with practises of punishment and control. This is especially true for imprisoned women, who are frequently viewed as unstable, reliant, and powerless. Within the "therapeutic" paradigm, knowing how structural and systemic causes lead to marginalisation, addiction, criminality, and poverty is disqualified.<sup>2,3,4</sup>

What role does gender play in these settings?<sup>5</sup> What are the circumstances in which women commit crimes? Women do so, according to Pat Carlen, not only because of conventional gender and class constraints, but also because they adopt criminal methods in an attempt to apply individualistic solutions to the social imbalances generated by class exploitation, sexism, and racism. Their strategies are mostly shaped by contemporary criminal organisation and operation, which are more class-based than gender based.<sup>6</sup>

I humbly think that the groups accountable for incarceration rates are inextricably linked in an ongoing pattern of infinity paradigm



The author mentions the following groups<sup>7</sup>

- Fear and punitiveness
- Crime
- Trust
- Indicators of social status
- Factors such as demographics
- Factors of the economy and politics

In fact, an increase in the number of women caught does not always suggest that more are getting involved in crime, nor does it mean that more young girls are being found guilty of a crime.<sup>8</sup> The increase in the number of women in prison has been attributed to a number of factors, including an increase in the use of custody and an increase in average sentence length, as well as an increase in the number of women appearing in court and an increase in the number of women convicted of drug offences, which carry longer sentences.

*How does populist punitiveness explain why more and more women are sent to prison for relatively minor crimes?*

Barbara Hudson carefully examined policy

directives to show that, while the concept of "need" was previously used in welfare discourses to justify the non incarceration of women committing minor offences, social need has now been redefined as an indicator of likely recidivism that can best be avoided by incarcerating the needy woman within the new risk discourses in criminal justice systems pandering to populist punitiveness. In the same collection of articles, Anne Worall illustrated how discourses evolve over time, and how official penal discourses in England in the 1990s selectively incorporated feminist discourses to argue that men and women in the criminal justice and penal systems should be treated equally – an invocation of the formal notion of punitive equivalence. However, as Worall points out, the 1990s' renewed focus on equivalence in penal justice utterly ignored all of the fundamental obstacles in determining substantive equivalences of punishment. As a result of the basic understanding of the equivalency concept as the same penalty for men and women, an escalating number of women have been put in prison without regard to their unique circumstances as criminals. Those trying to justify their punitive sentencing approach to all female criminals usually use a misguided reading of feminist discourse that implies that women should be empowered to take responsibility for their own actions in general. All reforming discourses, including feminist and anti-racist discourses, are likely to be neutralised when confronted with the carceral imperative of the prison, either by being cleverly incorporated into official penal discourses in such a way that their original meanings are completely changed when divorced from their originating discursive contexts, or by a government's failure to provide material means to take advantage of the opportunity. Pat Carlen acknowledged that attaching a desirable or possible meaning to the phrase "feminist criminology" was tough. It couldn't be done since any normative ideas about criminality in biological female subjects have to be just as reductionist and essentialist as the much maligned biological ones. It was not practicable for three reasons: To begin, analytical concepts such as "feminist" or "patriarchy" were not used to examine criminal women and criminal justice.

Second, concerns about gender constructions quickly merge with questions about class, race, and imperialism once the historically and socially specific discourses and practises within which women's lawbreaking and criminalisation occur in the United Kingdom, Europe, the United States, and Australia are investigated. Third, no single theory can explain three major characteristics of women's

incarceration: that women in prison have committed relatively minor crimes; that disproportionately large numbers of women are imprisoned; and that disproportionately large numbers of women are imprisoned for long periods of time.<sup>9,10,11</sup>

Although a prison cannot both rehabilitate and punish, it can do a better job of combining the two through administrative improvements to ensure that correctional opportunities are best focused on reducing the risk of reoffending.<sup>12</sup> According to Emile Durkheim's theory of deviance and the homeostatic theory of incarceration in modern cultures, a constant degree of punishment results in a generally stable rate of penal confinement. When a rate deviates from its natural threshold, a variety of stabilising mechanisms kick in: police, prosecutors, courts, and parole boards adjust their responses to crime in a permissive or restrictive direction, redrawing the line between deviant behaviours subject to penal sanction, adjusting sentences, and reducing or increasing the number of people in prison. The carceral technique, according to Foucault, was crucial in the emergence of the disciplinary society. *Is this the new punitiveness? The move towards privatisation.*<sup>13</sup>

