



# Being a Woman and a Mother in English Prisons

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## Abstract

A sizeable proportion of women prisoners (66%) in England and Wales is a single parent to a child under 16 and a recent estimate places the yearly number of children separated from their mothers due to the latter's imprisonment to 17,500. Pregnancy and motherhood are key milestones in a woman's life that impact both the mother and her offspring as early as from the time the baby is in the womb. This is a recognition that does not seem to persuasively extend to female prisoners who are pregnant or mothers at the time of their sentencing to prison and during their imprisonment in England and Wales. This warrants attention not just from those responsible for female imprisonment but from other policy spheres, considering that the children of female prisoners are much more likely to not be in education, in training or employment compared to the children afflicted by paternal imprisonment. Against this background, this mini review offers a snapshot of the treatment of female prisoners who are pregnant and/or mothers and reflects on the implications of failing to protect pregnancy and motherhood in prison with reference to the female prisoner's social reintegration prospects and her child's potential in life.

**Keywords:** Women Prisoners; Motherhood; England and Wales; Children's Welfare

## Introduction

Women prisoners represent 4% of the current prison population in England and Wales, with 3604 being in custody in October 2023, representing a 15% increase since January 2023, with projections pointing to further increases into 2024. There are 12 female prisons, in England only, with no prison establishment in Wales [1-5]. This means that women from Wales serve their sentence in an English prison that further adds to the travel costs associated with family prison visits, impacting on the families' ability to maintain contact with their relatives in prison.

68% of women sentenced to prison typically serve short sentences for non-violent offences that are less than 12 months [6]. Despite a wide consensus that short sentences are counter-productive in terms of their rehabilitative and deterrent value, even more so in relation to women offenders

who feature amongst the prisoner categories with the highest re-offending rates, in the last 30 years, the proportion of women serving 6 months or less has increased from a third to more than half [7]. To complicate matters further, there is a tendency to remand women who do not end up serving a prison sentence, with the figure standing at 34% of those tried at the magistrates' courts and 44% of those tried at the Crown Court [8].

Despite the predominantly non-violent offending profile of women prisoners and the negligible deterrent value of the 'short sharp shock' their prison time aims to inflict on them, in the first instance at least, retribution seems to be the overarching principle guiding the punishment of women offenders; a retribution that as the sections below show does not allow room for the consideration of mitigating circumstances, thus raising questions about the rationality, fairness and justice of most of female imprisonment.

## Women Offenders: Gendered Biographies

Women's offending histories are inextricably linked with biographies characterized by trauma, often rooted in early childhood and adolescence. Women's stories speak about parental abuse or neglect, and thus spending time in local authority care, chronic sexual and domestic violence victimization, drug and alcohol addiction as coping mechanisms, and a range of mental health issues, such as depression, psychosis and suicidal ideation [9].

Compared to men women are afflicted by such traumas at a greater proportion the impact of which is augmented by patriarchal gender stereotypes about their involvement in offending as women and their role as mothers [10]. Women prisoners are seen as doubly deviant, crossing social and gender boundaries by offending. In doing so, they are seen not only as bad and deviant, but also mad. In our patriarchal societies, women are (still) expected to be conformist in their choices; for example, to choose to care for others, to have children and to not jeopardize their caring responsibilities by engaging in offending behavior that takes them away from their nurturing destined role [11].

Female offending crushes in a way an enduring socio-cultural fantasy of the Woman as the Mother who is always available to serve her children and her male partner in socially acceptable ways. The female prisoner can be seen as a threatening figure that signifies that she is not omnipotent, always benign, and compliant; that she has a mind of her own like a man has and she can find herself in trouble. As such, criminal justice and social care professionals' interactions with female prisoners are key to their rehabilitation and reintegration as the ways in which they engage with them need to acknowledge their complex nature, the depths of their victimization and patriarchal expectations of them.

## Key Selective Reviews and Policy Documents Relating to Female Imprisonment

In the wake of 6 female suicides at HMP Styal in the early 2000s, the state commissioned Corston Review of Women with Particular Vulnerabilities in the Criminal Justice System was published in 2007. It recognized that women and men experience prison differently because of their respective differences in offending, biographies and lifestyles as these are influenced by gender and biology and highlighted the "need for a distinct approach" to male and female imprisonment under the UK Equality Act 2007 to ensure gender equality, respect and fairness [12]. It specifically recommended the use of custody only for serious and violent female offenders who pose a risk to the public, an end to sending women to prison "for their own good, to teach them a lesson, for their own safety, or to access services" [13] and to remand them when

prison as punishment is not probable [14]. In recognition of female offenders' gendered trauma and its association with their offending, the Report recommended bespoke support for women who are victims of sexual and domestic violence and/or involved in sex work, treating it as a necessary part of the female offender resettlement framework. Up until then, the resettlement framework had focused on the seven key areas that ranged from accommodation and health to life skills, pro-social attitudes and children [15].

