

FRIENDS WORLD COMMITTEE FOR CONSULTATION (QUAKERS)

# Quaker United Nations Office

## WOMEN IN PRISON and CHILDREN OF IMPRISONED MOTHERS

PRELIMINARY RESEARCH PAPER

By Rachel Taylor

Introduction by Rachel Brett

July 2004

The Quaker United Nations Offices located in Geneva and New York represent Friends World Committee for Consultation (Quakers), an international non-governmental organisation with General Consultative Status at the UN. QUNO works to promote the peace and justice concerns of Friends (Quakers) from around the world at the United Nations and other global institutions. It is supported by the American Friends Service Committee, Britain Yearly Meeting, the worldwide community of Friends, other groups and individuals.

## Continuing research

During the course of this project, we have begun conducting primary research into women's prisons worldwide. We have a number of questionnaires devised to elicit information from prisoners, ex-prisoners, prisoners' families, prison staff, prison visitors, and government agencies. If you would like to contribute to further research on this topic and are in a position either to complete such a questionnaire yourself or to distribute them to others, please contact us at the address given below.

## Other FWCC documents on women in prison

- Written Statement to UN Commission on Human Rights 60th Session - Women in Prison (E/CN.4/2004/NGO1)
- Oral Statement to UN Commission on Human Rights 60th Session - Women in Prison
- Compilation of references to women in prison in the documents submitted to and resolutions of the UN Commission on Human Rights 60th Session
- Statement made at the Twelfth Session of the UN Commission on Crime Prevention and Criminal Justice, Vienna, 13-22 May, 2003 – Women in Prison

July 2004

Quaker United Nations Office  
13 Avenue du Mervelet  
CH-1209 Geneva  
Switzerland

*Tel* +41 (22)748-4800  
*Fax* +41 (22) 748-4819  
*Email* [quno@quno.ch](mailto:quno@quno.ch)  
[www.quno.org](http://www.quno.org)

Further copies of this publication are available from QUNO - 10chf plus postage.

# WOMEN IN PRISON and CHILDREN OF IMPRISONED MOTHERS

Preliminary research paper

Rachel Taylor

Introduction - *Rachel Brett*

1. Overview and Statistics
2. Particular Groups
3. Mothers and Children
4. Healthcare
5. Abuse, Inappropriate Procedures and Torture

Bibliography

## INTRODUCTION AND OVERVIEW

*Rachel Brett*

### BACKGROUND

Quakers have been involved in issues of criminal justice and conditions in prison for most of the 350 years of their existence. The most famous historical example is Elizabeth Fry, whose statue in the Central Criminal Courts (the Old Bailey) in London pays tribute to her reforming role in 19<sup>th</sup> Century Britain. The long-standing Quaker involvement in criminal justice and human rights issues at the national, regional and international levels has led to increasing concern about the under-considered and growing problem of women in prison and the situation of babies and children of imprisoned mothers.

In particular, there is a need to give attention to the situation of women and girls (female juveniles under 18 years of age) in pre-trial detention and imprisonment following trial, including in probation hostels or similar facilities in which they are required to reside whether instead of prison or in the transition back to the community, and the babies and children of imprisoned women, both those in prison with their mothers and those outside the institution. The purpose of doing this is to identify the key issues which arise for such women and girls, and their children, and to gather information and ideas on ways in which these issues have, or could be, addressed better.

Friends World Committee for Consultation (Quakers) raised this issue at the UN Commission on Crime Prevention and Criminal Justice (Vienna, May 2003), the UN Sub-Commission on the Promotion and Protection of Human Rights (July-August 2003), and the UN Commission on Human Rights (March-April 2004).<sup>1</sup> At the same time, the Quaker UN Office, Geneva, embarked on research, the preliminary results of which are contained in this Research Paper, and the Quaker Council for European Affairs has started comparative European research.

As a result of these activities, the Sub-Commission on the Promotion and Protection of Human Rights decided (Decision 2003/104) to entrust Ms Florizelle O'Connor with the preparation of a working paper on women in prison, including issues relating to the children of women in prison, and requested her to submit her working paper to the Sub-Commission at its fifty-sixth session (in 2004).

Following this, the UN General Assembly (A/RES/58/183 on Human Rights in the Administration of Justice) and the UN Commission on Human Rights (Resolution 2004/43 on Human Rights in the Administration of Justice, in particular juvenile justice) invited "Governments, relevant international and regional bodies, national human rights institutions and non-governmental organisations to devote increased attention to the issue of women in prison, including issues relating to the children of women in prison, with a view to identifying the key issues and ways in which they are addressed and note[d] the proposal of the Sub-Commission on the Promotion and Protection of Human Rights (decision 2003/104) to prepare a working paper on this issue."

---

<sup>1</sup> Copies of these statements are available from the Quaker UN Office, Geneva, or from our website ([www.quano.org](http://www.quano.org))

## OVERVIEW OF THE ISSUES

Although both men and women are subjected to imprisonment, little consideration has been given to the different needs and problems of imprisoned women as opposed to men. This omission may be a reflection of the fact that women prisoners are a very small minority of the overall prison population: indeed, the world average is four percent. The small numbers of imprisoned women can in themselves create problems with women either being held in mixed sex facilities (with greater or lesser segregation from male prisoners) or with the existence of a much smaller number of women's prisons meaning that women are held further from their homes, with consequent additional problems in maintaining domestic and community ties, and often in more severe regimes than warranted by their offence. The small number of women's prisons and of female prisoners is even more marked in relation to detention facilities for juvenile females, to the extent that in some countries there are no separate institutions for young female offenders, thus leading to their imprisonment with adults – including sometimes with adult males. The dearth of disaggregated data makes identification of the number of juvenile females in prison more difficult – and may be compounded where 16 year old girls, or those below 16 who have reached puberty, are in practice treated as adults in this context.

Despite their small statistical proportion in the over all prison population, the rate of imprisonment of women is increasing rapidly. The reasons for this appear to be changes in sentencing policy and law enforcement priorities, rather than a change in the amount or severity of crime in which women are involved. This increase not only impacts on the individual woman being sentenced to prison, but also on the overall prison situation of women. Overcrowding may lead to lack of exercise facilities, or of time spent out of cells at all, and may also be related to lack of rehabilitative programmes – educational, vocational, counselling, as well as of drug and alcohol dependency programmes. Although these deficiencies may be a factor of overcrowding, or more general under-funding, there may also be an element of discrimination in relation to the low priority for such programmes for women, or the failure to adapt such programmes to address the needs of women. The lack of such programmes is likely to have a significant impact on the ability of women prisoners to reintegrate effectively into society, because it needs to be seen in the context of the general socio-economic profile of women prisoners in all countries as being predominantly from the most impoverished end of the social spectrum and with little education. (See Section 1)

## SPECIFIC GROUPS OF WOMEN

The problems for women in general may be compounded or exacerbated for some specific groups of women. The issues pertaining to maintaining contact with the family (adults and children) is even more difficult for women imprisoned in another country. Not only is physical contact even harder, but telephone calls are likely to be more expensive and difficult to arrange because of time differences, the need to identify a time at which children and other family members will be available, the lack of privacy for telephone calls and so on. Maintaining contacts through letters is hard for those with low literacy skills, and self-evidently problematic in relation to young children, as well as depending on often slow and unreliable postal services. Foreign women may be faced with the additional problems of language and socio-cultural differences, which may lead to isolation. In prisons where the prisoners are dependent on external assistance, whether for basics such as food, hygiene products and clothing, or for small luxuries, women without family at hand to visit not only face the direct problems of not having such items, but are vulnerable to

exploitation by other prisoners or prison guards in order to obtain the necessities for survival.

Similar problems of language, culture and alienation from family may arise for women who are nationals of the country in which they are imprisoned but come from particular groups, for example indigenous women. In many countries with indigenous populations, indigenous women represent the fastest growing segment of the prison population. Their “double minority” status within the prison system, being both indigenous and women, means that where training and other programmes exist they may have to choose between those intended for indigenous men or for non-indigenous women. They may also have a different ‘profile’ and hence different needs from other women prisoners. Transgender prisoners face particular difficulties and pose special challenges to the prison system precisely because of the question as to their classification as male or female prisoners. (See Section 2)

## **BABIES AND CHILDREN OF IMPRISONED MOTHERS**

Women prisoners are often the sole or primary carer for minor children. This means that the imprisonment of the mother cannot be considered in isolation. It is common in many countries for babies and young children to be taken into prison with their mothers. This may well be preferable to separating them. However it also raises complex issues about the facilities available for such children to ensure their own appropriate development – physical, mental and emotional, including their interaction with other children. Even where special mother and baby units are provided, these are often very limited in numbers and so may not be available in practice. Furthermore, there are questions about to what age children should be kept in prison with their mothers – State practice in this area varies considerably (from a few months to 6 years even within Europe), and has to include difficult issues pertaining to the mother’s capacity and suitability, the length of her sentence, and the nature of her crime, in addition to the needs of the child. When the time for separation comes, how can it be handled in a way that minimises the adverse impact on both mother and child?

Whether children are separated from their imprisoned mother in this way, or at the time of initial imprisonment, what provision is made for the children of imprisoned mothers? The father, grandparents or other relatives may be able and willing to take care of them, but siblings may be separated from each other in order to lighten the burden of care, or they may be taken into State institutions. What experience is there in seeking to maintain the best links between children and their mother? How can the mental, emotional, physical and social impact of the mother’s imprisonment be minimised for the children, both directly for them in continuing their daily lives, and also in maintaining their relationship with the mother during imprisonment and following her release (if any). Visiting prisons can be a daunting and frustrating experience for adults. Travelling a long distance, entering a grim building, being searched by a strange adult, to spend a short time with a mother that one cannot even touch may be distressing in the extreme to a child. This in turn may make the child’s caretaker less inclined to undertake this arduous task. Furthermore, the new carers may have their own family responsibilities, as well as financial constraints, which put strains on taking in additional children (leading to children moving from one carer to another) and in particular adding to both the financial, time and emotional burdens of taking children to visit their imprisoned mother. Evidence suggests that the children of imprisoned mothers, and particularly those who are taken into State care during the mother’s imprisonment, are at significantly greater risk of developing criminal behaviour in adulthood than other children of

similar backgrounds.

Even before this, because the number of women sent to prison is relatively low, and because of the apparently increasing tendency to send women to prison for lesser, non-violent offences, the woman herself may not anticipate the possibility of imprisonment as the outcome of her trial. She may not, therefore, have made any preparations or provision for her children before being taken into custody. This can cause added distress to both the mother and the children, and indeed may leave children fending for themselves. Some States have a system which enables deferment of the start of the prison term for a short time in order for such a mother to make arrangements for her children.

The impact of their mother's imprisonment on the children affects every aspect of their lives and not only their relationship with their mother. It is similar to bereavement, but with added stigma and often less support, from the new carer, teachers, and others. Not surprisingly it often leads the children into aggressive and anti-social behaviour. The impact on the children will, of course, vary according to their age and the surrounding family and community response.

Although all released prisoners face issues surrounding their efforts to reintegrate into society, for women these may be compounded by the need to reconcile with children who may have changed (as well as grown up) during their absence. A lack of housing makes family reunification next to impossible, but for a single mother from an impoverished background, released from prison, obtaining housing is not easy. Even a short prison term may lead to the mother losing the rented accommodation in which she had been living, and it is common for a mother to be unable to regain custody of her children if she does not have anywhere to live.

All these issues highlight the desirability of giving non-custodial sentences to mothers wherever possible. (See Section 3)

## **PHYSICAL AND MENTAL HEALTH**

Standards of medical care within prisons vary greatly, both from country to country and from prison to prison. Women prisoners suffer poor physical and mental health at rates and with a severity far exceeding those of male prisoners or of women in the general population. Some of this may be related to the reasons why they have been imprisoned, for example drug use, and hence of drug dependency and associated health problems. Others are a factor of the greater prevalence of sexual abuse and exploitation of women before and during imprisonment – gynaecological problems, HIV and other sexually-transmitted diseases, pregnancy, child-birth or abortion. However, there appear to be additional problems, including diseases and infections associated with overcrowding and poor health and hygiene conditions and a high level of mental health problems. Health care facilities may be within the prison or may be provided externally. Although there may be advantages in terms of better facilities in the latter case, they may also have their own problems, such as the shame for women of being taken there in prison clothing or in handcuffs, waiting in public waiting areas within the hospital, shortages of prison staff reducing the availability of escorts for women to attend hospitals, and male prison staff accompanying female prisoners and being present during medical consultations and examinations. Another issue is that the perceived lack of security in civilian institutions may lead to women being shackled to beds, even during child-birth. The extent of mental health problems of women prisoners is a little

explored area, but appears to be extraordinarily high, including a high proportion who were suffering from mental health problems before incarceration. (See Section 4)

## **VIOLENCE AND VULNERABILITY**

Although male prisoners are vulnerable to torture and inhuman and degrading treatment, physical and sexual abuse and exploitation, women – and juvenile female – prisoners are particularly at risk, both from male prisoners and from male prison guards. They may also be subjected to abuse and exploitation from other female prisoners and from female prison guards. The issues about safety and security of female prisoners include institutional issues, such as location of female cells in mixed prisons, location and use of shared facilities, in particular showers and toilets, whether male prison guards hold ‘contact positions’ over female prisoners (posts which permit or require them to be in physical proximity to the prisoners, sometimes unsupervised by other, female, staff), strip searches and the existence or lack of effective supervision and complaints mechanisms which, in the hierarchical and controlled structure of prison systems enable prisoners to complain without exposing them to intimidation or further abuse. Furthermore, women who are subject to sexual abuse or exploitation face the added problems relating to the risk of HIV and other sexually transmitted diseases, the questions of pregnancy and child-birth or abortion, and all the associated physical, mental and emotional health issues. (See Section 5)

## **CONCLUSIONS AND RECOMMENDATIONS**

In recent years, there has been increased recognition of the need to apply a gender perspective to policies and programmes. The prison system appears to have lagged significantly in this respect, and the United Nations and its criminal justice and human rights bodies also seem to have failed to give adequate attention to the particular problems and differential impact of imprisonment on females. Furthermore, the adoption of the UN Convention on the Rights of the Child has led to a much greater consideration of not only the rights of children *per se*, but also the impact on children of actions and activities around them, and especially to separation from family, institutionalisation, and related issues, although not, it seems, as yet in this context of maternal imprisonment. This preliminary research report illustrates the need for a thorough analysis of all aspects of women’s imprisonment and the impact of maternal imprisonment on children with a view to identifying how to better address the problems and issues identified.



## Section 1: OVERVIEW AND STATISTICS

### 1.1 OVERVIEW

In all countries, women constitute a small fraction of the total prison population – the world average being 4 percent<sup>2</sup>. As such a small minority of the overall prison figures, the particularities of their situation tends to be overlooked. The women’s penal system is based on that devised for men and whilst this may be an acceptable starting point, the female prison system needs to be adapted to take into account the particular characteristics and needs of women.

In order to give an accurate and comprehensive picture of the situation of women in prison throughout the world information from a much broader range of countries is needed than is covered here. However, in many instances obtaining information has not yet been possible so examples in this paper are cited from only a limited number of countries. This is not in any way intended to single out these countries or to imply that the issues in question are particular to that country. These specific references are provided as examples of real, documented problems which could be relevant to many countries.

Although women make up a very small number of the overall prison population, the percentage has been increasing in recent years. In the UK, “The female prison population has more than doubled in the last six years”<sup>3</sup>. In Spain, the number of female prisoners has increased from roughly 500 prisoners in the 1980s to almost 4,000 in 1994 – an increase of some 800%<sup>4</sup>.

Sample country data:

Country	Women as percentage of inmates 2003 <sup>5</sup>
United Kingdom	6%
United States	8.1%
Brazil	4.3%
Thailand	19%
South Africa	2.4%
Senegal	3.7%
Saudi Arabia	6.6%
Cambodia	5.3%
Iran	3.5%
Paraguay	11.3%

### 1.2 CAUSES OF IMPRISONMENT

Research suggests that the increase in the women’s prison population is due not to an increasing quantity or severity of crime committed by women, but rather to a change in sentencing policies

<sup>2</sup> Kings College London International Centre for Prison Studies online [www.kcl.ac.uk/depsta/rel/icps/new.html](http://www.kcl.ac.uk/depsta/rel/icps/new.html) (accessed 28 November 2003)

<sup>3</sup> YWCA Policy and Campaigns: *Briefings* “Bad Girls or Bad Laws? Young Women in the Criminal Justice System” (Summer 2001: Issue 2)

<sup>4</sup> Cruz Blanco: “Las cárceles se llenan de mujeres” in *El Pais.es* (21/10/01) [www.elpais.es](http://www.elpais.es) (accessed 02 March 2004) Author’s translation

<sup>5</sup> Kings College London International Centre for Prison Studies online [www.kcl.ac.uk/depsta/rel/icps/new.html](http://www.kcl.ac.uk/depsta/rel/icps/new.html) (accessed 28 November 2003)

and law enforcement priorities. Owen states: “Crime rates don’t account for the huge upswing in the population of women’s prisons...the crime rate for women has risen only about 32 percent in the last two decades, whereas the imprisonment rate has increased 159 percent”.<sup>6</sup>

These increased imprisonment rates relate most noticeably to drug offences. In recent years, the number of women being imprisoned for drug offences in many developed countries has grown at an astronomical rate. This may involve women being sentenced for crimes committed as addicts trying to support their addiction, or it may concern women who have (attempted) to smuggle drugs on behalf of someone else in exchange for payment. At the same time, women in less developed countries continue to be incarcerated for crimes motivated by poverty (theft) or crimes relating to sexual conduct and social norms (e.g. adultery), as well as drug-related crimes.

The following table shows by type of crime the percentage of women imprisoned in the United Kingdom in June 1998.<sup>7</sup>

Type of Crime	Percentage of prison population
Motoring	1
Sexual offences	1
Burglary	5
Fraud and forgery	5
Robbery	8
Other	9
Theft and handling	17
Violence against the person	19
Drugs	35

In contrast with the 35 percent of women prisoners, men incarcerated for drug offences constituted only 9 percent of the male prison population.<sup>8</sup>

Foreign national women feature particularly highly with regard to drug-related offences. A report from Rethinking Crime and Punishment published in 2003<sup>9</sup> reveals that at the time of writing they represented “a fifth of the female prison population [in the UK]”. Of this total, “almost half...are Jamaican women who have been convicted of drugs offences, mostly importing drugs. Such women usually come from a background of extreme poverty and are rarely high up in the criminal gangs which use them. Most are single parents and first-time offenders and there is evidence to suggest that coercion plays a part in their decision to become a drug courier”.<sup>10</sup> (Issues surrounding foreign national women as prisoners are explored in more detail in Section 2).

---

6 Owen, B.: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003), pp231-246, p237 citing Bureau of Justice Statistics (USA) (1999)

7 Wedderburn, D, The Report of the Committee on Women’s Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p6

8 Wedderburn, D, The Report of the Committee on Women’s Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p6

9 cited in Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9

10 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9 citing Rethinking Crime and Punishment: *A bitter pill to swallow: The sentencing of foreign national drug couriers* (2003)

---

In the USA the ‘war on drugs’ has had a similarly stark effect on women. According to Owen<sup>11</sup> between 1986 and 1995 “the number of women incarcerated for drug offenses rose an amazing 888 percent; those imprisoned for other crimes rose 129 percent”. At the same time, “drug offenses account for about one-third of the rise in male prison population”.

Likewise, in Brazil “a proportionally higher number of women are sentenced for drugs offences; 48 per cent of women and 10 per cent of men”<sup>12</sup>. Human Rights Watch investigators<sup>13</sup> noticed that in the women’s prisons they visited in Brazil, “roughly half of the female inmates were held for drug crimes, usually for very low-level offenses”. Similarly another Human Rights Watch report, this time concerning Indonesia, stated “Of the 96 women at Tangerang during our visit, 33 were there on drug charges [one of] the two most common offences”<sup>14</sup>.

This indicates that women are imprisoned in much greater numbers, proportionally, for drug-related crimes than for any other. In this sense, drug-related crimes could be seen as a ‘female crime’, compared to other crimes which are more likely to be committed by men (such as armed robbery, assault, etc). The nature and length of sentence applied for these different offences may therefore indicate a form of gender discrimination within the justice system, i.e that “women’s crimes” are punished more harshly than “men’s crimes”. In Spain, the following has been noted:

“Article 368 of the Penal Code states that the cultivation, production or trafficking of drugs destined for illegal consumption will receive a sentence of between three and nine years’ imprisonment. Article 235 punishes robbery with force with one to two years; robbery committed in an occupied home, with two to five years, and robbery with violence will receive a sentence of two to five years...A ‘mule’ (who transports drugs) who carries 400 grammes of cocaine may serve a longer sentence than someone who deliberately blinds another person or who plants a bomb which does not explode in a public place”<sup>15</sup>.

Besides drug-related crimes, women are often imprisoned for petty theft which is often linked to a situation of family poverty. In Mexico, “a quarter of those serving a sentence for robbery stole less than 1,000 pesos [approximately 73 Euros or 88 US dollars]”<sup>16</sup>. One of the problems is that this type of property crime is usually punishable by a fine, being considered a more appropriate sentence than prison for a petty crime. However, when theft is committed as a consequence of poverty, there is little or no prospect of the defendant being able to pay the associated fine, the result of which is that they receive a prison sentence instead. Santiago Vidal, a judge in Barcelona, has highlighted the absurdity of a law which imposes financial penalties for petty theft on people who clearly do not have the means to pay them<sup>17</sup>.

---

11 Owen, B.: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003) pp231-246, p237 citing Mauer, Potler and Wolf (1999)

12 Howard, C: *Main Issues Facing Brazil’s Women Prisoners* (unpublished paper, 2003)

13 Human Rights Watch: *Behind Bars in Brazil* (1998)

14 Asia Watch/Human Rights Watch: *Prison Conditions in Indonesia* (September 1990) p27

15 Cruz Blanco: “Las cárceles se llenan de mujeres” in *El Pais.es* (21/10/01) [www.elpais.es](http://www.elpais.es) (accessed 02 March 2004) Author’s translation

16 Ruiz, M: *Mujeres jóvenes y pobres en mayor riesgo de ir a la cárcel* (16/06/03) from [www.cimac.com](http://www.cimac.com) (accessed 02 March 2004) Author’s translation

17 Cruz Blanco: “Las cárceles se llenan de mujeres” in *El Pais.es* (21/10/01) [www.elpais.es](http://www.elpais.es) (accessed 02 March 2004) Author’s translation

This paradox applies equally to women who would normally receive bail on charges of petty crime but are unable to pay the assurance and so are obliged to wait in prison for their case to be heard, even when the maximum sentence for their crime (if found guilty) would not include a prison term. Women on remand constitute a large percentage of the total women's prison population. In India, "more than 70 per cent of the female jail population in the country consists of under-trial women. They languish for 4 to 5 years in jail for offences for which the sentence would have been far less if they had been convicted. They remain in jail as they are unable to defend themselves and are ignorant of ways of securing legal help"<sup>18</sup>. In the UK "Women held on remand awaiting trial or sentence represent a substantial 20 – 25 percent of the total female population"<sup>19</sup>.

In some countries, women may be imprisoned without any accusation of criminal action. This is notably the case in India where prisons are used to house "the convict, the under-trial, the mentally disabled, the vagrant or the destitute, the runaway or abandoned girl and the prostitute"<sup>20</sup>. This has become possible as "The inter-changeability of punitive and protective or curative institutions has led to prison cells being regarded as places of 'safe custody'"<sup>21</sup>. The use of prisons in this manner to compensate for a shortfall in the lack of other institutions for the mentally ill, homeless, or other populations at risk, clearly subjects many women to all the negative consequences of imprisonment despite never having committed a crime for which such 'punishment' could be justified. Furthermore, women may be held in prison as a means of 'protection', either in the aftermath of a criminal offence being committed against them or simply when the threat of such action is present. This is particularly the case for women who have been the victims of rape.

"Because of the stigma that an Indian woman suffers if she has been raped, the authorities apparently fear that the victim will not show up in court to testify against her rapist. Accordingly, she is imprisoned to make certain that she is available to testify at trial... While not ostensibly designed to punish the victims, this is the effect of confinement in protective custody, which may last for two, three or four years"<sup>22</sup>.

Such a policy, whilst protecting the victim from further assault and retribution by the defendant, causes substantial and unjustified suffering to the victim and serves to deter women from reporting criminal acts against them.

### 1.3 SOCIAL PROFILE OF WOMEN IN PRISON

From the information available it would appear that women prisoners across the globe have one thing in common – a background of social disadvantage. Whatever the country or continent, the women found in prison are predominantly those at the most impoverished end of the social spectrum, who have led a life of social exclusion and abuse. The statistics speak for themselves:

---

18 Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International, p5

19 Wedderburn, D, *The Report of the Committee on Women's Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p3

20 Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International, p7

21 Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International, p7

22 Asia Watch: *Prison Conditions in India* (April 1991) p26

---

- In Brazil, 20 percent of women prisoners have spent time in juvenile detention facilities; 8 percent attended school only until age 14.<sup>23</sup>
- In the United Kingdom, “a quarter of women prisoners have been in care as a child compared to 2 per cent of the general population” and “forty per cent have not worked outside the home in the last five years before entering prison”.<sup>24</sup> Half of the women in prison have experienced domestic violence. “Women [prisoners] are twice as likely as men to have received help for a mental/emotional problem in the twelve months prior to custody...and [are] more likely to have a serious mental illness”.<sup>25</sup> Nearly 20 per cent have been treated as inpatients in a mental hospital.<sup>26</sup> Two-thirds of women prisoners are drug dependent or alcohol addicted. Women prisoners also suffer “from particularly poor physical health”<sup>27</sup>. Foreign national women constitute one fifth of the female prison population, and “almost half of this group are Jamaican women who have been convicted of drugs offences”. They “usually come from a background of extreme poverty...most are single parents and first-time offenders”.<sup>28</sup>
- In Mexico, “6.11 per cent of women prisoners are illiterate, compared to 2.37 per cent of male prisoners”<sup>29</sup>. In addition, “six in ten of the mothers in prison had their children in adolescence and half of the 1,653 people interviewed ran away from home before the age of 12, principally as a result of domestic violence or in search of work”<sup>30</sup>. Up to “27.4 per cent of women prisoners have a partner in prison”<sup>31</sup>.
- In the United States of America, “The majority...come from poor minority communities. They have few educational or vocational skills and are mostly young mothers with personal histories of substance abuse, unemployment, physical and mental illness, and physical and sexual abuse”.<sup>32</sup> A study in New York prisons found that “70 per cent reported experiencing severe physical violence from a caretaker. Fifty-nine per cent reported some form of sexual abuse during childhood...77 percent of all respondents reported that they had been a target of violence by others...only 6 per cent of all 150 respondents did not mention at least one physical or sexual attack during their lifetime”.<sup>33</sup>

23 Howard, C: *Main Issues Facing Brazil's Women Prisoners* (unpublished paper, 2003)

24 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9, citing Social Exclusion Unit: *Reducing re-offending by ex-prisoners* (2002)

25 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9, citing Department of Health (2003)

26 Bellamy, K (ed): Report from the Gender and Justice Policy Network Seminar 26th November 2001 *Joining Up Services for Women Offenders at a Local Level* (Fawcett Society, 2001) p25

27 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9

28 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9, citing Rethinking Crime and Punishment: *A bitter pill to swallow: The sentencing of foreign national drug couriers* (2003)

29 Maya, R: *Discriminación en el sistema judicial afecta a mujeres*: CDHDF (29/11/02) from [www.cimac.com](http://www.cimac.com) (accessed 02 March 2004) Author's translation

30 Ruiz, M: *Mujeres jóvenes y pobres en mayor riesgo de ir a la cárcel* (16/06/03) from [www.cimac.com](http://www.cimac.com) (accessed 02 March 2004) Author's translation

31 Ruiz, M: *Mujeres jóvenes y pobres en mayor riesgo de ir a la cárcel* (16/06/03) from [www.cimac.com](http://www.cimac.com) (accessed 02 March 2004) Author's translation

32 Owen, B.: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003) pp231-246, p238, citing Owen and Bloom 1995a 1995b

33 Owen, B.: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003) pp231-246, p239, citing Browne, Miller and Maquin (1999), pp 313-315

- In Canada, “two-thirds of federally sentenced women are mothers, and 70% of these are single parents all or part of the time; 68% of federally sentenced women were physically abused, although this figure jumps to 90% for Aboriginal women; 53% of federally sentenced women were sexually abused, and 61% of Aboriginal women were sexually abused; fewer than one-third had any formal job qualifications beyond basic education prior to sentence, and two-thirds had never had steady employment”.<sup>34</sup>

#### 1.4 YOUNG OFFENDERS

It has long been established that juveniles should not be held in custody with adults (with an exception in the rare circumstances where it is in the child’s best interests to be detained with adults). The UN Standard Minimum Rules for the Treatment of Prisoners, Article 8, express this categorically:

8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus, ...
  - (d) Young prisoners shall be kept separate from adults.<sup>35</sup>

However, it is not unusual for girls (defined as females under the age of 18) to be housed in adult prisons (whether these are exclusively women’s prisons or even mixed-sex facilities). The Special Rapporteur on Prisons and Conditions Of Detention in Africa stated in her report<sup>36</sup> that “There is no specialised institution for young prisoners in Mozambique. A large number of them are detained together with adults during the day and also at night.” In the United Kingdom, according to Silverman<sup>37</sup> “there are, at any one time, around 100 16- and 17-year-old girls sharing prison custody with adult women”. Whilst detention in adult facilities can also be an issue for male inmates it is a bigger problem in relation to girls, due to the shortage of women’s prisons in general and female juvenile offenders’ units in particular. According to the YWCA “only ten out of 136 prisons in England and Wales take women aged 21 and under. Thus young women are more likely to be imprisoned far from home, missing out on contact with their family and friends”<sup>38</sup>. In Spain Helsinki Watch found that “there is no center for female young offenders...so they are held with the general prison population”<sup>39</sup>.

