

**Women in prison: International Debates
and local relevance**



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Abstract

WOMEN IN PRISON: INTERNATIONAL DEBATES AND LOCAL RELEVANCE

This paper sets out to examine, through a review of the criminological literature, the complex social phenomenon of female offending and imprisonment. In this review, the emphasis is placed on the contribution of feminist debates. The paper is divided into two parts. Part one looks at the feminist theoretical framework of female offending and the contribution of feminist research to our understanding of women's experiences inside prison. Part two explores the practical issues concerning women's imprisonment. Here, the emphasis is placed on international debates and policy implications with regard to women's imprisonment. By drawing on international debates and criminal justice practices relating to women in prison, this research paper will explore issues relevant to South Africa and the issues confronting incarcerated females. In addition to this review, a small set of case histories was done with ex female offenders which will contribute to understanding some of the issues confronting incarcerated females in South Africa.

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Chapter 1

INTRODUCTION

The punishment of criminal women has historically been characterized by methods, goals and justifications different in important respects from punishment of men (Krutchmitt & Gartner, 2006). Such approaches have been based on the notion that when a woman committed a crime she not only committed a crime against the moral order of society but against her femininity. The following quotation illustrates this notion:

“Even one episode of extramarital sex brought her ‘a rotting, decomposition of human virtue and dignity’. Even a single sexual experience made her capable of any crime. One misstep and a woman were beyond redemption, beyond reform. And like the proverbial apple in the barrel, just one was enough to corrupt every man, she came into contact with”
(Rathbone, 2006: 66-67).

Therefore the treatment of women in prison was organized in such a manner to address and restore their femininity. Historical evidence indicates that reformatories or prisons for women were organized to feminize, domestisize, and medicalise women criminals (Carlen and Worrall, 2006). The general viewpoint that was held in society regarding women offenders was that they were morally deprived, corrupt and in need of special forms of control and confinement. For example, the systematic confinement era of offenders during the 16th and 17th century marked the beginning of women offenders being used for domestic purposes (Dobash, Dobash & Gutteridge, 1986).

In 1870 Elizabeth Fry and eleven other Quakers formed the Association for the improvement of female prisoners in Newgate. Fry was particularly concerned with the conditions at Newgate. On her first visit Fry discovered 300 women and their children, huddled together in two wards and two cells. Furthermore, female prisoners

were sleeping on the floor without nightclothes or bedding and had to cook, wash and sleep in the same cell.¹ However, this marked the beginning of reform in the treatment of female offenders. Fry's work contributed positively in changing the conditions for female prisoners but she faced a lot of criticism. Fry's ideas of reform however, were based on personal, paternalistic means of correction with religion as its main instrument (Dobash *et al*, 1986). As a consequence this approach reinforced the redemption of women from their evil ways and restoring their femininity. Over time the focus on religion as a means of reform shifted towards a therapeutic approach. Dobash *et al* (1986) and several other scholars criticized the therapeutic approach because of its assumption that criminal women are mad. Over the years this assumption has shifted from the criminal women being 'mad' to being 'bad' by recognizing that women offenders have agency (Carlen, 1985; Heidensohn, 2002). Similar trends were evident in the treatment of female prisoners.

Contemporary viewpoints regarding the treatment of women in prison moved away from the above-mentioned approach, towards recognizing the needs of the female offender and establishing appropriate programs to reform and rehabilitate female offenders. Several scholars have argued for a gender-specific approach for women offenders. Central to this argument is that women have different needs and appropriate policies and structures are essential to address these requirements.

Female Imprisonment in South Africa

For the past few years I have developed an interest in the study of prisons and imprisonment. After reading Jonny Steinberg's book, '*The Number*' I embarked on research investigating the lives of prisoners in particular and became interested in their lives and the culture created by prisoners while being incarcerated. So far, I have found that most of the literature on the prisoners in South Africa is mainly focused on the lives of male prisoners (Steinberg, 2004; Muntingh, 2001). After a visit to the Female Prison at Pollsmoor Prison in the Western Cape, I became increasingly interested in the lives of female prisoners.

¹ <http://www.spartacus.schoolnet.co.uk/REfry.htm> accessed on 9 October 2007.

Very little is known about female crime and imprisonment in South Africa. A year ago an article published in the *Mail and Guardian* highlighted the neglect of female prisoners in South African prisons.² The few scholars that have done research on female prisoners in South Africa indicated that because of the small percentage of female prisoners they are often neglected and excluded from the leading debates on imprisonment in South Africa. (Gibbons, 1998; Haffejee, Vetten, Greyling, 2006a, b) It is against this background of relative neglect that I have chosen to focus on my research on women in prison. In conducting this research – through essentially a literature review - I am not necessarily arguing in favor of gender-distinctive approaches to the treatment of female prisoners compared to male prisoners.

