PRISONERS AS WOMEN: QUESTIONING THE ROLE AND PLACE OF IMPRISONMENT

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Abstract

An increasing volume of feminist literature questions aspects of imprisonment for women as a meaningful solution (for example, Quadrelli [1999]; Caddle and Crisp [1997]; LaPrairie [1995]; Hazelhurst [1995]; Butler [1994] and Woodrow [1992]), and the very notion of imprisonment itself (for example, Covington [1998]; Phillips and Harm [1998]; Heides John [1997]; Kauffman [1997] and Hampton [1993]). This paper has a feminist framework and seeks to ‘spark’ debate within the ‘practitioner’s forum’ in Australia. Accordingly, it takes an holistic approach ‘skimming’ detailed aspects of imprisonment in order to more clearly expose some of the primary flaws in current penal policy and practice. It puts forward two key propositions, firstly, that the current broad policy and practice platform does not provide a cohesive and targeted approach designed for ‘the job’. Rather, it is an ill-fitting and flawed ‘package’ based on the model for male offenders, that is applied and in some respects ‘adjusted’ to try to make it ‘fit’. Secondly, that gender is thus the ‘fundamental’ but largely ignored issue. This ‘position’ provides the opportunity and drives the need for a fundamental overhaul in the way women who offend are managed in general, and in particular for the focus of this paper, the role and use of imprisonment. Several issues are then raised to support these propositions, firstly, highlighting the ‘neglect’ of women offenders and specifically prisoners by mainstream criminology and corrections. Secondly, significant negative effects of current approaches are illustrated using two examples, that of Indigenous women as prisoners, who face a double social disadvantage, and of mothers as prisoners, many of whom have primary care responsibilities for offspring. The paper concludes that the current notion of imprisonment for women is incongruent, and that a ‘global’ review of the accepted theories, models, policy and practice is required, to develop a comprehensive, just, ‘fitting’ and effective management strategy for women who offend.

Rider: It is acknowledged that very good work is done by many in the field of women’s penal corrections. This paper does not criticise policy in any specific jurisdiction, nor is it a comment on practice in Western Australia my ‘home’ state. Rather the piece takes a ‘global’ and broad approach to women’s incarceration, simply raising questions about the role and place of imprisonment, in a general sense, as a response by the justice system to the criminal behaviour by female offenders.
Introduction

**Purpose of the Paper**

An increasing volume of feminist literature questions aspects of imprisonment for women as a meaningful solution, and, the very notion of imprisonment itself. For example, in the former, Quadrelli (1999); Caddle and Crisp (1997); LaPrairie (1995); Hazelhurst (1995); Butler (1994) and Woodrow (1992). In terms of the latter case, Covington (1998); Phillips and Harm (1998); Heidesjohn (1997); Kauffman (1997) and Hampton (1993).

Further, a recent independent inquiry in Britain (‘The Report of the Committee on Women’s Imprisonment, Justice for Women: the Need for Reform’, 2000), has also looked at the issue noting serious and significant flaws in terms of policy and practice. They concluded that the ‘target group’ are socially excluded within society, and that the community at large fails them. They call for a halt to the prison building program in England and a thorough review of the needs of women offenders, as the ‘best ways’ to tackle the ‘problem’. The inquiry further recommended the establishment of a National Women’s Justice Board to coordinate and develop a sound criminal justice policy for women, and the establishment of a network of local women’s supervision, rehabilitation and support centres.

This paper seeks to provide some preliminary focus to foster debate on this important issue within the ‘practitioner’ forum in Australia and, as the title suggests, to question the general use of imprisonment for women who offend. It provides an overview of some pertinent issues and is ‘grounded’ within a ‘feminist consciousness’ paradigm. It should also be noted that the paper has a Euro-centric focus, principally using material from the United Kingdom and the ex-colonies of Australia and Canada.

**A Feminist’ Perspective**

‘My’ feminist perspective essentially provides a ‘fresh pair of eyes’ to established thinking, which tends to go largely unquestioned, ‘refracting a picture’ that tends otherwise to be ‘unseen’. Essentially the paradigm, as Muraskin and Alleman (1993, p1) state, “combines a female mental perspective with a sensitivity to those social issues which primarily influence women.”

