

Women, Punishment and Human Rights

“Prison is often a very expensive way of making vulnerable women’s life situations much worse.”

Women In Prison

A Discussion Paper

Background

Increasing numbers of women are being imprisoned in Scotland (and other comparable jurisdictions), and this cannot be explained by rates of offending or changes in the nature of offences.

The Scottish Universities Insight Institute recently held a series of workshops to consider the criminal justice system's response to women's offending and its findings were presented at the seminar held in the Scottish Parliament by academics from the University of Stirling, and the Chief Executive of Families Outside, a Scottish voluntary sector organisation that works on behalf of families affected by imprisonment.

The nature of women's offending

Women represent around 16% of those convicted and the offences they are convicted for are relatively minor. Women are less likely to commit almost all types of crimes, particularly violent and sexual offences. Female offenders are often characterised by their experiences of substance misuse, emotional, physical and sexual abuse, mental health problems and poverty.

Sentencing

Since the mid-1990s, there has been a rise in the use of community service and probation orders but a decline in the use of fines.

Between 1997/8 and 2006/7, there has been a 90% increase in the daily sentenced female population in Scotland and an 83% increase in the female remand population.

The number of women convicted has not increased significantly but numbers imprisoned and remanded have risen steeply and the average sentence length for those convicted has increased.

However, 57% of adult female prison receptions in 2007/8 were for sentences less than six months which raises questions about the ability of the criminal justice system to deal with the complex problems that lie at the heart of women's offending behaviour. It is known that some women will commit offences in order to jump the queue for help in tackling substance misuse and other problems, for which they struggle to find help outwith the criminal justice system.

Community penalties

Women are under-represented on community service orders, but not on probation or drug treatment and testing orders.

They tend to be less heavily convicted, but they are more likely than men to receive additional requirements relating to medical/psychiatric/psychological treatment or drug treatment.

Women are less likely to have a probation order breached for another offence but more likely to have a probation order breached for non-compliance, owing to factors such as childcare/dependent responsibilities, a lack of money, chaotic lifestyle.

Women appear to be receiving community penalties at an earlier point in their criminal careers than men. If these are breached, then they are perceived to have quickly exhausted the range of non-custodial penalties available to the courts.

International trends

The pattern in Scotland is not unique – increases in female imprisonment rates are common in other Anglophone countries as well as some other European countries.

The increase in the rate of female imprisonment is greater than the increase in the rate of male imprisonment. Internationally, the increase is greater amongst younger women, although this is not the case in Scotland. And the use of imprisonment of women is predicted to rise faster than it is for men.

- USA – 5% annual increase in number of imprisoned women since 1995
- Canada – 57% increase in number of women admitted to federal jurisdiction 1994/5 – 2004/5
- New Zealand – 113% increase in female sentenced population 1994 – 2004
- Australia – 90% increase in number of female prisoners 1996 – 2006

Understanding female offending

Women often suffer from a complex interaction of vulnerabilities, such as a background of abuse, mental health problems and poverty. The effect of cumulative social and economic disadvantage often leads them to offend. For instance, some women who suffer domestic violence or sexual abuse 'self-medicate'. Ongoing substance misuse will often then lead to acquisitive crime such as shoplifting.

Some female mental health problems can be attributed to what researchers call the 'criminalisation of distress', i.e. changes to social policy that means their needs are not being met in another context such as the health sector.

Discrimination

There is international evidence to suggest that discrimination plays a part in the rates of female imprisonment. For example, there appears to be systemic discrimination against aboriginal women in Canada and Australia. In Canada, aboriginal women make up a third of the Federal female prison population and 46% of the maximum security prison population yet they constitute just 3% of the population.

Projects and initiatives

There are a number of projects and initiatives in the UK and internationally that support female offenders and their families. For example, Women In Focus – based in south west Scotland – provides support for women aimed at reducing breach of community orders. This initiative also encourages and supports women involved with the criminal justice system to make a positive contribution to their community.

A list of projects and initiatives is available at the end of this document.

Learning

Researchers have established that reoffending rates amongst women are more likely to result from a lack of support to (re)integrate into communities than any other factors. For instance, women are more likely to reoffend if they are given inappropriate accommodation or unable to access rehabilitation services on release.