Amnesty International’s report<sup>40</sup> on child prisoners in Pakistan, highlights some of the issues facing female juvenile offenders:

- Female child offenders are often treated more harshly than male child offenders, as they are considered to be adults “at the age of 16 years or if she reaches puberty before her 16<sup>th</sup> birthday”. The standard for ‘adulthood’ for male offenders is generally applied at a

---

34 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p181

35 *Standard Minimum Rules for the Treatment of Prisoners*, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 available at [http://www.unhchr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhchr.ch/html/menu3/b/h_comp34.htm)

36 Chirwa, V: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique: Second Visit April 4-14 2001* p10

37 Silverman, J.: “Why are girls still put in adult prisons?” *BBC News Online* (05/08/2003) (accessed 6 August 2003)

38 YWCA Policy and Campaigns: *Briefings* “Bad Girls or Bad Laws? Young Women in the Criminal Justice System” (Summer 2001: Issue 2)

39 Helsinki Watch/Human Rights Watch: *Prison Conditions in Spain* (April 1992) p27

40 Amnesty International: *Pakistan: Denial of Basic Rights for Child Prisoners 23/10/2003*. *ASA Index: 33/011/2003* available at <http://web.amnesty.org/library/Index/ENGASA330112003?open&of=ENG-373> (accessed 24 November 2003)

later age, i.e. 18 years or ‘physical manhood’ – physical maturity normally being attained later by boys than girls.

- It is reported that women and girls are often held in “women’s cells in regular police stations” where they are frequently interrogated with no male relative or female police officer present to prevent abuse. Outside of cities and urban areas, there are “virtually no female staff and no separate detention facilities in police and judicial lock-ups”.
- Section 15 of the (Pakistani) Juvenile Justice System Ordinance 2000 (JJSO) “prohibits the detention of female juvenile offenders in police lock ups or in women’s prisons. There must be separate enclosures for females in borstal institutions.” However, “At the time of writing this report [23/10/2003], there were no separate borstals for female child offenders in Pakistan. Girls are not only being detained in women’s prison in violation of the JJSO but are reportedly kept in the same cells as adult women. To Amnesty International’s knowledge, there are no separate wings in women’s prisons to house female child offenders”.
- “According to Hina Jilani of the Human Rights Commission of Pakistan, female child prisoners are still treated the same as female women prisoners despite the promulgation of the JJSO. Female children under the age of 18 years are not provided with the same facilities as male children under the age of 18 years. According to the JJSO all detained children should be held separately from adults in borstal institutions but girls continue to be detained in jails with women. To Amnesty International’s knowledge no separate detention facilities for girls exist and currently there are no plans to construct borstal facilities to house female child offenders in Pakistan.”

## 1.5 CONDITIONS OF DETENTION

The traditionally low number of female prisoners means that there are few custodial facilities for them. In Mexico, there are 447 penitentiary facilities, of which “only 10 are exclusively for women, with the rest [of the women prisoners] concentrated in annexes of 220 men’s prisons”<sup>41</sup>. In India, “There are at present approximately 11,000 jails...of which only 14 are exclusively for women, which means adjoining men’s jails but separate from them”<sup>42</sup>. (In these circumstances, “if there is just one woman in a jail, she has only just the female warden to keep her company. This female warden is usually untrained and is often appointed on a daily contract basis”<sup>43</sup>.) In England and Wales there are “125 prisons for men...and 16 prisons holding women”<sup>44</sup>. In Canada in 1994, there were 320 women serving a sentence of over two years and “only one federal penitentiary to detain them”<sup>45</sup>. This dearth of facilities for women has several significant consequences. Justice Louise Arbour, in her report on the inquiry into events at Kingston Prison for Women summarised as follows:

41 Saldaña, L: *Mujeres presas, cárceles insuficientes* (26/08/03) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04) Author’s translation

42 Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International, p5

43 Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International, p5

44 Wedderburn, D, *The Report of the Committee on Women’s Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p15

45 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p12

“Women [serve] their sentences in harsher conditions than men because of their small numbers. They have suffered greater family dislocation than men, because there are so few options for the imprisonment of women. They have been over-classified or, in any event, they have been detained in a facility that does not correspond to their classification. For the same reasons, they have been offered fewer programs than men, particularly in the case of women detained under protective custody arrangements, of whom there are only a handful. They have had no significant vocational training opportunities”.<sup>46</sup>

These issues are examined in more detail below.

### 1.5.A Geographical isolation

Women are, generally, imprisoned further from home than their male counterparts. Statistics from the USA show that “more than 60 percent of all women are incarcerated more than one hundred miles from their child’s place of residence”<sup>47</sup>. This has implications for visiting rights and aggravates the loss of family ties - a particularly acute problem for women with young children. Socio-economic indicators show that the majority of imprisoned women come from low-income backgrounds (see above), which means that the financial costs of travelling to the prison in order to visit may be prohibitive even when other factors permit (such as time, available chaperones for young children, etc). The issue of visits is considered further below. The negative effects of such geographical isolation were recognised in the ruling on *R v. Daniels* (Canada, 1990), where the judge noted that “incarcerating the defendant in this facility would constitute cruel and unusual punishment because of its geographical distance from her home”.<sup>48</sup>

### 1.5.B Security level

The restricted number of secure facilities for women mean that “they are more likely to be incarcerated in a maximum security facility...Men, in contrast, generally are assigned to prisons based on a variety of factors including their criminal offense...and psychological profile”<sup>49</sup>. Being incarcerated alongside violent, dangerous, and/or disturbed prisoners is likely to increase the traumatic effects of imprisonment for those women serving time for minor/non-violent first time offences (such as fine defaulting). Maximum security facilities also impose more restrictions and harsher regimes than lower-category prisons, so a woman imprisoned for a minor offence will have to serve a ‘harder’ prison sentence than a man convicted of the same offence (who would be imprisoned in a lower-grade prison, in line with his crime).

### 1.5.C Overcrowding and hygiene

As the number of women being imprisoned has increased in recent years at a rate far greater than that of the male prison population, the issue of overcrowding has become particularly acute in women’s prisons. This is aggravated by the lack of budgetary resources dedicated to women’s facilities in comparison with men’s prisons. This overcrowding has knock-on effects in terms of hygiene, food, and provision of other resources.

---

46 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p180

47 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p22

48 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p216

49 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p22

---



Recent research from Brazil illustrates some of these issues starkly<sup>50</sup> :

- Sao Paulo Women's Prison's (PFC) official capacity is 256; it currently holds 579 prisoners;
- Butantã's official capacity is 280; it currently holds 470 prisoners;
- Tatuapé's official capacity is 460; it currently holds 550 prisoners. A 2.5m x 6.5m cell holds 5-6 women, normally with one woman on the floor and the rest on bunks designed for children. In some blocks, up to 60 women share two showers;
- Pre-trial detention facilities are even more overcrowded – each one has a capacity of 512 but holds around 700 prisoners; 10 – 11 women share 8-bed cells. Each cell has one shower, which is also used to wash laundry. Communal shower areas are used to wash dirty pans and plates;
- Some prisons provide soap/shampoo once a month, but it is insufficient. Buying such products within the prison is prohibitively expensive. In other prisons, no hygiene products are provided at all, and women are dependent on their visitors to bring them such necessities;
- Overcrowding and lack of separation of prisoners contributes to the transmission of disease, including potentially fatal diseases such as tuberculosis.

Another recent report on prison conditions in Latin America – this one concerning Bolivia – described the conditions at Cochabamba Women's Prison. The author states that “at just 30m x 30m, there were around 1000 people inside; 400 women and 600 children”<sup>51</sup>.

In Armenia, there is only one dedicated women's prison, which holds 70 inmates<sup>52</sup>. Mikael Danielian reports that “The furniture is old, the cells don't get any air, there are 10 – 15 people in one room... They [the women] have hot water, but bath day is only once a week, so standards of sanitation are terrible”<sup>53</sup>.

In the USA, overcrowding at a women's prison in California meant that “there was a shortage of toilets and showers; prisoners, as a result, were often forced to urinate in stairwells and shower in stalls overflowing with ‘ankle-deep slimy water’”.<sup>54</sup>

In Mexico, one women's prison “has a capacity of 156 women and currently contains 479, which represents 182 per cent more than its institutional capacity” another women's prison (Femenil Norte) is overpopulated by 81 percent.<sup>55</sup>

Middle East Watch's 1993 report found that the women's prison at Qanater, Egypt, “was originally built to accommodate 500 male prisoners; with its population of 1,100 women, the living quarters therefore were extremely overcrowded”<sup>56</sup>. There was a severe lack of sanitary facilities. In one building, “121 inmates of three cells...had no access to the washroom” and inmates from another cell reported that “they were never let out of the cell and had to wash and relieve themselves in buckets”.<sup>57</sup>

50 Howard, C: *Main Issues Facing Brazil's Women Prisoners* (unpublished paper, 2003)

51 Bryant, J: “Latin American Prison Conditions” in *Prison Service Journal* (November 2003) no.150, p31

52 Ter-Saakian, K: *Armenia: Women do time in “model prison”* (11/03/04), Caucasus Reporting Service No.222

53 Ter-Saakian, K: *Armenia: Women do time in “model prison”* (11/03/04), Caucasus Reporting Service No.222

54 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in US State Prisons* (1996) p246

55 Saldaña, L: *Mujeres presas, cárceles insuficientes* (26/08/03) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04) Author's translation

56 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p139

57 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p141

In Canada, the living conditions inside the only federal prison for women were poor enough for a court to recognise “the relationship between prison conditions within the Prison for Women and prisoner suicides”.<sup>58</sup>

In some cases it is clear that little or no thought has gone into the particular hygiene requirements of women. According to Human Rights Watch, correctional institutions in the District of Columbia (USA) give “all prisoners soap, but not shampoo; while soap alone may be sufficient for men, who have shorter hair, it is too dry for women and inappropriate for washing women’s hair”<sup>59</sup>. In a Californian detention facility, an official memorandum dated July 1994 allocated prisoners “only seven sanitary napkins, three tampons and two rolls of toilet paper bimonthly”<sup>60</sup>. A similar situation was reported in Malawi, where “women complained that they did not have sanitary pads”<sup>61</sup>.

A further consequence of the gross overcrowding of women’s facilities is that prisoners spend an increased amount of time locked in their cells as there is little or no recreational or other communal space for them to pass time in, and there is an insufficient ratio of staff-to-prisoners to allow for adequate supervision. This is a problem which has been observed in many different countries, but Qanater prison in Egypt provides an example. A prisoner reported in 1993 to Middle East Watch that “women in this cell were permitted in the outdoor courtyard only about once a month for the count” and women from another cell stated that “they were *never* let out of their small cell”<sup>62</sup>. The report observed that in this respect, “women inmates at Qanater are treated more harshly than most male prisoners”<sup>63</sup>.

#### 1.5.D Education and work programmes

The general neglect and underfunding of the women’s prison estate often leads to the lack, or insufficiency, of programmes for women prisoners. In terms of rehabilitation, educational or vocational training, counselling, or drug/alcohol dependency programmes, women’s prisons are disadvantaged compared to men’s establishments. This is due in part to lack of funding and in part to a lack of programmes designed or adapted specifically for women.

In Illinois (USA), “Female prisoners sued the [corrections] department alleging they were provided substantially inferior educational and vocational programming, compared with those provided to male prisoners, and were being paid lower wages for similar work”. In addition “college courses for women leading to a bachelor’s degree were not offered until 1985, more than a decade after similar programs were instituted for men”.<sup>64</sup>

For women prisoners in India, “In most jails there is no scheme for proper and appropriate vocational training and non elementary education for women prisoners. In some jails education

---

58 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p216

59 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in US State Prisons* (1996) p188

60 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in US State Prisons* (1996) p249

61 Chirwa, V(b): *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Malawi 17-28 June 2001*, p15

62 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p141

63 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p137

64 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in US State Prisons* (1996) p271

65 Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International, p5

---

means being taught the alphabet with little emphasis on its applicability”<sup>65</sup>. In Spain it has been reported that the “inferior facilities” for women prisoners made it “practically impossible for them to pursue occupational, educational or professional training”<sup>66</sup>.

Despite the scarce provision made for educational and work programmes for women prisoners, the value placed on them is high, not only in terms of the qualifications they may receive but for the psychological and emotional benefit that they confer. Prisoners studying courses run by the University of Buenos Aires agree that “this access to education offers them a sense of symbolic freedom and intellectual expansion, as well as the possibility of feeling that they are making good use of the time...Many maintain that it was one of the few, or the only, place where they didn’t feel treated like prisoners...More basically, being able to write an appropriate letter to a judge is a valuable personal resource”<sup>67</sup>.

In terms of prison-budgeting, women’s facilities receive a small fraction of the overall funds. Instituting programming for women is, therefore, far down the list of priorities, and as women’s prisons are smaller and more dispersed than men’s it is harder to sustain budget-efficient and good quality programmes. Beyond the innate injustice of this situation it is worth re-iterating the fact that the large majority of imprisoned women come from a background of serious personal and social disadvantage and that the primary triggers for women’s crime concern drug addiction and poverty. There is, therefore, a need for programmes for female prisoners to address addictions, provide routes to legal gainful employment, and deal with the psychological trauma of past abuse. Failing to address the reasons why women have been incarcerated is likely to lead to recidivism.

### 1.5.E Lack of staff training

There is also a lack of training programmes for prison staff working with female prisoners. In the United Kingdom the rapidly increasing women’s prison population has led to the conversion of men’s detention facilities into facilities for women. In 2000 the Wedderburn<sup>68</sup> report revealed that in the last three years, five UK prisons have been at least partially converted from male to female use, and this has been done “often at short notice and with insufficient attention paid to its appropriateness for women or to the training of staff”. As a consequence, “the process of converting prisons has not always been successful, not least because of the speed of the changeover compounded by the need to change the attitudes and practices of staff”. Most critically, this has caused problems in relation to security and searching, as “the rapid change of use of some prisons has resulted in there being insufficient numbers of female staff to carry out these duties”. The prison at Highpoint was highlighted as one where “the prison has fewer female officers than it needs for supervision”<sup>69</sup>.

---

66 Cruz Blanco: “Las cárceles se llenan de mujeres” in *El Pais.es* (21/10/01) [www.elpais.es](http://www.elpais.es) (accessed 02 March 2004) Author’s translation

67 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p18 Author’s translation

68 Wedderburn, D, The Report of the Committee on Women’s Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p17

69 Wedderburn, D, The Report of the Committee on Women’s Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p17, citing HM Chief Inspector of Prisons (1997ii)

The Report of the Committee on Women's Imprisonment (the Wedderburn Report) also noted that the change of use in prisons required staff training for working with women. This training has proven "very limited"<sup>70</sup>, not least because allowing time off duty for staff to train is particularly difficult when this training has become necessary due to overcrowding and increased pressure on resources.

Similarly, Human Rights Watch's 1996 report on women's prisons in the USA highlighted the lack of training for guards assigned to women's prisons: "little, if any, information was provided concerning the impact of previous sexual abuse on incarcerated women. Security techniques, prisoner profiles, and other training materials are often based upon the model of a male prisoner. States inadequately train corrections officers working in women's prisons on the obligation to refrain from sexual contact, verbal degradation or privacy violations".<sup>71</sup>

In some countries military personnel are employed in prisons. According to Human Rights Watch, in Venezuela the National Guard provides staff for many prisons. Such individuals have shown themselves to be in particular need of training on the role and duties of correctional staff. Their behaviour towards female inmates is one of many issues which need to be addressed.

#### 1.5.F Mixed-sex facilities

As a result of the overcrowding, and sometimes simply the lack of any dedicated facilities for women prisoners, it is not unusual for women to be imprisoned in mixed-sex facilities. This may mean housing female convicts (and those on remand) in women's wings of men's prisons (as in the UK), or it may mean mixing women in with male prisoners – not only in the same wings, but sometimes even in the same cells.

The Special Rapporteur on Prisons and Conditions of Detention in Africa noted the following:

- In Mozambique, "lack of space are factors explaining why basic separations between remand and convicted prisoners, young prisoners and adults, men and women, healthy and sick/contagious prisoners and according to offence, are far from being implemented".<sup>72</sup>
- Also in Mozambique, "In Moatize Prison...the delegation found that men and women are held together in the same facilities. They are only theoretically segregated at night, as the door of the women's cell cannot be locked."<sup>73</sup>
- In the same prison, "The Special Rapporteur found that...5 women were detained in difficult conditions, held together with men under the supervision of a negligent prison director."<sup>74</sup>
- In the Central African Republic, the Special Rapporteur found: "Overcrowding, unhealthy sanitary conditions, men and women sharing the same cells, juveniles not kept apart from

---

70 Wedderburn, D, The Report of the Committee on Women's Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p17

71 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in US State Prisons* (1996) p41

72 Chirwa, V: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique: Second Visit April 4-14 2001*, p10

73 Chirwa, V: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique: Second Visit April 4-14 2001*, p11

74 Chirwa, V: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique: Second Visit April 4-14 2001*, p31

---

adults and not receiving any rehabilitation or training,”<sup>75</sup> and in the prison in Bouar, “[seven] women were in a cell of about 3m x 5m with 14 elderly men.”<sup>76</sup>

A Human Rights Watch report on prison conditions in (then) Zaire noted that “there appears to be no effort to separate male and female detainees...women and men were held in the same cells. There is some testimony which suggests that at the security-force prisons, women have been deliberately put into cells with men in order to intimidate them”.<sup>77</sup>

The practice of keeping male and female prisoners together is not exclusive to Africa by any means. Human Rights Watch (special campaigns page) noted the lack of segregation of prisoners in Haiti, where “female prisoners were even held together with male inmates, a situation that exposed them to rampant sexual abuse and violence”.<sup>78</sup> This issue is considered further in Section 5.

### 1.5.G Family visits

Being able to receive family visits is important for all prisoners, but it is undeniable that it affects some more than others. A mother of young children is likely to suffer more psychological and emotional trauma if denied visiting rights than an unattached adult male. This is the reason why the problem already highlighted concerning the geographical distribution of women’s prisons is of such importance. The difficulties of travelling long distances in order to visit prisoners are aggravated when the visiting hours are brief. In some cases, women reported visiting times of as little as five to ten minutes.<sup>79</sup>

The stigma attached to women’s imprisonment also serves to reduce the number of visits women receive. This causes emotional hardship for the prisoners, as well as limiting their access to material goods which they rely on visitors to bring (e.g. soap, clothing, etc). It has also been shown that failing to maintain family ties while in prison increases the likelihood of recidivism. It is disturbing to learn that in 1996 Human Rights Watch reported that a prison in California, “has taken action specifically to limit visitation; it is considering requiring children to visit their incarcerated parents unsupervised...requiring the child to undergo a body search alone”.<sup>80</sup> The whole issue of the importance of visits, how to facilitate them for all female prisoners, and specifically between children and their mothers, needs serious consideration.

Women prisoners generally face more restrictions on conjugal visits than male prisoners. Evidence from Venezuela and Brazil shows that whilst male prisoners enjoy fairly ready access to conjugal visits, women do not. For a female prisoner to be allowed such a visit (in the few facilities which allow them at all) they must comply with numerous requirements, such as having an excellent conduct record, both partners must submit to various medical and psychological tests, and the man must be the prisoner’s husband or long-term ‘stable’ partner. These conditions are not required

75 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in the Central African Republic: June 19 – 29 2000*, p5

76 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in the Central African Republic: June 19 – 29 2000*, p22

77 Africa Watch/Human Rights Watch: *Prison Conditions in Zaire* (January 1994) p31

78 Human Rights Watch: *HRW World Report 2001: Special Issues and Campaigns: Prisons* available at <http://www.hrw.org/wr2k1/special/prisons.html> (accessed 02/12/03)

79 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p149

80 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in US State Prisons* (1996) p45

for male prisoners to receive visits. In effect, very few women were allowed conjugal visits – “At the Porto Alegre women’s prison, only nine of 146 women inmates were allowed such visits; at the João Pessoa prison, only five of sixty-five inmates were allowed”<sup>81</sup>.

---

<sup>81</sup> Human Rights Watch: *Behind Bars in Brazil* (1998)

---

## Section 2: PARTICULAR GROUPS

### 2.1 INDIGENOUS WOMEN

#### 2.1.A Rate of imprisonment

Indigenous women in prison have specific needs and suffer from particular problems which do not affect other female prisoners (or affect them in other ways or to a lesser degree). In addition, they are worthy of specific attention in the context of imprisonment as their numbers are increasing at a particularly accelerated rate compared to non-indigenous women, as well as to both indigenous and non-indigenous men. The United Nations Division for the Advancement of Women found in 2000 that “In many countries...indigenous women represent the fastest growing segment of the prison population”<sup>82</sup>. In Canada, indigenous women represent 90 percent of the female prison population<sup>83</sup>, despite being a far smaller percentage of the ‘free’ population; in Spain, Romany or Gypsy women, who comprise 1.4% of the Spanish population, represent one in four (25%) of women prisoners<sup>84</sup>.

The Aboriginal and Torres Strait Islander Social Justice Commissioner (Australia) recently produced a report which deals in part with this issue. It found, for example, that the increase in incarceration of indigenous women in the decade since 1991 is 255.8 percent<sup>85</sup>. This is in contrast to the rate of incarceration for the female population as a whole, which rose by 147 percent over the same period<sup>86</sup>. Compared to their actual numbers in general society, and across Australia as a whole, “indigenous women are currently incarcerated at a rate higher than any other group in Australia”<sup>87</sup>.

The Social Justice Report cited the following amongst the reasons for the disproportionate (and increasing) number of indigenous women in prison:

1. The increase in the **remand** population. In 2001, the Select Committee into the Increase in Prison Population in New South Wales found that “the most significant contributing factor [to increased imprisonment rates] was the increase in the remand population. There was no evidence to suggest that an increase in actual crime accounted for the prison increase”<sup>88</sup>.
2. Indigenous females show a higher rate of **recidivism** than non-aboriginal women. In 1999, across Australia as a whole, 69.2 percent of Aboriginal women in prison had previously been imprisoned, compared to 44.1 percent of non-aboriginal women<sup>89</sup>. One reason for

---

82 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p155, citing UNDAW “Report of the Expert Group Meeting Gender and Racial Discrimination”, 21-24 November 2000, Zagreb, Croatia

83 DeNeen L.Brown: “I was left to freeze – to be one more dead Indian”, *Washington Post*, cited in *Guardian Weekly* 4-10 December 2003

84 Cruz Blanco: “Las cárceles se llenan de mujeres” in *El Pais.es* (21/10/01) [www.elpais.es](http://www.elpais.es) (accessed 02 March 2004) Author’s translation

85 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p137

86 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p137

87 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p136

88 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p137 – from Cunneen, C: *NSW Aboriginal Justice Plan – Discussion Paper* (2002) p26

89 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p141 – from National Prison Census 1999 (ABS) unit record file

this high rate of recidivism is that it “appears to be directly linked to the fact that the majority of women suffered from some sort of long term drug addiction that required constant funding”<sup>90</sup>.

3. **Over-policing.** The 1995 Police Custody Survey showed that “Indigenous women were 58 times more likely to be held in police custody than non-Indigenous women”<sup>91</sup>. Research indicates that the criminalization of behaviour common amongst indigenous populations, and its stringent policing, means that indigenous people are sent to prison at a greater rate than their non-indigenous counterparts. This is particularly the case in relation to public order offences (such as public drunkenness).
4. **Sentencing patterns** show that “indigenous women are not being provided with non-custodial sentencing options”<sup>92</sup>. Indigenous women receive shorter sentences than non-indigenous women as they are incarcerated at higher rates for minor offences, such as public order offences, fine defaulting, traffic offences, etc. The use of short prison terms as a punishment for these offences shows that it is not being used as a ‘last resort’ alternative to other, non-custodial sentences.

### 2.1.B Double discrimination

Indigenous women are further disadvantaged due to the double nature of their minority status – i.e. that of being female and of being aboriginal. This does not necessarily result in them suffering from discrimination twice over, but rather of the forms of discrimination they suffer being compounded by each other. Whereas there may be prison programmes designed for women inmates, and programmes designed for male aboriginal inmates, there are few (or none) for aboriginal females. This means that in accessing services, indigenous women “end up having to use either Indigenous men’s services, or mainstream services for women. They are disadvantaged both ways”<sup>93</sup>. What aboriginal women need are services designed specifically for them, which will meet their needs in a holistic way, tackling all the problems which they may face in reference to the different and multiple facets of their identity.

At the same time, it must be remembered that indigenous women themselves have different needs – “while there are some similarities, women in rural and urban areas will have different needs, women in remote areas will have different needs again”<sup>94</sup>.

### 2.1.C Social profile of incarcerated indigenous women

When attempting to understand the reasons behind the increased incarceration of indigenous women, and the effects that this has on them, it is helpful to look at the personal characteristics

---

90 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p141 citing Brenner, K: *Indigenous Women in the Victorian Prison System 2002: a snapshot* (June 2002) p13

91 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p145, citing Cunneen, C: *Conflict, Politics and Crime Aboriginal communities and the Police* (2001), p165

92 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p146

93 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p168, citing Matthews, W, Consultation Meeting, Sydney, 19 November 2002

94 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p168

---



of these individuals. Of course, every prisoner has a different history and different needs, but taken as a group it is possible to see some commonly occurring features. Many of the socio-economic/political indicators relevant to indigenous women in prison are also true of non-indigenous women, but for indigenous women they tend to be experienced at a higher rate or to a more acute degree. The Australian report on the imprisonment of indigenous people found the following:

- In general, imprisoned indigenous women are slightly younger than non-indigenous inmates;
- The majority of incarcerated indigenous women are mothers – rates vary between approximately 70 and 86 percent across regions;
- Indigenous women entering prison generally suffer from poor health, both physically and mentally. This includes higher rates of sexually transmitted diseases (STDs) than non-indigenous prisoners, pregnancy, diabetes, respiratory conditions, injuries from domestic violence, self-harm, etc.;
- 78 percent of incarcerated indigenous women had been victims of violence as adults, 44 percent had been victims of sexual assault (as adults);
- Compared to non-indigenous women, aboriginal women are: four times more likely to be murdered, more than twice as likely to be sexually assaulted, four times more likely to be a victim of assault, and seven times more likely to be a victim of grievous bodily harm. This reflects their generally higher rates as victims of violence.<sup>95</sup>

Similarly, in Canada:

“The social and economic marginalization of Aboriginal people, particularly status Indians living off-reserve, is acute among Aboriginal women. The relationship of this marginalization to the criminal justice system has been well documented. As a group, Aboriginal women come to prison at a younger age than non-Aboriginal women. They generally have lower levels of education and employment. Alcohol and drug abuse is a greater problem for them and is reported to have played a greater role in their offending. They also have a greater incidence of past physical and sexual abuse”.<sup>96</sup>

It is clear that indigenous women in prison arrive there from an impoverished background, both economically and socially speaking. This disadvantage “manifests in many ways including alcohol and drug use, homelessness and violence. Research has identified a strong correlation between imprisonment of Indigenous women and the experience of sexual assault and separation from family”<sup>97</sup>. For women from such damaged backgrounds, “prison is an extension of life on the outside”, offering “more white authority that is sexist, racist and violent. Prisons are then one more focus for the pain and rage we carry. For us, prison rules have the same illegitimacy as the oppressive rules under which we grew up. Those few ‘helping’ services in prison that are intended to heal are delivered in ways that are culturally inappropriate to us as women and as Aboriginal

<sup>95</sup> Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) pp148 –152

<sup>96</sup> Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p198

<sup>97</sup> Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p152, citing Atkinson, J “Violence Against Aboriginal Women” in *Aboriginal Law Bulletin*, vol 2. No 46, 1990 and Lawrie, R, Draft of *Speak Out Speak Strong: Researching the Needs of Aboriginal Women in Custody* New South Wales Aboriginal Justice Advisory Council, 2002, p25

people. Physicians, psychiatrists, and psychologists are typically white and male. How can we be healed by those who symbolize the worst experiences of our past?”.<sup>98</sup>

The imprisonment of these women not only adds further suffering to the lives of those who have already been victims on multiple levels, but as the majority of them are mothers it also perpetuates the problems which arise from family separation and break-up. The imprisonment of indigenous women has a significant effect on their communities, and has the potential to “expose children to risk of neglect, abuse, hunger and homelessness”<sup>99</sup>. In order to break this cycle of disadvantage, crime, and imprisonment, alternatives to custody need to be investigated and implemented. The particular problems surrounding the children of women in prison, both those incarcerated with their mother and those who remain in the community, will be explored later.