For purposes of this enquiry two questions stand central. The first question is: Why are these women in prison? Secondly: What challenges do they face while being imprisoned? In order to answer these questions I decided to embark on a series of interviews with female ex-offenders who were resident in *Beauty for Ashes*, a halfway house for female ex-offenders run by Stephanie van Wyk. *Beauty for Ashes* is an ideal place because it was easily accessible. The life story interviews or small case histories were the most appropriate approach in doing interviews as they had the potential to cover both aspects of the two questions posed above. For the purposes of this paper the case histories will not be a central part but will serve as a compliment to the review of the literature on women in South African prisons.

This thesis will entail an analysis of women and crime and imprisonment. The phenomenon of women and crime and imprisonment has been overshadowed by debates on male offending. Furthermore, it is interesting to note that much of this research has been conducted by women. It is these contributions by feminist criminologists which will be canvassed and considered in my thesis. For too long, women in prison has been marginalized and been forced to have the same conditions in prison as applicable to men superimposed upon them. This thesis aims to reveal the problems with such an approach, which ignores the context of the female prisoner. By drawing on the international debates and criminal justice practices

² Donnelly, L. (2006). Female Prisoners Suffering ignored. *Mail and Guardian*, 21 October 2006: <http://www.mg.co.za> accessed on 23 January 2007.

related to women in prison, this paper will also explore issues that are relevant to South Africa and the issues confronting incarcerated females.

The thrust of this paper will be a review of the criminological literature on female offenders and imprisonment. The emphasis of this review will be on the feminist contributions to our understanding of female offenders and imprisonment. The review will consist of two parts. The first part will look at the theoretical aspects of female imprisonment. The second part will focus on the practical aspects with a particular emphasis on policy developments vis-a-vis incarcerated women.

Part one consists of two chapters. In Chapter two, *Women and Crime: Feminist debates* I look at the feminist debate regarding women and crime. Here brief historical overview of women and crime is provided as a basis for understanding the feminist debates regarding women and crime. In the second instance I will look at the feminist theorization of women and crime. Reviewing the literature on women and crime is done to gain an understanding of the complex social phenomenon of women and crime, instead of providing answers to theoretical questions.

Chapter three titled *Women in Prison: a Review of Debates and Research*, provides a review of feminist literature on the experiences of women in prison. This chapter starts off by looking at the historical overview of women's imprisonment specifically focusing on the treatment of women prisoners and the theoretical questions raised regarding women and imprisonment. After posing critical questions related to women and imprisonment this chapter looks at the reactions of women to imprisonment. This is done to provide a framework of the contribution of feminist research to an understanding of women's experiences of imprisonment.

Part two of the thesis consists of Chapter four and five. Chapter 4 is titled, *Women in Prison: International Developments*, which looks at the international trends in the incarceration of women. Internationally women comprise a very small percentage of the total prison population and factors related to female imprisonment

are often overlooked. The female prison population has grown rapidly over the past decades. The factors which have contributed to such growth are considered and the impact of such growth on policy regarding female imprisonment is mapped. Various feminist scholars advocate the need for a gender specific approach to the imprisonment of females. Gender-specific approaches, for example, have been adopted in England and Wales and the features of such approaches are discussed in this chapter.

Chapter five is titled *Women in Prison in South Africa* and looks at South Africa's female prison population and the debates surrounding this aspect. As mentioned before the female prison population attracts very little attention in South Africa. This is mainly because women constitute such a small percentage of the total prison population. As a consequence of this low ratio very little provision is made for female prisoners in correctional policy. This chapter highlights this aspect and proceeds to problematize this state of affairs. As mentioned before, in addition to this aspect, a series of interviews was done and the results of these interviews will briefly be outlined in the next section.

Finally, I shall present the conclusion in which the crucial aspects regarding this debate in the chapters are highlighted.

Research Methodology

This section will give a brief outline of the research process of the case history interviews that was conducted. It is crucial to highlight that this section is an additional section to this paper which is primarily a literature review.

After a few visits to the female prison section at Pollsmoor Prison in the Western Cape I have developed an interest in the lives of these women. In doing research about prisons and imprisonment I found that majority of the research that has been done focused mostly on the male inmates in South Africa. This sparked even more interest and I decided to embark my research on women prisoners. It was difficult for me to find a particular angle in the study of women prisoners and, at last, I decided to explore women and their pathways into crime as this provided me with a holistic perspective on the issue. The following questions were central in the interviews:

- Why are these women in prison? Or what are women's pathways into crime?
- What impact does imprisonment have on women's lives?
- What are the women's experiences of post incarceration?