*Why is the international prison industry based on the notion that prisons can, above all else, rehabilitate offenders?*

Because, for one thing, such claims may have led sentencers to believe that prison can effectively address women's "needs," and thus it is legitimate to imprison them, even if their crimes are minor; and, for another, in-prison reintegration rhetoric results in a transfer of material resources from community to prison, whereas transcarceralism results in a transfer of privations from prison to community.<sup>14,15</sup>

## SECOND-WAVE FEMINISM

Second wave feminism understands the interconnection of social, economic, and political pressures as well as the links between crime and punishment. Garland states that "positivist" criminology was subjected to an "onslaught of academic criticism" in the late 1960s. Despite patriarchy being the most powerful force, both men and women have been severely impacted and materially harmed by capitalism and patriarchy. The criticism of academic fields for portraying men's studies as "general knowledge" is another key part of second wave feminism.<sup>16,17,18</sup>

Critical penal theorists frequently ask, "What are the

*connections between social and criminal justice?* They never accept the legitimacy of punishing regimes and constantly question authorities' ability to punish.<sup>19</sup>

## TRENDS AND CHARACTER OF PUNISHMENT

"Why punishment and not reparation?" With communicative theories, the question is, "Why is a stern lecture from a judge not sufficient?" Harsh punishment, according to Von Hirsch, is a pragmatic supplement to the censure, not the censure itself. Although Duff supports the idea of severe treatment as a prudential basis for observing the law, he advocates harsh treatment as a moral expression; the harsh treatment of punishment has a penitential character and status.<sup>20</sup> According to Garland. Social trends such as rising rates of crime and feelings of insecurity, economic crises, political shifts from welfarism to neo-liberalism, changing class, race, or gender relations, and so on have to be translated into the folkways of the field before they have an effect there.<sup>21</sup>

*What causes women's prisons to take the form they do?*

Four themes dominate the responses to this question: incarceration, discrimination, resistance, and carceral clawback.

*Prisonisation is* either the process by which a prisoner adopts the "inmate culture" behavioural style and values, or the process by which a prisoner, as an adaptive response to imprisonment, behaves in ways that are different from their regular behavioural style outside prison.

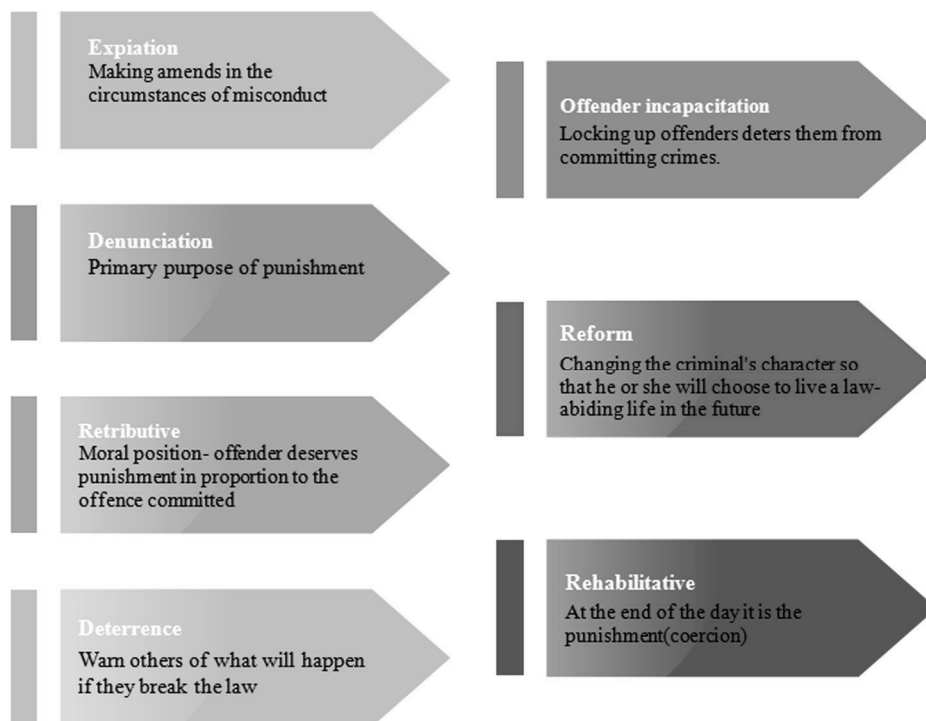
*Discrimination has* been a recurring topic in both historical and modern accounts of women's incarceration, with narratives describing how women in prison have always been treated differently than male inmates. Women's needs are frequently overlooked since they are typically unnoticeable to the wider public. According to Pat Carlen, prison authorities routinely described women in prison as "unsocialized," "unfeminine," and "childish." Carlen exemplified several parts of the system that prompted the precise types of behaviour that the prison discipline doctrine prohibited.

