

UK penal policy - Should Women be Treated Differently from men in Terms of Sentencing?

Abstract:

A growing number of women are among those incarcerated as the prison population in the United Kingdom grows. The number of women behind bars has tripled in the last decade¹. Some believe this is not a significant issue because punishment should suit the crime. Still, some think the government should create and publicise new programs, such as female rehabilitation centers, as an alternative to incarceration. Most of those who advocate for a different approach to dealing with female offenders are astonished by the disproportionately harsh sentencing and punishment meted out to female offenders, especially given the differences between the root causes of female and male criminal behaviour. The first section provides a historical context for the prison and probation policies of the United Kingdom (UK), highlighting relevant facts, reforms, and measures from the government; the second section addresses the unique challenges women face in the penal system and offers solutions for the future, and the third section argues for the necessity of distinguishing how women and men are punished. The last chapter concludes with the potential improvements and recommendations.

Research questions:

The following three questions will be the subject of this dissertation:

1. Are women treated differently from men within the criminal justice system in terms of sentencing?
2. Should women be sentenced differently from men?
3. What are the consequences of women's treatment in the penal system?

¹ Georgina Sturge and Richard Tunnicliffe, 'UK Prison Population Statistics' <<https://commonslibrary.parliament.uk/research-briefings/sn04334/>> accessed 21 September 2022.

Research methodology:

This dissertation will utilize secondary data such as credible news articles, journals and research papers to undertake a significantly more thorough and detailed investigation of female treatment in the correctional system and imprisonment than would have been attainable through primary research due to time and budget restrictions. To confirm or not the importance of the data and how it relates to women's criminal behaviour and the punishments they get, "new interpretations" from the work of other researchers can be used to look at the current data. From this, many conclusions, hypotheses and suggestions can be made, all of which improve this matter and may even lead to fundamental changes in the world. At the same time, the ultimate purpose of this dissertation is to analyze whether the UK government's policies suit women's needs in the penal system. This study examines how various reforms have affected women in the penal system and prison.

Introduction:

The idea that women treated harshly than men from the legal system raises several concerns, even if there is consensus that Pollock is wrong to characterise women as dishonest and deceptive². Evidence in fact suggests that female offenders may be treated more leniently than their male counterparts in the criminal justice system. As mentioned at the outset of this topic, for example, women are disproportionately targeted for indictable offences. It seems that assumptions are made about the "remorse" that women show when they commit crimes, according to the results of a study conducted by the United Kingdom's Home Office, "because they [females] were significantly more likely than males to admit their offences and more likely to be arrested for less serious offences (such as stealing)³."

Women in the legal system face a wide range of challenges, including, but not limited to, a history of oppression and abuse and fewer opportunities to advance their careers; and so on. It is not meant to imply that male detainees do not face issues beyond the norm; rather, it is a comment on the sweeping generalisations that may be made about women but not about males⁴. Disregarding the perspectives of jailed women in the legal system silences their stories. While incarceration is traumatic for everyone involved, women often suffer disproportionately due to the loss of their independence, family, and identity.

² Edna Erez and Kathy Laster, 'Review of Women, Prison, and Crime' (1992) 82 *The Journal of Criminal Law and Criminology* (1973-) 1190.

³ JoAnn L. Miller and Jocelyn M. Pollock-Byrne, 'Women, Prison, And Crime.' (1991) 20 *Contemporary Sociology*.

⁴ Vicki Dabrowski and Emma Milne, 'Reproductive Rights On The Inside: A Rapid Evidence Assessment Of Women'S Experiences Of Reproductive Healthcare And Rights While In Prison In England And Wales' [2022] *Criminology & Criminal Justice*.

Chapter 1

The policies of probation and prisons in the United Kingdom are discussed in this chapter, as are the legacy of the Labour administration and the changes that were implemented during the period when Labour and Conservative administrations were in office.

Women and Criminal Justice System

Stephanie Covington, who works as a computer programmer and prison researcher, has spent the last 30 years interacting with female convicts. Her first hypothesis, that "the criminal justice system in every country was established for males," has been verified as true⁵.

One of their first points is that compared to men, the chances of a female offender being convicted of a violent crime is far lower. They claim that locking up female offenders won't improve public safety.

Second, female detainees have more than double the chance of developing post-traumatic stress disorder and are 10 times more likely to engage in self-harming behaviour than male inmates (PTSD)⁶. The underlying conditions that cause women to commit crimes might be treated through community-based medical therapy, at a far lower cost and without the retraumatizing effect of incarceration.

Third, incarcerating women can have far-reaching consequences for all of society. Two-thirds of women in prison say they have at least one dependent, and because of women's traditional roles as caregivers, those dependents are often in a much more precarious position than usual.

⁵ Stephanie S. Covington, 'Women And The Criminal Justice System' (2007) 17 Women's Health Issues.

⁶ Gergő Baranyi and others, 'Prevalence Of Posttraumatic Stress Disorder In Prisoners' (2018) 40 Epidemiologic Reviews.

Imprisonment of mothers of young children can have a devastating effect on the development and growth of young children.

But can circumstances in prisons for women be improved with only one push? Alternately, a worldwide revamp of the system may be necessary⁷.

Fresh Starts

Newly founded, One Small Thing (OST) seeks to restore jailed women to society rather than simply punish them for their wrongdoing. It is now used in all of the United Kingdom's 12 female prisons.

When Edwina Grosvenor saw that the women's estate was moving at a snail's pace, she decided to do something about it and in 2016 founded One Small Thing, making her one of the most visible benefactors in the UK's prison system. She worked to update England's dated legal system in tandem with Covington, co-director of California's Center for Gender and Justice.

The new programme, which "treats trauma through the lens of gender," is based on the ideas that (1) women are more likely to commit crimes as a result of having experienced trauma, and (2) men's traditional methods of dealing with criminality are inadequate for women because men rarely face gender-based violence. As Grosvenor puts it, this new programme "treats trauma via the perspective of gender" (like sexual assault or domestic abuse). Covington's jail curriculum is being used on a nationwide basis for the first time. All 12 women's prisons in England are now using the programme⁸.

⁷ 'Prison Hurts Women More Than Men — So England Is Trying A New Approach' (*Apolitical*, 2022) <<https://apolitical.co/solution-articles/en/prison-hurts-women-more-than-men-so-england-is-trying-a-new-approach>> accessed 19 August 2022.

⁸ Stephanie S. Covington, 'Women And The Criminal Justice System' (2007) 17 *Women's Health Issues*.

There are three distinct phases to the OST process. The first order of business is to provide "trauma-informed" training to the jail's staff. Educating the staff at every women's jail in the United Kingdom on the effects of trauma on women and the link between trauma and violent behaviour was a top priority for both Covington and Grosvenor. Since there is a large body of literature linking traumatic events to aggression and violence, it is crucial to be aware of the triggers that can drive someone to act violently in order to lessen the risk that they would do so.

Step two involves fostering a "trauma-responsive" attitude and coaching personnel on how to adjust their practises in light of new knowledge. Example: if female victims of sexual assault are incarcerated by male guards, they may be compelled to recreate the painful experience, leading to violent behaviour.

One strategy to protect at-risk women from further emotional distress is to employ de-escalation tactics that do not involve physical contact. Covington claims that the use of physical force to restraining trauma victims just serves to exacerbate the problem.

The next step is to provide inmates with what are known as "trauma-specific" therapies. Healing Trauma is a six-week course taught by women currently serving lengthy jail terms. The course's objective is to help women who have experienced trauma recover and learn effective coping mechanisms in order to lessen their propensity to resort to violent behaviour.

By doing so, she reasoned, the need for expensive outside psychiatrists might be avoided, and instructors' empathy for their children, as well as their sense of responsibility and success, would increase. When women are the ones teaching other women in jail, "it works better," as stated by Grosvenor.

It may be difficult to obtain financing for large-scale randomised control trials with female convicts. This, according to Covington, indicates that research into the effects of OST is in its infancy. Apolitical, on the other hand, has access to an upcoming research showing that 29% of women who took the course reported an improvement in their PTSD symptoms and 37% reported an improvement in their depressive symptoms.