Upon release, indigenous women face further difficulties, as “Aboriginal communities tend to experience difficulty in supporting women offenders and have rejected or ignored the women.”<sup>100</sup> Perhaps still more distressing, “In cases where the community may be more supportive, return is often unrealistic. It is often those very communities where Aboriginal women experienced extensive abuse and trauma, and where their former abusers continue to reside”.<sup>101</sup> Furthermore, the community services which are essential in adjusting to post-release life are often sorely lacking in terms of jobs, housing, or other programmes to address the women’s needs. The physical distance between a woman’s home community and her place of imprisonment may further complicate parole facilities.

#### **2.1.D Language problems**

Linguistic difficulties may present particular problems for indigenous women. Many rural indigenous women may not speak the official language of the country and/or justice system, and so face extra burdens when trying to prepare their defence. If they are unable to understand court proceedings or communicate effectively with their lawyer, they are at increased risk of receiving a prison sentence for their alleged crime. As one indigenous inmate in Mexico explained, “My problem is that I don’t speak castellano well, so nobody understood me and I didn’t defend myself well, I think that is why they found me guilty, but I know that I didn’t commit any crime”.<sup>102</sup> As these women are usually unable to pay a lawyer themselves, they are assigned a ‘duty lawyer’ who may not be of the highest quality and is likely to be overworked and under resourced, thus further jeopardising the defendant’s prospects of avoiding prison.

This complaint is echoed by many indigenous women in prison, who often feel that they have been unfairly scapegoated for crimes they did not commit and against which they could not defend themselves effectively. Once in prison, these women may find themselves far from their home and family, and isolated from the prisoners around them as a result of the language barrier. One

---

98 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p199

99 Jonas, W(b): *Background Paper 25* presented at the Expert Seminar on Indigenous Peoples and the Administration of Justice, Madrid 12-14 November 2003

100 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p199

101 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p199

102 Edgar, S: *Nadie escucha a las indígenas presas en Tabasco* (15/04/03), [www.cimacnoticias.com](http://www.cimacnoticias.com) (accessed 15/05/03) Author’s translation.

prisoner remarked “I didn’t know castellano, I speak tzotzil, I have nobody here, it’s been 8 years of being far away and alone”.<sup>103</sup>

### 2.1.E Indigenous women prisoners in less developed countries

The situation for indigenous women prisoners in developing countries is often even worse. In addition to the issues discussed above they may suffer from further hardship, particularly in relation to the provision of material goods. Dr Marcia Esparza conducted research in this area in September 2003 in the state of Oaxaca, Mexico. Her findings included the following:<sup>104</sup>

- First and foremost, documentation concerning indigenous prisoners is extremely rare. The lack of data on those concerned makes the task of investigating their conditions particularly difficult;
- 71 percent of convicted women are mothers. Even where women are not mothers, they will normally be active caregivers within the extended family system which is characteristic of indigenous communities;
- Indigenous people may be held for long periods without trial due to their inadequate legal defense and understanding of the system;
- Indigenous women’s poverty prevents them from being able to hire adequate legal counsel. The lack of qualified interpreters means that they are unable to participate fully in their own trials, or to understand the processes surrounding them. Records show that other inmates or witnesses may be called on to interpret in court, which severely prejudices the woman’s right to a fair trial. Many indigenous women do not know why they are in prison or when/if they will be released;
- They are also unlikely to receive family visits or phone calls because of the prohibitive costs these impose on impoverished communities living at great distance from the prison; investigations in Mexico found that “24% of [indigenous] women are visited by their family just once a year”, and this abandonment impedes rehabilitation<sup>105</sup>;
- Generally, indigenous women in prison face total abandonment. Whereas male inmates are normally supported by their wives and families, who bring them food and other provisions, female inmates are not. The inadequate food and accommodation provided by the prison authorities is not supplemented by their families. Incarcerated women face additional stigma in a patriarchal society, and the breakdown of the family (and by extension, community) unit.

### 2.1.F Conclusion

These findings highlight clearly the difficult situation of indigenous women prisoners in many countries. As the population at the most marginalized end of society, they are the most greatly affected by adverse prison conditions and the failings of the judicial system. Not only does prison hold the potential for a truly devastating effect on them personally, the damage it can do to their family and society also needs to be considered. The large-scale imprisonment of indigenous women is considered by some as an ‘ethnocide’ as it destroys families, communities, and indigenous culture. States need to give serious consideration to the social, economic, political and

103 Edgar, S: *Nadie escucha a las indígenas presas en Tabasco* (15/04/03), [www.cimacnoticias.com](http://www.cimacnoticias.com) (accessed 15/05/03)  
Author’s translation.

104 Esparza, M: *Background Paper 20* presented at the Expert Seminar on Indigenous Peoples and the Administration of Justice, Madrid 12-14 November 2003.

105 Edgar, S; *Indígenas, pobres y monoligues, las presas de Oaxaca* (10/11/03), [www.cimacnoticias.com](http://www.cimacnoticias.com) (accessed 15/05/03)  
Author’s translation.

cultural reasons for such incarceration, and to improving the provisions made regarding legal counsel and interpretation/translation for those who require it.

## 2.2 FOREIGN NATIONALS

### 2.2.A Rates of imprisonment

Foreign national women in prison share many of the characteristics and problems that affect indigenous women. They constitute a disproportionately high and growing percentage of the prison population – in Portugal, the number of foreign women held in prison has grown from 32 in 1993 to 203 in 2002<sup>106</sup>. These women generally come from extremely impoverished backgrounds, may be linguistically and culturally isolated in prison, and have difficulties negotiating an unfamiliar legal and penitentiary system due to language barriers.

In the United Kingdom, foreign national women are estimated to make up approximately 19 percent of the women's prison population<sup>107</sup>, although this figure varies according to the source from as little as 10 percent up to a maximum of 30 percent. Since 1997, “the number of foreign national women in British prisons has increased by 140 percent to an average of 4,500”<sup>108</sup>. This ever-expanding population is having a serious impact on conditions of overcrowding, to the extent that four of the seventeen women's jails in the UK have now been dedicated to housing foreign prisoners<sup>109</sup>. One of the aggravating factors here is the length of sentence which drug smugglers receive, with “average sentences between five and eight years for a first offence”<sup>110</sup>. Recognising the serious and on-going nature of the problem, the government is apparently investigating the possibility of underwriting the construction of a jail in Jamaica in which to house (Jamaican) drug couriers currently imprisoned in the UK<sup>111</sup>.

### 2.2.B Criminal and social profile

Of all foreign national women in UK prisons, around 71 percent have been sentenced for drug offences<sup>112</sup>. The vast majority of them were caught acting as ‘drug mules’ attempting to smuggle drugs (normally cocaine or heroin) into Britain, often by swallowing it in small packages. Although guilty of drug smuggling, “customs officials admit [that they] play a minuscule role in drug trafficking into this country”<sup>113</sup>. Whether they are aware of the nature of the ‘package’ they are delivering or whether they have been entirely deceived, it seems likely that most of these drugs

---

106 de Castilho Pimentel, J, Ministério da Justiça, Direcção-geral dos serviços prisionais: *Mulheres nas Prisões Portuguesas. Mensagem de correio electrónico, de 13 de Fevereiro, a Maria José Matos* (16/02/2004) Author's translation

107 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p2, citing Home Office: *Statistics on Women and the Criminal Justice System* A Home office publication under Section 95 of the Criminal Justice Act (2002)

108 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

109 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

110 BBC News Online: “Jamaica's women drug mules fill UK jails” (13/09/2003) (accessed 5 November 2003)

111 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

112 Wedderburn, D, The Report of the Committee on Women's Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p12, citing Home Office Research and Statistics Directorate, letter to Committee dated July 2 1999

113 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

---

---

couriers are simply decoys used by drug rings to distract attention at customs while other more experienced traffickers smuggle through much greater quantities.

Personal profiles of the women imprisoned for drug smuggling show that they “come from a background of extreme poverty and are rarely high up in the criminal gangs which use them. Most are single parents and first time offenders and there is evidence to suggest that coercion plays a part in their decision to become a drug courier against a background of violent, abusive and exploitative relationships”<sup>114</sup>. Such women, caught in poverty, trying to support a family, and with few lawful opportunities to advance, are easily subjected to persuasion. Additionally, the possibility of prison, let alone long sentences, is never brought to their attention by the drug dealers. Harsh sentences therefore fail to act as a deterrent, as the couriers are unaware of them until it is too late.

While financial and sometimes psychological pressure is effective in convincing women to act as drug couriers, the threats and danger which they and their family face if caught are still more intimidating. One Jamaican woman imprisoned for drug smuggling reported that “Since she failed to meet the person she was supposed to deliver the drugs to in a café at Heathrow’s terminal three, the gang who supplied them in Kingston assumed that she had stolen them. As punishment, they kidnapped her brother, stabbed him and then burnt him alive”<sup>115</sup>. Furthermore, she stated that “They have been making threats to my family and don’t believe that I am in prison. I don’t want to go back...because I am very scared that they will find me. I am going to have to go and live somewhere else”<sup>116</sup>.

The majority of these women were primary carers and providers for their family prior to imprisonment, not only for children but also elderly parents and other extended family. Their imprisonment therefore exposes the family to many new financial and emotional burdens. As they expected to be absent only for days or even hours, most women have not made any long-term care arrangements for their children. Although extended families may take on some of the responsibility for their care, typically “the children are all over the streets and become street children because there’s no-one there to care for them”<sup>117</sup>. Concern for the welfare of family they have left behind causes acute anxiety for foreign prisoners, who find themselves powerless to care for them. In October 2002 another Jamaican woman, Beverley Fowler, was found dead in her cell in Durham, after apparently committing suicide: “She had three children...and was a single mother after the children’s father was shot dead in 1998; her mother, who had been looking after the children while she was in prison, died in April 2002. Fowler’s request for compassionate release was turned down, in spite of having just six months to serve of her six year sentence”<sup>118</sup>.

---

114 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9, citing *Rethinking Crime and Punishment: A bitter pill to swallow: The sentencing of foreign national drug couriers* (2003)

115 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

116 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

117 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

118 Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

### **2.2.C Family contact**

Women from impoverished backgrounds who are imprisoned abroad never (or extremely rarely) receive family visits. For some, even the cost of sending letters or making long-distance phone calls is prohibitive. In some countries, women trying to stay in touch with relatives (or even lawyers) by post may face lengthy delays if prison censors take their letters away for translation. This makes maintaining family ties still harder, increases the likelihood of family break-up, and causes additional psychological and emotional suffering for the prisoner. In effect, the result of a long prison sentence overseas means the total rupture of family ties for the prisoner concerned. There is also the additional question of provisions for foreign women who are pregnant or have young children with them when they are arrested. Can the child remain with the mother? If so, for how long? If not, must s/he be deported alone? And into whose care? In the United Kingdom, “there is no current specific provision for female foreign national women with children”<sup>119</sup>.

### **2.2.D Other**

Many foreign national prisoners are subject to deportation orders which will take effect when their sentence is complete. For this reason, they are not allowed to be held in open prisons, and instead are held in more secure units. These conditions have a detrimental effect on children being held with their mothers, besides being harsh for the women themselves. Where a prisoner is due to be deported immediately on completion of sentence, questions could be raised about the comparative merits of having the prisoner serve their sentence in their home country. This would clearly represent a large financial saving for the country of trial, as well as a real benefit for the prisoner and her family in terms of maintaining contact. Additionally, for prisoners returning to another country after their sentence, it is necessary to consider probation, resettlement, and reintegration measures.

The issues above have been documented with regard predominantly to the situation of foreign national women imprisoned in the UK. Many of the problems may well apply to women in other countries. There is one further question concerning foreign national prisoners, particularly in developing countries, which relates to the availability of goods. Whilst prisons are supposed to supply inmates with all necessary food and goods such as clothing, blankets, hygiene products, medical supplies, etc, in many facilities provisions are not adequate. Therefore, prisoners are reliant on family and friends to post them what they need or to bring things with them when they visit. For foreigners, this presents a real problem. There is no question of receiving goods through visits, and the post is unreliable and may be too expensive. Human Rights Watch’s 1993 report on Egypt illustrates the problem: “women prisoners from other countries who lack means of support are forced to ‘work’ for their Egyptian counterparts, to obtain needed medicine and other items”<sup>120</sup>.

In summary, both indigenous women and foreign national women are affected by particular problems when incarcerated. In addition to the problems faced by all women prisoners, indigenous and foreign national women suffer particularly from isolation and loss of family ties. They may also be at a material disadvantage compared to other prisoners and therefore be particularly acutely affected by a shortage of food, clothing, medical provisions, etc, which they are unable to obtain from visitors in the manner of other prisoners. There are few in-prison programmes designed to meet their specific needs, and on release they are also likely to be

---

119 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p21

120 Human Rights Watch/Middle East Watch: *Prison Conditions in Egypt* (February 1993) p150

adversely affected by a lack of provisions to help them re-integrate and re-build their lives. As both indigenous women and foreign national women constitute a disproportionately large and growing segment of the prison population, it is important for these issues to be addressed specifically.

## **2.3 TRANSGENDER PRISONERS**

Transsexual and transgender prisoners form a sub-section of the women's prison population which causes particular logistical problems for the prison service. Prisoners in this category may be 'biologically' completely male (i.e. born with male characteristics and have not undergone any gender re-assignment surgery or hormone treatment) but who consider themselves to be female, and who, in civilian life, dress as women. At the opposite end of the spectrum, they may have been born male but have undergone extensive and complete surgery to become physically female. In between these two points, individual prisoners may be at various stages of the gender spectrum, perhaps having undertaken hormone treatment but not surgery or vice versa; conversely, the prisoner may be undertaking the change in the opposite direction, i.e. was born female but is undergoing gender re-assignment to become male. Clearly, such prisoners may be at substantial risk of sexual abuse both from other prisoners and staff. The difficulties posed by this category of prisoner are fundamental to their prisoner status – namely, whether they should be housed in a men's or women's prison. Official policy on this varies widely between countries and prisons.

### **2.3.A Conclusion**

Clearly, it is necessary to standardise policy on these matters to prevent unjust treatment of prisoners who may otherwise find the respect of their rights subject to individual prison staff's ad hoc decisions. The very serious matter of protecting transsexual prisoners from the risk of sexual assault also needs to be considered. In many instances, prisons place such inmates in administrative segregation or on hospital wings for their own protection. Whilst this may provide some benefits in terms of physical security, being placed in segregation or isolation denies prisoners other rights, such as association, access to education and work programmes, etc.

## Section 3: MOTHERS AND CHILDREN

### 3.1

A substantial percentage of women prisoners – in fact, the majority in most institutions for which statistics were available - are also mothers or primary carers for children and/or disabled, elderly, or otherwise incapacitated relatives. This means that the imprisonment of the woman cannot be considered in isolation. Her incarceration will have secondary implications for her family and dependents, which in the most serious cases may have further implications for the wider society.

It is vital to have a clear view of the situation and consequences of women's imprisonment in order best to address the needs and rights of children, prisoners, and society as a whole.

### 3.2 STATISTICS

Data available from the United Kingdom for 2002 illustrate a typical scenario for imprisoned women in developed countries:

- 66 percent of female prisoners were mothers
- 55 percent of female prisoners had at least one child under 16. Over a third of the mothers had one or more children under 5 years old
- 34 percent of mothers were single parents before prison, with the proportion rising to 43 percent for those who expected to be single parents on release
- Estimates based on the survey results suggest that on average, 4,500 children under 16 had a mother in prison during 1998.<sup>121</sup>

The Fawcett Society puts the estimate much higher, stating in their “Interim Report on Women and Offending”<sup>122</sup> that “it is estimated that 17,000 children are separated from their mother by imprisonment each year’.

Statistics from other countries reflect a similar profile:

- In the United States of America, “About 80 percent of women in prison are mothers, with three-quarters having children under 18 years of age”<sup>123</sup>
- In Brazil, “65 percent [of female prisoners] are single women; 87 percent have children”<sup>124</sup>

In many places, however, it is difficult to find reliable statistics regarding the number of children affected by their mother's imprisonment. Hounslow (cited in Gursansky et al) claims that “This dearth of information is not accidental. It is both convenient and necessary, because those who

---

121 *Statistics on Women and the Criminal Justice System*: A Home Office publication under Section 95 of the Criminal Justice Act 1991 (2002), pp35 & 37

122 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9, citing Prison Reform Trust: *Troubled Inside* (2003)

123 Owen, B: “Understanding women in prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wordsworth, 2003) pp231-246, p244

124 Howard, C: *Main Issues Facing Brazil's Women Prisoners* (unpublished paper, 2003)



---

uphold the prevailing legal and penal ideology simply cannot afford to consider what happens to prisoners' kids"<sup>125</sup>.

### 3.3 OTHER CARE RESPONSIBILITIES

An investigation into aboriginal women's imprisonment highlighted their other care responsibilities, as follows:

“Outside of prison Aboriginal women perform significant roles in their communities and families as carers. Most of the women...had children with approximately one third having between 2 and 4 children and almost half of them were single mothers. Almost one third of women in prison (29 percent) cared for children other than their own biological children. Also almost a third (29 percent) said they were normally responsible for the care of other people principally their mother, father and other family members.”<sup>126</sup>

### 3.4 OVERVIEW

This information shows that incarcerated women individually and as a group have significant care responsibilities which need to be considered. Unfortunately, it is the exception rather than the norm for correctional facilities worldwide to keep data on prisoners' care responsibilities and this makes it harder to address the problems which arise. Also significant is the fact that in many instances prisoners will deliberately conceal their family circumstances from the authorities, as they are afraid of the possible negative consequences (i.e. having their children taken into care). This is a reasonable fear for prisoners to have as statistics for the UK show that “in 8 per cent of cases the women's children were placed in local authority care as a result of their mother's...imprisonment”<sup>127</sup>. In some instances, this failure to reveal information regarding children or other dependents can have very serious consequences. BBC News online reported the case of a woman jailed in Florida who did not inform anyone that she had a two-year old daughter. The child was left alone at home while the mother was imprisoned, and eventually discovered after 19 days by the estranged father. She was taken into the care of social services and “The mother has been charged with child abuse and detained on a \$20,000 bail bond for failing to notify the authorities of her daughter's whereabouts”.<sup>128</sup>

When considering imprisoned mothers it is necessary to consider three different possible circumstances:

- Women whose children remain ‘on the outside’ for the duration of the prison sentence
- Women whose children are imprisoned with them for all or part of the sentence
- Women who are pregnant or breastfeeding

Of course, any prisoner may well fit into two or even all three of the categories above, but to facilitate this study they will each be considered separately.

---

125 Hounslow, B et al: *Children of Imprisoned Parents* (New South Wales Department of Youth and Community Services, Sydney, 1982), cited in Guransky, D et al: *Who's Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p11

126 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p163 citing Lawrie, R, Draft of *Speak Out Speak Strong: Researching the Needs of Aboriginal Women in Custody*, New South Wales Aboriginal Justice Advisory Council, 2002, p53

127 Wedderburn, D, The Report of the Committee on Women's Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p9

128 BBC News Online: “US toddler's ‘home alone’ ordeal” (01/10/2003). (Accessed 5 November 2003)

### 3.5 CHILDREN ON THE OUTSIDE

#### 3.5.A Household disruption

In many cases, prior to imprisonment the mother is the primary or only carer for the children concerned. Research from the UK indicates that “Almost three-quarters [of children] were living with their mothers before imprisonment, some with their mothers only”<sup>129</sup>. This means that when the mother is imprisoned the children lose their primary or only carer, and alternative arrangements must be made for their welfare. This is not as frequently the case for male prisoners as they tend to have had less responsibility for their children prior to incarceration. When fathers are imprisoned it is typically the children’s mother who cares (or continues to care) for the children in the majority of cases – statistics from the United States show that this is the case in 88.8 percent of cases for male prisoners in New York<sup>130</sup>.

#### 3.5.B Making arrangements

The need to find alternative carers for children when their mothers are imprisoned is aggravated by the policy in certain countries (such as the United Kingdom) where the convict is taken straight to prison from the court after sentencing, with no opportunity in between to make personal arrangements.

As the majority of women prisoners are convicted for non-violent offences, normally related to drugs or fraud (see Section One), many do not expect to receive a prison sentence even in situations where they anticipate being found guilty. It is therefore understandable that they have not made any prior provision for the care of the children in the (what they consider highly unlikely) event that they are incarcerated. Mike Nellis, member of the Ecumenical Group on Women in Prison (UK), discussed this problem with probation officers and commented in his report that “Unless...they advise the woman to anticipate custody in every instance, whatever recommendation they are making to the courts, they cannot be confident that steps will be taken to ensure children will be properly looked after”<sup>131</sup>.

His report cites a number of case studies, including that of ‘Debbie’ who appeared in court for a first offence of benefit fraud:

“The PSR [Pre-Sentence Report] mentioned both her childcare responsibilities – a daughter age 9 weeks and a son aged 2 and a half years – and also the fact that she was a carer for her disabled mother. The report recommended 12 months probation, and this is what she and her solicitor expected her to receive...Instead of the expected sentence she was given – by a bench chaired by a woman – twelve months imprisonment, and was escorted, uncomprehending, down to the cells.”<sup>132</sup>

She was unable at first to speak with either her solicitor or her family. Eventually, her solicitor applied for bail, which was not granted. Two hours later she was taken away, without having had any opportunity to arrange for the care of her children.

---

129 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p2

130 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p6

131 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*, Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p1

132 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*, Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p2

---

Another case documented in the report concerns that of an employee from an elderly people's home, accused of stealing ten pounds from a resident (an accusation which she denied throughout).

“She hadn't told anybody in her family or church about the case. Unsurprisingly, though, she was told throughout the case by her solicitor that she would not receive custody, come what may; in the event, she was found guilty and given a six month sentence. She had made no plans for this. When she got to prison she had to ring her ex-husband to arrange for the care and pick-up from school of their children for the duration of her sentence.”<sup>133</sup>

Clearly, these procedures are problematic and cause unnecessary difficulties and anguish for all those concerned, both mothers and children. The experience of incarceration of a parent is extremely traumatic for children, and a system such as this which can leave them unexpectedly and completely abandoned is still more damaging, not to mention potentially dangerous. It leaves open the real possibility that young children may be left entirely to fend for themselves. In some cases, lack of information can make the situation even more complex for prisoners – in Australia some women remarked that “they were not initially aware that they could use the phone [in prison] and therefore had experienced considerable difficulty in making arrangements for their children”<sup>134</sup>.

Fortunately, this situation is not replicated worldwide. In some countries (for example, the Netherlands) sentences may be deferred for a short period of time in order to allow the prisoner the opportunity to take care of any necessary childcare arrangements. It would be possible to accompany this deferral of sentence with some form of electronic tagging, if there were concerns about the possibility of absconding. However, it is noted that “rates of absconding from bail are significantly lower for women than men, and that most women prisoners are not seen to pose a major security risk”<sup>135</sup>. Likewise, when women prisoners do abscond, evidence suggests that they do so precisely in order to deal with childcare problem. This presents a strong case for countries which do not already do so to implement a policy of short-term sentence deferral for prisoners with domestic responsibilities.

### 3.5.C New living arrangements

As was seen above, the children of imprisoned mothers undergo a greater degree of disruption to their living arrangements than children with imprisoned fathers.

In the UK, children of imprisoned mothers are cared for as follows:

By grandparents	24% of cases
Other female relatives	17%
Father only	9%
In care (social services)	8%
Father and grandparents	5%
With older siblings	3%
Other / no information	30% <sup>136</sup>

133 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p2

134 Guransky, D et al: *Who's Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p316y

135 Catholic Agency for Social Concern: *Women in Prison Jubilee Paper No.1* (May 1999) p19

136 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p3

In the United States (New York), the situation is as follows:

Other parent or stepparent	20.4%
Grandparent	51.2%
Other relatives	23.1%
Foster home/Agency	18.1%
Friends / Other	1.9% <sup>137</sup>

In Australia, children are cared for by:

The mother's parents or other relatives	75%
Husband	<10%
Friends/ foster care	15% <sup>138</sup>

Although there is considerable difference in the arrangements between these countries, what remains clear is the high degree of disruption which occurs in the children's lives. Also noticeable is the large number of children who are taken into State care as a result of their mother's imprisonment. In all three countries, the number of children taken into care is almost equal to the number cared for by the father. This is in stark contrast to the situation for children with imprisoned fathers, 88.8 percent of whom in New York are cared for by the mother, and only 0.7% of whom go into State care<sup>139</sup>. A report by the group Action for Prisoners' Families stated that in the UK, "each year, the living arrangements of around 11,000 children are disrupted by the imprisonment of a mother, with only 5 percent remaining in their own home during the sentence"<sup>140</sup>.

Although many children are taken into State care while their mother is in prison, this is rarely at the mother's choice. Stanley and Byrne's investigation in Australia revealed that "many of the arrangements resulting from separation due to incarceration were made without the intervention of courts or child protection services. Rather, incarcerated mothers expressed a preference for their children to be placed with relatives, in an effort to minimise potential obstacles relating to contact with their children"<sup>141</sup>. This view is shared by the children themselves who "also expressed a strong preference for being cared for by their families and for not being separated from their siblings"<sup>142</sup>.

The children's emotional welfare can be further compromised if their new living arrangements involve separation from their siblings, thus increasing the trauma of family break up and abandonment initiated by the mother's imprisonment. The Human Rights Watch report on New

---

137 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p6

138 Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p2, citing Gabel and Schindledecker (1993)

139 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p6

140 Gampell, L: *Submission in response to the Green Paper Consultation 'Every Child Matters'* (Action for Prisoners' Families, December 2003) p4

141 Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p2, citing Goldberg and colleagues (1996)

142 Guransky, D et al: *Who's Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p38

York cited the example of a mother jailed for drug offences: “her two sons went to live with her sister, and her daughter went to her boyfriend’s mother’s house. The two sons were later taken from the sister and placed with separate foster-care parents”<sup>143</sup>. Similar circumstances were reported regarding families in the United Kingdom, where one mother revealed that “my eldest, he was 8 at the time, he ended up going into a residential home, and my daughter was 5, she went to live with her Nan, and my youngest son with another member of the family”<sup>144</sup>. Given the often unsatisfactory childcare arrangements that exist from the start, it is not unusual for children to be moved around between different carers. It cannot be emotionally beneficial for children already separated from their natural families to have any bonds with new carers broken too.

### 3.5.D Consequences for substitute carers

To add further to the problems which arise when children of imprisoned mothers have to be rapidly placed under the protection of an alternative carer, many of these carers experience difficulties in fulfilling their new role. As has already been noted, often these children are cared for by grandparents or siblings, who may be either too old or too young to deal with their new responsibilities effectively. New carers may be infirm or physically disabled, or suffer from other restrictions on their ability to care for children. This is certainly not to suggest that disabled or infirm people are unsuitable parents, simply that there are additional considerations to be taken into account in these circumstances. As one interview with a woman prisoner highlighted, “Both children went to stay with her mother, as expected, “but she is quite severely disabled, she can’t really look after them. The father had to take some time off work to help out but it was a struggle with my son”<sup>145</sup>. Research in Australia highlighted the health problems experienced by new carers, including “increased incidence or exacerbation of depression and insomnia, hypertension, back and stomach problems and other conditions caused by the physical and emotional demands of the new role”<sup>146</sup>.

The new carers in question may also have other family responsibilities which limit their ability to provide adequate care for the new children, for example, those already caring for a large family or elderly/infirm relatives. These difficulties can be aggravated by financial hardships which may arise. Not only will the new carers have ‘more mouths to feed’, but they must usually do so with no extra financial assistance. It has already been seen that the children of offending mothers are statistically more likely to come from a socially impoverished background, and this situation is likely to deteriorate further upon her imprisonment. Regarding the UK, the following was reported:

“Sources of income and accommodation can be lost, and changes in circumstances can radically alter benefit entitlements. Going into prison is considered a change that can immediately remove the right to the majority of state support. If the prisoner is the named benefit receiver, their prison sentence will alter the entitlement of the family. For

143 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p7

144 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p6

145 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office, (January 2001) p2

146 Minkler, M and Roe, K: “Grandparents as Surrogate Parents” *Generations*, Vol 20, no.1 (1996) pp34-48 cited in Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p17

example, the amount of Income Support can fall dramatically or can stop altogether – leaving the family to fall below the poverty line”<sup>147</sup>.