Agency collaboration is vital in supporting women in the community given the complexity of these women's needs. A co-ordinated approach is necessary to tackle poverty, homelessness and the array of social disadvantage suffered by women offenders when they return to their communities.

Effective links between prisons and communities are also essential, as is the need for resources in the community that enhance the capacities of local communities.

There are higher rates of self-harm and suicide amongst the female prison population, and women are more likely to lose their housing than men, as well as custody of their children. Researchers gave an example of a woman who was sentenced for four months for breach of a community penalty issued for a driving offence. She spent a month in prison and a month on home detention curfew. As a result, she lost her home and custody of her children and, two years down the line, had still not regained custody.

Moving forward

Real change will only come about initially with sentencing reform; wider social changes are required to address many of the issues which result in women's involvement with the criminal justice system. The increased rates of female imprisonment appear to stem from sentencers becoming more punitive, so that women offenders exhaust the range of punitive measures more quickly than their male counterparts. It is thought that some sentencers see prison as a form of respite for women with chaotic lifestyles.

We must also enhance community provision for female offenders. However, this will involve rethinking the role of prison. A recent report by the National Audit Office revealed that offenders on short term sentences are often not given appropriate assistance whilst in prison to turn their lives around. With the majority of female prisoners serving sentences of less than six months, this would seem to be a particular issue for female offenders.

In order to achieve such a paradigm shift, it will be necessary to enhance the legitimacy of new initiatives and differential provision, both in the eyes of the public as well as sentencers. It will also be important to challenge the legitimacy of existing practice and policy that undermines equality and human rights legislation.

Most importantly, the root causes of women's offending behaviour must be tackled – issues that span a wide range of social policy areas (health, housing, education and so on). This will involve greater collaboration between different public sector agencies, such as the NHS and social services.

Barriers

Female offending and the female imprisonment rate has become an entrenched issue, and there are few strong voices championing the issue in the public arena.

Many activists believe that women offenders are being marginalised in a criminal justice system that was designed for men and, for this reason, there is a lack of women-focussed services both within and outside prison.

The wide scope of the root causes of women's involvement with the criminal justice system arguably makes the issue harder to grapple with. More so than with male offenders, it is often an accumulation of events and experiences that lead women to commit crime.

For this reason, a strategic approach is vital, and researchers would like the imprisonment of women to be seen in a wider human rights context. For instance, women's treatment within the criminal justice system should be considered in light of the UN Convention on the Rights of the Child, as women's families are often adversely – sometimes catastrophically – affected by imprisonment.

In the current economic climate, there is a real concern that the issue of the female prison population will not be seen as a priority. In addition to this, voluntary sector organisations face funding cuts that compromise their ability to carry out vital functions that support female offenders and their families.

Further information

Women in Focus: <http://www.sccjr.ac.uk/projects/Evaluation-of-the-Women-in-Focus-Programme/73>

Women in Prison: <http://www.womeninprison.org.uk/>

Inquest: <http://www.inquest.org.uk/>

Canadian Association of Elizabeth Fry Societies: <http://www.elizabethfry.ca/>

Sisters Inside: <http://www.sistersinside.com.au/>

The Asha Centre: <http://www.ashawomen.org.uk/>

218 Centre: <http://www.sccjr.ac.uk/pubs/Evaluation-of-the-218-Centre/110>

Okimaw Ohci Healing Lodge: <http://www.csc-scc.gc.ca/text/facilit/institutprofiles/okima-eng.shtml>

Families Outside: <http://www.familiesoutside.org.uk/>

Scottish Centre for Crime and Justice Research: <http://www.sccjr.ac.uk/>

Full SUII report on Women, Punishment and Community Sanctions: www.scottishinsight.ac.uk/Portals/50/WomenWhoOffend_Report.pdf

SUII Past Programmes Presentation material: www.scottishinsight.ac.uk

This report has been prepared from a lunchtime briefing on 2 February 2011 at The Scottish Parliament. It is part of an overall **Research Futures Seminar Series** which the Forum is holding in collaboration with academic partners. The series supports knowledge exchange between the Parliament and Scotland's universities/Civic Scotland and allows people from different backgrounds to share their perspectives on how we, as a country, overcome the challenges of tomorrow. The aim of the seminars is to provide Members, policymakers, researchers, academics and other interested parties with the opportunity to network and to generate discussion around a specific area of research that has direct relevance to the Scottish Parliament.

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