Probation and Prison Policies in UK

Labour's Government and Legacy

After winning a landslide election victory in 1997, Labour prioritised reducing the alarming increase in incarceration rates for both men and women. One way it was done was by making changes to the law that would lower the number of female inmates⁹. In 2002, researchers at the Social Exclusion Unit produced a study showing that female inmates were the most socially estranged and least likely to obtain assistance. This study is an example of New Labour's sincere effort to solve problems associated with criminal females.

The Women's Offending Reduction Plan was then released with the goal of resolving the underlying issues that lead to criminal behaviour among women (abuse, substance misuse, poverty, unemployment). It was the government's job to provide solutions that would work best in each specific case. Even with limited means and unclear objectives, the offered tactics have had some success. To better address healthcare, housing, and social service needs specifically for women, they have established a cross-departmental liaison group. Even if there is a lack of defined objectives and funding, some of the offered techniques have proven to be effective. They

⁹ 'Prison Hurts Women More Than Men — So England Is Trying A New Approach' (*Apolitical*, 2022) <<https://apolitical.co/solution-articles/en/prison-hurts-women-more-than-men-so-england-is-trying-a-new-approach>> accessed 19 August 2022.

argued that both the women who commit crimes and the communities in which they take place would benefit from early intervention in diverting women from arrest through strong partnerships with local agencies and police, strengthened community orders, innovative mentoring services, and resettlement¹⁰. To improve the treatment of criminals, the government of England and Wales launched a programme in 2005 called "Transforming Rehabilitation." The strategy resulted in the outsourcing of a significant portion of the probation function. In accordance with the strategy, the National Probation Service is now responsible for supervising both high-risk offenders and 21 community rehabilitation enterprises that were formerly under the jurisdiction of separate probation trusts¹¹.

Post-release supervision is available for women who have served less than a year in jail through a programme that takes into account the unique circumstances of female offenders. Women are provided with post-release monitoring as part of the programme as well¹².

Decisions made by judges and magistrates have profound effects on the administration of justice and public opinion of punishment. When necessary, there is no way around making an arrest. The offender's track record of disobeying authority is more important than the substance of the offence itself in determining the harshness of punishment. Because of this, many female criminals receive less severe punishments than male offenders for the same crimes, such as theft and breach¹³.

¹⁰ (*Criminaljusticealliance.org*, 2022)

<https://www.criminaljusticealliance.org/wp-content/uploads/CJA_WomenPrisonReportFINAL.pdf> accessed 19 August 2022

¹¹ <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/09627250308553575.pdf>

¹² Ibid

¹³ Ministry of Justice (2013). Strategic objectives for female offenders. Retrieved from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/177038/strategic-objective-female-offenders.pdf

This chapter highlighted the objectives and particular aims of the Labour government and offered an overview of the existing situation in the criminal justice system for female offenders. Analysis of the current policies and state of affairs will be presented in the next chapter¹⁴.

Chapter 2

How are Women treated in the UK Penal System?

In this section, the unique challenges are explored that women experience while engaging with the criminal justice system, both in terms of their treatment and the policies themselves.

Current Policies and treatment issues

According to UK Statistics of Common Library, Women who commit crimes face sexism in the current criminal justice system. Although they only account for around 5% of inmates, they are responsible for 47% of all cases of self-harm, which is deeply disturbing from a psychological standpoint. Fifty-three percent of incarcerated women reported having a traumatic upbringing, and half of those women had experienced violence at the hands of an intimate partner. Many women who commit crimes face additional challenges, including mental health problems and

¹⁴ Gelsthorpe L, and Hedderman C, *Understanding The Sentencing Of Women* (Home Office 1998)

substance abuse. It is a well-known fact that female inmates have a higher incidence of mental health and substance abuse problems than their male counterparts. The danger of mental health issues is also higher than in other women, in addition to the increased risk of physical illness. Three-sevenths of incarcerated women had attempted suicide or seriously considered it. The families of female criminals are also disproportionately affected; in 2010, it was projected that 17,240 children had to grow up without a mother because she was in prison. Only a small fraction of children are raised by their fathers when the mother is not available¹⁵.

Infants who are born to incarcerated women face multiple challenges. Those who are incarcerated are more likely to feel lonely and depressed whether they are Black or a member of a minority ethnic group, a foreign national, or a woman. Nonetheless, they are less likely to seek out or receive medical attention from the facility's staff. According to Crime and Justice of UK, Many also wrongly assume that language barriers and biased representation contribute to the disproportionately high imprisonment rates experienced by persons of colour and first nations people in compared to white Britons under the current system. Women's imprisonment is problematic because many of them do not receive the support they need to rebuild their lives after release, including safe and affordable housing, gainful employment, and access to quality child care. However, research shows that reoffending is common (around 74% in the year following incarceration), especially among ex-offenders who struggle to find gainful employment and stable housing¹⁶.

¹⁵ (*Crimeandjustice.org.uk*, 2022)

<<https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/09627250308553575.pdf>> accessed 28 August 2022.

¹⁶ CLAIRE W HERBERT, JEFFREY D MORENOFF and DAVID J HARDING, 'Homelessness and Housing Insecurity Among Former Prisoners' (2015) 1 *The Russell Sage Foundation journal of the social sciences* : RSF 44.

Because they fear for their safety in an abusive relationship or because their mental health needs are not being met, some women actively seek re-incarceration¹⁷.

Many of these women are seeking re-entry into jail because they are currently homeless, experiencing violence from a boyfriend, or have untreated mental health issues.

Gender Differences

There has been a long history of discrimination and sexism against women who work in law enforcement. The regulations in place for the treatment and punishment of female criminals vary greatly from those in place for male criminals. In an effort to improve women's treatment in prison, criminologists, legal scholars, and feminists have all taken into account the relevance of gender roles in the field of criminal justice. The primary goal is to ensure that individuals of both sexes are afforded equal treatment under the law. Whether women are viewed as equal to men or substantially differently depends on a variety of things¹⁸. Take the findings of the most recent study by the Prison Reform Trust as an example: for the same crimes, female offenders face harsher penalties. Women are more likely than men to disclose a drug problem upon admission to a correctional facility. Mental health, substance abuse, childcare, long-distance travel, and traumatic experiences are just few of the many areas in which they are more likely to have specific needs. This is likewise true of them; they are more likely to have experienced these experiences. In addition, 65% of jailed women receive a diagnosis of depression, compared to 37% of male convicts. The evidence suggests that female offenders have more relationship issues than their male counterparts (this includes childhood trauma and no relationship with family

¹⁷ Doward J, 'Vulnerable UK Women Choosing Prison Over Life On The Outside' (*The Guardian*, 2022) <<https://www.theguardian.com/society/2016/dec/24/vulnerable-uk-women-prison-mental-health>> accessed 19 August 2022.

¹⁸ 'Women In Prison - Prison Reform Trust' (*Prison Reform Trust*, 2022) <<http://prisonreformtrust.org.uk/project/women-the-criminal-justice-system/>> accessed 28 August 2022.

members). "having family links is positively connected to effective prisoner reintegration and reduced reoffending," the study's authors write¹⁹.

The media's stereotypical and sexualized portrayal of female criminals has contributed to the normalisation of discrimination against women for decades. This has been going on for some time now.

This section indicates that present policy involving the imprisonment of female criminals fails to sufficiently safeguard the general public, offer enough women-specific community services, or satisfy the rehabilitative and safety needs of female offenders. Due to these flaws, the legitimacy and efficacy of women-specific services within the probation service is open to doubt²⁰.

Successful Government Strategies for the Future

We have seen the beginning of a period of change since 2010. The Ministry of Justice recently released a paper outlining the comprehensive plan they want to undertake to reduce the number of women in prison. In 2010, around £5 million in capital expenditures were allotted for the restoration of women's facilities. Plan details provided the impression that more women would be able to use community resources, and that older and handicapped women would have easier access to new facilities. Women would have access to designated safe spaces during times of distress.

United Nations General Assembly adopted the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders in 1995, which is considered a major reform (also known as the Bangkok Rules). This change has had a substantial effect on the way that

¹⁹ Norval Morris and Ann D. Smith, 'Women In Prison: A Study In Penal Methods' (1964) 77 Harvard Law Review.