This frame of reference has a starting point which contends that, by and large, both criminology and corrections continue to have a ‘one-eyed’ or ‘male view’ of the world. Feminist criminology, in fact, began as a reaction to this state of affairs and thus can be seen to provide an important ‘balancing’ perspective. Within this context, conventional criminology and corrections are seen to have largely ignored women who offend, principally by assuming a ‘sameness’ to men, or by the presumption that policy is ‘gender neutral’. Where women have been studied, they tend to be represented in distorted ways based on stereotypical notions that operate largely unconsciously but non-the-less powerfully, through institutional processes. A feminist paradigm functions primarily to bring such aspects ‘into the light’.

**Main Piece**

To even begin to raise this broad issue in the context of a conference I necessarily take a ‘big picture’ approach, avoiding detailed analysis of specific aspects of imprisonment. This provides an uncluttered ‘lens’ to more clearly reveal primary flaws in current penal policy and practice. Basically, I put forward two key propositions and then seek to support them using
three related issues. Prior to this discussion I provide a brief contextual framework, in terms of key historical themes, an outline of the ‘classic’ profile of imprisoned women, and go on to note the sharp increase in the number of women incarcerated in recent years in the western world.

**Contextual Background**

**A ‘Skim’ History of Women’s Imprisonment**

I principally use the work of Dobash, Dobash and Gutteridge (1986) and Stern (1998), to provide a brief outline of the history of prisons and women’s incarceration in Britain, from which most of our ideas about imprisonment have come.

In fact, the use of imprisonment as the key way of punishing crime is a fairly recent development. For, in 18th century, public hanging was the most severe penalty and was widely applied, with only minor offenders, debtors and those awaiting execution sent to a prison. Towards the latter part of the century, however, hanging had become less acceptable to society, and transportation to the American colonies and the penal colony of Australia became the preferred option. But in 1837 a Parliamentary committee condemned the strategy as both expensive and ‘terrible’, and in 1868 it was finally abandoned.

With the disillusionment in transportation and increasing numbers in the penal system the Penal Servitude Act was passed. This legislation introduced an even more austere and harsh penal system, embedded in the belief that forced labour served the double purpose of providing punishment and rehabilitation. During this time a new set of ideas about ‘punishment’ had slowly been developing. Formerly it had been based on the notion of pain infliction to the body and the elimination or removal of criminals from society. The new approach, in contrast, worked on the mind rather than the body, with the goal of ‘correcting’ the mind.

The methods advocated included extensive use of isolation, silence, religious instruction, industry and fasting. In practice creative devices were employed to stop inter-prisoner contact, such as the use of masks that prevented inmates seeing sideways or downwards. But as Stern notes (1998, p 21), in time “the hopes that had earlier been pinned on religion were transferred to other forms of treatment, including psychology. The prison system moved into the treatment era.” This ‘flavour’ continues to be a strong influence in penal policy and practice today.

In terms of women, in the early 19th century they were held with men at Newgate Prison in very poor conditions awaiting sentence, execution and transportation. The conditions were even worse than those for male inmates, as they were contained in a ‘special’ area called ‘the hell above ground’. The official records describe the women as ‘savages and witches’; it is not difficult to imagine the filth, degradation and fear experienced by these women. They would certainly have compared badly with the accepted image of the Victorian female, principally based on obedience and docility.

The prison ‘reformer’ Elizabeth Fry, a Quaker, was a key figure largely attributed with ‘improving’ conditions for women. But, in line with the regime contained in the new prison act, her fundamental platform was to “introduce (women) to a knowledge of the holy scriptures, and to form in them as much as lies in our power, those habits of order, sobriety and industry.” (Dobash et al, 1986, p44) Thus the philosophical foundation for the containment for women continued to be oppressive.
In 1853 the first purpose built facility for women was opened called Brixton Prison with a tough prisoner management regime that was based on religious instruction, solitariness, silence and labour. But women again received ‘special’ one could say more punitive treatment. For example, whilst male inmates were able to work outside the prison and were automatically released after serving two thirds of their sentence, women always remained within the walls of the prison, and on ‘release’ often served time in a third institution called a ‘refuge’.