At the time it was difficult to get access to prisons and I discovered that Jubilee Community Church, which I attend, ran a social ministry, called *Beauty for Ashes*. Beauty for Ashes is a non profit organisation. The main aim of this NPO is to see people taking the opportunity given to them, dealing with the issues that landed them in prison and putting the past behind them, walking into a brighter future (Jubilee Community Church, 2007). This NPO is owned and run by Stephanie van Wyk. It all started in 1977 when Stephanie van Wyk attended an ALFA ministry programme in Pollsmoor Prison when she realised that women leaving prison had no where to go. Because of their predisposition these women in many cases return to prison again. Mrs van Wyk's first attempt was a coalition with Jubilee Church to set up a halfway

house for ex-prisoners at *Loaves & Fishers* street shelter. The interviews were conducted at *Beauty for Ashes*.

Beauty for Ashes operates within a network of rehabilitation centers, initiatives and programs. It operates in conjunction with *Beth Rapha* (drug rehabilitation) *Rape Crisis*, *Pregnancy Help Centre*, *NICRO*, *Mosaic*, *Prison Fellowship South Africa (PFSA)*. These organisations in conjunction with Beauty for Ashes help to provide female offenders with resources and skills that Beauty for Ashes cannot provide them. Beauty for Ashes also aims at providing a haven (a place of safety and protection where one can heal) and not an institution (a place dictated by rules and limitations of personal growth)(Zeeman, 2006).

Research Method and Sampling

In order to answer the three questions outlined above I embarked on a qualitative study. This approach was critical as provides one with the subjective experiences of the women. This kind of study also have the potential harnessing and extending the power of ordinary voices and expression to help one understand the social world these women were living in (Terre Blanche and Kelly, 2006: 274).

The life story interview method was used as it was the most appropriate approach in providing a holistic perspective of the women prisoners lives. The life story interview method is useful in gathering information about stigmatised, uncomfortable or difficult circumstances in the subjects' lives. In comparison with other structural qualitative methods, life story interviews provide one with a more intense opportunity to learn about the subjects' backgrounds, opinions, feelings, meanings they give to mundane events and exceptional experiences in their lives (Richie, 1996: 16).

A group of 5 women participated in the study. The ages of the women ranged from 26 years to 51 years old. The women were sentenced to prison for crimes ranging from theft, housebreaking and shoplifting; dealing in drugs and possession of drugs; fraud and murder. The prison sentences of the women ranged from 18 months for fraud, 22 months for shoplifting and theft, 5 and 6 years for possession and

dealing in drugs and 15 years for murder. All 5 of the women who participated in the study have been to prison on more than occasion. The sentences accounted for here is the last sentences served by the women. The number of criminal offences against the names of the participants ranges from 66 offences as the highest to 1 criminal offence as the lowest number of offences against the names of the participants. When I started with my research there were three women living in the house. The other two women who participated in the study also lived at the house but have moved out. One woman was living in a halfway house for abused women and children and the other one was living with her husband.

For the purposes of recording the data I have used a tape recorder. At the beginning of each interview I informed the women that I have to use a tape recorder as it is vital for me to record the information. The women did not have any problems with the tape recorder but this did affect the way the women responded in the interviews.

The interviews were conducted at the halfway house where the women are living. The first group of interviews that was done lasted between one and half hour and one hour and forty five minutes. This group of interviews did not produce efficient data and I was left with many questions that were not dealt with. For this reason I decided to go back and run a second round of interviews to fill the gaps that was left open in the first interview. The second round of interviews was maximum two hours each in length. This provided me with intensive information that was vital for this research project.

Negotiating Access

I got in touch with Stephanie van Wyk, through Jubilee Community Church. With the permission from the person who ran the organisation the negotiation of access process did not seem so complicated in the beginning. However this changed as I experienced a delay in conducting the interviews. The delay was caused by the gatekeeper who was the housemother. The housemother ensured me at our first meeting that she would talk to the women and would give feedback on their responses as soon as possible. This took quite sometime and I eventually contacted

her to hear the outcome of the women's responses. She apologised for not contacting me and said that the women have been quite busy but they agreed to participate in the study. After that I had to contact the housemother once again to schedule interviews but this created a small problem because the housemother decided when and who she wanted me to interview.

Ethical Considerations

Before embarking on the research I explained to each participant what the study entails. At the beginning of each interview I repeated the same process by explaining to the participants what the study entails. I informed the participants that the study will be explore three objectives namely what are women's pathways into crime, what do women experience while being in prison and what are their experiences or post incarceration. I also allowed for participants to ask any questions if they are not clear what the study is all about. The research ethics of the Faculty of Law, University of Cape Town were used as a guideline.