²⁰ Loraine Gelsthorpe, 'Feminist Perspectives On Gender And Crime: Making Women Count' (2003) 53 Criminal Justice Matters.

institutions like jails deal with problems like sexism, violence against women, and providing opportunities for releasees to rejoin society²¹.

The Ministry of Judicial announced many more strategic goals in 2013 that addressed how female criminals should be dealt with and how the justice system should operate. The provision of effective community-based sentencing options, the adaptation of community-based services to meet the unique needs of female offenders, the personalization of the women's custodial estate to facilitate more efficient rehabilitation and appropriate punishment, and the facilitation of life management skills training for female inmates were among the goals set. These objectives have been fully met. Numerous studies have revealed the critical need for better treatment and care for persons with mental illness, as well as the fear that incarcerating these individuals is unnecessary.

As a direct result, policies have been put into place on a national basis to lessen the incarceration rate for women and deter them from engaging in criminal activity in the future. Another book that addresses this topic is "Human Rights and Prisons: A Pocketbook on International Human Rights Standards for Prison," which was released by the United Nations. Officials have compiled a list of international treaties compulsory on the United Kingdom that ensure the use of alternatives to incarceration, the right to liberty, and the safety of all juveniles and adults in detention. To guarantee that female convicts get the same safeguards against discrimination and abuse as their male counterparts, a separate area has been developed with the use of a joint plan based on international law. This action was taken to guarantee that women serving prison sentences have the same safeguards as men. The government first started making changes and offering targeted answers in 2013. New preparations were developed for a super-prison in Wales,

²¹ 'Human Rights And Prisons: Pocketbook Of International Human Rights Standards For Prison Officials - United Nations And The Rule Of Law' (*United Nations and the Rule of Law*, 2022) <<https://www.un.org/ruleoflaw/blog/document/human-rights-and-prisons-pocketbook-of-international-human-rights-standards-for-prison-officials/>> accessed 28 August 2022.

and additional possibilities were made available for inmates to acquire skills relevant to the job market "so they turn their backs on crime," as Minister of Justice Chris Grayling put it. These are but a few examples of the various adjustments that have been made²².

Corston Report

A lot of time and effort was spent learning about the inner workings and conditions of a women's prison. The findings of this study prompted the formulation of some sound suggestions for avoiding the incarceration of high-risk females. A few of the most crucial suggestions are as follows:

- increased coordination between agencies and better oversight of female offenders and those likely to break the law in the future;
- Prison term and detention should be set aside for women who commit big and violent offences, and if at all possible, these women should be housed in smaller local jails²³.
- Improvements in jail hygiene and fewer strip searches for female detainees are among the proposed changes to the corrections system.

Customarily, community service is required;

Enhancements to existing healthcare infrastructure, as well as provision of additional resources for women who break the law."

Studies released in 2013 under the title "Women offenders: After the Corston Report" looked at the government's execution of the report's recommendations and found that

²² Norval Morris and Ann D. Smith, 'Women In Prison: A Study In Penal Methods' (1964) 77 Harvard Law Review.

²³ House of Commons Justice Committee (2013), *Women Offenders: After the Corston Report, Second Report of Session 2013-14*, London: The Stationery Office Ltd, July 2013. p. 6

non-incarceration-based sanctions would be more financially and socially beneficial for vulnerable women offenders.

Women in Prison

In 2013, 77% of all female offenders given jail terms had short sentences, whereas only 63% of male offenders did, according to statistics compiled by the Ministry of Justice for WOMEN. This is largely attributable to the fact that female offenders are, on average, found guilty of less serious offences than male offenders²⁴. Poor mental health is a disproportionately common occurrence among those imprisoned, and records show that this rate is much greater among detained women. Although medical experts are still in charge of providing primary care, correctional officers and other frontline employees play an important role in preserving the mental health of incarcerated women and meeting their needs in this area.

About a third of female criminals in 2013 were first-time offenders, while only about one fifth of male criminals were. For example, shoplifting accounted for 45% of all female indictable crimes in 2013, despite accounting for approximately 22% of all convictions for male defendants over the course of the previous five years²⁵.

Before analysing the effects of jail on women and the likelihood of their rehabilitation, it is interesting to note that the majority of women currently incarcerated share extremely similar origins, which are often situations of vulnerability. These differences raise questions regarding the viability and efficiency of the current jail model, especially as it applies to female inmates.

Overview of the background of women that commit less offensive crimes

²⁴ House of Commons Justice Committee (n 1), p. 4

²⁵ House of Commons Justice Committee (n 1), p. 4

The three main types of vulnerability to which Baroness Corston drew attention were:

- Relational issues and concerns, such as domestic violence, childcare issues, and single parenting difficulties;
- Personal issues such as depression, low self-esteem, and substance abuse;
- issues of a social and economic character, including but not limited to poor pay, social isolation, and high unemployment rates;

According to data compiled from a variety of sources, domestic and sexual violence occur significantly more frequently among women offenders than they do in the general female population, and the vast majority of women in prison have been victims of this type of violence²⁶. This has been brought up by Women's Aid, a division of the National Offender Management Service.

Crown Court judges are provided with a copy of the Crown Court Sentencing Survey, which includes a list of aggravating and mitigating factors that judges have said they considered while passing sentence²⁷. This study found that women were more than three times as likely as men to check the box indicating that they were the primary caretaker or had caring obligations.

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²⁶ Daly, K. (1992). "Women's pathway to felony court: Feminist theories of lawbreaking and problems of representation" *Review of Law and Women's Studies*, 2, 11-52, quoted in Women's Aid, *Supporting Women Offenders Project: Women's Aid Interim Report for Ministry of Justice and National Offender Management Service*, October 2010

²⁷ Corston, J. (2007) *The Corston Report: A review of women with particular vulnerabilities in the criminal justice system*. London: Home Office. p.15

and more than twice as likely as men to check the box indicating that they had a medical or mental illness.

Mental illness, low self-esteem, eating disorders, substance addiction, and other personal examples of vulnerability all arise in the context of domestic and sexual abuse, single parenthood, and child care, as stated in the Corston Report, "it is now widely accepted that such traumas and issues contribute to problems regarding physical and mental health, which in turn can lead to deeper issues, including but not limited to lowering women's confidence and a lack of self-esteem."

According to studies, women offenders are especially vulnerable to structural vulnerabilities like poverty, social isolation, and joblessness. In the 2010/11 tax year, "53% of female criminals were on an out-of-work benefit one month after conviction/caution or release from prison," while only 42% of male offenders did so.

Effects of imprisonment on women with vulnerabilities

It has been argued that the prison system is "structured from a masculine perspective" and "primarily has men's demands in mind" because men make up such a disproportionately large portion of the prison population.

Female inmates account for 25.8% of the 23,183 self-harm occurrences recorded in 2013, which may come as a surprise given that female inmates only make up 4.6% of the total prison population. However, it is not surprising that female prisoners suffer more than their male counterparts while in confinement²⁸.

²⁸ Player, E. (2013). "Women in the criminal justice system: The triumph of inertia", *Criminology & Criminal Justice* 2014, Vol. 14, n. 3, p. 287

Since only 25% of children of incarcerated mothers live with their biological or present fathers, this has serious repercussions for the children. According to the Prison Reform Trust, kids whose mothers are incarcerated are three times more likely to experience mental health issues or engage in anti-social behaviour than kids whose fathers are not incarcerated²⁹.

The average distance between a woman's home and a prison is much further than that between a man's home and a prison, which makes it more challenging for women to maintain family ties, have visitation, and reintegrate back into the community, all of which contribute to the deterioration of mental health³⁰.

They also pointed out the prevent costs, which amounted to a rough estimate of £3.6 million and is considered to be way under the real figures. A recent and ground-breaking study by Hedderman and Jolliffe looked into the effects of incarceration on women. They came to the conclusion that the incarceration history of women contributed significantly to the dramatic increase in recidivism.