Again, Australian researchers back these findings. They found that for new carers “the assumption of caregiving responsibilities often means quitting a job, cutting back on hours or making other sacrifices that may put their own future economic health in jeopardy”<sup>148</sup>. To cover costs, they may also have “to use any savings they may have or sell assets such as their car”<sup>149</sup>. One carer noted that “Foster parents get paid to care for a child – clothing allowances and other support but there’s nothing for family carers”.<sup>150</sup>

In addition to the financial and health difficulties they may experience, grandparents who take on care responsibilities for children while the mother is in prison may become socially isolated. The stigma of imprisonment regarding the mother combined with having to cut back on working hours and miss social events due to care responsibilities may mean that they lose contact with friends and other family. Many grandparent-carers feel that they have no choice but to take on the children as the alternative – foster care or institutionalisation – is unacceptable. However they also feel “taken for granted by both the mother and the ‘system’. They felt that their goodwill toward the children was being exploited”<sup>151</sup>.

The stress suffered by substitute carers as a result of the financial and emotional burdens they take on can have serious consequences. This stress may include “major disruption to their own lives, hopes and plans for the future...feelings of being overwhelmed with absolute responsibility for the children and anxiety about their ability to cope...frustration at their own losses...finding it extremely difficult to cope. Loss of independence, extreme tiredness, strains on friendships and relationships, lack of regard by the ‘government’ for their contributions, financial hardship and lack of support”<sup>152</sup>. Many carers are unaware of what support was available to them through social services or non-governmental organisations, or found this support inadequate. As one carer interviewed in Australia pointed out, “If something like this happened to younger people they would still have their parents to help out and give them a break occasionally. But we can’t do that – we’re it! We’re the end of the line”.<sup>153</sup> Sadly, although being cared for by grandparents is widely considered as the best option for the children concerned, the practical difficulties and stress this causes may lead to the breakdown of this arrangement. As one woman explained, “I’m doing everything I can to keep those kids safe but I haven’t got the energy any more...I’ve reached the

---

147 Gampell, L: *Submission in response to the Green Paper Consultation ‘Every Child Matters’* (Action for Prisoners’ Families, December 2003) p2

148 Minkler, M and Roe, K: “Grandparents as Surrogate Parents” *Generations*, Vol 20, no.1 (1996) pp34-48 cited in Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p17

149 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p17

150 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p46

151 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p43

152 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p47

153 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p48

---

end of my tether. The kids might have to go into foster care – I’m too exhausted.”<sup>154</sup> Another carer commented on the irony of the situation she found herself in:

“The system is not equipped to help us except when the shit hits the fan so badly there’s no choice. FACS [social services] were only concerned about whether he was being physically abused. All I basically needed was a holiday but I was never offered any help with my problems. If I had ever lost control and hit him I would have had social workers crawling all over me but it shouldn’t have to get to that”.<sup>155</sup>

In this context, ethnic minority and aboriginal women’s families for once showed a comparative ‘advantage’ to their non-minority counterparts. This is due to a stronger extended family network that could offer help in caring for the children. This means that “to some extent the impact of their mother’s imprisonment is lessened for Aboriginal children living in traditional communities as a result of the strength of the community”<sup>156</sup> and the consequence that they “don’t leave their community when their mother goes to jail – they stay with their family at the same school and with their same friends”.<sup>157</sup>

### 3.5.E Psychological and emotional effects

The consequences of these traumatic events may have serious and lasting consequences on the children involved. The most substantial of these centre around the following issues:

- The increased likelihood that the children will become offenders themselves
- The emergence of behavioural problems in the children
- The psychological trauma inflicted on both mother and children
- The effects on the mother-child bond and the family unit

Barbara Bloom, in “Incarcerated Mothers and Their Children: Maintaining Family Ties” cites “an unpublished doctoral study conducted at Brandeis University which estimated that the children of inmates were five to six times more likely than their peers to be incarcerated”<sup>158</sup>. Likewise, the Wedderburn report noted that “more than a quarter of the women [prisoners] themselves had been in care as a child”<sup>159</sup>. It can be seen from this how women’s imprisonment can create a vicious circle whereby children are taken into care, become offenders as adults, have their own children taken into care, who themselves become offenders, and so on.

Besides the risk of becoming offenders themselves, these children also present many other antisocial symptoms and behavioural problems. Stanley and Byrne included the following in a list of behaviours exhibited by children with incarcerated parents:

154 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p47

155 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p48

156 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p51

157 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p52

158 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p231

159 Wedderburn, D, *The Report of the Committee on Women’s Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p10

“physical health problems, hostile and aggressive behaviour, use of drugs or alcohol, truancy, running away from home, disciplinary problems, withdrawal, fearfulness, bedwetting, poor school performance, excessive crying, nightmare, problems in relationships with others, anxiety and depression and attention problems”<sup>160</sup>

A particular case study concerning the two year-old son of an imprisoned woman illustrates some of these issues:

“[My son] didn’t sleep, he just cried all night he kept asking where mummy was and couldn’t understand why mummy’s car was there but mummy wasn’t. Apparently he went off his food for the week, didn’t eat for a week, they took him to the doctors to see if they could give him anything to help him, but he just kept crying. Apparently, he was walking around with a photo of me, saying “mummy back soon, mummy back soon”.<sup>161</sup>

Several months after the mother’s release from prison, the child was still experiencing problems:

“My son was just distraught, he hardly slept. He was a child that slept fourteen hours a day, through the night non stop. He would eat three meals a day. He was a good child, but now I can’t walk to the door without him crying and screaming. I can’t go to the toilet, even now – I can’t even shut the toilet door. And to go to bed, I have to be in his room till he falls asleep...He wakes up in the night – mummy, mummy – and I have to go in.”<sup>162</sup>

Some children interviewed in Australia had noticed and commented on the changes in their own behaviour:

“When Mum’s in prison we fight a lot more because without Mum we all get really stressed out”

“The best thing when your Mum is in prison is to go to sleep because there’s nothing to worry about then – I just want to close up”

“When Mum’s in prison I get violent and my temper is short. I kick things a lot and throw chairs around. When she goes away I feel weird and crazy”.<sup>163</sup>

Some of these symptoms are shared by the children of divorced or deceased parents, but the children of imprisoned mothers “also may experience intense anxiety, shame, and unique fears about the conditions under which their parents live”<sup>164</sup>. Furthermore, they may be “sensitive to the stigma of their parent’s crime and imprisonment and feel embarrassed or resentful around their peers and other adults. Their classmates may deride them, making them feel further alienated...Some [substitute] caregivers experience shame and uncertainty about how to deal with parental incarceration, leading them to maintain a “forced silence” and denying the children a

---

160 Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p2

161 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p3 - 4

162 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p3 - 4

163 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p39

164 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p11



critical outlet in which to express their grief and anger. The sudden absence of a parent, moreover, may make children wary of trusting or depending on the remaining or new caregiver.”<sup>165</sup> One child interviewed revealed that “I learned a long time ago never to tell my friends my Mum is in prison. One time I was really upset and I told my friends but it made them hate me rather than be understanding.”<sup>166</sup>

For older children the effects of maternal imprisonment may be different but no less challenging. Even if siblings are being cared for materially by relatives or social services, older children “often take on the role of the missing parent in looking after younger siblings”<sup>167</sup>. The burden of trying to ‘keep the family together’ and ensure the well-being of younger brothers and sisters is a weighty task for a child in such difficult circumstances and it may well exact a heavy emotional toll. One child interviewed in Australia remarked that “I’ve grown up as a mother to my brother and sister but it means I’m left on my own... I can’t get friends because I’m different. Kids tease me about my mum”<sup>168</sup>.

Besides caring for their siblings, children may also “worry about their mother’s health and safety, they worry that they are a burden on their carers and they worry that they will have nowhere to live. Not knowing what is going to happen next is a source of distress”<sup>169</sup>. Interviewers noted that the children of imprisoned mothers demonstrated “the constant sense of how precarious [they] feel their stability to be and they express a good deal of anxiety about losing whatever stability they currently have. The sense of responsibility and of having to protect the adults in their lives is overwhelming”.<sup>170</sup> Despite all of these difficulties, it is important to note that all of the children who were interviewed “conveyed a sense of having a relationship with their mother which was important and valuable to them”.<sup>171</sup>

For mothers with young children, explaining the new circumstances can be particularly difficult. According to Caddle and Crisp<sup>172</sup> only a quarter of mothers with children under age five had told them where they were. (In contrast, two thirds of the mothers with children over age ten said that their children knew where they were). For mothers who had not told their children where they were, 66 per cent said that this was because the children were too young to understand. Instead, the most common explanations given were that the mother was in hospital or working away from home. As Nellis explains, “How does anyone tell a two and a half year old who was expecting his mother to return that day, that she is not coming back, and not expect him or her to be anguished?”

---

165 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p11

166 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p39

167 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p14

168 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p38

169 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p38

170 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p38

171 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p38

172 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p2

How do you tell such a child – or an older child – that his mother has gone to prison, without filling him with terror?...Some stories told to children in these circumstances are presumably more reassuring and convincing than others, but with children of such a young age, harm will invariably be done”.<sup>173</sup>

Whilst the type and severity of problem experienced by individual children varies, the extent of the problem is widespread. Research in the UK reported that “following imprisonment problems with their children’s behaviour were reported by 44% of the mothers and 30% said their children had become withdrawn. (Such problems were more common amongst older children, those who had been separated from their siblings or placed in care)...children of women prisoners tended to have quite serious emotional and behavioural problems whereas the children of male prisoners tended to have relatively minor problems”<sup>174</sup>. In summary, Shaw claimed that “many of these children, it is clear, may suffer more pain than does their criminal parent in prison or even the original crime victim”<sup>175</sup>.

### 3.5.F Psychological and emotional effects on the mother

The mothers themselves may also experience a high degree of emotional trauma, both as the direct consequence of their own imprisonment and from concern for their children. Unfortunately, some studies have shown that “the mothers’ level of emotional distress contributed to the problematic behaviour experienced by her children”<sup>176</sup>. The psychological symptoms exhibited by incarcerated mothers include “anger, anxiety, sadness, depression, shame, guilt, decreased self-esteem and a sense of loss”<sup>177</sup>.

One of the main causes of anxiety among women serving a prison sentence concerns dealing with on-going welfare issues regarding their children’s care. The feeling of powerlessness to help their children is particularly distressing. One woman stated that “if I ever received news from home about my son having problems, it drove me to despair. I would be really distraught at not being able to do anything for him and having to rely on others to support or assist him”<sup>178</sup>. Another mother stated, “You can’t do jack shit for your kids in prison”<sup>179</sup>. Research in Australia involving 24 women found “Two women reported their daughters being sexually assaulted since they had been in prison and another believed that her children were being neglected and physically and emotionally abused but felt unable to protect them because they were in the custody of their father”<sup>180</sup>.

In addition, upon release many women “frequently discovered that their children had been experiencing problems which no one had told them about whilst they were in prison”<sup>181</sup>. This

---

173 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p9

174 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p2

175 Shaw (1990) cited in Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p2

176 Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p3, citing Greene, Haney and Hurtado (2000).

177 Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p3

178 “Mother and son reunited” in *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p4

179 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p31

180 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p31

may include the most serious of situations – a woman relating an experience with another prisoner told how “During her first year in prison, Aggie received two letters from home, which I had to read and deliver the devastating news to her that 2 of her children had died in her absence”<sup>182</sup>.

One final consequence to be highlighted regarding the effects on children of their mother’s imprisonment concerns long-term damage to the mother-child bond. It is reported that “Disruption of the attachment bond between mother and child is particularly deleterious between the ages of 6 months and 4 years”<sup>183</sup>. Considering the high percentage of imprisoned mothers whose children are under the age of 5 (approximately 30% in the UK<sup>184</sup>) this is clearly an issue of some relevance. Not only is this a problem when the mother is first imprisoned, but upon her release and reunification with her children, they may again suffer the rupture of the emotional bond they have formed with a substitute carer. One woman reflecting on the possibility of her future reunification with her children stated that “Their granny said she would return them to me when I get out, but really I don’t, well, I feel now that they’re more hers than mine”<sup>185</sup>.

### 3.6 FAMILY VISITS

#### 3.6.A Importance of visits

Visits are an important feature of prison life, particularly for mothers with children. Human Rights Watch’s 2002 report on the children of incarcerated drug offenders highlighted the following benefits of parent-child prison visits:

- Allow parents and children to maintain their existing relationship, which may also help the family to reunite upon the parents’ release.
- Allow children to express their emotional reactions to the separation, which they may not feel able to do elsewhere.
- Allow parents to work out their feelings about separation and loss, and thereby help them become better able to help their children with the same issues.
- Allay some of the more extreme fears that children may hold about prison conditions, as well as dispel fantasies that they may develop about their parents in their prolonged absence.
- Reduce feelings of abandonment among children, as well as the anger and guilt that tend to accompany such feelings.
- Counteract, by seeing other children and families at prison visiting centers in similar circumstances, some of the alienation that children experience.
- Quell the separation anxiety to which children of incarcerated parents are particularly prone.<sup>186</sup>

181 Wedderburn, D, The Report of the Committee on Women’s Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p9

182 Bryan, T.A: “Beautiful women come here too!” *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p1

183 Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p2, citing Fuller (1993)

184 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p2

185 Edgar, S: *Languidecen en el olvido indígenas presas por narcotráfico* (08/04/03) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04) Author’s translation

186 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p8

There is a well-established view that prisoners who maintain family ties while in prison are more likely to reintegrate successfully into the community upon release. A study by Harrison<sup>187</sup> “found that those inmates who were assisted to maintain family relationships whilst in prison returned to prison at the low rate of 2 to 4%”. They also display fewer disciplinary problems and have better physical and mental health while in prison. Additionally, these prisoners are more likely to return to their families upon release, rather than having their family broken up.

### 3.6.B Negative effects of visits

In some circumstances, however, the mother and/or child may not wish to have visits. Mothers may not want their children to see them in prison conditions, particularly those mothers who have not explained to their children where they are, or why they are there. They may also consider that it would cause excessive distress to the child, and/or to the mother herself, particularly when the visit comes to an end and they have to be separated again. One woman prisoner who was interviewed remarked that “young children cannot understand why they cannot stay with their mother – visits are like ‘giving a toddler a lollipop and then snatching it away’”<sup>188</sup>. For some women family visits leave them with very mixed feelings, and they are left “feeling ‘torn apart’ and not knowing ‘whether the best thing to do is cut contact or persevere and cope with the upset’”<sup>189</sup>. On other occasions, it may be the children themselves who do not wish the visits to take place. They may be ashamed or angry with the mother for her actions, and for her apparent abandonment of them<sup>190</sup>.

### 3.6.C Facilitation

Arrangements for children’s visits can be complicated, particularly when siblings are separated or living in State care. Children who are too young to make visits unaccompanied must rely on the goodwill of their carers in order to see their mother. In some cases, this may not be forthcoming – for example:

“Foster parents may lack the emotional commitment to undertake the time and expense of taking the children to visit their incarcerated parent themselves. Although child welfare workers are legally mandated to facilitate parent-child visits when such visits are not detrimental to the child, many feel that accompanying children to visit parents in prison is disproportionately time-consuming and hard to reconcile with other demands of their caseload”<sup>191</sup>.

Such coordination of visits may prove infinitely harder if the woman’s children are themselves being held in juvenile detention centres<sup>192</sup>.

When the children are cared for by relatives there is normally a greater commitment to facilitating visits. However, this may not always be the case, particularly if relations between the prisoner and

---

187 Harrison (1997) cited in Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000, p3

188 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p9

189 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p34

190 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p8

191 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p9

192 Howard, C: *Main Issues Facing Brazil’s Women Prisoners* (unpublished paper, 2003)

her extended family or (ex)-partner are strained. In these situations, the new carers may deliberately discourage the children from visiting. The following example from the UK highlights this:

“It was eight weeks before her children were able to visit her in prison. They visited five times in all, but the relationship became strained. Lack of communication between family members made it difficult to coordinate visits so that all three children could come together. Her estranged husband discouraged visits...Upon release from prison...her husband applied to the courts for sole custody of the children, “and in the end it just ended up in a big tug of war”. She lost custody of her children [and] now no longer sees them”.<sup>193</sup>

In another instance, prisoners reported that “carers refused to bring their children to visit because they perceived the prison as being ‘no place for kids’”<sup>194</sup>.

### 3.6.D Group visits

Although ‘family’ or ‘group’ visits (where all children and the inmate’s partner may visit at the same time) are generally considered beneficial, they also have disadvantages. They do not allow the prisoner any time to spend one-on-one with family members, to discuss personal issues with them and to bestow undivided attention. Short and infrequent visiting times aggravate this problem. One case example reported that “With 5 children and the father vying for the mother’s attention, visits were hectic and prison staff had warned the family that their visit might be discontinued”<sup>195</sup>.

### 3.6.E Visiting conditions

In many cases, conditions for children’s prison visits are far from ideal. Visiting hours are often restrictive and visiting rooms unattractive and crowded. In Spain, “visits with children are conducted through a glass window, in visiting rooms that are usually filthy and depressing”<sup>196</sup>. In Brazil’s São Paulo Women’s Penitentiary, “women are only allowed visits a few hours a week in a noisy and crowded visiting area...women at São Paulo’s eighteenth police precinct were only allowed a two-hour visit every Wednesday”<sup>197</sup>. Although timetables for visits may not seem like an important issue, they may prove crucial to whether or not an inmate manages to maintain contact with her family. One imprisoned aboriginal woman in Australia “had not received a visit because the public transport system does not travel from the remote area on weekends”<sup>198</sup>.

For some (particularly young) children, prison visits can be very challenging. They may find it difficult to sit still at a table, talking, and not moving about – “children’s natural inclination for active play rather than quiet conversation”<sup>199</sup> is not always recognised by prison management.

193 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p6

194 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p32

195 Gampell, L: *Submission in response to the Green Paper Consultation ‘Every Child Matters’* (Action For Prisoners’ Families, December 2003) p7

196 Helsinki Watch/Human Rights Watch: *Prison Conditions in Spain* (April 1992) p28

197 Human Rights Watch: *Behind Bars in Brazil* (1998) p6

198 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p160

199 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p34

Additionally, research has shown that both mothers and children feel “intimidated and restricted in their interaction by the presence of uniformed officers because of the formality and overt surveillance that the uniform conveys”<sup>200</sup>.

Security measures to prevent possible drug smuggling may mean that women are not allowed to have any physical contact with their children. These restrictions “are distressing and may impair the quality of the parent/child relationship”<sup>201</sup>. In an example from Broward, a detention facility in the USA, “inmates are not allowed to hold visiting children on their lap during the visit and are allowed to give them a brief hug only at the beginning and at the end of the visit”<sup>202</sup>. Again, it is difficult for a young child to understand the reasons for these conditions, and they may be left with the distressing impression that their mother does not want to kiss or cuddle them anymore. Women interviewed in Australia “described non-contact visits with their children as highly distressing for both themselves and the child/ren. The opportunity to physically comfort and express affection and play with their children is seen as essential to the children’s well being and to their relationship”<sup>203</sup>. As one mother described, “I saw him through the perspex...He couldn’t hear me properly and I couldn’t cuddle him. He seemed angry and upset. I would never put him through that again. They shouldn’t take your punishment out on the kids”<sup>204</sup>. The children’s substitute carers interviewed by researchers in Australia agreed with this view and “Non-contact visits were, without exception, described as distressing to the extent that carers refused to participate – ‘I won’t put her through a non-contact visit – she needs to be held’”<sup>205</sup>.

There are also examples of good practice regarding children’s prison visits. The Bedford Hills facility in the United States has special arrangements for extended visits with older children:

“In the summer, the facility runs week-long programs for inmates’ children who are housed with local families and spend the day with their mothers on the premises. They play with their mothers in a large, toy-filled visiting room, and may also participate in a number of organized activities.”<sup>206</sup>.

### 3.6.F Frequency of visits

Despite the importance of visits, as stated above, many women receive far fewer visits than male prisoners. The following table highlights the comparative situation in New York.<sup>207</sup>

Although the difference in terms of percentage points is not that great, it must be remembered that the number of women who were in contact with, or living with, their children prior to imprisonment is far greater than the number of men.

---

200 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p34

201 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p20

202 Human Rights Watch: *Prison Conditions in the United States* (November 1991) p62

203 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p34

204 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p34

205 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p46

206 Human Rights Watch: *Prison Conditions in the United States* (November 1991) p61

207 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p8

Frequency of visit	Men	Women
Daily or almost daily	1.4%	1.0%
At least once a week	5.5%	7.2%
At least once a month	14.8%	13.4%
Less than once a month	19.2%	20.4%
Never	49.5%	52.5%
Other	9.1%	5.5%

In addition to the problem of timetabling highlighted above, there are several reasons why women prisoners receive comparatively few visits:

- Social ostracization
- Financial or travel restrictions for visitors
- Degrading treatment of visitors

The first reason relates to the lack of desire to visit, as discussed above. Women prisoners suffer greater social stigma than male prisoners, and as a result are more likely to be abandoned by family and friends upon incarceration.

Secondly, as was noted in Section One, women's prisons have a much greater geographical dispersion than men's prisons. The result is that family members who wish to visit a woman prisoner must, as a rule, travel substantial distances to do so. In terms of time and expense this can be a very detrimental factor. Human Rights Watch's 2002 report on drug offenders in New York found that "more than half of incarcerated parents reported in 1997 that their prison was between 100 and 500 miles from their previous residence; almost one-in-five were more than 500 miles away"<sup>208</sup>. Although these statistics cover both male and female prisoners, women are likely to be at the higher end of the scale. In the UK,

"the geographical dispersion of the women's estate and the increase in the number of women in prison no doubt account for the finding in a Home Office study that only half the women who had lived with their children or been in contact with them before imprisonment had seen them since coming into prison. Many governors were aware of this undesirable development and some attempted to compensate for this by operating a more liberal policy of home leave. But these initiatives were brought to an abrupt end in April 1995 when a more restrictive system of temporary release was introduced to address problems of home leave failure in the male system"<sup>209</sup>

In some countries, prison services arrange for free or subsidized travel for families visiting prisoners from long distances. However, these services often do not fully address the demand.

Finally, for those families who succeed in making visits, the experience may be an unpleasant one. Besides the inevitable emotional impacts of such visits, and the often physically unpleasant nature

<sup>208</sup> Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p8

<sup>209</sup> Wedderburn, D, *The Report of the Committee on Women's Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p22, citing Caddle and Crisp (1997)

of the environment, prisoners' families may feel that the prison staff and procedures are degrading to them. The 14 year-old daughter of a prisoner in the UK described prison procedures and the guards' attitudes: "It makes you feel horrible, like you have done something too. They watch you and make you feel guilty just for being there. They search you and make you take your shoes off and you feel stupid and horrible. You don't get used to it"<sup>210</sup>. Another child "described his disappointment in visiting the prison on a number of occasions only to find that his name has been left off the visiting list and staff refusing him entry".<sup>211</sup>

In Venezuela, "Prisoners described how their family members were subjected to extremely intrusive searches as the cost of a visit, asserting that the purpose of such searches – and the inevitable effect – is to humiliate the visitor"<sup>212</sup>. Further mistreatment of prisoners may include "physical abuse, disrespect, and financial extortion"<sup>213</sup>. In California, recent decisions by the California Department of Corrections require children visiting their parents in prison "to undergo a body search alone [i.e. with no accompanying adult present]"<sup>214</sup>. This is unlikely to encourage vulnerable children to visit their mothers. In Australia, "women are subjected to a full 'cough and squat' strip search after every family and legal visit. Women must decide that in order to see their family they will undergo this indignity. For women who have been previously sexually assaulted the search procedure may result in the woman becoming re-traumatized"<sup>215</sup>. In these circumstances, it is not uncommon for women to make the difficult choice not to see their children at all.

### 3.6.G Rights of the child

One important but often overlooked point regarding family prison visits is the question of whose rights are being protected. When investigating the arrangements for family visits, attention is normally focused on the rights of the prisoner to receive visits and whether the prison service is upholding this right to the best of its ability in accordance with security requirements. However, the children of imprisoned mothers also have rights – namely, the right to family life. Although imprisonment by its very nature places restrictions on certain rights of the prisoner, prison authorities are not entitled to restrict the freedoms of non-inmates. Therefore, by placing limitations on a child's right to have contact with his or her mother, prison authorities may be unjustly violating the rights of an innocent party.

## 3.7 OTHER MEANS OF MAINTAINING FAMILY CONTACT

Besides visits, prisoners can try to maintain contact with their families through letters or telephone calls. A survey of women prisoners in the UK found that 85% were in contact with their children by letter, and 75% by telephone<sup>216</sup>. A similar survey in New York, USA, revealed the following:

---

210 Gampell, L: *Submission in response to the Green Paper Consultation 'Every Child Matters'* (Action For Prisoners' Families, December 2003) p5

211 Guransky, D et al: *Who's Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p40

212 Human Rights Watch: *Punishment Before Trial: Prison Conditions in Venezuela* (1997) p6

213 Human Rights Watch: *Punishment Before Trial: Prison Conditions in Venezuela* (1997) p6

214 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p45

215 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p158, citing Kilroy, D (2001)

216 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p3

---



Frequency of telephone contact between imprisoned mothers and children:<sup>217</sup>

Daily or almost daily	12.5%
At least once a week	26.6%
At least once a month	17.5%
Less than once a month	5.9%
Never	36.7%
Other	1.0%

Frequency of mail contact between imprisoned mothers and children:<sup>218</sup>

Daily or almost daily	10.5%
At least once a week	32.2%
At least once a month	20.5%
Less than once a month	8.4%
Never	28.4%
Other	20.9%

For many prisoners, the financial cost of (often long-distance) telephone calls can be restrictive. Some prisons operate systems where inmates are only able to make collect (reverse-charge) calls, or must use specified operator systems, which are much more expensive than ordinary phone calls. As a result, “Family members describe telephone bills that can reach into hundreds of dollars, ultimately prompting the reluctant decision to cut back on calls that are an emotional mainstay for them as well as the inmates”<sup>219</sup>. In the UK, 49 percent of women prisoners who were mothers claimed that they lacked money to buy phone cards to call their children<sup>220</sup>. In Australia, some women reported that “telephone contact was either non-existent or severely reduced because they could not afford the telephone calls on their prison wages”<sup>221</sup>.

Additional problems encountered by mothers trying to keep in contact with their children by telephone include the lack of privacy afforded by prison phone facilities. One woman also reported that “her young children were so angry at her for leaving them that they refused to speak to her when she called”<sup>222</sup>. The reverse may also be true – a mother with several children may find it difficult to share out ‘phone-time’ between them so that they all get an equal chance to speak with her.

For women who try to keep in contact through letters, problems may include unreliable and slow postal services, expense (particularly for women in developing countries), and illiteracy (either their own or their child’s – particularly relevant considering the age of many of the children involved).

217 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p9

218 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p11

219 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p10

220 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p3

221 Guransky, D et al: *Who’s Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998) p33

222 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p10

### 3.8 FOREIGN NATIONALS AND INDIGENOUS WOMEN

All of these problems are greatly magnified for women who are imprisoned away from their home country. Family visits are clearly exceptionally infrequent, and for many prisoners (particularly those from developing countries) non-existent (in the UK, only 11% of foreign national women in prison had received a visit from their children, compared to 60% of the British prisoners<sup>223</sup>). Letters take longer to arrive, and may be subject to additional delays for translation before censorship. They are also more expensive. They may face difficulties using the telephone due to time differences, poor connections, lack of access (by them or by their family), and the high financial cost. One Jamaican woman imprisoned in the UK stated that “I call them once every three months. It’s not easy, but I do try. Calling from here to Jamaica – you buy a phone card and you say ‘hello’, and then the credit is all gone”<sup>224</sup>. In an attempt to address some of these problems, prison services in the UK have undertaken various initiatives including “exceptional access to telephone calls in lieu of visits, and also in lieu of visits, free letters”<sup>225</sup>.

The geographical isolation of women’s prisons causes particular problems for indigenous women. Noting that “Aboriginal women are more likely to be mothers of young children and, on average, have more children at the time of their offending” researchers in Canada stressed that “The dislocation and isolation of imprisonment is worsened by the difficulties encountered by relatives who have to travel from distant, often remote communities, to visit”.<sup>226</sup> Furthermore, maintaining contact with family in such a community through letters or telephone calls may be complicated or impossible due to lack of amenities. There have been cases of social services being unable to ascertain who, if anyone, was caring for the children of imprisoned aboriginal women simply because there was no telephone connection to her isolated home community.

### 3.9 RE-UNIFICATION AND OTHER POST-RELEASE ISSUES

Women leaving prison must deal with issues surrounding their reintegration into society and the reunification of family. This may present complex problems.