*How does mandatory drug testing (MDT), which was implemented in all British prisons in the 1990s, discriminate against women inmates' cultural beliefs of female modesty?*

According to Carlen, the women were concerned about the breaking of a societal convention that states that women should cover their sexual parts from everyone except their selected sexual partners or a medical practitioner. When a woman is forced to expose her body (in a strip search), to engage in supervised urination (in the MDT test), or to live in constant fear of being involuntarily exposed to the surveillance of a prison officer (male or female) who may or may not look at her with the gaze of a voyeur but who will certainly look at her with a legitimate punitive stare, it is arguable that she will feel violated, sensing a perversion of intense humiliation.

### RESISTANCE (THE CAPACITY TO OPPOSE)

Two studies from the turn of the century contradict the assumption that women in prison are "victims." Far from being oppressed by idealised ideals of femininity, Bosworth claimed. Women, according to Carlen, adopt feminine traits and ideals to oppose injustice. According to Denton, women drug dealers "keep an active and robust prison culture and social organisation that is less sophisticated and viable than that of their male counterparts" while in prison.<sup>22,23</sup>



The moral rationale for punishment is centred on both the offender and the victim of a crime; the offender is given a chance to correct the problem,

*In conclusion, the three primary processes outlined are:*

- Adaptation, as in prisonisation, when convicts manage to change the rules to serve their own objectives through the establishment of prison subcultures.
- **Institutionalization:** the process by which inmates are subjected to rules in at least some aspects of their behaviour (rarely all).
- **Resistance:** when inmates openly defy or disobey rules, or when they employ psychological techniques to maintain their identity and self-esteem.

### CARCERAL CLAWBACK

This is the set of ever changing ideological mechanisms required for the operation and maintenance of prisons. Because jail logically implies that prisoners must be kept in, reforms that degrade prison security must be resisted or adjusted as a condition of the prison's continuing existence. In current times, this suppression is usually accomplished using discursive means. From the beginning, the major objective of punishing offenders has been to

while the victim is satisfied that the offender has recognised the wrong doing and has paid a price for it through punishment. According to Brainwaite,

the identification and correction of a mistake plays a significant role for both the perpetrator and the victim's future well being.<sup>24</sup>

## DENUNCIATION

All punishments must be assumed to be denunciatory in the sense that the implementation of a penalty indicates social disapproval. In the case of old war criminals brought to court years after their crimes were committed, it may be claimed that the implementation of punishment served no beneficial function other than to symbolise society's intense dislike of the crimes and recognition of the victims' sufferings.

### *Retribution*

Poverty, disadvantage, discrimination, upbringing, and poverty are among the social factors that contribute to criminality.

Retributivists will usually point out that the principle of proportionality, which is central to retributivist punishments, bestows them with a rationality (and thus a justice) that is lacking in the emotionalism that is seen as both the primary instigator and characteristic of revenge punishments, as well as the primary cause of their disproportionate ferocity. But 'proportionate' to what? Should the punishment be proportionate to the perpetrator's level of criminal intent or the victim's degree of loss or pain?<sup>25</sup>

### *Deterrence*

According to empirical evidence, once adolescents and young people have experienced custody, they are less afraid of it in the future, and there is even more evidence that, in some areas, imprisonment may be seen as a welcome rite of passage into the adult criminal world by young people. The problem with deterrent theory is that the assumptions it makes about rational actors and/or conditioned behaviour simply do not combine with what is known about the conditions in which lawbreaking occurs.