Importantly, the Report noted the aspect of motherhood and it being a core dimension of a female prisoner's identity, the impact of imprisonment on the mother and child relationship and the child's life prospects. In doing so, it recommended that women should only be remanded after a probation review of the impact of remand on their children [16].

Although the Report stopped short of outrightly recommending the abolition of female imprisonment, it did call a) for the replacement of women's prisons with small custodial centres within a 10-year period, with a sufficient geographical coverage so that women remain close to their communities and b) for a greater deployment of women's centres as community spaces for early intervention, support and resettlement [17].

More than a decade later, in 2018 the Ministry of Justice published in The Female Offender Strategy that re-affirmed a commitment to the spirit of the Corston Report and part of its recommendations. The Strategy identified a) early intervention, b) community-based solutions and c) better custody as key priorities to supporting female offenders [18]. Better custody was understood in terms of trauma informed prison regimes that would aim to facilitate better supported prisoner contact with family and improved prisoner access to good quality well-being interventions. The Strategy acknowledged the differing impact of female imprisonment on children and its potential for the transmission of intergenerational trauma and offending [19].

The Strategy also identified the contribution of prison staff as instrumental to the delivery of trauma informed prison regimes. It recognized the staff challenges involved in working with such a vulnerable group and the overarching importance of appropriately trained prison staff for a female custody that is safe and does not re-traumatize the women [20].

In 2019, the publication of the bespoke Lord Farmer Review on Women represented an irrefutable state acceptance of the fundamental importance of contact with family to women's rehabilitation and their children's wellbeing and life trajectory in the short and long term. In

this context, the Farmer Review highlighted as priority the implementation of virtual visits across women's prisons followed by the installation of in-cell phones so that women can continue to care for their children, especially since many of them are the primary carers. It recommended inter alia that the Chief Social Worker for England conducts a review every time a child is separated from their female primary carer following the latter's imprisonment to ensure that the child's best interests are duly considered.

### **Pregnancy and New Motherhood in English Prisons**

A sizeable proportion of women prisoners (66%) in England and Wales is a single parent to a child under 16 and a recent estimate places the yearly number of children separated from their mothers due to the latter's imprisonment to 17,500 [21]. Between April 2022 and March 2023, there were 194 pregnant women in custody, 52 of them on remand, 74 been sentenced, and 25 been recalled whilst the status of the remaining 43 was unclear due to different monitoring tools used [22].

Expectant and new mothers can apply for a transfer in one of the currently 64 Mother and Baby Units (MBUs) which can accommodate up to 70 babies potentially until they become 18 months old, with the possibility for an extension if it is in the baby's best interests. The MBUs are separate living units in a prison staffed by prison officers. They have adjacent OFSTED registered nurseries where babies can spend time under the supervision of qualified nursery staff while their mothers work and attend other rehabilitative activities [23]. In March 2022, there were 23 babies accommodated in MBUs with their mothers [24].

Decisions on MBU placements foreground the baby's best interests and welfare, aiming to increase both the baby's and the mother's resettlement prospects in the community as a family unit. With this aim in mind, MBUs aspire to lay the foundations for the development of the all-important bond between mother and baby; a bond that is credited with the baby's ordinary mental and emotional development and the formation of a healthy attachment to the mother and subsequently to important others during their life course [25].

Importantly, based on the principle of equivalence in care, pregnant women and new mothers in prison are legally entitled to the same level of antenatal and perinatal care as the one afforded to women in the community [26]. The 2016 Birth Charter developed by the charity Birth Companions is a strong re-affirmation of the fundamental importance of equivalence in care and offers a comprehensive guidance to the Prison Service on how to support women and their babies

in prison during and after pregnancy and in preparation for their resettlement into the community.

### **Being a Mother in Prison**

Pregnancy is an intense emotional and physical experience that renders the pregnant woman vulnerable psychologically, mentally and physically as she tries to take care of herself and her growing unborn baby. This already vulnerable state of being is heightened when the woman has substance misuse and/or mental health issues and finds her in a custodial environment that is not structurally and relationally designed to take care of pregnant women.

Abbott [16] documents the stresses pregnant women in custody experience as they are confronted with a lack of privacy (e.g.; sharing a cell, being escorted by officers to appointments, being handcuffed) and choice over important aspects, such as nutrition which further increase feelings of guilt, inadequacy and worry about the health of their baby. Her baby's health is not the only worry that a pregnant prisoner has.