Thus, the imprisonment of women has a history marked by adaptation of responses originally designed for male inmates, with an unfortunate undertone at times of ‘special’ resulting in more punitive treatment.

**The Profile of Women Prisoners**

In this section I briefly outline key characteristics of female prisoners in Canada, New South Wales, Western Australia and England to outline a ‘common’ profile.

In Canada, Johnson (in Adelberg and Currie, 1987) links economic and social status with criminality, noting that women inmates tend to be young, under-educated and unskilled and that a high number are ‘native’. She also notes that many are addicted to drugs and alcohol, and large numbers (around 85%) are victims of physical and sexual abuse. Only 9.6% were incarcerated for committing violent crimes.

Hampton (1993) outlines data from New South Wales noting that the majority of women prisoners were aged between 18 and 30, and similarly to Canada, had left school with minimal secondary education, some 75% were unemployed at the time of their arrest. Only 10% were married with the majority (41%) being in de facto relationships. Just over half had children and before their imprisonment almost half of these women were sole parents.

In Western Australia, information available from a prison census of 30 June 1999 indicates that the majority of offences were non-violent, and that most of the women were on their first term of imprisonment, with multiple incarceration higher among Indigenous women. One inmate had in fact served over 26 previous terms of imprisonment.

In England the recent and significant report noted earlier also highlights that the majority (75%) of the women were serving prison terms for non-violent offences. Further, that two-thirds had a key ‘care’ role with around 89% leaving children in the community.

Thus, even a cursory ‘snapshot’ across several jurisdictions reveals marked similarities in international and national trends, such as the general lack of education, histories of victimisation and limited capacity to attain financial independence.

**Increasing Levels of Incarceration of Women**

A concerning trend consistently noted in the data and literature in recent years is the fairly dramatic rise, nationally and internationally, in the number of women being imprisoned (for example Quadrelli, 1999; Phillips and Harm, 1998). Phillips and Harm (1998) and Covington (1998) have noted a high correlation, in this regard, between drugs and incarceration. They state that the ‘war on drugs’ is becoming a ‘war on women’, with policy shifts linked to drug enforcement impacting heavily on women. They also note a greater willingness by the
judiciary to incarcerate female offenders. This increase is striking with, for example, in America a quadrupling of the muster since 1980; increasing in fact at a higher rate than for male inmates in every year since bar one. Similarly the recent report from England notes a ‘doubling’ in the number of women inmates in the previous seven years, going from 1600 to 3300 adult females.

**The Propositions**

Having ‘framed’ a brief contextual picture I go on to describe two key propositions with supporting justifications. Firstly, in terms of the general ‘neglect’ of women by both mainstream criminology and corrections to further ‘explain’ the current situation, and secondly taking two examples of ‘negative’ impacts from the current broad approach, as Indigenous women and mothers. The propositions can be stated in simple terms as follows:

Firstly, the current broad, ‘global’ policy and practice ‘platform’ constitutes an ill-fitting and flawed piece-meal ‘package’, based largely on the practice/models for men (Stern, 1998, p141). Further, that it is applied to women and in some respects ‘adjusted’ to try to make it ‘fit’ and function effectively, but that fundamentally it fails to provide a cohesive, targeted strategy.

Secondly, that gender is thus the ‘fundamental’ and largely ignored issue because women offenders are different to men, having different pathways to crime, different life circumstances and different habilitative or rehabilitative needs. Further, that in the largely unquestioned application of the current broad approach (and an expensive strategy at that), there are impacts that vary from minimally effective to highly destructive.

If one accepts these propositions, even provisionally, where does this leave us as theorists, policy makers and operational practitioners? I believe it provides an opportunity for the future and drives the need for a comprehensive ‘global’ review, with the potential to overhaul the main ‘accepted’ directions for the management of women offenders in general, and in terms of the focus of this paper, the role and use of imprisonment.