The women were asked to read the conditions carefully and were fully informed of the conditions before signing the form. The women raised concerns with regard to the confidentiality of the information. One of the main concerns was the use of their original names. I ensured the women that the information will be handled with the strictest confidentiality. I also ensured the women that I would use pseudonyms to mask their identities.

Findings

As outlined above this section is an additional part to the literature review for this reason the findings will be briefly mentioned in this section. Only a small part of the interviews were utilised in other parts of this paper. This section will be divided into three main themes with its different subthemes. Thus this section will only present the findings and not discuss it because this paper is literature review and this section is additional just to inform my discussion. The findings are as follow:

- *Pre Incarceration*: This theme focused on pre-incarceration factors to get an understanding of why women go to prison. Under this theme the

following subthemes were found histories of abuse; socio-economic factors and drug addiction. The findings illustrated that the histories of abuse, poverty and substance abuse described the pathways of these women to imprisonment. The women also highlighted that they are not victims of their circumstances but have chosen to commit the crimes they were imprisoned for.

- *Incarceration*: Under this theme experiences related to incarceration was explored. The subthemes were pains of imprisonment (losing children); spirituality; prison culture; violence in prison: gang violence and relationship amongst inmates. Under this theme I found that women do experience imprisonment completely different compared to their male counterparts. The women were faced with a lot of complexities which questioned their roles as mothers, their identities, sexual identities and personalities. The women came up with ways of dealing with these complexities through spirituality and the extension of the criminal subculture. However, this section opens the doorway for a lot of questions that would be worth exploring in another research project.
- *Post Incarceration*: This theme explored the factors related to post incarceration. The following subthemes were highlighted; homelessness; re-establishing relationships with children, family and friends; unemployment and stigmatisation; relapse into substance abuse, abusive relationships and going back to prison. Upon their release the women faced a lot of problems which resulted in them returning to prison. The main reason for this is because there were no support structures in place. The women could not return to their families because in most cases their families did not want them back. *Beauty for Ashes* became a haven for those who have been rejected by their families.

Concluding remarks

The information gained from the small case histories were very limited in nature. Most importantly the information gained from this case histories gave an

understanding of the kind issues that incarcerated women face in South African prison.

Chapter 2

WOMEN AND CRIME: FEMINIST DEBATES

2.1 Introduction

Several feminist writers have explored issues around the women and crime phenomenon (Smart, 1977; Leonard, 1982). The main concerns that have been addressed are the invisibility and neglect of women in mainstream criminology. Walklate (2004), Smart (1976) and Leonard (1982), leading authorities on women and crime, highlight the following concerns:

- Firstly, they address the notion that crime is considered a male-dominated activity and suggest that criminological research agenda become more inclusive..
- Secondly, they stress the need to move away from the traditional criminological theoretical agenda towards including feminist theories and *their* contribution to explaining empirical data.
- Thirdly, they also reflect a concern that both women's offending and women's experiences of victimisation should be central to the debate on women and crime..
- Lastly, they share the view that male dominance within criminal activity will be better understood as a product of gender differences than a product of sex differences.

Walklate (2004) points out that there are inherent difficulties in solely concerning oneself with the women and crime question. It is argued that such an approach could be detrimental to the criminological discipline. Brown (1985) in Walklate (2004) pointed out the following complications of a position that solely concerns itself with the women and crime question.

- Firstly, such an approach leaves the field of criminology and its domain untouched and unquestioned.

- Secondly, the criminal behaviour of women is always judged and measured against the male norm.
- Thirdly, the women and crime question tends to focus solely on questions of women and neglects as a consequence problematic men and their relationship to masculinity.

These factors are considered as important for feminist criminology in order to make its mark in mainstream criminological discourse. Keeping all these factors in mind this chapter will examine the complex social phenomenon of women and crime by looking at feminist scholarship and the theoretical issues raised by feminist writers.

The historical debates of women and crime and women and imprisonment will be considered, so as to create a map. This will be useful in examining how feminist criminology conceptualises the concept of women and crime. The historical explanations of the criminological discourse of women and crime and women and imprisonment have been well researched, and for this reason I will only consider them briefly. There are two phases in feminist criminology. The first phase consists largely of an early critique of mainstream criminology, while the second one revisits and reflects upon feminist criminology.

2.2 Earlier explanations of female crime and imprisonment

“The man’s nature may be said to be hardened, the woman’s destroyed. Women of this stamp are generally so bold and unblushing in crime, so indifferent to right and wrong, so lost to all sense of shame, so destitute of the instincts of womanhood, that they may be more justly compared to wild beasts than women” (Owen, 1866: 153 in Zedner, 1991: 321).