Many sorts of crimes (such as burglary and petty theft) are opportunistic; some, such as assault, are situational; and others, such as narcotics and receiving, might be classified as lifestyle crimes. Furthermore, because the majority of lawbreakers are not apprehended, it may be perfectly reasonable for a poor person to obtain goods through illegal means. Finally, when it comes to imprisonment, there is rarely a guaranteed symmetry between the severity of a crime and whether or not a person is

sentenced to prison, and even when there is, it is rarely a continual progression.

High levels of anxiety about unknown and ill defined hazards, such as worries of otherness, may be one explanation for women's disproportionately high incarceration rates. The problem with using prison to incapacitate persistent criminals is that, because some of the most persistent offenders also commit the least serious offences, judges are breaking the concept of proportionality by imprisoning them.<sup>26</sup>  
*Example: Gary David's Case (Australia)*

## RESTRUCTURING

The fact that women already know how to think about their problems is a common critique of cognitive behaviourist programmes in relation to women. A woman's failing is to act or to have the opportunity to act. As a result, feminists place a strong emphasis on assertiveness training for women, anger management, and activities that improve women's skills and experiences.

**Rehabilitation:** One of the most common criticisms of the work done in prisons is that it is excessively focused on teaching women conventional employment skills. According to Mathiesen, no one has ever been successfully rehabilitated in prison.<sup>27</sup>

Failure to rehabilitate women is likely to be blamed on them, as it was in Canada, where women who did not respond to government empowerment programmes were regarded as failing to accept responsibility for their own lives, proving that they were non empowerable.<sup>28</sup>

## WOMEN'S PUNISHMENT IN THE COMMUNITY

Part of the problem, according to Harris, is that it is unclear what "better treatment of women" truly means. There are no gender-specific sentences, and all men's sentences are theoretically available to women as well. Three themes can be used to organise them conceptually: financial and supervisory penalties, as well as self-regulation.

Self-regulatory sanctions (such as police cautions and conditional releases) are based on the assumption that simply being identified as a wrongdoer is enough to deter future misbehaviour. The denunciation of another wise and upright citizen (or nice wife and mother) is thought to be sufficient to disgrace her and reintegrate her into the community. One of the reasons women are more likely to receive self regulatory penalties

is that sentencers are hesitant to impose financial penalties on women who have children to care for or who do not have independent incomes. However, fines remain the most popular sentences imposed by courts and are regarded by many as the most flexible of sentences because courts can, in theory, match their amount to both the seriousness of the offence and the offenders' ability to pay. As a result, women may receive a punishment that is seen as light, such as conditional discharge. It could lead to the imposition of an overbearing supervision sentence. All sanctions that include some form of supervision assume that the offender lacks the motivation or personal resources to repair the breach of contract that the community is responsible for.<sup>29</sup>

## WOMEN AND FINES

Allen (1989) highlighted four connected patterns that are likely to influence how penalties are distributed among female offenders.

- A strong aversion to women
- A tendency to use sentences with a low tariff.
- Opposition to harsh punishments in favour of probation
- Preference for probation over harsh incarceration

The tariff concept reflected the sentence ladder, with the assumption that criminals would go up the ladder with each successive court appearance until they reached the summit, which was, of course, prison. Absolute and conditional discharges were the first steps, followed by fines, probation, community service, and finally incarceration. Women's sentences were often considered to be shorter in practice because sentencers were reluctant to fine them and also unwilling to assign them community work. This meant that, while women tended to stay on the bottom step for longer than men, once they started climbing the ladder, they climbed it faster and were typically sentenced to prison at younger ages than men. The tariff was abolished by the Criminal Justice Act of 1991, which replaced it with two seriousness criteria. A crime could be significant enough to justify some type of supervision, or it could be so bad that the only choice was to go to prison. The increase in all orders for men has been continuous, according to trends in supervisory community sentences for women. On a smaller scale, community punishment and rehabilitation orders follow the same process. The male-to-female ratio has likewise been reduced.<sup>30</sup>

## WOMEN AND COMMUNITY PUNISHMENT ORDERS

Community service was first implemented in the United Kingdom in 1973, and it requires offenders to perform unpaid community service for a period ranging from 60 to 240 hours. It was implemented in response to rising prison populations and the apparent ineffectiveness of probation orders in reducing re-offending. It has the ability to change its goals and objectives to fit almost any conventional justification for punishment, including retribution (visible hard work), reparation (unpaid community service), deterrence (working without pay), incapacitation (restriction of liberty), and rehabilitation (learning skills and/or achieving something of value). This has made it a favourite of sentencers, who regard it as having the flexibility of a fine but none of the drawbacks. It's been described as an on-time fine. Offenders usually labour in groups on projects such as land restoration, painting, decorating, and woodwork, or in individual placements with charity shops, volunteer organisations, and other organisations.