**The Justification**

**Lack of Attention by Mainstream Criminology and Corrections in General**

The general lack of attention on women prisoners by both the discipline of criminology and correctional organisations is well documented. For example, Phillips and Harm (1998) state that women have been ‘in the shadow of men’, Covington (1998) states that they are neglected and misunderstood, Lamberge (1991) notes that they have been ignored through assimilation with men, and Coll, Baker, Fields and Mathews (1998) also state that services and ideas concerning women prisoners remain modelled on those for men. The small number of women incarcerated in comparison to the number of men, has been traditionally used as the justification for lack of parity in service provision, and neglect in the research. The ‘assimilation’ process (managing women prisoners in the same basic way as men), can be seen to have included some of the most extreme aspects of the ‘male model’, based on the need for tight security in response to the level of dangerousness presented by some of the inmates. However, as noted, most women have a low risk of violence.
The fundamental issue here is, therefore, that regardless of the rationale as Turnbo (1992) notes, the problems and disadvantages for women prisoners by and large remain unresolved.

In terms of illustrating the negative impacts of the current role and place of incarceration, the examples of Indigenous women and mothers are now briefly discussed.

**Prisoners as Indigenous Women**

A common theme across relevant jurisdictions is that women prisoners are more likely to be white, but that black women are over-represented; the figures are worse in fact than for Indigenous men. [Lloyd, 1995; and Johnson (in Adeberg and Currie, 1987); Smandych (Hazelhurst, 1995] This situation is now fairly commonly agreed to be the result of history, racial bias, visibility issues, cultural incongruence between the Aboriginal culture and the dominant Anglo-Celtic criminal justice system, legal and extra-legal considerations and over-policing. An attached addendum provides a brief outline of some of the significant historical aspects in the pre and post invasion process.

In terms of Indigenous women, the term ‘decolonising’ is increasingly used, to suggest that ‘de-construction’ in terms of past events is more valuable than in terms of gender in gaining accurate understanding. Feminism has at times been perilously close to ‘re-colonising’ in the debate with an insistence that a feminist paradigm be used. However, it is increasingly accepted that history and culture are the seminal issues. Shaw (1992) for example, noting that the Canadian Task Force of 1990 found from its research that racism rather than sexism was the central pertinent issue.

LaPrairie (1992) in terms of the Canadian context has put forward a theory to explain Indigenous criminality. She utilises Braithwait’s theory of re-integrative shaming, stating that criminal acts occur mostly by virtue of marked social dislocation from the key institutions of the community, with criminal activity representing “a serious rupture of traditional control mechanisms in the contemporary Aboriginal community.” (p263) She contends that the colonisation process ‘broke the back’ of traditional Native roles and values, resulting in the loss of power and of personal status especially for men. This ‘shameful’ state of affairs being highly inappropriate within the culture, has resulted in ‘severe role strain’. She goes on to hypothesise a “direct causal link between the circumstances of Native men, male violence against Indian women and their subsequent criminal activity.” (p109) By and large, she suggests Indigenous women come into conflict with the law due to circumstances of family violence. Thus victims flee the violence and seek anonymity in city life, surviving through prostitution, and misuse of alcohol and drugs to dull the sharp edge of their emotional pain.

Similar ideas are also proposed in terms of Australia, for example Bolger (1991) notes the sustained pattern over time of high levels of incarceration for minor offences in a cyclic process of ‘return and release’, bound-up with dispossession, substance misuse and violence.

Thus, the key issues for Indigenous women and their over-representation in the prison population, link to far more extensive issues than mere criminal intent and that incarceration for petty, repeat offending is not a meaningful solution, if anything it exacerbates the underlying problems.
**Prisoners as Mothers**

Probably the most significant ‘flaw’ in the current criminal justice approach to women who offend, is the incarceration of mothers for non-violent offences, particularly noting that the strength or weakness of the mother-child bond is the most significant indicator of recidivism for females with offspring. (Gampell, 1999). Philips and Harm (1998) note that whilst many male prisoners are parents, 89% leave their children in the care of the biological mother, whilst for women inmates only 22% had children cared for by their biological fathers in her study.