Expensive way to maintain an ineffective solution

Hedderman uses the expense of incarcerating mothers for nonviolent offences as an example, citing a report by the New Economics Foundation. This report estimates that this cost will be at least £17 million over the course of a decade. This is due to the fact that children whose mothers are incarcerated are more likely to follow in their footsteps and deal with issues. It is essential to

²⁹ Prison Trust Reform. (2013). *“Prison Reform Trust response to Justice Committee Inquiry on Women Offenders”*. Prison Reform Trust. Available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/PRTWomenOffenders.pdf>

³⁰ Player (n 12) p. 286

consider both the monetary cost of incarceration and the societal consequences of locking up women who commit less offensive offence³¹.

The Prison Reform Trust also analysed the data in light of other approaches. It is estimated that the lifetime cost of locking up those women is £101.8 million, whereas the cost of finding alternatives to incarceration is estimated to be £82.5 million. The Trust estimated that £19.5 million³². It may be saved through early intervention, with 2,000 nonviolent female offenders sentenced to prison in the UK in 2005. Alternative measures would positively affect the lives of children their parents are responsible for³³.

A better way: Alternative sentences and non- custodial Interventions

There are many reasons to explore the many proposals that the Corston Report makes for alternatives to incarceration. The Ministry of Justice conducted an analysis of the effective interventions on female offenders' recidivism rates and presented their findings in a fast evidence assessment in May of 2008³⁴.

Those who are not violent can avoid the trauma of incarceration by receiving community sentences and other non-custodial interventions. In addition to the problems with society and the law that come with incarceration, there is also a correlation between time spent behind bars and subsequent offences and incarceration. Women who pose no threat to society should not be

³¹ Genders, E & Player, E, (1987). *“Women in prison: The treatment, the control and the experience”*, Carlen, P & Worrall, A (eds), Gender, Crime and Justice, 161 – 175, Philadelphia: Open University Press p. 164

³² Hedderman, C. (2010) *“Government policy on women offenders: Labour’s legacy and the Coalition’s challenge”*. Punishment & Society, 2010, 12(4):485 – 500. pp. 487 – 488

³³ Prison Service Order (2010) *Women Prisoners: Order number 4800*. p. 2

³⁴ Prison Reform Trust (2007) *“Locking up women poor value for money, London: Prison Reform Trust*
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condemned to prison but feel the same repercussions as violent female offenders. This is not to suggest that we should not punish violent female offenders.

Research led by Baroness Corston reveals that, at least in the case of women in vulnerable situations, investing in prison is not the cure for crime, contrary to the beliefs of society as a whole and Conservative governments. Incarcerating these women is an expensive and futile solution. The conventional wisdom holds that prison serves as a deterrent in addition to serving as a punishment.

Because of studies provided by the UK Administrative authorities and the data that was gathered from them, it is impossible to deny that women are disproportionately affected by jail, which frequently leads to recidivism. This allows us to verify that the findings of the Corston report, which demonstrated the critical importance of addressing the unique challenges of women incarcerated today, are correct³⁵.

When it comes to dealing with these criminals, alternative strategies are not only more effective but also more cost-effective. Women's lives are negatively impacted by poverty, mental health problems, and domestic and sexual assault, often placing them in situations where they have little capacity for choice, leading to conviction and subsequent imprisonment. As a result, we can conclude that incarceration is the final result of a series of causes that begin with social conditions.

Women-focused services and organizations

³⁵ Lart, R., Pantazis, C., Pemberton, S., Turner, W. and Almeida, C. (2008) “*Interventions Aimed at Reducing Reoffending: A Rapid Evidence Assessment*”, Ministry of Justice, 2008. p. 23 – 24

Women in Prison, an organisation that promotes radical reform, has also affected how female inmates are treated and serves as a model for advancement and a fresh perspective on the criminal justice system. They monitored developments after the Corston report's release and shared their thoughts on it using a pictorial overview in the form of a traffic light³⁶.

The research suggests that "community solutions for nonviolent women offenders should be the norm," which implies that the government should reconsider its policies that have previously indicated that incarceration is not the best option for nonviolent criminals. Women's centres have been established, and there is evidence that they help reduce recidivism and give women who have committed crimes or been released from prison a second chance. The majority of women's centres offer community service "Increase the amount of cooperation that exists between the welfare system and the legal system. In spite of the fact that giving aid to underprivileged women is the main purpose of all women's centres, each one concentrates on a distinct component of this mission. For instance, the Women's Justice Taskforce report highlights the benefits of community intervention rather than jail sentences. Studies have shown that having links to local support services can not only be beneficial but also more cost-effective, and it can also help reduce the risk of recidivism. It would be more appropriate to have a discussion rather than a conclusion for this essay question given that the laws governing criminal justice and punishment are constantly being revised. As has been seen throughout this article, the treatment of women is a topic that is even more convoluted and sensitive than the notion of criminal justice itself, and individuals have a variety of perspectives on the principles of wrongdoing and its associated punishment. There is neither a right nor a wrong answer to the question of whether or not the criminal justice system should take women's unique circumstances into account. Several

³⁶ Prison Trust Reform. (2007). "*Measuring what matters: women and criminal justice*". Prison Reform Trust. Available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/nef%20measuring%20what%20matters%20women%20in%20the%20criminal%20justice%20system.pdf>

government and academic initiatives, such as the Corston Report and the collaboration between the Ministry of Justice, the United Nations, and registered charities, have been implemented to effectively reduce the disproportionate treatment and punishment of female offenders within the criminal justice system. On the other side, it may be argued that women do not belong in jails and that other methods are needed to treat women with mental issues. One strategy would be to look at each woman and her family more closely, and to provide extra support for them before and after they are released from prison. Given these numbers, it's hardly surprising that 50% of female inmates who were released from prison after a year committed new crimes³⁷.

Is the criminal justice system open to more reform, especially in how it treats women? When compared to what? Will the situation of female criminals stay the same or improve? The current philosophy of women's punishment is founded on protection, incapacitation, and risk management, despite extensive efforts to critically analyse the issues. Because of the philosophy's underlying belief that punishment is the optimal response, reaching a consensus is extremely challenging under its influence.

The current structure of the justice system is illustrated in this chapter, along with specific examples of how women are disadvantaged as a result. It also emphasised the importance of enhancing existing measures to guarantee equal treatment for women inside the system, as well as better opportunities for women to earn a livelihood and advance in society³⁸.

Chapter 3

³⁷ Thomas J. Reidy, Abdullah Cihan and Jon R. Sorensen, 'Women In Prison: Investigating Trajectories Of Institutional Female Misconduct' (2017) 52 *Journal of Criminal Justice*.

³⁸ 'The Prison Service's Treatment Of Women Is Shameful' (*The Guardian*, 2022)

<<https://www.theguardian.com/society/2012/oct/30/prison-service-treatment-women-shameful>> accessed 19 August 2022.

The impact of incarcerating women- addressing mental health, children/dependants effect, etc

Mental Health of Incarcerated women

Women make up around five percent of the population in jails and prisons across Europe. In addition to being almost totally absent from studies on prisons and health and being subjected to the stigma that is associated with female criminality, women in jail are frequently ignored, and their particular healthcare requirements are typically not addressed. The aim of this research is to assess the health of women incarcerated in the United States, including the women's medical requirements, their access to preventative medication, and the findings of in-person surveys. There has been a significant rise in the number of women who have been given sentences in correctional institutions. Women who are incarcerated in the United States are more likely to have been exposed to traumatic events and to be struggling with difficulties related to their mental health. In order to have a better understanding of the obstacles that these women face, the purpose of this research is to do a synthesis of the qualitative literature on the subject of mental health treatment for women who are incarcerated in correctional institutions. While the average sentence for a female prisoner in the United Kingdom is 11.30 months, the average term for a female prisoner in Ireland is less than three months. Female convicts make up just 4.1% of the overall population in prisons and jails in the United Kingdom. It is anticipated that 73 percent of British women who have served sentences of 12 months or less will be arrested again within a year of their release from prison. Because they are less successful at preventing recidivism than suspended sentences or community service, short prison terms have been criticised for their utility. This is owing to the fact that they are less common³⁹.

³⁹ (*Ojp.gov*, 2022) <<https://www.ojp.gov/pdffiles1/pr/172217.pdf>> accessed 28 August 2022.