Empirical studies have shown that there is more inconsistency in the use of community service for women than for men, and that women are more likely than men to receive such orders for their first offence. Community service has always been viewed by courts as an insufficient punishment for women, and the practicalities have always been a barrier the lack of childcare facilities being the main issue. One initiative in Western Australia, for example, allows women to gather large bags of old clothing from a central location and bring them home to unpick all the buttons and zips. At first glance, it appears to be a discriminating scheme, yet it allows women to work from home at times convenient to them and to finish their hours with the least amount of disruption to their daily lives. With the introduction of the Human Rights Act, women who have been denied community sentences or given short prison sentences may be able to claim that their right to respect for their private and family life (under Article 8) has been breached, particularly if this involves separation from small children and imprisonment at a distance from home.<sup>31,32,33</sup>

## WOMEN AND DRUG TREATMENT

Drug treatment and testing orders (DTTOs) have been criticised for making drug treatment mandatory and over simplifying the relationship

between drug use and criminality. They have also been criticised for being used by "petty" criminals (net-widening), for not taking enough care of the requirements of women and ethnic minority offenders, and for not providing enough social assistance to guarantee that rehabilitation is sustained, as have previous penal innovations.<sup>35</sup>

## WOMEN AND ELECTRONIC MONITORING

But it was viewed as a means to subject offenders to some of the constraints of prison without causing them the harm of being separated from their homes. Individualized schedules are in place for offenders, requiring them to remain at home between specific hours. Electronic monitoring is currently employed in a variety of methods to allow offenders to live in the community.

- Courts have the authority to impose electronic monitoring and curfew orders on offenders.
- Inmates may be released several weeks before their sentence expires. Both measures have been available in the United States since 1999 and are likely to be progressively used in a variety of community sentencing to give a stronger aspect of surveillance.<sup>36</sup>

They ensure that offenders are classified objectively, using actuarial risk assessment tools, and dealt with in the most efficient, effective, and cost effective manner possible. The offending behaviour programme is based on a set of assumptions about the lives of women who offend that are quite distinct (but arguably not incompatible). In his view of the significance of the new penology, Garland disagrees with Feeley and Simon. Whereas Feeley and Simon perceive actuarial justice as a meaningless policy orientation with no larger narrative of purpose that is completely postmodern, Garland grounds his approach in an economic rationality that emphasises cost effectiveness and fiscal discipline in a way that is entirely late modern.

Garland's theory differs from Feeley and Simon's in that he sees a second, decidedly dangerous trend running alongside this managerialist trend, as anticipated by the criminology of the other. This style portrays crime in "melodramatic terms," emphasises that crimes are the result of terrible decisions made by wicked people, and adopts an illiberal moralising attitude that encourages condemnation, shame, exclusion, and mass incapacitation. Pratt draws a frightening similarity between the "wheelbarrow men" and the

"wheelbarrow men."<sup>37,38,39</sup>

Kelly Hannah Moffat proposed that one reason for the failure of the much publicized reforms in the Canadian women's federal prison system during the last decade of the 20th century was that the feminist campaigners who helped pilot the reforms were slow to recognise that the very specific systems of governmental power relationships constitutive of prison legitimacy and governance are well able to incorporate (that is, absorb and change) feminist rhetoric.<sup>40</sup> Hannah Moffat stated that a gender centric focus on the distinctiveness of women's imprisonment is adequate for accomplishing permanent prison reform because of the prison's evident ability to encroach on and colonise all alternative power systems. Unless gender specificity is conceptualised within criminal relations, which also necessitate either gender-neutral or male specific analyses, the best attempts of feminists to achieve radical change may be either deteriorated by encroachment or destroyed by carceral clawback.<sup>41</sup>