Butler, in a case study for the Children of Prisoner’s Support Group in New South Wales in 1994, with a small sample of twenty released mothers, concluded that from arrest onwards there was little real recognition of ‘mothering issues’ faced by the women. She states (p24), “They are ‘de-maternalised’ from the beginning of the arrest process; separated from their children; given inadequate visiting, and then often in very alienating conditions; distanced from information and decision-making about their children; and then expected to re-claim a role which has become foreign to them and to their children.” It should be noted that New South Wales now has a very credible program for mothers (“The Mothers and Children Program”), but the ‘weakness’ is that the prison system there, in line with other jurisdictions, continues to incarcerate women who do not pose a significant threat to the community.

Caddle and Crisp (1997) note in their research how women removed from their offspring try to keep the ‘family together’ during their sentence, in obviously very difficult circumstances. Woodrow (1992) points to the level of ‘damage’ for ‘prison orphans’ (children whose mothers are in prison), through specific processes associated with the separation which she found occurred in very detrimental ways. For example, there was often no opportunity to explain to children what was happening, to reassure them, or even to ensure that they would be well cared for. In addition, there were the ongoing circumstances and difficulties of further contact, as noted, and the stigma of incarceration itself. Further, Farrell (1998) notes the generally inadequate visiting policies and environments in most institutions, and a view by many staff that family visits are a privilege rather than a right.

In terms of incarceration of small babies and children as an attempt to ‘support mothering’, Kauffman (1997) notes that the common approach is the confinement of limited numbers for short periods of time. She points out the incongruity of incarcerating ‘innocents’, and of their sharing even briefly the dreary existence of their mothers’ ‘punishment’ in adult prisons. Recently NACRO called for an increase in the number of places for mothers and children in prison, though they did state a preference that the jailing of such women be avoided unless the crimes indicate serious danger to the public. A position clearly shared in this paper. Hiedenson (1997) also outlines problems in housing young children in prisons as the ‘least suitable place for rearing’, being isolated from the real world, severely restrictive and institutional in nature. Either way, whether offspring are retained or removed, children effectively ‘wear’ the punishment.

In terms of the return of mothers, Catan (1992) in her study found problems with ‘rusty’ mothering skills and children who frequently acted out, angry at their mother’s absence and/or no longer seeing them as primary care givers. Many of the older children had developed serious conduct disorders and even delinquency during the separation. This situation in line with common histories of family discord and substance misuse, made the ‘re-uniting process’ especially fraught and difficult. Butler (1994) also found that the majority of mothers
returned to their children and frequently experienced this as traumatic and difficult. The biggest problem identified by the women was re-establishing the bond with their children, badly damaged by the separation and the negative impacts of trying to keep contact during the sentence-serving period. Some of the women also felt affected by the ‘institution’ such that resuming family responsibilities was difficult. Few of the women were optimistic about the future.

Wilkinson (in Morris and Wilkinson, 1988) in another study of women entering and being released from prison and taking a wider perspective, found housing problems and short term unstable living arrangements a common feature of both the pre and post prison experience. Only a few women retained their accommodation, and when this did occur it was through family assistance rather than agency intervention. In addition, she found that multiple debts were common, with financial circumstances described by the women as ‘drastic’ and ‘chronic’ prior to their incarceration. Typically the debts included rent arrears, gas/electricity bills, higher purchase and outstanding fines. Further, of those in relationships, a number described them as ‘abusive’ but felt considerable pressure to return mainly for financial reasons.

Both Wilkinson and Butler, therefore, identify significant negative impacts resulting from the removal of women who are mothers from the community and their care role, and the forced separation from their children that results. This rather ‘oppressive’ approach is hard to justify when it is considered that the majority of these women pose no significant threat to the community. Many in fact have ‘difficult’ lives that are made the harder by this criminal justice process, frequently leaving them struggling with an increasing range of problems, whilst providing few solutions.

**Concluding Comments**

Given the breadth of this topic and the time allowed I have sought to provide a ‘thumb-sketch’, global picture of some of the significant themes related to the use and role of women’s incarceration, as opposed to a detailed analysis of any particular issue. The paper does not pretend to provide a complete ‘landscape’ but brings to the fore key matters within this particular ‘story’ of women.