Analytical statistics

Approximately eighty percent of women incarcerated in the United Kingdom are coping with some kind of mental health condition. When compared to women living in the broader population, female inmates have a five times higher chance of having a mental health condition. It is estimated that 3.9% of female convicts have concerns related to their mental health, 14.1% have severe depression, 10%-24% misuse alcohol, 30%-60% abuse drugs, and 21.0% have post-traumatic stress disorder (PTSD)⁴⁰. Over thirty percent of female prisoners in the United States participate in behaviours that cause them to injure themselves. In addition, the risk of suicide among incarcerated women is up to twenty times higher than the risk of suicide among the general population, and the risk of suicide within the first year following release is thirty-six times higher. A significant number of female inmates had, before to their incarceration, been victims of some kind of abuse, whether it emotional, physical, or sexual. Abuse can result in complex and frequently unresolved trauma, a factor that has been shown to be associated with antisocial behaviour⁴¹.

There is a correlation between having a traumatic experience and having troubles developing with one's mental health. These problems enhance the risk that the inmate may become a victim of abuse or assault while they are incarcerated, as well as the possibility that they will revert back to criminal behaviour when they are released. In the most recent few months, there has been a dramatic increase in the demand for gender-specific specialised services offered within

⁴⁰ Moorehead J, 'Why Prison Isn't Working For Women' (*The Guardian*, 2022) <<https://www.theguardian.com/lifeandstyle/womens-blog/2014/apr/22/prison-women-trauma-stephanie-covington>> accessed 19 August 2022.

⁴¹ James Dignan and Michael Cavadino, 'Penal Policy In Comparative Perspective' (2007) 70 *Criminal Justice Matters*.

correctional institutions. The Kyiv Declaration⁴², much like the Bangkok Rules, advocates for gender-specific care for female detainees. However, the Kyiv Declaration also suggests reevaluating existing policies and programmes to ensure that they are serving the needs of female inmates all around the world. The mental health care system should serve as a model for the correctional facilities, which should then include trauma-informed practises. A recent meta-analysis conducted in the United Kingdom paints a detailed picture of the circumstances under which women find themselves in forensic settings in which where those who have been arrested for doing criminal activities are detained as they await their day in court. One of their systematic reviews of inmate mental health services, on the other hand, tend to concentrate on medicine and psychotherapy, cognitive behavioural therapy and mindfulness-based therapy, as well as programmes for young adults. These reviews do not take into account gender-specific variations nor do they provide recommendations that are specific to either women or men. The rate at which the proportion of female criminals is increasing is much faster than the rate at which the proportion of male criminals is expanding. As a result, the penal system has a higher responsibility toward the women who are incarcerated within its walls.

The imprisonment of women who are mothers as offenders

Many different empirical analyses have come to the conclusion that a large proportion of female prisoners are also mothers. However, only seventy-five percent of the women who are detained in Central Asia are mothers, compared to seventy-eight percent of the women who are incarcerated in South Caucasus. It is fairly rare for mothers who are also women to be incarcerated, which can result in irreparable injury for their children and other family members. This can have a negative impact on both the children and their mothers. On a global scale, the

⁴² Lars Moller and Alex Gatherer, *Kyiv (Kiev) Declaration on Women's Health in Prison* (2009).

percentage of available jail space that is occupied by female inmates is lower than the percentage that is occupied by female inmates generally since women make up such a tiny fraction of the entire prison population. It appears from this that women are frequently imprisoned in sites that are located quite a distance from their homes and families. In situations when a mother's incarceration results in the dissolution of her family, the state will frequently assume custody of the mother's children. This happens a lot in cases when the mother was found guilty of a felony that resulted in her being sentenced to jail or prison. Women whose involvement in the criminal justice system ultimately culminates in their incarceration are typically stigmatised disproportionately for their involvement⁴³. In some instances, their families abandon them after they are incarcerated because of their involvement in the criminal justice system. The vast majority of nations allow babies and small children to remain with their incarcerated mothers until they reach a specific age; nevertheless, the age requirement for this privilege varies significantly from jurisdiction to jurisdiction. While these policies reduce the risks associated with immediate separation, life in prison with babies and young children also presents challenges (such as access to additional medical services, age-appropriate and adequate food, and other services for childcare in prison). Furthermore, in almost all countries, children are separated from their mothers at a certain age, causing both the mother and the child to experience emotional stress and trauma. Despite the fact that these measures decrease the dangers connected with abrupt separation, living in a jail with infants and small children still offers a number of difficulties. The misery that women go through as a result of forced separation and the dissolution of their families usually exacerbates traumatic events from the past as well as mental health issues that have been present for a while. The World Health Organization (WHO) reports

⁴³ Ann-Marie Bright, Agnes Higgins and Annmarie Grealish, 'Women's Experiences of Prison-Based Mental Healthcare: A Systematic Review of Qualitative Literature' (2022) ahead-of-print *International Journal of Prisoner Health* <<https://doi.org/10.1108/IJPH-09-2021-0091>> accessed 12 September 2022.

that the prevalence of mental health disorders among female convicts is much greater than either the prevalence of such problems among male prisoners or the prevalence of such problems among the general population. In addition, the risk of women harming themselves or attempting suicide is much greater than the risk of women in the general population for both of these outcomes⁴⁴.

An accurate evaluation of a person's mental health

Women, on the other hand, have reported running across a number of obstacles while attempting to gain access to mental health care. The lack of health literacy among women, who reported being unaware of available alternatives, was identified as a factor by the authors of the study as a possible explanation for the phenomenon. In addition, a number of the women were unable of comprehending the health booklets and were unwilling or unable to inquire for assistance due to feelings of embarrassment or fear. In order for women to obtain medical treatment, they were had to fill out an application in which they detailed the reasons why they need the services of a specialist. This treatment took "too long," and there were several instances where there were significant setbacks. Several women had improvements made to their health situations as a direct result of their petitions being rejected or disregarded. Women who had been denied treatment or who had watched as others were denied care characterised the experience as "discouraging and tiresome," and as a result, they ceased pleading for assistance and asking for it from others. After going through drug detoxification using these procedures, several women reported feeling "very ill." When women serving time in the correctional system were transferred from one facility to

⁴⁴ Laurel Davis and Rebecca J Shlafer, 'Mental Health of Adolescents with Currently and Formerly Incarcerated Parents' (2017) 54 Journal of adolescence 120.

another, they were not always allowed to bring their medicine with them. This was one of the factors that contributed to the difficulties they experienced⁴⁵.

As a person spends time behind bars, they gradually lose more and more of their freedom, which has a negative impact on their ability to exercise self-control and maintain their independence. Women's ability to take responsibility of their own health care was hindered since they frequently did not have the financial resources to take a cab to the hospital if they had symptoms of illness. Many women said that they were unable to keep their symptoms under adequate control because they were unable to engage in the self-medication behaviours that they had become accustomed to. In addition, women indicated "reluctance" to contact with medical experts if dose disparities were identified out of worry that their medicine would be suddenly stopped. This anxiety stemmed from the fact that women feared having their medication suddenly stopped working. They were concerned that medical professionals would dismiss their treatment since it wasn't producing the desired results. Because the jail physicians changed the women's prescriptions without providing an explanation or seeking their input, they were more concerned about their capacity to deal with the conditions in which they were being held. Several women report that their community drugs have been taken away from them, despite the fact that they have informed the staff of the prison healthcare facility of their current dose regimens. This has prevented women from receiving any rest or relieving the withdrawal symptoms associated with drug detox, which was the goal of the process. As a result of their usage of the substance, some of the participants stated that they had been the focus of "bullying" on the part of other inmates. The fact that a participant's request for counselling in addition to antidepressant

⁴⁵ Monica Deza, Johanna Catherine Maclean and Keisha Solomon, 'Local Access to Mental Healthcare and Crime' (2022) 129 *Journal of Urban Economics* 103410.

medication was refused because "the doctor thought medicines would assist" made it more difficult for the participant to practise self-management⁴⁶.