The above quotation illustrates the description of the character of the female criminal during the 18th and 19th century. Female criminals who were labelled in such a manner were the women who did not adhere to society’s construct of an ideal womanhood (Zedner, 1991: 320). The notion of morality or the standards of society regarding the role of women played a powerful role in describing the female

criminal. This phenomenon is evident in the type of crimes that women were convicted of. Zedner (1991) illustrates this aspect by pointing out the types of crimes women were convicted of in Victorian England. Women who were from urban areas, in comparison with their rural area counterparts, were often convicted of drunkenness in public, common assault usually accompanied by the intake of alcohol and of prostitution (Zedner, 1991). However Beattie (1975) in Zedner (1991) concluded that female crime in the 18th century was primarily based on the socio-economic situation of women. A similar trend was evident during the 19th century in Victorian England.

Historically in literature, science and popular thought, women had either been idolised or maligned. The conceptions of women fluctuated from being virtuous beings to being devious enchantresses. These were widespread in society and, as a result, these stereotyped conceptions also persisted in scientific research (Pollock, 1978: 25). Thus, the general consensus that is held in the earlier literature on female criminals posited that when women offend they do not only offend against the law but they also offend against their ascribed social and moral roles in society (Zedner, 1991).

In their endeavour to explore female crime, earlier criminological theories were also bound to the general perception of the role of women in society. In fact, many of the theories that addressed female crime during the earlier periods based their theoretical frameworks on these perceptions. Pre-Lombrosion theories (Lombrosion theories will be discussed in some detail later on) based their theoretical framework on Darwin's theory of determinism. In doing so, theories of crime mainly focused on the criminal rather than on the crime (Crump, 1990). Crump (1990) points out that according to these theories women turned to crime because of social conditions such as occupation, marriage, opportunity and 'sexual conditions' which is based on the inherent need for women to secure the attention of a specific male counterpart.

Cesare Lombroso (the *father of modern criminology*) in his book *The Female Offender* considered female crime. As did his counterparts, Lombroso's theory of female crime was also mainly based on the criminal rather than on the crime. In the book, Lombroso and Ferrero (1895) considered a number of physical measurements which led to the conclusion that prostitutes and female offenders have a larger number of characteristics of degeneration than normal women do (Crump, 1990). This theory of female crime has been widely criticised for its adherence to the stereotypical definition of women. Crump (1990) argues that whilst Lombroso did not create the stereotype he re-enforced it although he ought to have questioned it. Lombroso's theory contributed to the foundation of feminist criminology .. Thus a dismissal of Lombroso's theories would not seem viable as it is important to place the theoretical framework in its broader social and political context. Walklate (2004) highlights a very important point that sheds some light in understanding Lombroso's theoretical stance. According to Walklate (2004) a possible reason why Lombroso did not allow for the female criminal voice to be heard was that theorists of this age were in search of a universal explanation for the causes of crime that would include both sexes.

Sigmund Freud, like Lombroso and other contemporaries, regarded women as somewhat biologically deficient. According to Freud, the biological or physical deficiency of women relates to women being unable to resolve the oedipal conflict. With a psychoanalytic approach Freud believed that women are inclined towards amorality because of their anatomical deficiency. This view was in support of his general perspective that women's deviant behaviour derives from the masculinity complex called 'penis envy' (Flowers, 1987: 93). Freud's theory of women's crime raised a lot of controversy. The penis envy (masculinity complex) was criticised by his contemporaries. One of the main criticisms of the masculine complex proposition was that it exhibited a masculine bias. Additional criticism also stressed that Freud's theory of women's crime was mainly based on psychological variables while disregarding other factors such as the social, political and the economic issues that women were faced with (Flowers, 1987: 94). However there is very little evidence to back up his theoretical proposition. Freud's view do reflect the wider general attitude

that women somehow lack a sufficient thresh-hold of morality. This idea is largely in keeping with many earlier criminologists dealing with the issue of women and crime.

Unlike his predecessors, W.I Thomas (1863-1947)³ did not describe female offending as a biological abnormality but believed that female offending was a socially induced pathology (Smart, 1976: 37). In doing so, Thomas took a psychological approach in explaining female offending. This approach stated that individual offenders should be treated as under-socialised, meaning they have not adapted to social values fully and for this reason female offenders should be described as being 'sick' rather than being inherently evil or opposed to the dominant values of society (Smart, 1976: 37). According to Thomas every human being has a basic desire for new experiences and a desire for a response. W.I Thomas considers these two desires as factors that are more likely to influence offending (Pollock, 1978:44-45).