I began with two key propositions, firstly, that the current global policy and practice ‘platform’ is an ill-fitting and piece-meal strategy, based broadly on practice and models for men, and ‘adjusted’ in some respects to apply to women. As such it does not provide a cohesive or specifically targeted approach. Further, women offenders are different to men, with different pathways to crime, different life circumstances and different rehabilitative needs. Thus, application of this approach has impacts that vary from minimally effective to destructive. Secondly, that this position renders gender to be the key and largely ignored issue.

To support the argument I gave the case, firstly, of ‘lack of attention’ to both explain the current position and justify a ‘revolutionary’ rather than an ‘evolutionary’ approach from here. For ‘evolution’ implies further development from the current base and I am of the view that ‘more of the same’ will not be good enough. In contrast ‘revolution’ is recommended in the sense of providing the possibility of a ‘new’ starting point.
I then took two examples to illustrate some ‘negative’ impacts, being the case of Indigenous women and mothers respectively. I used the example of Indigenous women to also illustrate the point that women do not constitute an homogenous group, a matter frequently implied in simplistic policy. Many other examples could have been given, such as treatment delivery/victimisation and employment training opportunities/lack of financial security.

Taking a socio-political perspective, Harden and Hill (1998) state that the majority of crimes committed by women relate to unsolved social problems, such as victimisation and drug abuse. As such the authors contend that incarcerated women are the most injured and without resources in the community. In like terms Phillips and Harm (1998) note that such women tend to be trapped in a cycle of poverty. Given these factors they go on to state that the ‘true’ rehabilitation task is to establish a new life, based upon emotional recovery and being equipped with marketable skills as well as employment pathways.

Women thus tend to come to the notice of the criminal justice system through the limitations of their lives rather than a propensity for criminal behaviour per se, and are therefore victims as much as they are offenders. Unfortunately as Heidesohn (1997) notes, at the close of the 20th century most of the key issues associated with the management of women in prison remain.

I conclude that the current ‘global’ notion of imprisonment for women is incongruent, and that a fundamental review of the pertinent theory, models, policy and practice is required in the near future, if we are to develop a comprehensive, just, ‘fitting’ and effective management strategy for women who offend.
Reference List


BRIEF OUTLINE OF KEY ASPECTS IN THE EARLY COLONISATION PROCESS OF AUSTRALIA

History provides the critical context in terms of the pre-invasion and post invasion process, as critical aspects associated with the global feature of extensive contact with the criminal justice system by Indigenous people. Roberts (1978) notes that pre-invasion there were some 500 Indigenous nations in Australia, many of whom were wiped out, with an equivalent number of languages.

Aborigines tried to resist the invasion, fighting a guerrilla campaign for over 170 years, with the last battle fought in Western Australia around the 1940’s. (Roberts, 1978) In spite of this opposition the effect of invasion led to the rapid disorganisation and collapse of many tribes. Berndt (1982) notes the extreme incompatibility of the Aboriginal peoples and the colonisers. Stating, “The Aborigines could hardly have been subjugated by a people more unlike themselves, and less in sympathy with their whole orientation toward living.

Two key features of traditional Aboriginal society highlighted by Berndt (1982) were kinship and law. Kinship, is described as the ‘articulating force’ for all social interaction, whilst law covered all things derived from or associated with the ‘Dreaming’. Thus, the loss and/or disruption of law had far reaching consequences for Indigenous Australians. Indeed, Aboriginals seemed so different that they were considered scarcely human. (p503) In addition, European settlers wanted land and assumed because the Aborigines did not ‘farm’ in the conventional sense, that the land was ‘available’. Consequently, it was simply taken and, unlike New Zealand and North America, no land treaties were made. “The conditions in which Aborigines found themselves gave little opportunity to keep up their traditional practices, or to obtain more than a precarious foothold in the world which had supplanted them.” (Berndt, 1982, p506)

This severe ‘dispossession’ process has had powerful and long term detrimental effects for Indigenous Australians, for as a result, pauperism, depopulation and disillusionment have been predominant themes.