Depending on the amount of time the mother has spent in prison, she may be released to discover that her children have grown up and changed significantly in her absence. The children may likewise find that their mother is not as they remembered her. Human Rights Watch’s report stated that “Parents will return to children who have grown up in their absence, who have developed unique emotional needs, who have formed relationships with other caregivers, and/or who have conflicting emotions about the parent who ‘left them’ for prison”<sup>227</sup>. This can cause problems as family members adjust to each other again. The following quotations illustrate the case:

“The problem for me was that I felt that my mum still believed that I was the same age as when she left”<sup>228</sup>

---

223 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p3

224 BBC News Online: “Jamaica’s women drug mules fill UK jails” (13/09/2003) (accessed 5 November 2003)

225 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p21

226 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p198

227 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p12

228 “Mother and son reunited” in *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p5

---

“It’s hard for the family to re-adjust... Mum needs support, because the family has grown different. Mum still thinks I’m 13”<sup>229</sup>

One of the most important issues confronting women upon release is that of housing. A Home Office (UK) study found that “half the mothers nearing release were not expecting to return to their previous accommodation, almost four out of 10 had lost their homes and there was an increase in the number expecting to be homeless”<sup>230</sup>. In some instances, rights to local authority housing are automatically lost if the resident is in prison for over 13 weeks<sup>231</sup>.

Besides the short-term consequences for the woman concerned, it has serious implications for the reunification of her family, as “Women may find themselves in a catch-22 situation where they experience difficulties in getting their children back if they do not have a home, but have difficulty in getting a home if they are not caring for their children”<sup>232</sup>. One woman interviewed had experienced just such a problem. Upon release from prison she was told by Social Services that “she would not get her children back until she had found suitable accommodation. This took six weeks”<sup>233</sup>. In this time, her estranged husband gained sole custody of the children, whom she no longer sees. In an effort to avoid losing their children, “in the absence of any alternative, some women may feel compelled to return to violent partners post release”<sup>234</sup>.

Of mothers interviewed in the UK, “10 percent of the mothers who had lived with their children before prison did not expect to do so after release”<sup>235</sup>. Research by Ellen Barry (Director of Legal Services for Prisoners with Children in San Francisco, USA) presents a still graver picture, stating that “children who enter the foster care system when their mother is incarcerated are at a serious risk of never being reunified with her. Barry attributes this problem to the lack of programs and services within the prisons to prepare women for reunification after release. Without such programs, Barry argues, it is “virtually impossible for her...to reunify with the child”<sup>236</sup>.

### 3.10 REMAND

Considering the extremely serious consequences of a mother’s imprisonment on the children concerned, it is important to note the high proportion of women who are imprisoned on remand (i.e. awaiting trial). These women are also separated from their families and are likely to suffer the same devastating effects on their family relationships as sentenced prisoners, even if they are eventually acquitted or given a non-custodial sentence. In the UK it was found that “Around a fifth of women in prison are on remand...one in five women on remand are eventually acquitted and

---

229 Gampell, L: *Submission in response to the Green Paper Consultation ‘Every Child Matters’* (Action For Prisoners’ Families, December 2003) p5

230 Wedderburn, D, *The Report of the Committee on Women’s Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p9

231 Notes of a meeting with Hilary Benn, Michael Bartlet, Helen Drewery, Susan Hartshorne, Nick McGeorge, and Marian Liebmann, 12 December 2002.

232 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p13, citing Social Exclusion Unit (2002)

233 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p6

234 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p172, citing Ogilvie, E

235 Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997) p4

236 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p231, citing Barry (1985)

---

around 60% received a non-custodial sentence”<sup>237</sup>. By the time they are released, however, irreversible damage to their family relationships may already have been done. The ‘justice’ of inflicting such destruction on the family of someone who may be innocent is hard to justify.

### 3.11 CHILDREN ON THE INSIDE

#### 3.11.A Advantages and disadvantages

Imprisonment does not always entail the separation of mother and child(ren). It is common practice, worldwide, for very young children to be allowed to accompany their mothers to prison. There are arguments on both sides of this practice. Some people argue that separating a young child from his/her mother can cause lasting and serious emotional damage to the child, with additional concerns regarding arrangements for alternative carers. In contrast, others argue that prisons are not suitable places for children to live in, and that they need to have full freedom and a broad range of social contact (e.g. with their peer group) in order to develop normally. There is little information available regarding the effects prison may have on a child’s early development, aside from a 1989 study by Catan:

“She compared the development of [prison] unit babies with babies separated from their imprisoned mothers and cared for in the community. Both groups of babies showed normal, healthy physical growth and their overall development fell within accepted norms. However, the babies who stayed in the units for four months or more, showed a slight and gradual decline in locomotor and cognitive scores. Once they started to sit up, crawl and walk there was less opportunity for the unit babies to explore and to make use of these skills...When babies left the units, there was a significant increase in their general development scores”<sup>238</sup>

Both staff and prisoners recognise that it is a question “not of choosing between a good option and a bad option, but between two bad options”<sup>239</sup>. In Argentina, women can keep their children with them up to the age of four years, and it is their own choice whether to do so or not. However, researchers note that “This decision is very difficult as they know that, if they opt for the first choice, they oblige their children to grow up in a hostile and violent environment, to grow up imprisoned, to share the punishment of the mother in a world delimited by the bars of the prison. Inmates told us that the first word children learn to say is ‘cela’ (short for ‘celadora’ – prison guard)”<sup>240</sup>. Research in India highlights that “The prison atmosphere with its undercurrents of violence, tension, bitterness and distrust, has a damaging psychological impact on children growing up in these confines”<sup>241</sup>. For this reason, many women decide to leave their children in the care of extended family. As one prisoner related, “If I don’t want all this for myself, I want it even less for my child. I didn’t want my son to have this memory from such an early age...Besides,

---

237 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9

238 Caddle, D: *Age limits for babies in prison: Some lessons from abroad*, Home Office Research, Development and Statistics Directorate, Research Findings No.80 (1998) p2

239 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p17 Author’s translation

240 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p16 Author’s translation

241 Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International, p26

---

I thought, I'm going to get so close to him and when they have to take him away, then what? It would be even worse because I would be used to him and him to me. That's why I made my choice"<sup>242</sup>.

In other instances it has been argued that women 'use' their children or pregnancy for personal motives. Keeping the child in prison allows them to establish an emotional bond with someone, to feel less isolated, and to feel that they have something which is their own and they can control. In addition, "Raising the baby allows them to continue a series of daily activities similar to their life on the outside"<sup>243</sup>. Some argue that "the decision to get pregnant or to keep children in prison constitutes a conscious strategy by the women to obtain benefits"<sup>244</sup>.

In contrast, in some instances women are given little influence over decisions regarding what happens to their children. In Mexico, "in many cases the opinion of the inmate regarding what to do with her children is not taken into account (by the prison authorities) or they try to influence her decision according to what the prison staff find most convenient"<sup>245</sup>. In addition, many women may be ignorant of their rights regarding the care of their children. One prisoner from Argentina reported that "When they took me to prison I had two small children, one breastfeeding. I didn't know that I could have them with me in prison. They took them away to an institution. In prison, my friends told me that I could have chosen. Just after arriving I found out"<sup>246</sup>.

### 3.11.B Age limits

Due to the difficulties of maintaining children in prison, the general practice is for only very young children to remain in prison with the mother, with older children being taken out and cared for in free society. However, the age limits, conditions, and eligibility for placement for such children varies from country to country, and even within individual prisons themselves. The following table gives a brief overview of the situation in various countries:<sup>247</sup>

Country	Maximum age*
Spain	6 years
Netherlands	4 years
Portugal	3 years
Switzerland	3 years
Finland	2 years
Hong Kong	3 years
UK	To 9 or 18 months
Canada	1 year

242 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p17 Author's translation

243 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p17 Author's translation

244 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p17 Author's translation

245 Maya, Rafael: *Discriminación en el sistema judicial afecta a mujeres: CDHDF (29/11/02)* from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04) Author's translation

246 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p17 Author's translation

247 Caddle, D: *Age limits for babies in prison: Some lessons from abroad*, Home Office Research, Development and Statistics Directorate, Research Findings No.80 (1998) p2

Country	Maximum age*
Hungary	6 to 12 months
Ireland	To 9 or 12 months
Iceland	Very young babies for breastfeeding
New Zealand	Up to six months while childcare arrangements are made

\* NB. Age limits may vary within the country

Clearly, there is a wide discrepancy between countries which allow children to stay in prison with their mother up to the age of 6 years (Pakistan and Bangladesh also share this limit<sup>248</sup>) and those such as Iceland, Sweden and New Zealand where children are effectively not permitted within prison at all, unless there are exceptional circumstances.

In many places, the rules regarding maximum age limits are flexible, unknown, or rarely enforced. For example in (then) Zaire children up to the age of one year were allowed to stay with the mother in prison, but in practice older children (up to two or three years old) were also to be found there<sup>249</sup>. Similarly, in Brunei Darussalam the rules regarding children in prison do not specify a maximum age but simply state “Young children and nursing babies, whose parents are imprisoned are allowed by the Prison Department to be with their mother”.<sup>250</sup>

Clearly in many circumstances decisions regarding age limit are applied not in accordance to strict guidelines but by considerations of a practical nature. The Brazilian constitution:

“mandates that women prisoners be permitted to keep their nursing babies during the entire lactation period. In order to implement this rule, the national prison law states that every women’s prison must be equipped with a nursery for mothers and their infants. Many women’s prisons abide by these requirements, but not all of them. At the women’s prison in Manaus, Amazonas state, babies can only stay with their mothers for a week because the facility is too overcrowded to permit them to remain longer”<sup>251</sup>.

Similarly, the age limit may be stretched to avoid unnecessary separations if the mother is due to be released shortly. For example in the USA, “Mothers are allowed to keep infants at Bedford Hills or Taconic until the child is twelve months old, unless the mother is likely to be released before the child is eighteen months old”<sup>252</sup>. In other countries the degree of extension may be a matter of discretion (i.e. can the baby stay if the mother will be released within one month? Six months? Or twelve?).

### 3.11.C Eligibility

Eligibility criteria for the child’s admission may likewise vary from prison to prison. In the UK guidelines in the Prisoners’ Information Book for Women Prisoners and Young Offenders state “The decision on whether or not to allow a mother to keep her baby with her in prison is taken

248 States’ Reports to the Committee on the Rights of the Child, 34th Session, October 2003: Pakistan CRC/C/65/Add.21, Bangladesh CRC/C/65/Add.22

249 Africa Watch/Human Rights Watch: *Prison Conditions in Zaire* (January 1994) p31

250 States’ Reports to the Committee on the Rights of the Child, 34th Session, October 2003: Brunei Darussalam CRC/C/61/Add.5, p37

251 Human Rights Watch: *Behind Bars in Brazil* (1998) p6

252 Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002) p7

by the Governor in the light of a recommendation from an independently chaired multi-disciplinary team which may include a prison officer, a probation officer, a prison medical officer and the liaison social worker...Each case is judged individually and the team is concerned primarily with establishing what is in the best interests of the child.”<sup>253</sup>

However, in reality there are only 64 places available in ‘Mother and Baby Units’ across England<sup>254</sup>. These units are expensive to fund and as a result supply is likely to be substantially lower than demand. In Mexico it has been reported that “of the 13,000 minor children of women prisoners, only 500 live with them inside the country’s prisons, the rest are in homes, with relatives, foster parents, or in the street”<sup>255</sup>.

In Australia programmes exist to allow women to care for their children in prison, but prisoners must pass certain criteria to be eligible. In addition, “a disincentive to use of the program is that a woman can only have one child with her”<sup>256</sup>, forcing a woman with more than one child to choose between them.

Further restrictions on eligibility may apply if the child in question was fathered by prison staff. The following case from the USA illustrates this:

“The nursery program [at the Bedford Hills facility] allows incarcerated women to keep their babies at the facility for up to one year to allow for mother-child bonding. Women impregnated by corrections officers, however, are sometimes denied this opportunity. After her transfer to Bedford Hills, Iris R. stated that she applied to the nursery program, was initially accepted, and received a letter of acceptance. She later received a second letter withdrawing the offer when the institution realized that the father of her child was a corrections officer”<sup>257</sup>.

In some cases, whether or not children are admitted to the prison depends not so much on eligibility criteria but rather “inmates are allowed to keep their children primarily as a reward for good behavior”<sup>258</sup>. Again, the amount of discretion that may be shown by prison authorities in this matter presents a situation which may be open to abuse.

### 3.11.D Separation

Once the children reach an age where they are no longer allowed to remain with their mother, the process of separation must occur. Clearly, this may be traumatic and distressing for all those concerned, and must be handled sensitively. A report from the Prison Services Working Group states that “it is crucial to the separation experience for child and mother that additional

---

253 Prison Reform Trust and HM Prison Service: *Prisoners’ Information Book: Women Prisoners and Young Offenders* (2003) p50

254 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p12

255 del Valle, Sonia: *Urge solución para más de 13 mil hijos de madres internas en cárceles: criminóloga* (24/07/01) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04) Author’s translation

256 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p158

257 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p190

258 Helsinki Watch/Human Rights Watch: *Prison Conditions in Spain* (April 1992) p27

---

opportunities for visiting are put in place prior to the actual separation, to enable the child to settle in to his or her new home and family”<sup>259</sup>. Aside from this brief recommendation, it is difficult to find any information regarding procedures for separation (either from the UK or other countries).

The situation regarding provision of alternative carers for the child is similar to that of any other child of an imprisoned mother. It was noted that in Egypt “upon reaching the age of two [the limit for remaining in prison], children are given to the inmate’s family if they wish to take them; otherwise, they are placed in an orphanage”<sup>260</sup>. In Pakistan,

“On a child becoming disqualified for further retention or when a woman prisoner dies and leaves a child, the superintendent shall inform the district magistrate of the place where the prisoner resided, and the latter is to arrange for the proper care of the child. Should the relatives or friends be unable or unwilling to support the child, the district magistrate is to arrange for removal of the child to healthy nursery surroundings, through societies managing such institutes. The child is to be returned to the mother on release, provided she is ready and capable of care”.<sup>261</sup>

### **3.11.E Conditions and facilities**

The conditions of detention for women with children vary considerably between facilities, and there can be no generalization of standards. The examples below illustrate some of the differences in circumstance which may be noted around the world, although other prisons within the same countries may present substantially different conditions.

Jamaica:

“Pregnant women and new mums were put together in the ‘Baby and Mother’ dormitory. When I arrived there was one mother and her newborn and four pregnant girls. It wasn’t dirty, and having such a name I expected there to be a lot of baby equipment such as baby baths, toys etc. But in fact, there was nothing except for one crib for the baby that was there”<sup>262</sup>.

Venezuela:

“Some forty women prisoners, some with babies, mingled with a men’s population of over 1,000. Not a guard was to be seen within the prison. Men carrying weapons fought over buckets of food. A prisoner lay by the gate paralyzed, with a bullet lodged in his spine from a recent shooting”<sup>263</sup>

Malawi:

“There is no specific diet for little children and babies living with their mothers in prison, except in Mangochi, where they grow vegetables. The food they eat is nsima and beans. It is not adapted to their age.

The visit to the female section by the delegation showed a very pathetic image of two out of the three breast-feeding women with their babies in a very bad state of health. Of two

---

259 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p20

260 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p147

261 States’ Reports to the Committee on the Rights of the Child, 34th Session, October 2003: Pakistan CRC/C/65/Add.21, p101

262 “Prison delivery” in *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p3

263 Human Rights Watch: *Punishment Before Trial: Prison Conditions in Venezuela* (1997) p7

---



and three years old, these babies could not get a trace of milk in their mother's breast who like any other prisoners were under a very unbalanced diet. As a consequence the said babies spend all day longing to eat or to taste their mother's regular meal, one that is made of maize and beans.

The conditions of detention of women are more humane in Malawi. However, this appreciation can definitely not be extended to the old women, expecting mothers and women detained with their children that the delegation met in the prisons visited...At Zomba, a mother has been detained with her 14 months old baby. The child has been in prison since May 2001. He has no clothing...At Mangochi there are two women detained with their babies (1 year, 2 years). The children are very sick.<sup>264</sup>

The Netherlands:

"children up to the age of four are accommodated at Ter Peel...set in 25 acres of wooded land with no high wall and minimal security. Because of this, most of the 102 mothers who used the unit in its first two years were convinced that their children did not realise they were staying in a prison....A great deal of effort has been made to provide the children with a home-like environment. At Ter Peel, ten rooms were converted to provide a purpose built, self contained unit suitable for babies and toddlers. Mother and baby are accommodated in two adjoining rooms, one for the mother, one for the child. There is also a communal dining room and living area with kitchen and well equipped indoor and outdoor play areas"<sup>265</sup>

Sierra Leone:

"Lactating mothers are often detained with their babies under living conditions that may threaten the health of both mother and baby."<sup>266</sup>

Egypt:

"Qanater women's prison has a nursery, a three-room dormitory building in which twenty-eight mothers lived with their infant children...The nursery is indistinguishable from any other cell at Qanater, although it was significantly less crowded. All the inmates had a bed to share with their child or children. The nursery's washroom had six toilets and showers, and was relatively clean.

In sharp contrast to the conditions at Qanater, infants and their mothers at Tanta were packed in the same overcrowded cells as other prisoners, and slept in less than ten square feet each on dirty cement floors...'There's nothing special for the babies...nothing' one mother told MEW [Middle East Watch]."<sup>267</sup>

---

264 Chirwa, V(b): *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Malawi* 17-28 June 2001 pp18, 30 & 36

265 Caddle, D: *Age limits for babies in prison: Some lessons from abroad*, Home Office Research, Development and Statistics Directorate, Research Findings No.80 (1998) p3

266 Report of the High Commissioner for Human Rights: *Situation of human rights in Sierra Leone* E/CN.4/2004/106 (19/02/2004) p11

267 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) pp147-148

---

Additionally, a shortage of baby supplies (nappies, bottles, clothing, etc) has been noted in many institutions. Where these must be supplied by the mother herself, some have complained that “clothes and nappies were expensive at the prison shop, particularly with prison earnings”<sup>268</sup>.

Provisions for children to attend school or playgroups are also variable, although little information is available on this. In Ecuador, “many of the...prisoners have their children in prison with them, the older ones leaving the prison each day to attend school”<sup>269</sup>. Whilst the provision of educational facilities for the children is essential, the best manner of providing this is debatable. Children who live in prison with their mother but attend an ordinary school outside the prison may be subject to stigma and humiliation. In contrast, providing education for inmates’ children within the prison facility would be reliant on the availability of funding, and would deny the children the valuable opportunity to associate with a broader peer group in a more stimulating environment.

### **3.11.F Children’s perspective**

In Andhra Pradesh, researchers spoke with some of the children in jail with their mothers and asked them and their mothers what they felt about prison life. The following are some of their comments:

They miss the family members (those who have memories of siblings, fathers, aunts, uncles, etc)

- They do not like the food; it is ‘adult food’
- Milk (200ml) is given in the morning; and eggs once a fortnight
- There are too few play things in the nursery/play school section
- Health is a problem: children develop allergies, itches, stomach aches and upsets, and often the medication is not adequate and timely
- The clothes they wear are often too dirty. There is no regular system of clothes supplied to children. Sometimes visitors bring clothes; but visits stop quite soon after a woman is sent to jail
- Children are ‘dressed up’ when visitors come and are gently handled; often however they are harshly dealt with<sup>270</sup>

The daily life of the children consists of “wake up, roll call, eat something, go to ‘school’, learn the three ‘R’s, get back to barracks and get locked in again. There are no views of the world outside, of the streets, the traffic, of people...There is no sense of ‘fun’ and clearly it is a childhood that is fast going and being lost”<sup>271</sup>.

### **3.11.G Childcare facilities within prison**

Women who are allowed to keep their children with them in prison may still require assistance with childcare. As any mother knows, it is not easy to be with a baby for 24 hours a day and “Enforced time alone in a confined space with a crying baby or fractious toddler may be an unfortunate additional source of stress”<sup>272</sup>.

---

268 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p72

269 “Country profile: Ecuador” in *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p8

270 Shankardass, R: *Where the mind is without fear and the head is held high: Mental health and care of women and children in Andhra Pradesh, a thematic review* (2001) PRAJA, p88

271 Shankardass, R: *Where the mind is without fear and the head is held high: Mental health and care of women and children in Andhra Pradesh, a thematic review* (2001) PRAJA, p89

272 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p28

---

Women who wish to participate in work or educational programmes (in many cases, these may be compulsory) also require childcare facilities. If these are not available women may be barred from participation. This is the case at Styal Prison in England, where mothers “were restricted to the unit – they could not attend education because they could not take their babies to the classes and there were no creche facilities to leave the children. They stated they were bored, watched a lot of television and spent long hours together with their children”<sup>273</sup>. In other circumstances, women work despite the lack of childcare facilities. This has proven to be the case on at least one occasion in Mozambique where “One prisoner on remand had a 7 months old child which was one month old when the mother was imprisoned. They sometimes worked on farms, and the mother also worked with her child on her back.”<sup>274</sup>

Where childcare is provided, it “can either be on the prison site, staffed by prison officers (as at the New York nurseries and at Frondenberg) or at a community nursery staffed by professional child care workers (as in Finland)”<sup>275</sup>. At Ter Peel in the Netherlands both systems have been tested, and it was decided that the latter system was best, for the following reasons:

“For the children:

- They have a daily structure and regime which includes being collected and returned to the prison every day by creche workers
- They have the same carers
- They can mix with children of the same age from the local community
- Toys are available suited to the child’s particular stage of development
- They can be observed and compared with children of the same age who live in the community, allowing any problems to be detected at an early stage
- Their living space can be extended and a change of environment can be given

For the mothers:

- They are offered guidance, education and support

Cost:

- It is cheaper to send a small number of children to an outside nursery than to establish and maintain a prison creche”<sup>276</sup>

Whilst this system clearly has advantages, as with the matter of schooling care must be taken when mixing children who live in the prison with children from the wider community, in order to avoid them from suffering embarrassment and stigmatisation. Some prisons run on-site creches which prison staff can also use. This has the advantage of increasing the peer group for inmates’ children, facilitating childcare for staff, as well as making it more economically viable. However, it does mean that the inmates’ children remain subject to a very limited (and limiting) environment.

---

273 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p74

274 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique 14 – 14 December 1997* p35

275 Caddle, D: *Age limits for babies in prison: Some lessons from abroad*, Home Office Research, Development and Statistics Directorate, Research Findings No.80 (1998) p4

276 Caddle, D: *Age limits for babies in prison: Some lessons from abroad*, Home Office Research, Development and Statistics Directorate, Research Findings No.80 (1998) p3

---

### 3.11.H Other issues

For mothers with more than one child, the decision to keep one (or more) in prison with her while the older children are cared for outside may be a difficult one. For children who already feel abandoned by their mothers, “any feelings of rejection will be increased if baby brother or sister is seen as being ‘allowed to live with Mummy’ while they are left outside”<sup>277</sup>. Other prisoners may also feel jealousy towards the women with children if they enjoy better facilities and treatment than the general prison population.

As is generally the case, the situation of women imprisoned abroad presents its own particularly complex problems. A report on the UK situation highlighted that

“They were serving long sentences; they were to be deported at the end of their sentence. Trying to find local foster placements for the children at the 18 month age was very difficult and the cost of the local authority meeting the arrangements was substantial. They do not receive child benefit and therefore have little or no money to purchase items needed for babies. Cultural problems facing a child being returned to a country they had left a number of years ago were also significant”<sup>278</sup>

The dangers facing young children inside prison should not be too easily dismissed. Besides the general lack of facilities appropriate to their age and development, and the poor standard of living and medical care, children in prison may be vulnerable to substantial abuse and violence. In Bolivia there has been at least one reported case of a child who was sexually abused and died in prison (although it is unclear whether this incident occurred in a men’s or women’s prison).<sup>279</sup>

### 3.12 PREGNANCY AND BREASTFEEDING

Women who are pregnant or breastfeeding in prison also have particular needs. Adequate healthcare, both preventive and curative, is of primary importance for both the mother and child. The question of access to abortion should also be considered in these provisions, although it should never be enforced upon a prisoner against her will.

In Brazil it has been noted that “infrequent blood tests for pregnant women lead to the possibility of passing on HIV through breast-feeding” there is also “No pre-natal care for pregnant women in pre-trial detention and inadequate care in prisons. No clear policy on post-natal care. Disorganisation ensures women may be separated from their babies soon after the birth until a nursery bed is found”<sup>280</sup>. A Human Rights Watch investigation found that in some cases women were obliged to “give them [their babies] up at the hospital. We spoke to two mothers...who had given birth less than a month and a half before our visits: both of them had only seen their babies once since the delivery date”<sup>281</sup>. A similar lack of healthcare provision was reported by a former prisoner in Jamaica – “Pregnant prisoners don’t get regular scans, they would only allow you a scan if there was a problem. We were also denied any sort of vitamin supplement”<sup>282</sup>.

---

277 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p30

278 Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999) p73

279 Hoesel, I: *Los niños en las cárceles. Entrevista a la Dra Elizabeth Patiño, Directora de Defensa de Niñas y Niños Internacional filial Cochabamba* (24/04/03) (unpublished paper) Author’s translation

280 Howard, C: *Main issues facing Brazil’s women prisoners* (unpublished paper, 2003)

281 Human Rights Watch: *Behind Bars in Brazil* (1998) p6

282 *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p3

---

In the USA,

“Pregnancy and reproductive health needs are another neglected area of health care. Estimates of the percentage of pregnant women in prisons and jails range from 4 to 9 percent. Acoca (1998) argued that pregnancy during incarceration must be understood as a high-risk situation, both medically and psychologically, for inmate mothers and their children. She noted that deficiencies in the correctional response to the needs of pregnant inmates include lack of prenatal and postnatal care, including nutrition, inadequate education regarding childbirth and parenting, and inadequate preparation for the mother’s separation from the infant after delivery”<sup>283</sup>

Similarly, research in Australia has raised concerns about the health status of pregnant women in prison. Regarding indigenous women in particular they found that “women in detention often present with compromised health. When these women give birth their children may require hospitalisation in intensive care units until they are stabilised”<sup>284</sup>.

Clearly, the moment of birth is the riskiest time of any pregnancy for both mother and child, so adequate medical supervision at this time is of particular importance. Depending on the country and the prisoner, women may give birth either in prison or at a community hospital. In Egypt the following was reported:

“Women who are pregnant when they arrive at a prison give birth in prison or at local hospitals. At Qanater...normal births are handled by the prison hospital, with deliveries performed by a nurse. If a birth is expected to be complicated, the woman is transferred to an outside hospital...Pregnant women in the women’s jail at Tanta are brought to the local hospital to give birth”<sup>285</sup>

Pregnant women may or may not be held separately from the rest of the prison population. For those who are held separately, they may suffer from isolation and lack of access to facilities. In California, pregnant women from one detention facility “complained about idleness (they are barred from all prison work and training programs, though not from taking classes)”<sup>286</sup>. However, those who are integrated with the rest of the prison population may be at greater risk of disease, violence, or of having their needs overlooked. At both Qanater and Tanta in Egypt, “pregnant women, at all stages of their pregnancies, were held in the same cells as their non-pregnant fellow inmates”<sup>287</sup>. In São Paulo’s third police precinct (Brazil), “One of the women inmates, who was five months pregnant, was complaining of sickness and pain, but the guards ignored her. She had spent the last ten days locked in a dark crowded cell”<sup>288</sup>. When dealing with detention facilities for pregnant women it is essential that consideration be given to the requirements of their physical state.

---

283 Owen, B: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Conflict Criminology* (Thomson Wadsworth, 2003), pp231-246, p240

284 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p159

285 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p147

286 Human Rights Watch: *Prison Conditions in the United States* (November 1991) p62

287 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p147

288 Human Rights Watch: *Behind Bars in Brazil* (1998) p2

---

### 3.13 CONCLUSION

From the above it is plain to see that the imprisonment of women who are also mothers presents manifold and complex problems. Amongst these are the emotional anguish and personal hardship that their children suffer as a result of being separated from their mothers in this way. In many cases, their suffering may be substantially greater than that of the victim of the original crime. This is particularly relevant when one considers the large percentage of women who are incarcerated for ‘victimless’ crimes such as drug possession or minor fraud. Sentencers should, therefore consider whether the “pains experienced by children when their mother goes to prison are part of her deserved punishment”<sup>289</sup>. In addition, one could ask “What message are courts giving to offender/mothers – whether the mother has been a ‘good’ mother or not – if they themselves pay no heed to the precepts of good parenting?”<sup>290</sup>.

The trauma inflicted on the offender’s family does not necessarily end upon her release. As has been seen, it is all too common for a prison sentence to result in the permanent break up of a woman’s family. Not only is this extremely negative for them, but it has long term implications for society as a whole. It has been argued that “Because the majority of female inmates are mothers, the effects of the increase of female incarceration will have long-term cumulative adverse effects”<sup>291</sup>. Children of incarcerated mothers are at an increased risk of becoming offenders themselves, with the implication that imprisoning mothers is conducive to creating future criminals.