Environmental factors also formed part of Thomas' theory of female crime. For this reason, a large part of his work was based on the criticism of the community because he felt that the community was inadequate as a socialising agent. According to Thomas, the community should provide legitimate means for attainment of needs so that criminals and potential criminals would fit into the roles that society has ascribed to them (Flowers, 1987: 94-95). Thomas had a liberal approach in his explanation of female offending. This was aimed at the individualisation of 'social problems' and the method of individual treatment. This approach was well received and became very popular with social reformers (Smart, 1976: 37). Thomas' largely liberal approach served as the justification for continuing the rehabilitation methods that were used in prison. The need for treatment of the individual offender was the driving force behind this approach. This approach played a key role in the rehabilitation of offenders especially in the case of female offenders (Smart, 1976: 45). Despite Thomas' advocating for the treatment of the individual offender, there were a few shortcomings with regard to his explanation of women's crime. Smart (1976) argues that though Thomas' explanation of women's crime was liberal, it was

³ http://spartan.ac.brocku.ca/~lward/Thomas/Thomas_bibliography.html accessed on 2 April 2007.

also was very paternalistic. It overlooked the limited life chances of working-class women and generalised that women are virginal figures by attributing the value system of women to the perceptions of what society has about women. Women who could not live up to these perceptions of society were described as amoral and deviant.

According to Klein (1973), Otto Pollak's (1950) *The Criminality of Women* had an influence on the field of women and crime. Pollak based his theory of female crime on the theory of 'hidden' female crime. According to the theory of 'hidden' crime women were the instigators rather than the perpetrators of the crime (Klein, 1973). This assumption is in line with the saying that women are the 'root of all evil'. Pollak was of the opinion that this assumption accounted for the reason why women's crime rates were much lower than their male counterpart. The second assumption made by this scholar was that the role played by women in society furnished them with opportunities to commit crimes without attracting much suspicion. The role of the woman as a housewife, domestic worker, and nurse enabled women to commit crimes that are undetectable due to the fact that society did not generally associate the role of the passive maternalistic, care-giving woman with crime. Klein (1973) pointed out that Pollak's theory was based on sexual differences. Pollak also rejected the possibility of a discrepancy between the crime rates for men and women.

As mentioned before, according to classical criminological writings on the topic women did not just offend against the law but they also offended against their ascribed social and moral roles in society (Zedner, 1991). It is with this in mind that earlier explanations of female imprisonment were based on the moral reform of women. Crime-prevention strategies for female offending were based on the moral regeneration approach. Thus, imprisonment for criminal women served to morally reform them in order to fit them into traditional roles in society. Zedner (1991) pointed out that criminal women were seen as atypical. In fact, the female criminal was seen as a different creature and for this reason penal policy-makers emphasised the need to modify regimes in order to accommodate women. Such an approach

seems like a positive move towards recognising the needs of female prisoners but, as seen later, this was not in fact the case.

According to Zedner (2006) two systems or policy solutions were suggested to deal with women who were in prison. The two systems were particularly enforced to isolate inmates from society and prevent communication between prisoners, with the ultimate aim of securing moral reform (Forsythe, 1987 in Zedner, 1991). The two systems referred to here are the '*silent system*'⁴ and the '*separate system*'⁵. These two systems were particularly meant to apply to women in prison. In fact, Zedner (2006) quoted Whitworth Russell who advised that silence and separation should be strictly observed for women because they contaminate one another even more than men do. Nevertheless this statement adequately describes the way in which female criminals were perceived at that specific time.⁶

The separate system had three main goals, namely, preventing corruption, supporting moral reform and aiding deterrence. The main goal that moral reform had in mind for women was the desire that women become more prone to reform because they were more impressionable than men. During that time women were seen to be immune to deterrence because, unlike their male counterpart who could reason rationally for himself and calculate the pros and cons, women acted emotionally and impulsively. It is by appealing to a woman's emotional and impulsive nature that a woman was regarded as being impressionable [*and therefore potentially reformable*]. The problem lay more in the fact that, despite the existence of workable policies for female reform, these policies rarely translated into practice.

However the situation of female prisoners changed over time. The pioneering work of Elizabeth Fry, from the Quaker Reformist Group in Britain, brought about a

⁴ "Silent system in which prisoners were allowed to work communally but not talk to one another..." (Zedner, 1991: 322).

⁵ "Separate system in which prisoners were isolated in individual cells and their solitary confinement was to be broken only by those visits from the chaplain..." (Zedner, 1991: 322).