She worries about her baby's care, whether she would be able to keep her baby with her and/or who would take care of her baby, and her separation from it. New mothers in prison who are separated from their babies are more at risk of re-offending as their mental health deteriorates and they are likely to fall back on substance misuse once they are released.

Imprisonment begets sharp maternal pains. Imprisoned mothers have a limited choice in how to continue to mother their children and face the stigma of being unfit to parent since they have found themselves in prison. Institutional denial and/or censure of their being mothers through lack of empathy and procedural failures, and restrictions on their doing motherhood can leave them at the mercy of unchecked and unprocessed internalized feelings of powerlessness, rooted in past victimization and neglect that can manifest, for example in self-harming and suicidality. Their invisibility behind bars as women qua mothers is confounded since their grief over the loss of their children is not seen as legitimate; they brought it upon themselves after all based on societal expectations of good motherhood.

Imprisoned mothers' disenfranchised status by way of imprisonment seeps into their children's experiences of their separation and their feelings about it. Prisoners' children become 'disenfranchised grievers', having no means to express and thus process the complexity of their grieving emotions about their mothers without incurring stigmatization. Their 'disenfranchised grief' bears no legitimacy, only 'secondary stigmatization', which is

compounded by their 'secondary prisonization', experienced in changes in their living arrangements and in the surveillance and scrutiny their relationship with their mother is placed under by imprisonment. All this confounds their grief and thus increases the potential for adverse outcomes later in life, as some research shows that the children of imprisoned mothers are more likely to not be in education, employment or training.

### **Women's Gendered Prison Experiences: the Reality on the Ground**

In England and Wales, the Ministry of Justice, scholars, and practitioners have recognized for some time that female imprisonment is a gendered experience in terms of the nature of women's lived carceral experience and its impact on them and their children; that imprisonment can endanger further women's physical and mental health a) because their vulnerabilities have already been acute before entering the prison and b) because the imprisonment apparatus has been constructed with men in mind due to their sheer numbers being found incarcerated in any given period of time.

This recognition is yet to translate into a lived reality for women prisoners. For example, contrary to the Corston Report recommendation and the Female Offender Strategy priority to increase credible diversionary punishment measures for women offenders, women are still sentenced to short prison sentences. Worryingly and paradoxically, imprisonment is increasingly being used a place of safety for women because there is a lack of community mental health provision.

Taken as an indicative measure, evidence from the last three years shows that women prisoners self-harm in an increasing rate, seriously mentally ill female prisoners remain incarcerated instead of being transferred to a mental health hospital, and women languish aimlessly in their cells due to lack of staff to escort them to rehabilitative activities which, in their majority, are not of good enough standard.

Women on remand cannot access resettlement support, which is the reality for the majority of women, with more than half being released without settled accommodation.

In relation to the quality of maintaining contact with their families, whilst some important steps have been taken, such as the installation of in-cell phones in closed female prisons and reductions in call costs, the impact of the covid-19 pandemic is still lingering, affecting overall progress.

The prison deaths of two babies in 2019 and 2020, and the prison death of a new mother in 2015 in three different prisons have brought the imprisonment and subsequent care

of pregnant women under the spotlight. Investigations by the Prisons and Probation Ombudsman (PPO) revealed that central guidance on MBUs and the approach to supporting pregnant women had been not fit for purpose and non-existent respectively, thus failing to deliver equivalence of care. Failings comprised a communication breakdown between community and prison professionals, resulting in key information not being timely shared, as well as a lack of a prenatal and postnatal pathway of care suitable for the custodial environment, with a similar communication breakdown between healthcare and MBU staff. Like HM Inspector of Prisons in his 2022-23 Annual Report, the PPO investigation noted the absence of a trauma informed approach in the care available.

In the aftermath of these tragic deaths, in 2022 No Births behind Bars and Level Up, a constellation campaigners and stakeholders, wrote to the Sentencing Council and the Ministry of Justice, asking for a statutory duty on courts to consider pregnancy and new motherhood as mitigating factors when sentencing and making decisions on bail. No development has yet been made in this direction.

### **Reflections**

Women enter prison with already acute vulnerabilities which the prison as a primarily custodial institution is not equipped to address structurally. In effect, not only is the prison environment unable to address women's acute traumas, but also it cannot contain them, endangering women's physical and mental health further. Prison also undermines the mother's bond with her baby in the wake of their separation and impacts on her child's development in ways that are not immediately understood until much later in their life.

Female imprisonment in England and Wales fails to support women in addressing their addictions, to compassionately listen to their traumas, and to empower them to believe in themselves so that they can care for their families. Calls such as the one made in 2022 by a broad campaigning coalition for pregnancy and motherhood to be taken into consideration when courts make a sentencing or bail decision are long overdue, as the use of imprisonment for far too many women.

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