From the author's modest perspective, the strength of utopia is the ability it provides to study "traces" or "impulses" of hope and move toward them without having to follow a pre-determined plan of action. Perhaps, rather than building new illusions of the therapeutic jail or the "penal community," conceptualising justice for women entails first dismantling existing ones and incorporating practical advances into an emancipatory social philosophy. If we continue to think in terms of existing paradigms, we will reproduce the systems in which we are already positioned, so we must imagine in whole new ways.<sup>42</sup>

## A FULL, CONSTRUCTIVE AND PURPOSEFUL REGIME

There are several arguments in favour of keeping inmates completely occupied. It is part of dynamic or interactional security, and it makes jail supervision easier and less confrontational than merely locking prisoners up. It is likely to provide a prisoner with a limited feeling of purpose, aiding in the reduction of self harm and suicidal behaviour. Prison employment is a small but significant source of revenue. Finally, education, job skills, and other activities such as the programme may help to reduce re-offending once a prisoner is released, either directly or indirectly. In other words, keeping a prisoner constructively busy is considered a good in and of itself, and its usefulness should not be demonstrated. The fundamental point in

this section is that, far too often, keeping women constructively busy in prison is not regarded with the same priority as keeping men occupied. The moral imperative to produce disciplined members of the labour force is weaker for women than it is for men, and the fact that women will "make do" with poor prison facilities is tenacious.<sup>43,44</sup>

## EMPLOYMENT AND EDUCATION

Much has been written about the scarcity of regimens in many women's prisons, as well as the underlying assumption that women in jail must be trained to be better spouses and mothers by improving their domestic skills such as sewing, cooking, cleaning, and, less frequently, gardening.

The main sources of employment are kitchens, laundries, and sewing workshops, but it might be argued that this is also true in men's jails. The particular aspect of women's imprisonment, as well as the overall shortage of employment opportunities, is the greater scarcity of alternatives. Some women's prisons include an element of training and a recognisable qualification, albeit the aim and level vary widely. Clerical credentials and NVQs in hairdressing, cooking, and computing are among the most popular, although there is a significant unmet need. Education standards in women's prisons vary as well. This is despite the fact that contracting out education services in England and Wales to institutions of further education has improved the diversity of provision. Despite this, there is little integration of employment and school prospects, and many women are disadvantaged because their sentences are so short. Working outside the prison is a perk reserved for minimum security women. Community service at neighbourhood shops, factories, and, in certain cases, schools and care homes is encouraged in some prisons, but security concerns have made the activity less common than in the past<sup>45</sup>

## PROGRAMMES

Over the last decade, the core plank of rehabilitative work in prisons in England and Wales has been a variety of cognitive behavioral programmes designed and supervised by psychologists and administered by specially qualified prison and prison care staff (probation officers). These programmes might be offender-specific, such as sex offender treatment programmes, anger management programmes, or violent offender programmes, or generic, such as reasoning and

rehabilitation or better cognitive skills programmes. Cognitive behavioural programmes are based on social learning theory and the assumption that offenders suffer from cognitive deficits.

Many female prisoners have lower reading and numeracy skills than the general community. Given that the majority of women are serving short sentences, they require extensive employment training. Although many jobs in prison are in housekeeping or cleaning to fulfil the demands of the institution, they require labour and training that will provide them with skills that will increase their chances of entering the job market. According to a survey of women's job and training experiences in prison and after release, the majority of women felt their prison employment to be of very little help in finding work after release. Due to their smaller size, women's prisons may have a more limited choice of education and training options than men's prisons due to their smaller size, although attempts are being made to provide greater consistency in educational programming and improve cooperation between different prison facilities.

Prisoners are increasingly being used to help with PE classes and other educational activities. Offending behaviour programmes in women's prisons should take women's needs into account, and programmes specifically tailored for female offenders have now been developed and accredited. On the other hand, female offenders, on the other hand, prefer and benefit from personalised client-centered counselling and treatment programmes. The Corston report (2007) also stressed the importance of training in fundamental life skills, such as cooking healthy meals and organising family life, for women whose lives have been chaotic. So, a woman centered strategy should be used for employment, training, and education, but this means that concerns such as life skills and self esteem should be addressed as a priority and as a prerequisite for benefiting from vocational or educational courses, according to the report.