⁶ These policy developments were most apparent in both the US and Britain.

change in the perception of female prisoners. Concern was raised over the appalling conditions suffered by women in prisons and an undertaking to improve these conditions was started. In her attempt to improve the conditions of women in prisons, Fry launched a radical experiment to reform prison conditions by appealing to women's feminine needs (such as a desire for greater hygiene) and thereby exercising personal influence over female prisoners. She also attempted to reform prison conditions through religious instruction (Zedner, 2006). This approach has been widely criticised by feminists. Snider (2003) argues that the reform of female prisoners during that time was based on the assumption that women who adhered to society's accepted notions of the role of a (good and moral) woman had the special knowledge and unique nurturing abilities necessary to rescue 'fallen' women. In other words, society believed and desired that their constructed 'good' woman had the power to save the 'bad woman'. This view is a further entrenchment and deepening of society's limited construction of woman.

Earlier theories were heavily criticised by subsequent feminist criminologists. But these earlier theories remain important because they set the foundations for feminist criminology. However, it is critical to note that earlier explanations of women's crime and imprisonment should not be separated from the broader social processes.

Next, I shall turn to feminist criminology and examine its theoretical framework with regard to women and crime and women and imprisonment.

2.3 Feminist Criminology

Can there be a feminist criminology? This question - posed and answered in the affirmative by Daly and Chesney-Lind (1988) - indicates that there is indeed a possibility for such a theoretical stance in criminology. Despite the disagreements that neither feminism nor criminology is a unified set of principles, consensus was reached that feminist criminology cannot be a single and unified discipline apart from other disciplines (Daly & Chesney-Lind, 1988). Accepting the fact that feminist criminology cannot isolate itself, it is then argued that feminist theories and research

should be part of criminology's approach to crime and justice. The premises of this argument are based on the assertion that feminism will be a demonstration that the focus on gender can be far more than the focus on women or sexism. It also sets the stage for an opportunity to study unexplored features of men's crime as well as modes for theory construction and verification (Daly & Chesney-Lind, 1988). It is with these factors in mind that feminist criminology opened up new debates regarding women and crime and its approaches to this phenomenon.

The need for a feminist criminology was based on the fact that theoretical criminology was unable to adequately explain women and crime (Leonard, 1982). This phenomenon is highlighted in the previous section, that theories of female offending and imprisonment were shackled to society's perception of the role of women in society. Another reason why theoretical or mainstream criminology failed to give an adequate account of female crime was that theories of crime were mainly based on male offending and imprisonment (Leonard, 1982). It is with this in mind that Leonard (1982) stressed the need for a feminist criminology. In doing so, Leonard (1982) suggested that the ultimate goal is not to create 'criminology for women' nor should feminist criminology continue to take a sexist theoretical stance, but it should incorporate an understanding of both male and female behaviour and move towards a sexism-free analysis of social reality.

Feminist criminology can be divided into two phases. According to Daly and Maher (1998), the two phases consists of a first early phase and a second more recent phase. The two phases are laid out as follow:

- The first phase of feminist criminology originated during the 1960's. The main question of concern that was posed during this period was what were the experiences of women . In doing so, this phase in its contribution to feminist criminology firstly critiqued theories for failing to consider gender differences or for characterising women in a sexist manner. Secondly, it set out to conduct empirical studies to explore women's experiences as lawbreakers, victims and workers of the criminal justice system.

- The second phase of criminology originated during the 1980's. This phase challenged the effort that was introduced by the first phase of criminology. The 1980's critique and challenge was based on two main sources: women marginalized by feminist theory (women of colour and lesbians) and post-modern or poststructuralist texts and theories. The major academic activities of this phase were centred around the problematisation of the term women as a unified category, acknowledging that women's experiences are constructed by legal and criminological discourses; revisiting the relationship between sex and gender, and reflecting on the strengths and limits of constructing feminist 'truths' and knowledge.

Before embarking on the first phase and its theoretical framework it is important to look briefly at earlier feminist theories. Heidensohn (1968) is amongst the few who had written about female crime and posed some critical questions during the awakening period of feminist criminology. This scholar also problematised the fact that very little attention was paid to female crime or deviance during that time and called for an objective and scientific approach to treat female crime as a topic in its own right. Apart from these observations, Heidensohn (1968) also raised an important fact that women appeared to have low rates of participation in deviant activities. However Daly and Chesney-Lind (1988) argue that the claim made by Heidensohn and other scholars with an interest in female crime gave rise to two very important dimensions that questioned the criminological enterprise. The first was the 'generalizability' problem which poses the question as to whether the theories generated to describe male deviance can be extended to describe female deviance. The second was the 'gender ratio problem' which posed the question as to why females commit less crime than males (Daly and Chesney-Lind, 1988: 508). Both of these questions played a central role in the first phase of feminist criminology.