Affected Children of incarcerated parents

When a parent is jailed, life is challenging for everyone involved, but particularly challenging for the children. Children who have parents who are incarcerated are at increased risk for developing a variety of psychiatric and social issues. Children whose parents are incarcerated face a number of challenges, including but not limited to the following: exposure to their parent's criminal activity; witnessing their parent's arrest and court proceedings; being separated from their parents; financial hardship; housing instability; shifts in caregiving; tense visits with their parent; and feelings of shame and stigma. Children of incarcerated parents face a number of challenges, including but not limited to the following: exposure to their parent's criminal activity; witnessing their parent's One or both of a child's parents being incarcerated is a stressful situation that can have a bad impact on the child's mental health. In spite of the prevalent notion that children and adolescents who have parents who are incarcerated are more likely to develop mental health disorders, research on the subject has produced inconsistent results⁴⁷. A recent meta-analysis found that children whose parents are incarcerated do not have an increased risk of having negative outcomes related to their mental health. There have been a number of hypotheses put up as possible explanations for this facts. First, there was disagreement amongst studies in terms of when the dates of incarceration were recorded. Second, some studies took into consideration the potential that some parents had been imprisoned prior to the birth of their children. In addition,

⁴⁶ Ronald Jay Allen and others, *Comprehensive Criminal Procedure* (Wolters Kluwer Law & Business 2020).

⁴⁷ Stephen Farrall, Emily Gray and Phil Mike Jones, 'Politics, Social and Economic Change, and Crime: Exploring the Impact of Contextual Effects on Offending Trajectories*': [2020] *Politics & Society* <<https://journals.sagepub.com/doi/abs/10.1177/0032329220942395>> accessed 28 November 2021.

assessments of children's mental health were performed not just during puberty — the time of life when problems are most likely to surface — but also at many periods throughout the course of their growth. The majority of the studies that were included in the meta-analysis focused on internal symptoms as their primary area of investigation, whereas other elements of mental health received far less attention (e.g. self-injurious behavior, suicide ideation). These meta-conclusions have been called into question as a consequence of the findings of a substantial number of high-quality research. According to the findings of one study conducted in England, the risk of serious mental health problems for children whose parents were incarcerated was more than two times as high as the risk for children who were part of the general population⁴⁸.

There is a chance that a child's mental health issues will have an effect on their growth and development that will endure for their whole life. Studies have indicated that people whose depression begins in childhood or adolescence have a lower quality of life in terms of their social and vocational functioning, as well as their overall quality of life, compared to people whose depression begins in adulthood. Inadequate mental health in young people may also be associated with unfavourable outcomes in a variety of domains, such as lower rates of school completion, poorer rates of occupational success, and younger ages of first delivery. It is quite likely that the adverse effects of parental incarceration on children's mental health will continue to have an effect on the children throughout their whole lives [Citation needed]. When compared to those in the control group, those who, for example, had been subjected to frequent and severe parental detention throughout childhood were much more likely to demonstrate clinically

⁴⁸ Stephen Coughlan, 'Criminal Procedure 4th Ed.' [2020] Books <https://digitalcommons.schulichlaw.dal.ca/faculty_books/33>.

significant levels of anxiety and depression at the age of 48. And this was true not only for anxiety but also for hopelessness⁴⁹.

Family Structure

When a parent is incarcerated, other members of the family have a responsibility to provide the same level of stability and care for the kid. Studies have shown that the likelihood of a kid being raised by a single parent is much higher for children whose parents are incarcerated as compared to children whose parents are not incarcerated. It is common for mothers to take care of their children when their husbands are incarcerated; but, when mothers are incarcerated, just one out of every five dads maintains custody of their children. It is common practise to place children whose parents are incarcerated with grandparents or other relatives, who may or may not be in a position to offer the level of care required by the children in their care due to factors such as their own financial circumstances or health issues⁵⁰.

Interactions Between Parents and Children

The incarceration of a parent can result in the separation of that parent from their kid, which can have long-lasting consequences for the family. It may be challenging for incarcerated parents to maintain contact with their children while the youngsters are being held in detention. The remote locations of many jails make it hard for inmates to maintain relationships with their families and friends while they are serving their sentences. The prospective vacation spots are not an option for families with small children since they are not kid-friendly. The effects of parental incarceration on children's mental health and social development have received scant attention in

⁴⁹ Thomas Fovet and others, 'Mental Health and the Criminal Justice System in France: A Narrative Review' (2020) 1 Forensic Science International: Mind and Law 100028.

⁵⁰ Davis and Shlafer (n 44).

the research literature. On the other hand, the vast majority of these studies have only been conducted on children of school age or younger. Researchers have investigated how a child's capacity to build relationships and flourish is impacted when one or both of its parents are incarcerated. On the other hand, positive parent-child interactions that are seen by the teenager have been explored as a potential buffer for the emotional well-being of adolescents in both low-risk and high-risk settings.

Chapter 4

Gender Discrimination and Incarceration

Numerous investigations conducted by sociologists and other social scientists have focused on prisons as well as other types of forms of criminal punishment. Chivalry and more contemporary core concerns have been the focus of the great majority of research that has been conducted in an effort to understand this discrepancy. In this area, our review of the relevant literature reveals that efforts to determine how the sentencing process may be helpful to women have been all over the map. This is one of the findings of our investigation⁵¹. With the help of our findings, we intend to contribute to the ongoing conversation about sentencing. More specifically, we want to narrow the gap of difference that exists between studies and gain a deeper comprehension of how gender influences the severity of punishment. The vast majority of statistics point to the fact that adult female criminals receive shorter sentences compared to male criminals who commit the same

⁵¹ Amanda Clayton and others, 'In Whose Interest? Gender and Mass-Elite Priority Congruence in Sub-Saharan Africa' (2019) 52 *Comparative Political Studies* 69.

types of crimes. But critical questions are still unsolved. Even though there have been hundreds of studies conducted on this topic, for example, there have been a surprising lack of investigations into whether or not the influence of offender gender on punishment may vary according to the type of crime that has been committed. The majority of research on this subject have only examined outcomes for a limited subset of the many different types of illegal behaviour that may have occurred. This study intends to examine whether or not there is a correlation between the gender of the perpetrator and the severity of the penalty for various categories of criminal offences⁵².

The Role of Gender in Criminal Punishment

The premise that females will earn more milder sentence results may be one of the most well-established realities regarding the outcomes of the criminal justice system. This is because it has been validated by several studies since the 1980s and in a variety of jurisdictions across the United States. In addition, the premise that females will earn more milder sentence results According to the findings of the study, the largest disparity between the sexes occurred when determining whether a criminal sanction (like probation) would involve jail time or not. The chance of a woman serving time in a penitentiary facility is anywhere from 12 to 23 percentage points lower than the likelihood of a man serving the same amount of time, depending on the source.

Acquiring an understanding of the gender differences that exist in criminal behaviour and in the repercussions of that behaviour

⁵² Michele R Decker and others, “‘You Do Not Think of Me as a Human Being’: Race and Gender Inequities Intersect to Discourage Police Reporting of Violence against Women’ (2019) 96 Journal of Urban Health 772.

In the framework of the criminal justice system, recent data and trends reveal that females are increasingly being investigated, prosecuted, and convicted of crimes. Around the world, the percentage of women who are locked up in prisons is far higher than the number of males who do so. Between the years 2000 and 2016, the overall rate of imprisonment climbed by around 21% worldwide; however, the rate of incarceration for women and girls increased by 53% over the same time period. The dramatic increase in the number of women and girls incarcerated throughout the world in a span of fewer than twenty years calls into question the administration of criminal justice systems, the substance of criminal statutes, and the socioeconomic factors that drive increases in crime rate. All of these factors are at the root of rising crime rates⁵³.