Courses offering women aid and advice in building up small enterprises are highly valuable for individuals with more advanced abilities. The prison inspectorate also discovered a mixed picture in terms of activities, with Askham Grange providing outstanding provision and a variety of work, as well as high completion rates for courses, whereas in other cases, provision was not sufficiently tailored to the needs of women, such as in Peterborough, where there was too much mundane work and a lack of variety during teaching sessions. NOMS, on the other hand, is collaborating with the National



Institute of Continuing Education to establish a learning and skills curriculum that will provide a variety of purposeful activities tailored exclusively for women. A pregnant woman may petition for transfer to the mother and baby unit under prison rule 9(3) (MBU). The human rights legislation has reinforced mothers' rights to keep their newborns because separation may violate article 8 of the European Convention.

**Case Law:** In *R (P, Q, and QB) v Secretary of State for the Home Department* (2001), the court of appeal stated that prisoners retain the right to respect for family life while in prison when considering the prison service's policy of removing a child from the parent at 18 months. According to the Corston report, only 5% of the children of female prisoners remained in their original homes.<sup>45,46</sup>

Real penal reform and innovation, however, will not be found in a small scale enlargement of the women's prison estate, but rather through decarceration. Following HMP Inverclyde, where does authority lie in Scotland's punitive reform debate?<sup>47</sup>

## QUEST FOR THE PERFECT PRISON

The search for a new prison The Prisons Strategy White Paper, which was released on December 7, 2021, lays out a new plan to deliver the largest prison-building programme in more than a century. All new prisons will come complete with cutting-edge body scanners and airport style security. Every prisoner has a basic level of English and math, preparing them for work when they are released. One of the primary measures is a push to bring criminals back to work, which includes launching a new job matching programme that matches convicts with open positions in the community upon their release. Ensuring that convicts meet basic numeracy and literacy standards while incarcerated: ensure that every single prisoner has a basic level of English and maths so that they are ready for work when they are released. A new prison plan to rehabilitate prisoners and reduce crime has been developed.<sup>48</sup>

Under the exceptional conditions of Scandinavian detention, new pathways and ways of punishment emerge, producing freedom. The "pains of freedom" can be grouped into five sub-categories as a supplement to conventional sociological conceptualizations of prison pains:

- (1) confusion; (2) anxiousness and boundlessness;
- (3) ambiguity; (4) relative deprivation; and (5)

individual responsibility.<sup>49</sup>

## THE WOMEN IN PRISON FILM

WIP film, which originated in the early twentieth century and is still in use today, their stories are about imprisoned women who are sexually and physically abused, usually by sadistic male or female prison wardens, guards, and other convicts. This allows filmmakers to depict more extreme fetishisms like voyeurism (strip searches, group shower scenes, catfights), sexual fantasy (lesbianism, rape, sexual enslavement), fetishism (bondage, flogging, degradation), and sadism (beatings, torture, cruelty). A "welcoming" ritual may include mass strip searches, handing over personal belongings, or showering (all while being watched by sexually deprived female inmates) and male guards raping (or forcing) female convicts into prostitution. Female inmates sentenced to hard labour (such as scrubbing floors, chopping coconuts, or digging dirt holes while naked) Having a restrictive or uncomfortable dress code, such as being required to go barefoot and/or wear short, revealing prison uniforms, Fights among some of the prisoners (occasionally in the shower or in the mud, and frequently while naked) Minor characters' suicide or death; Female prisoners being sprayed with a firehose as punishment.

## CONCLUSION

A prison is a prison, regardless of what politicians tell us. For women, prison is an inefficient and frequently detrimental option. Prison design, security measures, healthcare, family interaction, labour, and training are all geared at men. Women in prison are frequently at a disadvantage, with few prisons addressing their basic requirements or sufficiently preparing them for release, and they have suffered greatly as a result of prison regime reforms that failed to account for their special needs during the COVID-19 pandemic. Women are disproportionately represented in the criminal justice system as domestic and abuse victims.

I believe that changing trends and attitudes about punishment are generating a new framework for the criminal justice system, but that little is being done to address the underlying causes of increased female incarceration. In my humble opinion, the practical reality and the theoretical understanding are at least partially different. There is also a gap between policy and practise, such as the government's use of a carrot and stick

approach. There are gaps in service delivery and extensive waiting lists, particularly for housing, financial assistance, and addiction treatment. There are numerous challenges that must be addressed, ranging from poverty to relocation. The ideal prison must be designed in such a way that it fits the demands of women. Last but not least, imprisonment should not be the last resort.

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