The Special Rapporteur on Prisons and Conditions of Detention in Africa summarised the situation with the comment that “Prison is not a safe place for pregnant women, babies and young children and it is not advisable to separate babies and young children from their mothers. However, it is possible to find solutions so that these women are not imprisoned: use of bail for remand prisoners, non-custodial sentences or conditional/early release, parole, probation, suspended sentences for convicted prisoners.”<sup>292</sup> This view is echoed by the findings of Louise Arbour, that “the exploration of efficient alternatives should be pursued, particularly before endorsing too broadly the mother and child programs which bring children into prisons, rather than their mothers into the community”.<sup>293</sup>

---

289 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p9

288 Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*. Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001) p9

291 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p155, citing UNDAW “Report of the Expert Group Meeting Gender and Racial Discrimination”, 21-24 November 2000, Zagreb, Croatia

292 Chirwa, V(b): *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Malawi 17-28 June 2001* p36

293 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p202

---

## Section 4: HEALTHCARE

### 4.1 OVERVIEW

Standards of medical care within prisons can vary greatly, from country to country and from prison to prison. However, due to budgeting considerations healthcare provision is often not treated as a priority. In the UK “In women’s prisons health care expenditure as a percentage of the total budget varies from just over 5 per cent to 20 per cent”<sup>294</sup>. Owen highlights the severity of the problem facing healthcare in women’s prisons, claiming that “the enormity of health care issues may in fact eclipse other correctional concerns as the female inmate population continues to grow...the majority of imprisoned women have significant healthcare problems and most are unmet in the nation’s prisons”<sup>295</sup>.

As will be seen below, women prisoners in particular suffer from poor physical and mental health – often at a rate and severity far exceeding that affecting either male prisoners or the civilian population. Studies in the UK have found that “Female prisoners consult doctors about 20 times a year. This is five times more frequently than women of equivalent age in the community” and a survey of prisoners revealed that “60% of women rated their own health as fair, poor or very poor”<sup>296</sup>. As in other areas already investigated, indigenous women form a particularly disadvantaged subgroup in this regard. A report from Queensland, Australia, noted that “Indigenous female offenders report higher rates of sexually transmitted diseases, higher rates of current pregnancies, higher rates of respiratory conditions and diabetes and lower rates of contraception use than non-Indigenous women”<sup>297</sup>.

### 4.2 PHYSICAL SYMPTOMS

The health problems encountered by women prisoners encompass a wide range of physical and psychological symptoms. While many of these may also affect male prisoners, women prisoners are often found to have a higher incidence of these diseases, or to suffer them more severely. The overcrowding common to many women’s prisons and additional risks of gynaecological illness also serve to complicate women’s health issues further.

In the UK, women prisoners were found to suffer higher rates of “asthma, epilepsy, high blood pressure, anxiety and depression, stomach complaints, period and menopausal problems, sight and hearing difficulties and kidney and bladder problems” than women in the free population<sup>298</sup>. In the USA research found that “In addition to having conventional health care needs, imprisoned women are often exposed to infectious diseases, including tuberculosis, sexually transmitted diseases (STDs), and hepatitis B and C infections, as well as HIV”.<sup>299</sup> In the Bedford Hills facility

294 Wedderburn, D, *The Report of the Committee on Women’s Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p20

295 Owen, B: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003), pp231-246, p239

296 *Statistics on Women and the Criminal Justice System*: A Home Office publication under Section 95 of the Criminal Justice Act 1991 (2002) p36, citing Marshall, T. et al (2000)

297 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p148, citing Aboriginal and Torres Strait Islander and Women’s Policy Units of the Department of Corrective Services, Queensland, *Options for Diversion from Secure Custody for Indigenous Female Offenders*, May 2002, p16

298 *Statistics on Women and the Criminal Justice System*: A Home Office publication under Section 95 of the Criminal Justice Act 1991 (2002) p36

299 Owen, B: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003), pp231-246, p240

in New York, “twenty two percent of the incoming women are HIV positive”.<sup>300</sup> Acoca (1998) found that both risky behavior prior to arrest and inadequate prison health care contribute to this problem”<sup>301</sup>.

Women prisoners in Hyderabad, India, reported the following physical and psycho-somatic ailments: joint pains, weak eyes, dental problems, indigestion, skin problems, low energy levels, gynaecological problems, urinary problems, breathlessness, loss of appetite, nausea, hyperacidity, physical weakness, hypertension, migraine, pre-menopausal symptoms, ulcers, anorexia nervosa, and hypochondria.<sup>302</sup>

The organisation Prisoners Abroad sent out health questionnaires to prisoners worldwide. The responses found that “Most women mentioned the fact that they were no longer having periods, having vaginal or urinary infections and quite often having abdominal cramps”<sup>303</sup>. They noted that “Amenorrhea, which is the absence of periods, appears to be linked to poor nutrition and stress and sudden weight loss”<sup>304</sup> – all factors which are likely to affect women who are imprisoned.

In less developed countries diseases such as malaria, scabies and TB may be of particular concern, especially where hygiene levels are poor. This can be aggravated by overcrowding in prisons, where there is no separation of healthy and contagiously sick prisoners. This has been noted in Malawi, where “TB patients are mixed with others, even during the two first weeks when they are contagious”<sup>305</sup>.

#### 4.2.A HIV and AIDS

HIV and AIDS infections amongst women prisoners merit particular attention. Human Rights Watch’s investigation into women’s prisons in Brazil noted that: “HIV/AIDS is a serious threat to the health of women prisoners: indeed, studies indicate that the disease strikes an even higher percentage of incarcerated women than men. Twenty percent of the women prisoners tested for the AIDS virus at the Women’s Penitentiary in São Paulo were found to be HIV positive”<sup>306</sup>. Women are biologically more susceptible to becoming infected with HIV through heterosexual intercourse than men, and the rates of infection for imprisoned women are higher than that of women in the general community as a result of higher levels of drug addiction (research in the UK noted that “the prevalence of HIV/AIDS is 13 times higher amongst women in prison than in the general population”<sup>307</sup>). Women prisoners may contract HIV through sharing injection equipment, either before imprisonment, or during their prison sentence when access to clean syringes is even more difficult.

---

300 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p173

301 cited in Owen, B: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003), pp231-246, p240

302 Shankardass, R: *Where the mind is without fear and the head is held high: Mental health and care of women and children in Andhra Pradesh, a thematic review* (2001) PRAJA, p28

303 “Women’s health issues” in *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p9

304 “Women’s health issues” in *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001, p9

305 Chirwa, V(b): *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Malawi 17-28 June 2001*, p27

306 Human Rights Watch: *Behind Bars in Brazil* (1998) p2

307 Bellamy, K (ed): Report from the Gender and Justice Policy Network Seminar 26th November 2001 *Joining Up Services for Women Offenders at a Local Level* (Fawcett Society, 2001) p25

---



In addition, women prisoners who have been sex workers or who have been sexually abused/raped are also at an increased risk of contracting HIV/AIDS (and other STDs). Women imprisoned alongside male prisoners or in facilities staffed by male personnel continue to be at risk of infection throughout their sentence (in fact, they may be at greater risk in prison than they would be in the free community). In his report on the Central African Republic the Special Rapporteur on Prisons and Conditions of Detention in Africa observed “men and women sharing the same cells....rape contributing to the aids pandemic”<sup>308</sup>.

#### 4.3 HEALTHCARE FACILITIES WITHIN PRISON

Where healthcare services are provided for prisoners within the detention facility they may well suffer from a lack of resources. In Brazil the following has been noted, which is typical of many countries:

“Chronic shortage of medical staff and medical supplies for women with HIV, TB and epilepsy. Pre-trial facilities are particularly bad, with a doctor attending once a week if at all, no equipped infirmary and no full-time nurse. Prisoners administer medications themselves and select which prisoners are sick enough to see doctor. Follow up consultations are rare...Women have higher levels of HIV, STDs as well as other sexual health care needs, but no state programme exists to deal with this. For example, infrequent blood tests for pregnant women lead to the possibility of passing on HIV through breast-feeding. No smear testing or breast screening available.”<sup>309</sup>

The women’s prison in Paraíba (also Brazil), “lacks an infirmary and a doctor; medical care is provided by a nurse who visits three mornings a week”<sup>310</sup>. In Mexico it has been noted that there is a lack of “pre and post-natal attention, regular check ups for cervical-uterine and breast cancer, and treatments for infectious diseases or menopausal symptoms”<sup>311</sup> in women’s prisons. Further reports relating to prisons in Mexico’s Federal District state that “women prisoners rely on ‘simple first aid posts’ and only the facility at Tepepan possesses a specialized casualty unit...no women’s penitentiary has staff specialised in reproductive health”<sup>312</sup>.

A particularly chronic problem, found in prisons in many countries, is the lack of medication available for sick prisoners. A prisoner from Argentina reported that “I asked to go to the medical centre because I had a terrible temperature and they gave me an aspirin and told me to take a cold shower. So, I did, and, well, I was like that for about four months. I had tuberculosis”<sup>313</sup>. In Egypt one woman prisoner reported that “In the summer we get skin diseases and the only medicine they give us is aspirin and salicylics. There are no other medicines here”<sup>314</sup>. As a result of this, prisoners are reliant on their visitors to bring them the medicines that they need. If they do not have visitors who can provide them, they have to obtain medicine via other prisoners. One woman explained, “We have to work for someone with a family that comes to see her and give the

308 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in the Central African Republic: June 19 – 29 2000*, p5

309 Howard, C: *Main issues facing Brazil’s women prisoners* (unpublished paper, 2003)

310 Human Rights Watch: *Behind Bars in Brazil* (1998) p2

311 Saldaña, L: *Mujeres presas, cárceles insuficientes* (26/08/03) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04) Author’s translation

312 Maya, R: *Discriminación en el sistema judicial afecta a mujeres: CDHDF* (29/11/02) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04) Author’s translation

313 Nari, M et al: *Encierro y resistencia en las cárceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p19 Author’s translation

314 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p145

prescription, as most of us don't have any money....We have to serve the Egyptian prisoners who have families that bring them all their needs in order to survive"<sup>315</sup>.

Where prisons are severely lacking in medical facilities, it may fall to non-governmental organisations to provide assistance for prisoners. This has been noted in Benin, where "The NGO, Terre des Hommes visits the prison twice or three times in a week to take care of the medical needs of women, babies, juveniles and those about to end their sentence."<sup>316</sup> Where no other help is available, it falls to the inmates themselves to take care of each others' medical needs. This was again highlighted in Benin where sick prisoners "support themselves" and "They contribute to buy medicine for each other, otherwise nothing is done for them"<sup>317</sup> (it was not specified in the report whether this was in reference to men's or women's prisons, but presumably both).

#### 4.4 EXTERNAL HEALTHCARE FACILITIES

In some detention facilities, healthcare may be provided off the premises either exclusively or for procedures or problems too complex to deal with by the medical staff on-site. This is the case in Qanater women's prison in Egypt where "there was an operating room, which prison officials conceded was not used. According to a prison officer only simple medical procedures were performed in the hospital and other operations were conducted in outside facilities"<sup>318</sup>.

Although standards of medical treatment can generally be expected to be higher in civilian hospitals than prison facilities, treatment here may still be problematic for women prisoners. To begin with, staff shortages may result in a lack of escorts available to take sick women to external hospitals. Caroline Howard noted this in relation to conditions in Brazil, where "a shortage of police escorts prevents prisoners travelling to hospital either to receive treatment for serious illnesses or when a doctor is not available. Staff shortages mean particular problems arise for pre-trial prisoners requiring hospitalisation since a full-time guard is necessary to accompany the prisoner"<sup>319</sup>. In other cases, women found the stigma of being escorted to hospital by a prison warden too much to bear and instead chose not to seek treatment. In Mali, "one of the women suffered from a skin ailment on her arm, but she had kept it to herself because she could not endure the shame of being marched by warders through the town to a hospital"<sup>320</sup>. In Australia it was noted that female prisoners "are brought for health check-ups to the hospital in handcuffs. Their details are taken at the reception area of the hospital in public view. There is no secure area of the hospital where the women can be received in privacy and without the public embarrassment of attending in handcuffs."<sup>321</sup>

Upon arrival at a civilian hospital, prisoners may remain in handcuffs and/or leg chains, depending on prison policy. Information from Australia highlights that "If a woman requires treatment she

---

315 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p145

316 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Benin: 23 – 31 August 1999*, p18

317 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Benin: 23 – 31 August 1999*, p45

318 Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993) p146

319 Howard, C: *Main issues facing Brazil's women prisoners* (unpublished paper, 2003)

320 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mali: 27 November – 8 December 1998*, p32

321 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p160

is handcuffed to the bed by her hands and legs”<sup>322</sup>. This practice has been reported even in circumstances where the prisoner in question shows little realistic risk of absconding, e.g. whilst in labour. This was revealed in the investigations carried out by Human Rights Watch in the USA where “Michelle T. also reported that when she went into labor, she was placed in leg irons and belly chains to go to the hospital. Once at the hospital, the doctor told her to walk to assist her labor. She was required to do so by the guards while still in leg irons”<sup>323</sup>. A similar case was reported in the UK in 1996 regarding “a pregnant prisoner who was chained and handcuffed at times during her twelve-hour labor”<sup>324</sup>.

In addition to being physically restrained, prisoners are normally accompanied by correctional officers (frequently male) during examination and treatment. This compromises standards of doctor-patient confidentiality and “treatment may also be compromised if women are not able to express themselves openly in this environment”<sup>325</sup>. In one instance, a prisoner “filed a grievance over the lack of privacy during gynecological exams, stating that she felt uncomfortable discussing her medical condition or undressing in front of the male officer. She asked the officer if he would step outside while she was examined, but he refused. [The prisoner] pursued the grievance until it was reviewed by the warden, who told her that it was prison policy for the officer to keep the prisoner in his sight, and that the prisoner could have refused the outside medical visit. In other words, the prisoner was expected to choose between foregoing medical treatment or undressing in front of a male officer”<sup>326</sup>.

Finally, although they may be being treated at a civilian hospital, prisoners may still receive a standard of care lower than that given to civilian patients. In some instances in Mali, “When sick prisoners are taken to hospital, all others are attended to and the medical staff declare that they are exhausted when it comes to the turn of the prisoners. Considered as the dregs of society, prisoners are likely to be shunted aside or placed at the rear of a long queue waiting to see a physician; and the danger of their not being attended to because of the sheer volume of work is real.”<sup>327</sup>

#### 4.5 ELDERLY PRISONERS

Elderly women constitute a very small subgroup of the prison population but they present particular health needs. It has been noted that elderly prisoners may suffer from “chronic ill health; emphysema, arthritis, cardiac, hyper-tensive disorders, osteoporosis, cancer, stroke etc. Studies have shown that prisoners are physically, on average, ten years older than their chronological ages”<sup>328</sup>. The lack of appropriate knowledge and facilities for elderly women prisoners often makes them reliant on other inmates for their care. One prisoner interviewed commented that “I’ve seen a woman in here, she’d had a stroke and the inmates were pushing her

322 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p160

323 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p286

324 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p286

325 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p160

326 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p158

327 Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mali: 27 November – 8 December 1998*, p47

328 Wahidin, A: “Women, Old Age and the Prison System” in *Gender and Crime* (The Centre for Crime and Justice Studies, 2003) No. 53, Autumn, p39, citing Anno, B.J (1991)

around in a wheelchair. Her existence was reduced to a girl who would come and push her around in the wheelchair and one girl I believe started rubbing her hands with oil and massaging her. Otherwise, she would just be stuck over there in the hospital. (Pause) I'd rather be dead"<sup>329</sup>. Another prisoner, aged 66, was recovering from a heart attack. She reported that "I was in a room for six weeks. I didn't get out for association, because there wasn't the staff...The canteen stuff was served through a hatch in the door. So you're stuck in this room for six weeks because you are ill and nobody will ever tell me that is justice. You'd take an animal out to exercise"<sup>330</sup>. While in hospital she had also been "handcuffed and chained to two male officers"<sup>331</sup>. This use of restraining measures, as for women in labour, is clearly excessive and inappropriate in the circumstances. Such procedures are designed for male prisoners who pose a greater security risk, but are applied to women prisoners as well.

## 4.6 PSYCHOLOGICAL SYMPTOMS AND TREATMENT

### 4.6.A Rate of illness

Perhaps the most striking factor regarding the health of women prisoners concerns mental health. It is within this context that the full extent of the difference between male and female prisoners' needs becomes clear. The following provides a summary of the mental health situation of women prisoners, taken from research on UK prisons:

"the prison population, both male and female, displayed far higher rates of mental disorder than any other nationally surveyed population...Almost one in five women prisoners had spent time as an in-patient in a mental hospital or psychiatric ward and as many as 40 per cent reported receiving help or treatment for a mental, nervous or emotional problem in the year before coming into prison [this is double the proportion of male prisoners]. Half the women interviewed were taking some form of medication acting on the central nervous system, 'particularly hypnotics and anxiolytics and anti-depressants'. A sub-sample of women who were clinically assessed revealed a high incidence of functional psychosis, neurotic symptoms and personality disorder. As much as half the population was diagnosed as suffering from a personality disorder, a third being assessed as having an 'anti-social' personality disorder. Rates of self-harm are alarmingly high among both women and men prisoners. The ONS Survey established that 7 per cent of male sentenced and 10 per cent of female sentenced prisoners had harmed themselves during their present prison term while 34 per cent of sentenced women compared to 20 per cent of men had entertained suicidal thoughts within the last year.

A large proportion of all prisoners were found to have several mental disorders but the prevalence of functional psychosis, such as schizophrenia and manic depression, and neurotic symptoms and disorders was notably higher for female than male prisoners. However, it was amongst women remanded in custody...that the highest rates of disorder were detected"<sup>332</sup>.

---

329 Wahidin, A: "Women, Old Age and the Prison System" in *Gender and Crime* (The Centre for Crime and Justice Studies, 2003) No. 53, Autumn, p38

330 Wahidin, A: "Women, Old Age and the Prison System" in *Gender and Crime* (The Centre for Crime and Justice Studies, 2003) No. 53, Autumn, p39

331 Wahidin, A: "Women, Old Age and the Prison System" in *Gender and Crime* (The Centre for Crime and Justice Studies, 2003) No. 53, Autumn, p39

332 Wedderburn, D, *The Report of the Committee on Women's Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p11

In addition, “Seventeen per cent stated that they had been admitted to a psychiatric hospital and seven per cent had been admitted to a locked or secure ward”<sup>333</sup> (prior to imprisonment). Some sources also put the number of women prisoners who self-harm as high as 40 per cent<sup>334</sup>.

Outside the UK a similar profile is reported. In Australia “the majority of women incarcerated had dealt with or were dealing with serious psychiatric or suicide issues”<sup>335</sup>. Likewise in the USA “estimates suggest that between 25 and 60 percent of the female prison population require mental health services”<sup>336</sup>.

#### 4.6.B Learning disabilities and special needs

Investigations of women prisoners in the UK have also found that many have IQ levels which place them in the ‘special needs category’. In the tests, “The mean score for the general population is 42, equivalent to an IQ of 100. The ONS study found that 11 percent of remanded women and 9 per cent of sentenced women had scores of 25 and below, equivalent to an IQ of 65. A child is deemed to have special educational needs if they have an IQ of 70 or below”<sup>337</sup>. Moulden (1999) reported the following concerning a young offender:

“Everyone working with this woman accepts that she should not be in prison. She is severely learning disabled as a result of a physical abnormality of the brain...We know that regardless of court diversion schemes, many like her slip through the net....Perhaps the courts think them to be insolent when they did not reply: In fact, when we had one of these women assessed we discovered that she had a mental age of between seven and eight”.<sup>338</sup>

This type of mental health disorder and other learning disabilities may have serious ramifications for prisoners regarding their ability to adapt to prison life and to understand and comply with prison rules. These suppositions are borne out by evidence that shows that “Women held in cellular confinement were more likely than others to have shown evidence of psychotic illness in the past year. Women with evidence of anti-social or other personality disorders were three times more likely to be punished with cellular confinement”<sup>339</sup>. Investigations at the Eastwood Park facility (UK) revealed that “Because of the absence of proper mental health support, some very disturbed young women were segregated in cellular confinement: one 17 year old had spent almost all of her 60 day sentence under these conditions”<sup>340</sup>. Similarly, inspectors at Brockhill prison reported that “The Segregation Unit was in fact used for women prisoners who would be

333 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p3, citing Singleton et al. (1997), O’Brien et al. (2001)

334 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p1, citing Her Majesty’s Inspectorate of Prisons for England and Wales: *Women in Prison: A Thematic Review by HM Chief Inspector of Prisons* (London, Home Office, 1997)

335 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p148

336 Owen, B: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003), pp231-246, p240, citing Acoca (1998)

337 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p3

338 cited in Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p5

339 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p11, citing O’Brien et al (2001)

340 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p12, citing HMCIP Report, Eastwood Park, October 2001

in Health Care accommodation in most other local prisons. Indeed, in some case, prisoners were frequently held there who arguably, because of their mental illnesses, should not have been in prison at all but in psychiatric facilities”<sup>341</sup>. In effect it can be seen that “prison disciplinary measures, including removal from normal location, are sometimes used inappropriately to control damaged women whose levels of distress and/or underlying mental condition make it hard for them to cope with prison routines”<sup>342</sup>.

#### 4.6.C Deterioration of condition

For women already suffering from mental health complaints, being taken into custody can further damage their psychological well-being. This may also be aggravated by concern regarding childcare arrangements. The Revolving Doors Agency (2002) commented that “Mental health can be further damaged by women’s anxiety over the safety of their children. Forty-two women in Holloway had no idea who was looking after their children. Nineteen children under 16 were looking after themselves”<sup>343</sup>. In addition, women often enter prison late in the day after being sentenced, when staff levels may be low. This, alongside issues of overcrowding, may mean that adequate reception procedures are not always carried out. This can result in prisoners’ mental health needs being inadequately assessed. To further aggravate the problem, “Prisoners on regular medication may not have received this due to poor communication between agencies. It is not unusual for prisoners to arrive with no information about their health”<sup>344</sup>.

#### 4.6.D Use of medication

The number of women taking medication for mental health disorders increases during custody. Research in the UK found that “only 17 per cent of women had been taking CNS [central nervous system] medicines before coming into prison, whereas half had been prescribed them while in prison (O’Brien et al 2001). A Chief Inspector of Prisons report on HMP Holloway found that 90-95 per cent of the prisoners were on psychotropic medication...The Revolving Door Agency estimated that of the two-thirds of women in Holloway who were not taking medication for stress, anxiety or depression when they entered prison, at least 90 per cent would have taken tranquillisers by the time they left”<sup>345</sup>. Of concern is the fact that “There is anecdotal evidence that this increase in medication is not a result of careful exploration of the mental health needs of women in prison but rather a response by under-trained staff who resort to medication to contain a ‘problem’”<sup>346</sup>. In Argentina, prisoners reported that “the SPF [prison service] rely on psychiatrists who solve everything with psycho-pharmaceuticals which turn you into zombies” and “when you arrive, the first thing they recommend is to go to the psychiatrist and straight away they start putting you on medication, morning, noon and night...they drug you up”<sup>347</sup>.

---

341 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p12, citing HMCIP, HMP Brockhill, 2001

342 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p12

343 Revolving Doors Agency: *Bad Girls? Women, mental health and crime* (London, Revolving Doors Agency 2002), cited in Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p8

344 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p7

345 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p23

346 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p23

347 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p20 Author’s translation

In addition, there are questions regarding the nature of the medications themselves – “Experts argue that women’s prisons use outmoded (and themselves addictive) drugs in unacceptable dosages where modern alternatives are available, albeit at somewhat greater cost. In this way prison treatment itself is liable to perpetuate or even increase addiction”<sup>348</sup>. Some of these drugs also “have unpleasant side effects, and would normally be prescribed outside prison only after careful professional judgment, and with proper supervision”<sup>349</sup>.

#### 4.6.E Alternatives to medication

Alternatives to medication may in some cases include counselling or other forms of therapy, but such treatment also presents risks. One woman who was interviewed by the Fawcett Commission on Women and the Criminal Justice System explained that “in prison, counselling can sometimes be dangerous. A woman has an appointment with a counsellor and after one hour she is sent back to her cell and a can of worms can very easily be opened but when she returns to her room there will be little if any support. Also she cannot let other inmates know she is vulnerable, she would have to protect herself”<sup>350</sup>. It is necessary, therefore, for care to be taken with such treatment. Furthermore, as research in Argentina highlights, there are certain implicit problems with the prison service providing counselling for inmates – “On the one hand, as some professionals recognise, they do not have the appropriate training to treat imprisoned women. On the other hand, there exists a logical difficulty on the part of the inmates to have a positive disposition towards a therapist who they identify as an agent of the SPF [prison service]”<sup>351</sup>. As one woman explained, “The majority go and lie, because they are frightened that the psychologist will tell the judge about their problems. They only go for drugs and not to discuss problems”<sup>352</sup>.

#### 4.6.F Lack of resources

One of the major problems concerning treatment for women prisoners’ mental health issues concerns the lack of specialist staff available in prisons. In the UK, various government reports have highlighted “the chronic deficiencies in recruitment and training of prison doctors”<sup>353</sup>. In the year 2000, Reed and Lyne inspected 13 UK prisons and found “no doctor providing healthcare of inpatients had completed specialist psychiatric training, only 24 per cent of nursing staff had mental health training, and almost one-third of staff were in fact non-nursing trained health care officers...the services for mentally ill prisoners fell far below the standards of the NHS [National Health Service]”<sup>354</sup>.

---

348 Wedderburn, D, The Report of the Committee on Women’s Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p21, citing Professor Kerwin in paper to Conference *The Crisis in Women’s Prisons* (June 1999)

349 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p23

350 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p12

351 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p20 Author’s translation

352 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p20 Author’s translation

353 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p23

354 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p23

The lack of co-ordination in mental health services is highlighted by the following description from a psychiatrist working in a UK prison in March 2002:

“Yesterday, two CPNs and psychologist colleagues, coming back from a prison in-reach session, recounted how they had found that morning that prisoners had courses of anti-depressant medication stopped without being assessed or spoken to. A prisoner with schizophrenia had just arrived from another prison with no notes or clinical information. There were no psychiatrically trained nurses available. A prisoner’s transfer to hospital had not progressed because the hospital letter had been addressed to a locum doctor who had since left the prison. That was a typical day”.<sup>355</sup>

#### 4.6.G Conclusion

In summary, imprisonment can have serious consequences for a woman’s mental health, whether or not she was suffering from mental health problems prior to her sentence.

“I believe women are in far more danger of becoming mentally ill during their incarceration: especially those that are family carers and have close family ties. The prison system is not prepared properly for this, for the complexity of women and their issues that do affect them deeply, mentally rather than physically. Physically I did not find prison too hard: I could cope by going into ‘auto pilot’ and physically do all the tasks I had to do, but mentally I was locked away.

For those women that come into prison with mental health problems, the prison is even less prepared. Yes, there are ‘medical wings’ and nurses, but the medical attention given and received is not ‘care’. It is still about incarceration, and for those with greater needs there is not the time, facilities or proper staffing levels to give that. Therefore, all too often the answer remains: More medication! More lock up! This is not the answer, and these women only deteriorate further in these conditions.”<sup>356</sup>

#### 4.7 SELF-HARM AND SUICIDE

A combination of mental health disorders, depression and previous traumatic experiences combine in many female prisoners to produce self-harming behaviour, which is “more prevalent amongst female prisoners, as compared to their male counterparts”<sup>357</sup>. When interviewed as to what caused them to self-harm or attempt suicide, the prisoners interviewed responded that “previous abuse, grief and loss, imprisonment and sentencing, family/relationship problems, isolation (particularly from family), depression, stress and a sense of hopelessness were the most common factors”<sup>358</sup>.

---

355 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p28

356 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p1

357 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p149

358 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p159, citing Western Australian Department of Justice, Community and Juvenile Justice Division, Planning, Policy and Review, *Profile of Women In Prison*, June 2002

---



#### 4.7.A Self-harm

The estimated percentage of women who self-harm in prison varies from around 10 to 40 percent according to source, but in any case it has been reported that women prisoners are “almost eighteen times as likely as men to injure themselves”<sup>359</sup>. Rates of self-harm are also found to be “significantly higher” for those prisoners suffering from post-traumatic stress<sup>360</sup>. In addition, “There is evidence that the methods of self-harm used by prisoners are more lethal than those they would use in the community”<sup>361</sup>.

Women who self-harm in prison may find little emotional or psychological support available from staff, as “There is frequently a lack of understanding of self-harm behaviour by staff who are rarely trained or supported to deal with this extremely challenging problem. The culture of the wider staff group can militate against sympathy for these women who are sometimes regarded as a nuisance and attention seeking”<sup>362</sup>. Sadly, in instances where staff do intervene to prevent a prisoner from self-harming, they may actually aggravate the problem as “when self-harm is employed as a coping strategy, denying that person any opportunity to self-harm (in the absence of intensive support) might add to their desperation”<sup>363</sup>.