Although a comprehensive criminological and sociological analysis of the massive increase in the number of women in prison is beyond the scope of this Module, it is vital to employ a gender lens in order to appreciate the rise in the number of women who are incarcerated. This is because the rise in the number of women who are incarcerated is disproportionately affecting minority and low-income women. This is due to the fact that rising rates of female imprisonment have a disproportionately negative effect on populations that are underrepresented. There is a vast array of problems that, in comparison to men, disproportionately affect women. It is imperative that these characteristics be addressed in order to gain an understanding of the gendered nature of criminal behaviour as well as the pathways that lead to incarceration. The United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences identifies a number of potential causes of violence against women. These include abortion in countries where it is illegal or legal only in limited circumstances; the commission of 'moral' crimes like adultery; running away, for example, to escape violence; being held in prison; and a strong correlation

⁵³ Karen Heimer, Sarah E Malone and Stacy De Coster, 'Trends in Women's Incarceration Rates in US Prisons and Jails: A Tale of Inequalities' (2023) 6 Annual Review of Criminology null.

with prior violence and abuse. The great majority of women who have been convicted of criminal activities pose very little or no danger to the rest of society. Incarcerating these women actually makes it more difficult for them to rejoin society rather than making it easier for them to do so. Because of the numerous kinds of bigotry and deprivation that women face at the hands of their husbands, families, and society as a whole, a significant number of them end up in jail or prison, either directly or indirectly. This occurs for a variety of reasons.

Women suffer a disproportionate amount of suffering

The prevalent gender inequalities, attitudes, customs, and values of a culture or community are reflected in its laws, regulations, and institutions. These aspects of culture or community are called "values." This is also the case with the judicial and legislative systems respectively. The following table provides a few illustrations of several ways in which the law might be discriminatory towards women, both in terms of its content and its practise. Examples of discriminatory laws that fail to address the full scope of discrimination based on gender identity and sexual orientation include those that make homosexuality or other forms of same-sex intimacy illegal, as well as those that exclude sexual violence against a person of the same sex from the definition of rape or other forms of violence⁵⁴. Other examples include laws that exclude sexual violence against a person of the same sex from the definition of other forms of violence. Laws that make homosexuality and other forms of same-sex intimacy illegal are also discriminatory towards transgender people since they criminalise same-sex intimacy.

The perpetration of violence against women is a significant factor in both criminal

behaviour and incarceration rates

⁵⁴ Martha Jane Paynter, 'Policy and Legal Protection for Breastfeeding and Incarcerated Women in Canada' (2018) 34 Journal of Human Lactation 276.

According to the United Nations Special Rapporteur on violence against women, its causes and effects, there is a clear connection between the incarceration of women and the act of violence against women. It has been demonstrated that being subjected to acute trauma can either cause or contribute to the development of personality disorders such as borderline and antisocial, as well as behaviours such as substance abuse and post-traumatic stress disorder (PTSD). All of these issues may be traced back to violent behaviour, which frequently leads to incarceration. 86 percent of the incarcerated women in the sample reported having been the victim of sexual or physical violence as a child, or having witnessed domestic abuse, according to the results of interviews conducted with 102 mothers living in the central region of California. When challenged by their abusers, female victims of domestic or intimate partner violence may turn to physical violence out of fear for both herself and the protection of their children. Women who have been subjected to repeated acts of violence by an intimate partner are at risk of developing a condition known as "battered woman syndrome." This condition can cause them to feel hopeless and prevent them from taking the steps necessary to end the abuse, such as filing criminal charges or accepting offers of help. Women who suffer from Battered Woman Syndrome often struggle with feelings of depression and a reluctance to take any steps toward bettering their circumstances because of the frequent acts of violence committed against them by their intimate partner⁵⁵.

Learning about the distinct ways in which men and women are more prone to participate in criminal behaviour and be jailed is the first step in establishing a gender-sensitive worldview. This may be accomplished by reading up on the topic. Consequently, it is of the utmost importance to analyse whether or not the laws reflect a bias against the treatment of women.

⁵⁵ Marie E Karlsson and Melissa J Zielinski, 'Sexual Victimization and Mental Illness Prevalence Rates Among Incarcerated Women: A Literature Review' (2020) 21 Trauma, Violence, & Abuse 326.

Women who have been the victims of sexual or gender-based violence (SGBV) have been shown to have an increased likelihood of committing additional crimes. Penal Reform International (PRI) also notes that the disproportionate effects of poverty and strict drug laws should be considered when analysing crimes committed by women and attempting to explain the rise in the number of female offenders. These factors should be taken into consideration when analysing crimes committed by women and when attempting to explain the rise in the number of female offenders. When analysing crimes committed by women and attempting to make sense of the recent rise in the proportion of female offenders, it is essential to keep this in mind and keep it front and centre in your thoughts⁵⁶.

Challenges that women encounter when seeking to obtain justice

At each and every step of the criminal justice process, women face a distinct set of obstacles as a direct result of the male-dominated and male-oriented nature of the conception and provision of these services. A significant amount of research has been done focusing on the ways in which gender and the legal system interact with one another. This book investigates how gender plays a role in the administration of justice in the United States (2015). It is researched how feminist viewpoints on crime, victimisation, and criminal justice represent a danger to the status quo of male-dominated criminal justice systems. Also investigated is the method in which feminist criminology provides a threat to the status quo of criminal justice. In addition to this, the researchers investigate the ways in which the ideas and practises of feminist criminology present a challenge to the traditional practises of the criminal justice system.

⁵⁶ Shilo St. Cyr and others, 'Intimate Partner Violence and Structural Violence in the Lives of Incarcerated Women: A Mixed-Method Study in Rural New Mexico' (2021) 18 International Journal of Environmental Research and Public Health 6185.

Viewpoints of professionals working in the criminal justice system

It is possible for them to apply, enforce, and perpetuate gender stereotypes when engaging with both female and male criminals, as well as when making judgments on detention or other non-custodial measures. It's possible that this happens unintentionally, or because they don't address the stereotypes that exist about those working in the judicial system. It is difficult to generalise about the effects that gender stereotypes have on female criminals. Abandoning a kid, indulging in prostitution, or using physical force against another person are all examples of crimes that might result in a more severe punishment or treatment for the woman committing the offence than for the man. The provocation defence is a good illustration of how the law may be somewhat ad hoc at times:

Homicide sentences for women who kill in response to abuse and violence may be more severe than those for men who kill in response to what the courts call "provocation," while those for men who kill in response to what the courts call "provocation" may be less severe. Homicide sentences for women who kill in response to abuse and violence may be more severe than those for men who kill in response to what the courts call "provocation." In other instances, judges might give lesser sentences to female criminals because of paternalistic views rather than because of an understanding of the actual facts surrounding the crime⁵⁷. This is because women are commonly viewed as being weaker, more subservient, and more easily manipulated than men, and as a result, they are held to a lower standard of culpability for their wrongdoings. The reason for this is that women have a lower standard of culpability for their wrongdoings. Even though this may be the desired outcome and gender stereotypes may not necessarily result in

⁵⁷ Sarah Y Thomas and Jennifer L Lanterman, 'A National Analysis of Shackling Laws and Policies as They Relate to Pregnant Incarcerated Women' (2019) 14 *Feminist Criminology* 263.

unfavourable repercussions for female criminals, judges, prosecutors, and public defenders should be aware of existing prejudices, opinions, and attitudes that may affect their behaviour. This is because these factors have the potential to influence their actions. Instead of basing their choices on their personal predispositions, they should base them on the facts, the laws that are now on the books, and the highest ethical standards conceivable. In addition, they have the responsibility of paying great attention to the specific requirements and limitations of both males and females.

Inmates who are female and have been convicted of drug-related offences

Drug offences account for a disproportionate share of women's incarceration rates in certain countries, whereas other crimes, particularly violent ones, have a disproportionately negative impact on men's solitary confinement rates. Many people believe that national and international anti-drug laws and regulations are to blame for the alarming rise in the number of women who are being detained. According to data compiled from correctional institutions located all around the world, the great majority of women doing time behind bars are there for drug-related offences. Between the years of 2006 and 2011, the number of women incarcerated in Latin American countries virtually doubled as a direct result of the disproportionate effect that these drug restrictions had on the region. Even though the majority of drug offences committed by women in jail are very small, drug-related offences account for seventy percent of all female inmates. For example, 77 percent of women incarcerated in Ecuador were there for drug offences, although only 33.5 percent of male offenders were. This disparity was seen across the country⁵⁸.

⁵⁸ Marie Claire Van Hout and Jakkie Wessels, 'Human Rights and the Invisible Nature of Incarcerated Women in Post-Apartheid South Africa: Prison System Progress in Adopting the Bangkok Rules' (2021) 18 International Journal of Prisoner Health 300.

The World Drug Report discovered that women's drug use habits are distinct from those of men after researching the effects of prosecuting minor drug offences on women. Women are more prone to internalise their problems and turn to substance abuse as a kind of self-medication in order to cope with misfortune, whereas males are more likely to participate in behaviours that are regarded to be more externally focused in reaction to adversity. Women who are addicted to drugs have a higher risk of developing post-traumatic stress disorder (PTSD), and they also have a higher risk of having suffered traumatic experiences as children, such as neglect, abuse, or sexual assault, all of which have been connected to substance usage. Women who find themselves in legal trouble may experience a worsening of preexisting vulnerabilities as well as mental health difficulties. It is less probable that female inmates will receive the required medical treatment and mental health therapy while they are incarcerated, which is important for their rehabilitation and reintegration into society. It is imperative that they receive these services so that they can heal and become productive members of society⁵⁹.

Concerns have been raised regarding the disproportionate number of women who have been criminalised as a result of prosecution for low-level drug-related offences. The United Nations Office on Drugs and Crime (UNODC) has acknowledged the role that gender plays in the incarceration of women for serious drug offences. This adds to the existing concerns regarding this issue.

Some of the women who are involved in the illegal drug trade are also victims of other forms of human trafficking, such as sexual exploitation. This is especially true of those who are trafficked into the drug trade. There are a number of possible factors at play, one of which is the role that women's precarious social positions and experiences of oppression play in driving them to

⁵⁹ *ibid.*

become involved in the distribution of illegal drugs out of fear. Researchers in the academic community have observed that in order for women to participate in drug trafficking activities, they may feel pushed to accept lesser rates of payment than males do. [Citation needed] [Citation needed] Because of this, it's feasible that certain drug trafficking organisations would start using females as "mules" rather than males in order to move their product.

As a percentage of the global jail population, female detainees are expanding at a considerably higher rate than their male counterparts. Due to the fact that the correctional system was developed with men in mind, which makes it inherently unsafe for female inmates. Because they are deprived of their freedom, inmates of any gender are put in jeopardy of having their human rights violated, but the predicament is particularly dire for female inmates. In addition, women who are incarcerated at any stage of the process are at risk of being abused, assaulted, or subjected to sexual, gender-based, or intimate partner violence (SGBV) at the hands of law enforcement officers, prison authorities, or even other female inmates. This risk exists regardless of the circumstances under which the women were arrested. In the following sections, we will take a look at some of the various challenges that are faced by women who are incarcerated.

According to the World Health Organization, the individuals who make up the populations of prisons have already succeeded in overcoming a diverse assortment of challenges. Many of them have never experienced anything other than living on the margins of society, have only a basic level of education, and originate from economically disadvantaged families. Their preexisting condition of poor overall health and vulnerability to illness is made worse by the fact that they participate in dangerous behaviours and addictions on a consistent basis, such as excessive drinking, smoking, and drug use. Some of those who commit crimes suffer from severe mental

illnesses and should be treated in a psychiatric facility rather than in a prison. In addition, infectious diseases such as HIV, hepatitis, and tuberculosis (TB) are significantly more widespread in prisons than they are in the general population. The fact that ensuring the health and safety of prisoners, irrespective of their sexual orientation or gender, presents a number of challenges highlights the need for internationally recognised standards and norms, such as those outlined in the Nelson Mandela Rules, which specify fundamental requirements for how all prisoners should be treated. This demonstrates why these guidelines and expectations are of such critical importance⁶⁰.

Nevertheless, it is very necessary to acknowledge the distinct challenges that female inmates must face. Many of these challenges may be traced back to discriminatory practises, policies, and institutions, which can be found across society as a whole as well as specifically within the criminal justice system (inside criminal justice settings). All of these challenges must be taken into account in order to have a comprehensive understanding of the disparate consequences that jail sentences have on female offenders, and each of these challenges has been detailed above. It is essential to keep in mind that a woman who has been convicted of a crime and sentenced to prison is statistically more likely than other women to have endured significant victimisation and hardship, including sexual assault, domestic abuse, addiction to drugs or alcohol, and economic hardship. This is something that must be kept in mind at all times. This is a problem that needs to be looked at in great detail. Medical professionals are advocating for trauma-informed care for female detainees in order to prevent any further suffering that may be caused by the inherent vulnerabilities of female inmates. The rigours of incarceration, which have traditionally been designed for adult male criminals, can have a disproportionate impact on female offenders. This

⁶⁰ Stephanie C Kennedy, Annelise Mennicke and Rajib Paul, 'Childhood Polyvictimization and Mental Health Issues among Incarcerated Women' (2021) 30 *Journal of Aggression, Maltreatment & Trauma* 410.

is because incarceration was traditionally designed for adult male criminals. This is due to the fact that a significant number of female criminals also struggle with significant issues related to their physical and mental health, and the fact that trauma is a common component of the criminal justice system. The vast majority of women who are currently serving time in prison are there because they were once the targets of physical or sexual assault. There is a chance that the awful experiences that these women have through may be compounded by the manner that they are treated in jail, which may increase the likelihood that they will commit other crimes in the future.

Recommendations

The number of female offenders can be reduced by making proactive efforts to identify and assist at-risk females before these women become involved with the criminal justice system.

Additionally, there needs to be more community support for these women, and when necessary, more effective diversion strategies. These three things are the primary focuses of the strategy that was developed to address the problems that were found.

There has been a shift from imprisonment to community management, with fewer women being held in prisons (especially those with short sentences) and more being placed under community supervision. This change has resulted in fewer women being imprisoned in jails. It has been decided not to move through with the plan to build five additional community prisons dedicated solely to housing female criminals. Short jail sentences would be considered as "a last choice," and the government would aim to improve public and court trust in alternatives to incarceration, such as community orders. For example, short prison terms would be viewed as "a last resort."

Inmates' relationships with their families are strengthened, and the number of inmates who self-harm or commit suicide drops "dramatically." When women are released and reintegrate into society, they should have access to support services that can help them cope with issues related to their mental health and drug abuse. The assistance that is provided ought to assist the women in locating housing that is secure and reliable, continuing their education, and/or finding gainful employment.

Qualitative investigations involving a range of different demographics that are entirely focused on the experiences of women getting mental health care in jail might prove to be beneficial to future study. It would be good for future research to consider participant status, given that the experiences of women might be different depending on whether or not they have been convicted or are currently on remand. In addition, the findings of forthcoming research should provide more background information on the numerous mental health services that are accessible to women.

Conclusion

Parents' incarceration is a social policy topic. Children whose parents are incarcerated have specific requirements, and those requirements must be taken into account in any effort to enhance the current system of mass incarceration in the United Kingdom. As a result of the fact that children whose parents are incarcerated typically have poorer functioning mental health, advocates for alternative sentencing alternatives for parents who are currently incarcerated, particularly those who were convicted of minor offences, point to this fact in their arguments. This is very important for families in whom one or both parents have served considerable time in jail or prison. Regarding issues related to the emotional well-being of young people. According

to the findings of this study, children whose parents are serving time in jail or prison are at an increased risk of developing mental health problems of their own. However, extreme risk factors, such as a young person's family living in poverty or their parents being incarcerated, can have a catastrophic effect on their mental health. The quality of interactions that a child and adolescent has with their parents is a significant factor in determining the degree to which they are safe.

It has been asserted by both government agencies and non-profit organisations that women have specific needs that are particularly challenging to meet within the CJS. As a result of the findings of this investigation, additional research on the experiences of women who use mental health services while they are incarcerated is required, and there is an immediate requirement for the global adoption of gender-specific mental health care in prisons. This evaluation has also demonstrated how critical it is to acquire additional knowledge regarding the utilisation of mental health care services by female inmates. Women who have been convicted of a crime that carries a jail sentence typically have histories of trauma and vulnerability, regardless of whether or not they have been sentenced to jail time for their crime. As a result, an individual doing time in jail must have the opportunity to acquire social skills that extend beyond engaging in illegal activities, and they ought to have access to competent mental health care if they require it. It is necessary for this to take place in a detention centre. Women who are incarcerated need to establish meaningful connections with staff members who exemplify the humanistic ideas of empathy and unconditional positive regard for there to be any chance that they would be able to go through an actual therapeutic process.

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