It has also been noted that “women prisoners pose little security risk to others but are far more likely to self-harm. They therefore suffer from the inevitable drain on resources to meet security needs which are the priority. Yet for female prisoners these resources would be much better spent on rehabilitative or therapeutic support which would address the risks of re-offending”<sup>364</sup>.

#### 4.7.B Suicide

Self-harming behaviour can, at its most extreme, include suicide. In recent years the number of women committing suicide in prison in the UK has increased dramatically, as the following table illustrates:<sup>365</sup>

Classification	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total
<b>Deaths of Women in Prison</b>																
Self-inflicted	1	3	1	1	1	2	2	3	4	5	8	6	9	14	9	<b>68</b>
(of which on remand)	0	0	1	1	0	1	1	0	0	0	3	4	5	1	2	<b>18</b>

359 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p15

360 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p16

361 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p16, citing Towl et al (2000)

362 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p16

363 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p16

364 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p10

365 Statistical information Deaths in Prison 1990-date (England & Wales) [www.inquest.org.uk](http://www.inquest.org.uk) - (accessed 17 June 2004)

As can be seen, in the first six months of this year the number of suicides has already surpassed that for the total yearly average between 1990 and 2002. Not only are women prisoners “between 16 and 40 times more likely to die by suicide than women in the general population”<sup>366</sup> but they are also more likely to commit suicide than male prisoners. It has been noted that “In the wider community, a far greater proportion of males take their own lives than females, one study estimating that men were 2.5 to four times more likely than women to commit suicide (Sattar, 2001). Yet, in prison, the gender imbalance is reversed: ‘The self-inflicted death rates for prisoners in 2000 were 199 per 100,000 for males and 239 per 100,000 for females’”<sup>367</sup>.

There are various factors which are considered to increase the risk of suicide in prison. These include, “having a personality disorder; psychoses or severe neurotic symptoms (for example, depression, anxiety, phobias or obsessions); receiving psychiatric treatment before prison and inside prison; dependency on stimulants or stimulants plus opiates; having a history of severe alcohol misuse; having a limited social network; having been placed in local authority care as a child; having experienced numerous adverse life events; or being located in a healthcare unit, segregation unit or vulnerable prisoner unit”<sup>368</sup>. Further studies have found additional risk factors including “the type of prison, the influence of problems such as drug dependency and depression, loss of contact with loved ones, and constant relocation within the prison”.<sup>369</sup>

The importance women prisoners attach to maintaining contact with their children and other family members has already been identified. Senior Investigation Officer Reports reveal its true significance – in investigating factors involved in prison deaths they have identified “the huge emotional significance attached to visits, planned visits that don’t happen, painful visits and telephone calls”<sup>370</sup>.

It is also worth noting that most suicides occur early on in a prison sentence. A UK study found that “eight per cent of self-inflicted deaths took place in the first day of custody, 26 per cent in the first week; and 42 per cent in the first 28 days of custody”<sup>371</sup>. This is significant when considering the rapid turnover of female prisoners and their relatively short but repeated sentencing patterns. Conversely, studies in Australia have also highlighted the increased suicide risk faced by women immediately post release. They have found that “the death rate of people serving community corrections orders was 6 times that of people in a comparable age group, with the most common cause being suicide, and the most common period being a few weeks after release from prison”<sup>372</sup>.

---

366 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p17

367 Sattar (2001) cited in Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p17

368 Meltzer et al (1999) cited in Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p18

369 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p18

370 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p11, citing HM Prison Service: *Safer Custody Report for 2001: Self-inflicted deaths in Prison Service custody* (2002)

371 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p19, citing Marshall et al (2000)

372 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p169, citing Aungles (1994)

---

Furthermore, “Similar research conducted by Biles, Harding and Walker (1999) notes that deaths of people on community corrections orders exceed both prison populations, and those of the general community, and Cook and Davies (1998) report that the mortality rate for women on parole is three times higher than that for men”<sup>373</sup>.

#### 4.8 DRUG AND ALCOHOL ADDICTION AND TREATMENT

As has already been noted many women prisoners are, or have been, drug or alcohol dependent. These addictions can further damage prisoners’ mental and physical health, particularly as “Substance misuse commonly occurs alongside mental illness and personality disorder”<sup>374</sup>.

##### 4.8.A Rate of dependency

In the UK, a government survey found that a high percentage (between 41 and 54 per cent) of prisoners of all categories (male, female, sentenced and remand) had shown some degree of drug dependence in the year prior to imprisonment<sup>375</sup>. It also found that “A larger proportion of women than men were dependent on opiates (i.e. heroin and non-prescribed methadone). Opiate dependence in the year before coming to prison, either alone or together with dependence on stimulants, was reported by 41% of the women in the remand group and 23% of those in the sentenced group compared with 26% of the male remand and 18% of the male sentenced group”<sup>376</sup>. Further Home Office research found that as many as “66% of female prisoners were either drug dependent or reported harmful or hazardous levels of drinking in the year prior to custody”<sup>377</sup>, and that this tendency was increasing.

Women with addictions may face serious withdrawal symptoms upon arrival at prison, for which they may receive little support. A prison inspection report in the UK noted that:

“The initial services offered to women who had recently arrived and were withdrawing from substance abuse were unco-ordinated and not meeting their needs. We were told that women were given little support on their first night, particularly late arrivals. We saw a woman who was withdrawing from drugs walking into the dining room. She was being supported by another woman who was concerned for her. Whilst we were talking to this woman, she had a minor attack of stomach cramps and then vomited. We were told that this happened frequently as there was no co-ordinated strategy for dealing with them”<sup>378</sup>

Many women continue to use drugs while in prison (UK research found that “34 per cent of female sentenced prisoners had used drugs in their current prison term”<sup>379</sup>) and for some women imprisonment may lead directly to their first experiences with drugs (one prisoner revealed that “I

373 Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003) p169, citing Ogilvie

374 McMurrin (2002) cited in Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p25

375 *Statistics on Women and the Criminal Justice System*: A Home Office publication under Section 95 of the Criminal Justice Act 1991 (2002) p36

376 *Statistics on Women and the Criminal Justice System*: A Home Office publication under Section 95 of the Criminal Justice Act 1991 (2002) p36

377 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p9

378 HMCIP, HMP Eastwood Park, October 2001 cited in Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p9

379 Wedderburn, D, *The Report of the Committee on Women’s Imprisonment: Justice for Women: The Need for Reform* (Prison Reform Trust, 2000) p21, citing Singleton (1998)

had never tried drugs before entering [prison]<sup>380</sup>). Drug use in prison can entail heightened health risks resulting from the short supply of clean syringes, besides the danger of drugs being mixed ('cut') with toxic substances. Conversely, women who leave prison still addicted to drugs are at risk of suffering an overdose on release as drugs available outside prison are likely to be cut to a much greater strength (i.e. be purer, and hence stronger dosages) than those to which they have become accustomed.

#### 4.8.B Treatment programmes

Given the high levels of drug and alcohol addiction found amongst women prisoners, there is a clear need for in-prison programmes to deal with these. However, in many cases these provisions are lacking. In the USA it has been noted that:

“The vast majority of imprisoned women have a need for substance abuse services, but few prisons provide intensive treatment. And, although most research argues that drug use acts as a multiplier in interaction with criminality (Wellisch et al., 1994; CASA, 1998), prison-based services are rarely available. A national survey of drug programs for female prisoners found that a relatively small percentage of women prisoners in prisons and jails receive any treatment while incarcerated (Wellisch et al., 1994)”<sup>381</sup>

Where prisoners do receive treatment for addictions, they may still face problems due to “a lack of throughcare upon release back into the community, a problem which can be exacerbated by long distances from home”<sup>382</sup>. Furthermore, “the gap in provision [of drug treatment services] means that the majority of female prisoners on short sentence, who are in and out of the prison gate in a matter of months, are unable to benefit from treatment”<sup>383</sup>.

### 4.9 SEVERELY PSYCHOLOGICALLY DISTURBED PRISONERS

#### 4.9.A Lack of facilities

Facilities for prisoners with severe mental health problems vary from country to country and prison to prison. In some cases, such prisoners may be held in wings separate from the general prison population. In other instances, they may be mixed in with other prisoners.

In the UK, policy is that “Seriously mentally ill women need to be transferred to appropriate NHS [National Health Service] facilities and should not be treated in the health care centre of a prison”<sup>384</sup>. However, the shortage of beds available for women in secure hospitals, aggravated by the rising number of women prisoners, means that many would-be patients are held in prison health care facilities for extended periods of time awaiting transfer. This causes multiple problems, both for the prisoner herself and others – “Holding women in urgent need of mental health care

---

380 Nari, M et al: *Encierro y resistencia en las carceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000) p20 Author's translation

381 Owen, B: “Understanding Women in Prison” in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003), pp231-246, p240

382 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p11

383 Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003) p11

384 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p27

---

in health care centres or in seclusion (for their own protection) while awaiting an available bed creates unacceptable distress for the woman, for staff and for other prisoners. In addition, the need for crisis management of these women makes it more difficult for staff to attend to less ill patients”<sup>385</sup>.

Between 1997 and 2002 the number of prison in-patients considered ill enough to qualify for secure NHS accommodation rose from one third to 41 per cent<sup>386</sup>. In 2003, a survey of prison in-patient units in the West Midland and Trent NHS regions found that “there are likely to be up to 500 patients in prison health care centres sufficiently ill to require NHS admissions at any one time”<sup>387</sup>. Although the government has set a three month waiting limit for transfers, this target is frequently not met. It should also be noted that, in any case, “In the community, a woman with severe psychiatric illness needing urgent local admission would normally be admitted for care and treatment in a matter of hours”<sup>388</sup>.

#### 4.9.B Living conditions

In some cases, conditions inside units designed for severely mentally ill prisoners may be worse than those of the general prison population. In India, there exists a class of prisoners known as ‘non-criminal lunatics’ who are held in special sections of prisons because there is no space for them in state mental hospitals. Human Rights Watch (Asia Watch) investigated prisons in India in 1991, and reported the following regarding Presidency Jail in Calcutta:

“there are about 300 female non-criminal lunatics. They are confined in three large, bare rooms and receive no care to assist them in rehabilitating themselves so as to obtain release. They have nothing to do. One indication of the conditions of such confinement is that a form of punishment at this prison is to transfer prisoners from the sections in which convicts and undertrials are held for a period to the sections – male or female, as appropriate – for non-criminal lunatics....The Statesman, a leading newspaper of Calcutta, reported six deaths over a four year period due to malnutrition; repeated episodes of sexual harassment of the inmates, some of whom are mentally retarded, including the rape of a girl...and the sale of another girl to a brothel”<sup>389</sup>.

HRW, citing another Calcutta newspaper (The Telegraph) also reported that “at least ten female non-criminal lunatics died in Alipore Jail in January and February 1990 due to the lack of an appropriate diet or proper medical care. The newspaper’s account...reported that 17 women had died in this section of Alipore Jail in the previous year, 1989”<sup>390</sup>.

In other areas, a lack of resources (including staff) and overcrowding may mean that severely mentally ill prisoners are not separated from the general prison population. This is the case in Malawi, where Chirwa’s 2001 report noted that at Mzimba prison “one mentally ill woman who

385 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p27

386 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p27, citing HMCIP 2002

387 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p27, citing Reed (2003)

388 Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003) p27

389 Human Rights Watch/Asia Watch: *Prison Conditions in India* (1991) p27

390 Human Rights Watch/Asia Watch: *Prison Conditions in India* (1991) p27

murdered her husband, nine months before was also kept in that female section with all the attendant risk for fellow prisoners and had not been taken to the hospital as yet”<sup>391</sup>. The lack of segregation of mentally ill (sometimes violent) prisoners was also noted in the Special Rapporteur on Prisons and Conditions of Detention in Africa’s reports on Benin, Mali and Mozambique (although it was not noted whether these were male or female prisoners – presumably both).

Clearly, the failure to segregate severely disturbed prisoners may result in serious difficulties for both them and other prisoners. In these circumstances, other prisoners may feel uncomfortable and threatened by their presence, while the mentally ill prisoners are unlikely to receive the particular specialist care that they need. In contrast, when severely mentally ill prisoners are held on separate wings from the rest of the prison population, it is possible that they will be overlooked and de-prioritised.

---

<sup>391</sup> Chirwa, V(b): *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Malawi 17-28 June 2001* p31

## **Section 5: ABUSE, INAPPROPRIATE PROCEDURES, AND TORTURE**

### **5.1 OVERVIEW**

Violence, abuse, sexual abuse and rape are serious problems within detention facilities for prisoners of both genders and all ages. Prison authorities have a responsibility to eliminate them, both by direct action to repress them and by establishing a system that does not facilitate these abuses. However, in many cases correctional staff turn a blind eye to these matters; worse still, they may be complicit or even active perpetrators.

Whilst in no way intending to trivialize the devastating consequences that such abuse has for male prisoners, when considering the issue of sexual abuse against prisoners it is important to remember that the majority of women prisoners in most institutions have previously been victims of sexual abuse. For those who have ‘escaped’ from a past history of abuse, being abused again in a situation where they are locked in with the abuser and without protection or redress adds an additional dimension of psychological terror above and beyond that of the abuse itself.

When considering the question of abuse with respect to female prisoners, it is helpful to divide the problems into the following distinct areas:

- Detention of women in mixed-sex facilities - abuse by male prisoners;
- Abuse committed by male staff in women’s (or mixed-sex) detention facilities;<sup>392</sup>
- Gender-specific torture

### **5.2 WOMEN IN MIXED-SEX FACILITIES**

As Section 1 illustrated, it is not unusual for women to be housed in prisons alongside men. The degree of segregation which occurs varies between: women’s wings in men’s prisons, women’s sections in men’s prisons, women’s cells in men’s prisons, and complete lack of segregation (i.e. women and men sharing the same cells). None of these situations is ideal, and the latter is clearly contrary to the United Nations Standard Minimum Rules for the Treatment of Prisoners, which state:

“8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,  
(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;”<sup>393</sup>

---

<sup>392</sup> Female staff have also been known to sexually abuse female prisoners. However, this issue will not be addressed in this paper due to lack of available information. Whilst making no further comment on the topic, this problem should not be overlooked.

<sup>393</sup> *Standard Minimum Rules for the Treatment of Prisoners*, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 available at [http://www.unhchr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhchr.ch/html/menu3/b/h_comp34.htm)

Where women prisoners are not held separately from male prisoners, they are at risk of serious violent and sexual assault. This is true wherever prisoners are in physical contact. This is self-evident where they are sharing cells but also applies in other situations where physical contact occurs, such as shared ‘sections’. Not only is this a general risk situation but it is a particular problem given that a significant number of the men are in prison because they have committed violent and sexual crimes against women.

Although lack of space and facilities is a major factor in the failure to separate male and female prisoners in many places, in others this is not the case. In Section 1 the example was cited from Mozambique’s Maotize Prison, where men and women “are only theoretically segregated at night, as the door of the women’s cell cannot be locked”<sup>394</sup>.

In some places, male and female prisoners use the same shower and toilet facilities, or use facilities which are separate but do not afford an adequate standard of privacy. For example, in Natitingou Civil Prison, Benin, “Men and women used the same shower and toilet.”<sup>395</sup>. This presents a violation of the right to privacy and the basic human dignity of both the male and female prisoners. Where it is not possible for men and women to have separate bathroom facilities, they should at least not have to use them at the same time.

Prostitution rings have also been reported in some countries where male and female convicts are held together. For example, in 1994 in former Zaire “Former prisoners told Human Rights Watch that there is a system of prostitution run by the women prisoners and that guards and male prisoners have “wives” among the women prisoners”<sup>396</sup>. In other instances it is not clear whether the women consent or are forced into prostitution against their will.

### **5.3 EMPLOYMENT OF MALE CORRECTIONAL STAFF**

The United Nations Standard Minimum Rules for the Treatment of Prisoners state:

“53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.”<sup>397</sup>

However, some States do not observe these rules and allow staff of the opposite gender to work in ‘contact positions’ with prisoners. This is the case in the USA, for example, where Human Rights Watch has published two investigative reports on the sexual abuse which occurs in women’s

---

<sup>394</sup> Chirwa, V: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique Second Visit, April 4 – 14th 2001* p11

<sup>395</sup> Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Benin, Visit 23-31 August 1999* p39

<sup>396</sup> Human Rights Watch/Africa Watch: *Prison Conditions in Zaire* (January 1994) p31

<sup>397</sup> *Standard Minimum Rules for the Treatment of Prisoners*, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 available at [http://www.unhchr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhchr.ch/html/menu3/b/h_comp34.htm)



state prisons with male staff - "All Too Familiar, Sexual Abuse of Women in U.S. State Prisons" December 1996, and "Nowhere to Hide, Retaliation against women in Michigan state prisons", June 1998.

The problems presented by the use of male staff in women's facilities are two-fold. Firstly, for those officers who choose to take advantage, the opportunities to abuse prisoners are endless and impunity in many cases almost absolute. Secondly, the system itself is so fundamentally flawed that even where male staff conduct themselves impeccably it is inevitable that prisoners will be subjected to violations of their privacy and dignity, as will be seen below.

In fact, at the most extreme, the use of male staff may be problematic even in the absence of misconduct or questionable procedures. For some prisoners, the simple fact that they are held against their will in close contact with men who have power over them may be distressing, given past personal histories of abuse. Prisoners who were interviewed in Canada "For the most part...did not think it was appropriate to have male guards either for reasons of privacy, or because many women had experienced abuse from men".<sup>398</sup> In fact, the research revealed that these issues arising from past abuse were far more significant for the prisoners than possible violations of personal privacy, to the extent that "the hiring of male staff for such positions could interfere with the healing process for those who have survived physical, sexual and/or psychological abuse".<sup>399</sup>

These possible consequences must be weighed against the argument for equal opportunities in employment. Additionally, some argue that the use of male staff in women's prisons can be beneficial as it creates a more 'normal' environment for women who will have to deal with men in the outside world upon release. It may also provide women with positive male role models to counteract years of association with abusive men. However, the Women's Legal Education and Action Fund (LEAF) submitted to an inquiry in Canada that "Given the unique power imbalances in the guard-inmate relationship, as well as the preponderance of abuse histories among federally sentenced women, LEAF submits that the prison setting may require measures which do not replicate those in the outside 'normal' society".<sup>400</sup>

#### 5.4 MISCONDUCT

Concerning the first aspect of abuse in women's prisons – misconduct by staff - the presence of male officers puts prisoners at risk of abuse in the following forms:

- Vaginal, oral, or anal rape
- Sexual assault with the use of force or threats
- Sexual assault during pat frisks or searches
- Inappropriate surveillance during showers, undressing, etc
- Verbal sexual harassment
- Sexual assault with bribery or withholding of goods/privileges (abuse of power)
- Sexual contact between staff and prisoners of a 'consensual' nature – such contact between prisoners and guards can never truly be considered consensual when considering the balance of power (or lack thereof) between the two parties. Any correctional staff

---

398 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p190

399 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p191

400 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p191

---

engaged in sexual contact with a prisoner, no matter how ‘consensual’ this appears to be, is committing serious professional misconduct.

Human Rights Watch’s 301-page report of 1996 found evidence of all of these in US women’s state prisons:

“male correctional employees have vaginally, anally, and orally raped female prisoners and sexually assaulted and abused them...used actual or threatened physical force...have also used their near total authority to provide or deny goods and privileges to female prisoners to compel them to have sex or, in other cases, to reward them for having done so...male officers have violated their most basic professional duty and engaged in sexual contact with female prisoners absent the use or threat of force or any material exchange...male officers have used mandatory pat-frisks or room searches to grope women’s breasts, buttocks, and vaginal areas and to view them inappropriately while in a state of undress in the housing or bathroom areas...have also engaged in regular verbal degradation and harassment of female prisoners, thus contributing to a custodial environment in the state prisons for women which is often highly sexualized and excessively hostile.”<sup>401</sup>

#### **5.4.A Sexual assault**

Reports of such abuse of women in State custody are available from many countries. In particular, the 1998 Report of the UN Special Rapporteur on violence against women, its causes and consequences, details similar abuses committed in countries including Albania, Bangladesh, Chad, Kenya, Tunisia and Turkey. However, because of the more detailed and comprehensive information available on it, this section will focus on the situation in the United States of America, taken as an example of problems which are equally applicable elsewhere.

Examples of prisoners being violently sexually assaulted are all too easy to find. To give just two examples from Human Rights Watch’s report in the USA:

“I felt fear real quick...[Officer G] pulled the blanket...The other guard had the garbage can in the door and then the whole blanket came off...He just tore my whole shirt. That’s when he assaulted me sexually...I was screaming, yelling and crying. Martha across the hall was banging on her window”<sup>402</sup>

“The prisoner was asleep in her cell when the officer entered, tied her down to her bunk, sexually abused her, and hit her repeatedly. The officer eventually left and during the early hours of the morning, another officer found the prisoner tied to her bed and badly beaten”<sup>403</sup>

These are by no means isolated incidents. In other examples, prisoners have submitted to sexual assaults as a result of specific threats or general fear.

---

401 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p8

402 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p49

403 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p152

“Iris R. stated that she was “totally surprised” by the officer’s sexual advance and felt she had no choice but to submit. He reportedly told her, “I could make this easy for you or I could make this hard for you. It’s up to you”.”<sup>404</sup>

Some officers take advantage of routine pat-frisks to assault prisoners. Human Rights Watch’s report stated that during such searches, “male officers often use their open hands and fingers to grope or grip a woman’s breasts and nipples, vagina, buttocks, anus, and thighs. They reportedly target certain women, usually the younger ones, while older, long-term prisoners are rarely frisked”<sup>405</sup>. They may also abuse their responsibilities regarding surveillance in order to watch the women when naked:

“they will come in and search the room while you are in the shower and tell you to come out”

“The guards reportedly try to engage the women in conversation while they are showering, and if they fail, the guards often will make degrading comments about the women”

“male officers enter the women’s cells even when the window is covered [to indicate she is changing or using the toilet]”<sup>406</sup>

#### **5.4.B Coercion**

Sometimes the abuse of prisoners by guards is more subtly disguised. Correctional officers may use their near-total power over the women to coerce them into sexual relations. They may offer the prisoner special privileges or hard-to-obtain goods; equally, they may threaten to deny them access to their entitlements. According to Human Rights Watch<sup>407</sup>, “Because prisoners are completely dependent on officers for the most basic necessities, the offer or, by implication, threat to withhold privileges or goods is a very powerful inducement.” A former prison employee told Human Rights Watch that, “many female prisoners are drawn into trading sex for favorable treatment in order to get on the officers’ good side and to “make their time easier.” As he described it, “Give ‘em two pieces of gum and a cigarette, and they’ll do anything””<sup>408</sup>.

For those prisoners who are addicted to drugs, the enticement is even greater:

“There are relationships going on. Some are consensual and some are not...The majority are not consensual. They are doing it for drugs and can’t say no.”<sup>409</sup>

#### **5.4.C ‘Consensual’ relationships**

In some cases correctional staff and prisoners may be involved in what appear to be consensual relationships, without any violence, threats, or offer/withholding of privileges. However, these ‘relationships’ also constitute grave misconduct on the part of the prison staff. The superintendent of the Bedford Hills Correctional Facility is of the firm belief that “incarcerated women cannot meaningfully consent to sexual relations with staff. She told [HRW]: “Where you have power over a person, it cannot be consensual...You cannot be in the position of an inmate

---

404 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p186

405 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p155

406 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) pp56 - 57

407 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p10

408 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p187

409 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p51

---

and make that kind of decision...Eventually, it makes other people feel unsafe.”<sup>410</sup>. In circumstances where a member of staff and an inmate have formed a genuine emotional attachment, it is imperative that the officer in question immediately seek transfer to another facility where he will not be in any form of contact with the prisoner. He would then have to continue his relationship with the inmate just as any other boyfriend or partner – through visiting hours.

What is particularly dangerous about so-called consensual relations between prisoners and staff is that although they may begin consensually (within the limits defined above), if the prisoner decides she wishes to end the relationship she may find herself in very difficult circumstances. Human Rights Watch’s report contains one such example of a prisoner who had been in a relationship with a guard:

“When she learned she was granted parole, she told him she was going home. He reportedly responded, “No you aren’t. You are staying with me.” She told us she sought to end the relationship with him because he had become ever more hostile and verbally abusive...The situation worsened until one evening she reportedly cursed at him in front of other officers and received a major misconduct ticket that resulted in the revocation of her parole.”<sup>411</sup>

In these circumstances the lack of genuine consensuality in the relationship and the abuse of power exercised by the officer become obvious.

#### **5.4.D Grievance procedures**

Whatever the circumstances surrounding the abuse, be it violent rape, bribery, or ‘consensual’ relationships turned sour, prisoners who seek to report abuse face serious difficulties. Human Rights Watch’s report showed that in the prisons they visited the grievance procedure for inmates to report misconduct by staff were sorely inadequate. In the first instance, the prisoners were poorly informed about their rights and how to make a complaint. Once a complaint had been lodged, the whole procedure was biased against prisoner testimony. The report shows that “in almost every case of custodial sexual misconduct, correctional officials assumed that the prisoner lied and thus refused, absent medical reports or witnesses who were not prisoners, to credit prisoner testimony”<sup>412</sup>. The procedures had no outside monitoring and “at times, officers accused of sexual misconduct were assigned to investigate themselves”<sup>413</sup>. It was rare for disciplinary action to be taken against officers, and still rarer for officers to be punished in line with the seriousness of the offence:

“prisoners filed twenty-nine complaints of sexual misconduct in 1994-95 at Dwight, Dixon, and Logan of which only eight complaints were substantiated. Those eight complaints resulted in three discharges, two resignations and three brief, temporary suspensions. Only one was referred for prosecution”<sup>414</sup>.

---

410 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p292

411 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p166

412 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p11

413 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p11

414 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p135

Even where there is undisputed evidence of sexual activity between a prisoner and a correctional officer, it is often the prisoner who is blamed. She may be punished for “sexual misconduct”, while the staff member is not charged with any offence. This is illustrated by the case of a prisoner at the Illinois Department of Corrections, who alleged that she had been raped by a guard.

“Zelda D. was taken to an outside hospital the evening after the first incident. The examining doctor completed a rape kit and wrote “sexual assault” on her medical record in the box marked “Diagnosis.”...Prison officials...placed Zelda D. in temporary custody status in a segregation cell for possible sexual misconduct”.<sup>415</sup>

In another example, a female prisoner in the Department of Corrections was charged with sexual misconduct after she was discovered to be pregnant. She was sentenced to two years in segregation, with a twenty-four-month loss of good time credit, “even though she testified that she was coerced into having sex”<sup>416</sup>.

In Arizona, prisoners are punished for having sexual relations with staff without reference to whether this is voluntary or not. Similar rules exist in other states, with the result that “the real possibility exists under these statutes that a victim of rape could have the crime against her go unrecognized and instead be prosecuted for unlawful sexual relations”<sup>417</sup>. In Georgia Women’s Correctional Institution a memorandum addressed to the inmate population warned prisoners that involvement in sexual activity would result in criminal prosecution, and that the facility “cannot tolerate inmates who abuse staff”<sup>418</sup>.

In the rare cases when an offence is investigated and an officer found guilty, the most stringent action taken against an offending officer was normally transfer to another (possibly men’s) prison. One example states that a prisoner who filed a complaint was told that “if she was transferred to another facility, Officer R would return to the prison”<sup>419</sup>. Very few staff are actually dismissed for sexual misconduct, even when this is ongoing and well-known. Human Rights Watch’s report shows that “IDOC [Illinois Department of Corrections] and employees at Dwight [prison] knew that this officer had a history of sexually abusing prisoners...this same officer was notorious for sexual misconduct among both prisoners and officers.”<sup>420</sup>.

One of the flaws revealed in the complaints procedures was that they offered little or no protection of the identity of the complainant. In many cases, the staff member concerned would be informed outright of his accuser’s identity during the investigation. In other cases, it was easy to discover this information. The US Department of Justice has recognized that this has “the purpose, intent or effect of intimidating the inmates and discouraging the filing of grievances”<sup>421</sup> as women are afraid of suffering retaliation if they make a complaint.

---

415 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p129

416 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p190

417 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p239

418 Memorandum to inmate population, Georgia Women’s Correctional Institution, January 8, 1993, cited in Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p267

419 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p67

420 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p135

421 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p60

---

This fear is well-founded. Frequently, staff who are undergoing investigation continue to work in contact positions with the complainant, and so can easily harass, intimidate, and continue to assault her. A former correctional services employee, commenting on retaliation against prisoners, stated that officers “can make their lives a living hell – hold their packages, stop their visits, or they can pull a surprise search and plant something in their cell”<sup>422</sup>.

If the staff person is suspended, transferred elsewhere, or even fired, other members of staff may retaliate on his behalf. For example, “the guilty officer’s friends on the force may write misconduct tickets against the complainant”<sup>423</sup>. This may continue even when the prisoner is transferred to another facility, as her reputation as a ‘snitch’ will have preceded her. One prisoner reported that after her complaint resulted in the suspension of an officer she was transferred to another prison and “At the second prison two officers pulled her from her room, handcuffed her and took her into their office, where they proceeded to badger her. In an apparent reference to Officer G, they reportedly asked her whether she was going to get one of their colleagues suspended.”<sup>424</sup>.

Other prisoners may also harass the complainant as a result of her actions. If the staff member was providing goods or other privileges to other prisoners in exchange for sexual favours these prisoners may not want the officer to be removed and so will resent the complaint made against him. When other prisoners or even other correctional staff support an inmate’s accusation, they too may face threats and retaliation.

It is common for prisoners who have launched a complaint to be placed in administrative segregation. This is supposedly for their own protection, but its effect is punitive. The fear of being placed in segregation acts as another disincentive to women filing a complaint:

“People can’t really come forward. If it’s an allegation of substantial wrongdoing by an officer against a prisoner, you can count on going to jail [administrative segregation]”<sup>425</sup>

“You are going to do seg [segregation] time for sexual misconduct, but the officer will be protected through transfers”<sup>426</sup>

“I’d be the one getting into trouble if [the offence was dealt with] on a professional basis...They would have put me in seg”<sup>427</sup>

Another action taken against women who file complaints, again supposedly for their own protection, is transfer to another prison. This “can function as punishment for prisoners who often develop supportive relationships in prison. The transfer also can take prisoners away from classes they are attending. Such classes provide prisoners with additional good time that will be lost if they do not complete the course.”<sup>428</sup> A further risk is that the new facility will move the prisoner even further away from her family and children.

---

422 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p200

423 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p165

424 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p63

425 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p65

426 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p132

427 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p132

428 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p135

#### **5.4.E Pregnancy**

A final issue to be considered concerns what happens to those prisoners who become pregnant as a result of sexual abuse suffered in custody. The women in Human Rights Watch's investigation consistently reported being pressured into having an abortion:

“[The warden] told me that if I did not get an abortion then I would not get parole”<sup>429</sup>

In a separate case, “When she missed a menstrual period after her rape, Jane Doe 1 told her supervisor she thought she was pregnant. She told us he responded, “I could always beat it out of you.”<sup>430</sup>

Another prisoner, who wanted an abortion, stated that investigators used this as a bargaining tool in order to get information from her regarding the identity of the father:

“They'd [officers] bring me into the office and ask how, when and who – even to the point of saying things about my son who was eleven or twelve years old...They were insinuating this was the only male I had come into contact with”<sup>431</sup>

She was made to wait for two months after first coming forward before she was allowed the termination, and was then held in administrative segregation for two further weeks afterwards.

A final case example reveals a typical story:

“In 1993 Anne B. reported that she had been sexually assaulted by a corrections employee and requested a pregnancy test. Almost immediately after the test results returned positive, the authorities removed her from the prison where the assault occurred and placed her in a segregated cell at Huron Valley Men's Prison (HVM) infirmary.

While at HVM, Anne B. was locked in for nearly twenty four hours a day and denied access to a phone...Anne B. was removed from her cell only for meetings with MDOC [Michigan Department of Corrections] staff investigating her pregnancy...One investigator threatened to keep her in segregation throughout her pregnancy, take away her accrued good time, and return her to the facility where she was assaulted unless she assisted with the investigation. Anne B. also told us that this investigator pressed her to have an abortion...Anne B. was released from segregation after nearly three months and placed in the general population at another women's prison in the state. She told us that in this new facility she had been continuously harassed by prison staff about what she had told investigators”<sup>432</sup>.

#### **5.4.F Conclusion**

In conclusion, it is clear that sexual abuse of women prisoners by staff is rife. The examples from the USA could equally apply in any country where male staff are employed in contact positions in women's prisons. This abuse is able to exist and flourish due to the near total power that correctional staff have over prisoners, and the broad impunity that they enjoy. The nature of the prison system itself, based on domination and subjugation encourages this pattern of behaviour.

---

429 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p94

430 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p94

431 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p52

432 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p153

Inadequate facilities and provisions (aggravated by overcrowding) also play a role as women are forced to ‘trade’ for basic items such as shampoo, food or phone calls.

The grievance procedures in place are clearly inadequate and unfair. Prisoners who may wish to file a complaint are afraid to do so as they know that they are likely to expose themselves to further abuse and retaliation, with little prospect of a successful outcome. For this reason, prisoners on relatively short sentences or nearing parole are most likely to suffer abuse and least likely to report it – they know that doing so will cause them more problems than it is worth.

In some instances, the victims of sexual abuse will deliberately try to hide this from the authorities who should be protecting them, as they fear that they are the ones who will be punished through segregation or transfer. In summary, prisoners suffering abuse are in an untenable situation. If the abuse is not reported it will continue. If the abuse *is* reported, it is likely to increase rather than decrease.

### 5.5 STANDARD PROCEDURE

Although the use of male staff in women’s prisons creates the possibility of abuse in certain instances, by its very nature the general or extensive use of male staff creates problems even where they behave with the utmost integrity and propriety. The Human Rights Watch investigation into women’s prisons in California noted that the use of male staff in women’s housing units means that they will observe the inmates during dressing and undressing, while using the showers, and while using the toilet facilities. They may also conduct pat frisks (clothing and body searches while the prisoner is clothed).

In this context, it should be noted that the US anti-sex discrimination laws allow male staff to work in women’s prisons, including in contact positions with prisoners (i.e. positions where they work in constant physical proximity to the prisoners). Across the USA, “Male officers working in women’s prisons now outnumber their female counterparts by two and in some facilities, three to one”<sup>433</sup>. Whilst recognizing that under normal circumstances male employees should not be discriminated against on the grounds of gender, further consideration needs to be given to this issue.

US courts have ruled that prisoners have the right “to be protected from routine inappropriate visual surveillance by officers of the opposite sex and, in case of female prisoners, not to be subjected to pat-frisks by male officers”<sup>434</sup>. However, according to Human Rights Watch prisoners from various Californian prisons reported that:

- “male corrections officer enter living units while women are dressing or showering”
- “male guards routinely watch women use the toilets and showers”
- “showers are positioned such that all male guards have an unobstructed view of the women showering”
- “male guards regularly watch women prisoners shower”
- “female prisoners in VSPW [Valley State Prison for Women] often must receive their medical exams, including gynecological exams, in the presence of male guards”<sup>435</sup>.

---

433 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p96

434 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p55

435 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p57



In the same prisons, although male officers were prohibited from conducting strip searches on female prisoners, they would often be present while these searches were performed. It has been reported that “women incarcerated at CCWF [Central California Women’s Facility] have been forced to strip and be searched in the presence of male corrections employees”<sup>436</sup>. Still worse, “women prisoners were required to submit to strip searches while in the receiving area at CCWF in a location where male corrections officers were working and while male transportation officers were passing through”<sup>437</sup>. At the Avenal facility, where approximately 90 percent of staff were men, “the women were not only subjected to constant viewing by male officers, but were also viewed by non-security personnel and visitors to the prison on tours. On a number of occasions, such persons were brought through the women’s yards even when the women were undressed or using the toilets.”<sup>438</sup>

Countless other incidents of a similar nature illustrating the lack of respect for the prisoners’ right to privacy and dignity were also related in the Human Rights Watch report for prisons in other states across the USA. Their investigations into New York prison conditions added reports of the videotaping of strip searches. One prisoner reported:

“In the presence of a male and a female officer, she was directed to remove all of her clothing while being videotaped. She said they followed the normal procedure for a strip search but that “It was the first time I was stripped in front of a man”<sup>439</sup>

Betsy Fuller, an attorney with New York’s Prisoners’ Legal Services, told Human Rights Watch that she had reviewed several of the videotapes and described the following:

“When asked to strip...the woman was “completely freaked out” by the camera and hysterical throughout the strip search. She repeatedly asked to speak with a supervisor but was ignored. Her questions regarding the reason for the search were also ignored. Fuller told us that the prisoner’s mental pain was hard to watch.”<sup>440</sup>

Women with mental illnesses are subject to particular regimes. The HRW report stated that: “Women incarcerated in the Mental Health Unit at GWCI, perceived to be suicide risks, were forcibly stripped by male and female staff and placed in restraints, including straightjackets or four-point restraints. In some cases, women were stripped and left hog-tied in their cells. The women were then left naked for up to three days where they could be viewed by members of the opposite sex.”<sup>441</sup> These procedures were also videotaped.

Such procedures are in line with official regulations and law in US women’s prisons, not aberrations. The prior history of sexual abuse of many imprisoned women suggests that such treatment is not only damaging and inappropriate but that the practice of strip searching, pat frisking, and surveillance of prisoners in various states of undress is more intrusive for women than for men. These procedures require serious consideration, whether conducted by male or female staff, to avoid further traumatization of those who have already suffered serious sexual assault.

---

436 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p56

437 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p56

438 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p58

439 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p194

440 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) p194

441 Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996) pp94 - 95

---

It is also questionable whether it is necessary for women prisoners to undergo such frequent violations of their privacy. Compared to male prisoners they are less likely to attempt escape or possess dangerous contraband, so the value of strip searching and pat frisking is unclear. They are also less likely to violently or sexually assault their co-prisoners, so there is also far less ‘need’ for them to be constantly surveyed in the shower and other intimate settings. As regards women being strip searched in areas where they are visible to male transport workers and others, this constitutes sexual discrimination against women prisoners on the grounds that male prisoners are unlikely to be observed by female transport workers in similar circumstances.

### **5.5.A The Kingston Prison Inquiry**

In 1995, a Commission of Inquiry was carried out relating to the segregation, strip search, and body cavity search of a number of women prisoners in Canada’s Prison for Women in Kingston. This Commission, headed by Justice Louise Arbour, made a number of important findings regarding the legality of these procedures which highlight issues already raised above.

In brief, the inquiry centred around the use of an all-male “Institutional Emergency Response Team” (IERT) to physically restrain and strip eight women in an aggressive and intimidating manner. As has been noted earlier, it is contrary to law and Canadian Correctional Services policy, for prisoners to be strip searched by staff of the opposite gender. In this incident, this rule was relaxed on the basis that it was an ‘emergency situation’ and because the only team equipped to deal with such a situation was the IERT team, who were all male. Their role is to intervene in volatile prison circumstances, to forcibly strip search and restrain inmates, and search their cell. Due to the comparatively very small number of women prisoners in Canada, and the even smaller number of violent incidents involving them, no women’s equivalent of the IERT had ever been created, which led to the Kingston Warden feeling there was no alternative but to call in the IERT. The Inquiry found that this decision was ill-founded and inappropriate.

The strip search was recorded on video, in accordance with IERT procedure, and described in part in the Inquiry Report as follows:

“Prior to the video being turned on, the IERT marched into the Segregation Unit in standard formation, approached Joey Twins’ cell and banged on the bars of her cell with the shield. She immediately did as she was ordered [to lie down on the floor], and when the video begins she is lying face down in her cell surrounded by IERT members who are holding her down. An officer now identified as a female member of the prison for Women staff, cuts off Ms. Twins’ clothing with the 911 tool, while IERT members hold her down. The extent to which they are assisting the female officer in the actual cutting and removal of the clothes is difficult to tell from the tape. Ms. Twins’ hands are cuffed behind her back and her legs shackled. She is marched backwards out of her cell naked, and led to the corner of the range. There she is held against the wall with the clear plastic shield, with her back against the wall. Some IERT members stand around her while the IPSO, Mr Waller, and maintenance men from the prison enter the Segregation Unit to begin stripping Ms. Twins’ cell. The corner where Ms Twins is standing is visible to anyone in the unit or standing in the doorway separating the dissociation side from the protective custody side of the Segregation Unit...

While she is still being held in the corner, a paper gown is brought to Ms Twins and tied around her neck. The effect is something like that of a bib. The paper gown neither covers her, nor provides warmth.

Upon her return to the cell, an IERT member begins the extremely lengthy process of attempting to apply a body belt in substitution of her handcuffs, during which procedure her gown comes off...

Finally, this lengthy procedure is complete and she is left lying on the floor of her cell in restraints body belt and leg irons and with a small paper gown.”<sup>442</sup>

Further on,

“The video shows the last inmate who was strip searched, Brenda Morrison, with her clothes on when the IERT enter the cell [some other inmates had chosen to undress themselves in privacy prior to the arrival of the IERT at their cell]. In response to their order for her to kneel and remove her clothing, she asks questions about what will happen if she does not remove them. The questions are not answered. Rather, restraint equipment is applied over her clothing, at which point she offers to take her clothes off. They direct her to lie face down. She does not immediately do so and they force her to the ground. Three IERT members hold her down and rip and then cut her shirt open at the back while the female correctional officer cuts her pants off”.<sup>443</sup>

These events, whilst clearly traumatic for those concerned, were entirely in line with the official procedure of the IERT. The only question of inappropriateness regards not what they did, but the fact that they were required to do so in a women’s prison. The question of whether the participation of the IERT in these searches was illegal hinged on whether or not they actually conducted the strip search or whether they were merely witnesses to it. The difference finally came down to whether male staff had physically cut the clothing from female inmates. However, Justice Arbour formed the broader view that:

“what is particularly disturbing in watching the video is not only the men ‘witnessing’ the naked inmates, it is the combination of the inevitable brutality of this type of intervention, combined with the necessary physical handling of individual women by several male IERT members, while each woman is completely naked for a period of time, and then very improperly covered by a paper gown or bib. When properly understood in its full context, these events raise a legal and moral question much more basic than merely whether it technically constituted a ‘strip search’. It raises the question of whether the treatment of the inmates was cruel, inhumane, and degrading. I think that it was.”<sup>444</sup>

The inmates who made submissions to the Inquiry commented on how they felt about the IERT incident as follows:

“As far as I know, it’s a crime. A crime was committed there. And if something like that happened down the street, that’s a crime. If you go in an apartment and rip girls’ clothes off, that’s a crime. That’s a sexual assault”<sup>445</sup>

“they spoke of their fear, humiliation, and the painful reliving of earlier memories of abuse”<sup>446</sup>

---

442 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p81

443 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p81

444 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p89

445 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p84

446 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p91

---

In a letter of complaint to the prison authorities one inmate stated, “I have been sexually abused all my life and this brought back those terrible times. I [have] never been so humiliated in my life for 6 men to be allowed to do this to me...I felt like I was a vulnerable little, helpless girl waiting to get raped.”<sup>447</sup>

The prison doctor commented on part of the video where an inmate appears to be ‘flirting’ with the IERT team. She testified that “in her view, the inmate was in fact in a dissociative state, speaking in a girlish voice, possibly reliving a childhood episode of sexual abuse. Dr. Pearson said that this very emotionally fragile inmate was exhibiting signs of having lost contact with reality.”<sup>448</sup> Justice Arbour further commented that “The bravado that the words display betrays the humiliation, defeat and terror that these women were experiencing when confronted and subjected to this unimaginable display of force, in the middle of the night, behind prison walls.”<sup>449</sup>

Whilst this sad occurrence at Kingston was an isolated event in Canada and by no means indicative of daily procedure in women’s correctional facilities there, it clearly highlights the problems surrounding strip searches and other security measures in women’s institutions. The low incidence of violent events in women’s prisons in Canada, as elsewhere, means that there is no practical justification for a standing women’s equivalent to the IERT. Yet this means that, on the rare occasions that there is a crisis situation (and in the Kingston Inquiry it was found that this was probably not the case even there) there is no alternative but to use male teams, trained for male prisoners. The official procedure of the IERT is “intended to terrorize, and therefore subdue”. In Kingston, “there is no doubt that it had this intended effect in this case. It also, unfortunately, had the effect of re-victimizing women who had had traumatic experiences in their past at the hands of men. Although this consequence was not intended, it should have been foreseen”.<sup>450</sup> Clearly it is necessary to reconsider the use and procedural aspects of all strip and other intimate searches of women prisoners, in all circumstances, in order to avoid such distressing and unintended consequences. The simple transfer of standard procedures for dealing with male prisoners without adjustment to take into account the different characteristics of women prisoners is neither desirable nor appropriate.

Finally, the Arbour Inquiry also investigated the conditions of a body cavity search which was later carried out on the same prisoners. Significantly, she noted that “This is an area where the law does operate differently for men and women. Body cavity searches are virtually never performed on men as, apparently, doctors usually refuse to perform them”.<sup>451</sup> This raises the obvious question, if doctors have sufficient grounds generally to refuse to perform a body cavity search on a male prisoner, what justification is there for such searches to be performed on women prisoners?

---

447 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) pp146-147

448 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p92

449 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p92

450 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p92

451 Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p98

---

## 5.6 TORTURE AND INHUMANE TREATMENT

A final aspect of violent abuse to be considered in relation to women prisoners is institutional torture. Whilst the use of torture is by no means confined to women prisoners, it does take on particular characteristics in this instance. The 2004 report of the Special Rapporteur on violence against women cites numerous instances of gender-specific torture being used against women prisoners, in some instances as part of what appears to be an institutional policy.

One such instance involves Iran, where “information was transmitted of allegations of widespread violence against women prisoners and political opponents that reportedly took place primarily during the time the Ayatollah Khomeini was in power and included the alleged rape, torture and execution of many women”<sup>452</sup>. Furthermore, the Special Rapporteur “expressed particular concern about the reported involvement of senior State and religious officials in these crimes, and about allegations of continued torture and sexual abuse of women prisoners”<sup>453</sup>.

In China, it has been reported that pregnant women prisoners have been forced to undergo abortions or to perform hard labour inappropriate to their physical condition. In one of the cited incidents, a prisoner was “taken to Beishan Detention Centre in Lianzhushan town, where she was allegedly forced to load heavy bricks although she was pregnant. According to the information received, that resulted in a miscarriage”<sup>454</sup>.

In another instance a prisoner was reportedly “shackled behind a tree and her mouth sealed with tape for a prolonged period, to the point where her clothes became soaked with her milk. She was reportedly kept at the detention centre for 15 days, during which time she was not allowed to breastfeed her baby”<sup>455</sup>.

Additional forms of gender-related torture include electric shocks to the breasts and genitals, rape, being forced to strip in front of others, and other sexualised forms of assault.

## 5.7 CONCLUSION

From the examples cited above it can be seen that sexual violence against women prisoners is a serious problem which manifests in many forms. Whether it is torture, violent rape, a coerced sexual relationship, or the unintended (yet foreseeable) consequence of standard prison procedures, the effect that such incidents can have on prisoners who have already suffered the trauma of sexual abuse is severe. As Justice Arbour remarked in her report on events at Kingston Prison, “I wish to stress the fact that the problems that may arise from men abusing their authority over women prisoners are real. They are serious problems and the consequences of such abuse can be disastrous”.<sup>456</sup> In order to avoid causing further damage to already vulnerable women, it is necessary for these issues to be addressed.

---

<sup>452</sup> *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum: Communications to and from Governments E/CN.4/2004/66/Add.1* (3 March 2004) p25

<sup>453</sup> *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum: Communications to and from Governments E/CN.4/2004/66/Add.1* (3 March 2004) p25

<sup>454</sup> *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum: Communications to and from Governments E/CN.4/2004/66/Add.1* (3 March 2004) p10

<sup>455</sup> *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum: Communications to and from Governments E/CN.4/2004/66/Add.1* (3 March 2004) p9

<sup>456</sup> Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996) p194

---

## BIBLIOGRAPHY

Africa Watch/Human Rights Watch: *Prison Conditions in Zaire* (January 1994)

Amnesty International: *Pakistan: Denial of Basic Rights for Child Prisoners* 23/10/2003. *ASA Index: 33/011/2003* available at <http://web.amnesty.org/library/Index/ENGASA330112003?open&of=ENG-373> (accessed 24 November 2003)

Arbour, L: *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Public Works and Government Services Canada, 1996)

Asia Watch/Human Rights Watch: *Prison Conditions in Indonesia* (September 1990)

BBC News Online: "Jamaica's women drug mules fill UK jails" (13/09/2003) (accessed 5 November 2003)

BBC News Online: "US toddler's 'home alone' ordeal" (01/10/2003) (Accessed 5 November 2003)

Bellamy, K (ed): Report from the Gender and Justice Policy Network Seminar 26<sup>th</sup> November 2001 *Joining Up Services for Women Offenders at a Local Level* (Fawcett Society, 2001)

Bryan, T.A: "Beautiful women come here too!" *Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001

Bryant, J: "Latin American Prison Conditions" in *Prison Service Journal* (November 2003) no.150

Caddle, D and Crisp, D: *Mothers in Prison*, Home Office Research, Development and Statistics Directorate, Research Findings No.38 (1997)

Caddle, D: *Age limits for babies in prison: Some lessons from abroad*, Home Office Research, Development and Statistics Directorate, Research Findings No.80 (1998)

Catholic Agency for Social Concern: *Women in Prison Jubilee Paper No.1* (May 1999)

Chirwa, V: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique: Second Visit April 4-14 2001*

Chirwa, V(b): *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Malawi 17-28 June 2001*

---

---

Cruz Blanco: “Las cárceles se llenan de mujeres” in *El Pais.es* (21/10/01) [www.elpais.es](http://www.elpais.es) (accessed 02 March 2004)

Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in the Central African Republic: June 19 – 29 2000*

Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mozambique 14 – 14 December 1997*

Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Benin: 23 – 31 August 1999*

Dankwa, E.V.O.: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Mali: 27 November – 8 December 1998*

del Valle, S: *Urge solución para más de 13 mil hijos de madres internas en cárceles: criminóloga* (24/07/01) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04)

DeNeen L.Brown: “I was left to freeze – to be one more dead Indian”, *Washington Post*, cited in *Guardian Weekly* 4-10 December 2003

Edgar, S: *Languidecen en el olvido indígenas presas por narcotráfico* (08/04/03) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04)

Edgar, S: *Nadie escucha a las indígenas presas en Tabasco* (15/04/03), [www.cimacnoticias.com](http://www.cimacnoticias.com) (accessed 15/05/03)

Edgar, S; *Indígenas, pobres y monoligues, las presas de Oaxaca* (10/11/03), [www.cimacnoticias.com](http://www.cimacnoticias.com) (accessed 15/05/03)

Esparza, M: *Background Paper 20* presented at the Expert Seminar on Indigenous Peoples and the Administration of Justice, Madrid 12-14 November 2003

Fawcett Society Commission on Women and the Criminal Justice System: *Interim Report on Women and Offending* (2003)

Gampell, L: *Submission in response to the Green Paper Consultation ‘Every Child Matters’* (Action for Prisoners’ Families, December 2003)

Gillan, A: “Bursting Point: the drugs mules filling up UK prisons”, *The Guardian Online* (30/09/2003) (accessed 11 December 2003)

- Guransky, D et al: *Who's Minding the Kids? Developing coordinated services for children whose mothers are imprisoned* (Social Policy Research Group, University of South Australia, August 1998)
- Helsinki Watch/Human Rights Watch: *Prison Conditions in Spain* (April 1992)
- Hoezel, I: *Los niños en las cárceles. Entrevista a la Dra Elizabeth Patiño, Directora de Defensa de Niñas y Niños International filial Cochabamba* (24/04/03) (unpublished paper)
- Howard, C: *Main Issues Facing Brazil's Women Prisoners* (unpublished paper, 2003)
- Human Rights Watch/Africa Watch: *Prison Conditions in Zaire* (January 1994)
- Human Rights Watch/Asia Watch: *Prison Conditions in India* (1991)
- Human Rights Watch: *All Too Familiar: Sexual Abuse of Women in US State Prisons* (1996)
- Human Rights Watch: *Behind Bars in Brazil* (1998)
- Human Rights Watch: *Collateral Casualties: Children of incarcerated drug offenders in New York*, Vol.14, No.3 (G) (June 2002)
- Human Rights Watch: *HRW World Report 2001: Special Issues and Campaigns: Prisons* available at <http://www.hrw.org/wr2k1/special/prisons.html> (accessed 02/12/03)
- Human Rights Watch: *Prison Conditions in the United States* (November 1991)
- Human Rights Watch: *Punishment Before Trial: Prison Conditions in Venezuela* (1997)
- Jonas, W: *Social Justice Report 2002* (Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, 2003)
- Jonas, W(b): *Background Paper 25* presented at the Expert Seminar on Indigenous Peoples and the Administration of Justice, Madrid 12-14 November 2003
- Kings College London International Centre for Prison Studies online [www.kcl.ac.uk/depsta/rel/icps/new.html](http://www.kcl.ac.uk/depsta/rel/icps/new.html) (accessed 28 November 2003)
- Maya, R: *Discriminación en el sistema judicial afecta a mujeres:CDHDF* (29/11/02) from [www.cimac.com](http://www.cimac.com) (accessed 02 March 2004)
- Middle East Watch/Human Rights Watch: *Prison Conditions in Egypt* (February 1993)
- More, Kate: *Proposals for the HM Prison Service Review of Guidelines relating to Transsexual Prisoners* (June 1996) [www.pfc.org.uk/legal/tsprison.htm](http://www.pfc.org.uk/legal/tsprison.htm) (accessed 08 June 2004)
-



---

Nari, M et al: *Encierro y resistencia en las cárceles de mujeres en Argentina* (prepared for delivery at the 2000 meeting of the Latin American Studies Association, Miami, Marc 16-18 2000)

National Center for Lesbian Rights: *Transsexual Prisoners*(12/01)  
[www.transgenderlaw.org/resources/prisoners.htm](http://www.transgenderlaw.org/resources/prisoners.htm) (accessed 08 June 2004)

Nellis, M: *Kids Are The Issue: Sentence deferral and the use of custody for women offenders*, Report by a member of the Ecumenical Group on Women in Prison, submitted to the Home Office (January 2001)

Owen, B.: "Understanding Women in Prison" in Ross, Jeffrey and Richards, Stephen (eds): *Convict Criminology* (Thomson Wadsworth, 2003)

Prison Reform Trust and HM Prison Service: *Prisoners' Information Book: Women Prisoners and Young Offenders* (2003)

Prison Services Working Group: *Report of a Review of Principles, Policies and Procedures for Mothers and Babies/Children in Prison* (July 1999)

*Prisoners Abroad News*, Vol 12. Issue 1, Winter 2001

Report of the High Commissioner for Human Rights: *Situation of human rights in Sierra Leone* E/CN.4/2004/106 (19/02/2004)

*Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum: Communications to and from Governments* E/CN.4/2004/66/Add.1 (3 March 2004)

Rickford, D: *Troubled Inside: Responding to the mental health needs of women in prison* (Prison Reform Trust, 2003)

Ruiz, M: *Mujeres jóvenes y pobres en mayor riesgo de ir a la cárcel* (16/06/03) from [www.cimac.com](http://www.cimac.com) (accessed 02 March 2004)

Saldaña, L: *Mujeres presas, cárceles insuficientes* (26/08/03) from [www.cimac.com](http://www.cimac.com) (accessed 02/03/04)

Shankardass, R, Roy, H and Seshadri, V: *Workshop on new models of accessible justice: The India experience (Special focus on Women and Juveniles)* (2000) Penal Reform and Justice Association and Penal Reform International

Shankardass, R: *Where the mind is without fear and the head is held high: Mental health and care of women and children in Andhra Pradesh, a thematic review* (2001) PRAJA

Silverman, J.: "Why are girls still put in adult prisons?" *BBC News Online* ( 05/08/2003) (accessed 6 August 2003)

*Standard Minimum Rules for the Treatment of Prisoners*, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 available at [http://www.unhchr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhchr.ch/html/menu3/b/h_comp34.htm)

Stanley, E and Byrne, S: *Mothers in Prison: Coping with Separation from Children*, paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide, 31 October – 1 November 2000

States Reports to the Committee on the Rights of the Child, 34th Session, October 2003: Bangladesh CRC/C/65/Add.22

States Reports to the Committee on the Rights of the Child, 34th Session, October 2003: Brunei Darussalam CRC/C/61/Add.5

States Reports to the Committee on the Rights of the Child, 34th Session, October 2003: Pakistan CRC/C/65/Add.21

Statistical information Deaths in Prison 1990-date (England & Wales) [www.inquest.org.uk](http://www.inquest.org.uk) - (accessed 17 June 2004)

*Statistics on Women and the Criminal Justice System*: A Home Office publication under Section 95 of the Criminal Justice Act 1991 (2002)

Ter-Saakian, K: *Armenia: Women do time in "model prison"* (11/03/04), Caucasus Reporting Service No.222

Wahidin, A: "Women, Old Age and the Prison System" in *Gender and Crime* (The Centre for Crime and Justice Studies, 2003) No. 53, Autumn

Wedderburn, D, The Report of the Committee on Women's Imprisonment: *Justice for Women: The Need for Reform* (Prison Reform Trust, 2000)

YWCA Policy and Campaigns: *Briefings* "Bad Girls or Bad Laws? Young Women in the Criminal Justice System" (Summer 2001: Issue 2)

---

---