2.3.1 The first phase: Early critique of criminological theories

The first phase of feminist criminology set out to critically address the theoretical framework of mainstream criminology. Daly and Maher (1998) stated that earlier feminist analyses assumed that it was possible not only to expose but also to

overcome 'stereotypes' of women in theories of crime or criminal justice. Therefore, this section will focus on the first phase of criminology and its critique of mainstream criminology in an attempt to expose and overcome the stereotypes of women in theories of crime.

During the 70's it was proposed that the emancipation of women and increased labour, educational and occupational opportunities would lead to the crime statistics of females equaling their male counterparts. This period is particularly associated with two scholars, Freda Adler and Rita Simon. Freda Adler was one of the first criminologists to suggest that as the social status of women reaches equivalence to that of men, crime patterns of females will resemble those of their male counterparts (Flowers, 1987). Simon on the other hand discussed the statistical picture of female crime over decades and mentions that the women's liberation movement had an impact *not* only on female crime but in altering the treatment of women in the criminal justice system (Leonard, 1982). Based on their theoretical stance, these scholars moved away from the biological explanations of female crime that dominated that time. Inclusive in their theories of female crime, they argued that social circumstances rather than biology explained gender differences in crime (Daly & Chesney-Lind, 1988). In accordance with these theories, a new female criminal was set to evolve. Though very ambitious in developing these theories, these scholars were heavily criticised for their claims. Flowers (1987), like many others, argued that the 'new female criminal' was a myth. This was mainly because the crime patterns referred to by Adler and Simon did not occur in practice. Thus their theoretical perspective was criticised firstly, because it ignores class and race differences among women. Secondly, it defined gender as role differences between men and women (Daly & Chesney-Lind, 1988). Thus the emancipation of women and crime argument did not deliver much.

Smart (1976) offered groundbreaking work on women and crime by providing a critique of mainstream criminology and its approach to women and crime. This scholar's work, in particular, has been quoted by many as a turning point in the field of criminology (Leonard, 1982; Daly & Chesney-Lind, 1988; Daly and Maher, 1998;

Gelsthorpe, 2002). A brief discussion of the contribution of Smart would thus seem appropriate.

Smart (1976), in her book *Women and Crime*, asked a very critical question: Where are the women? While posing such a critical question two important factors, namely neglect and the stereotypical portrayal of women in mainstream criminology, were also addressed. One of the key factors mentioned was the fact that female offenders did not constitute a high percentage of the prison population and for this reason female crime was not regarded as a social problem. This was also the main reason for the neglect of women and crime in mainstream criminological theoretical frameworks. The second factor that was addressed was the stereotypical portrayal of women which was advanced by mainstream criminology. Smart (1976) also stressed the fact that myths regarding theological beliefs in the fundamental evil and weaknesses of women as well as the paternalistic beliefs in women's frailty and gentleness prevail in mainstream criminology. These were the main factors that stood out in the analysis of mainstream criminology and its explanation of crime.

The first phase of criminology also gave rise to a more discursive questioning of the epistemological and methodological contours of the discipline (Gelsthorpe, 2002). This was done mainly to deal with theoretical questions posed regarding women and crime. Not only did the first phase ask where the women are, but they also posed another critical question and that is what the experiences of these women are. In order to provide answers to these critical questions, empirical research was done.

The main reason for the need to do empirical research was that women's voices were not heard or taken into consideration by mainstream criminology. The study of capturing the reality and subjective experiences of women as lawbreakers, victims and workers of the criminal justice system can be referred to as standpoint feminism. Harding (1987) in Gelsthorpe (2002) refers to feminist standpointism as trying to understand the world from the perspective of the socially subjugated, to see things through women's eyes. According to Daly and Chesney-Lind (1988), the reason for

an empirical inquiry was that very little was known about girls and women's experiences in any facet of the juvenile or criminal justice system whether as offenders, victims or workers. The focus on female workers in the criminal justice system has been well researched elsewhere but will not be part of the discussion in this paper. Feminist criminology also stressed the use of appropriate methodological tools to explore the reality of female offenders. The reason for this is that feminist beliefs about reality revolved around the idea that reality is constituted by various structural constraints which subordinate and oppress women (Gelsthorpe, 2002: 122). They also believed that in order for one to explore these realities women had to speak for themselves.

Woman as an Offender

Daly and Chesney-Lind (1988) highlight that between 1975 and 1985 the field of criminology witnessed a proliferation of important but largely atheoretical studies of the character of female crime and of their treatment in the criminal justice system. Feminist theories that explored the woman as a criminal focused much of their attention on the 'gender ratio problem' and the 'generalizability problem'. The two major questions of concern were why do women commit less crime than men and can theories generated to describe men or boys offending apply to women and girls (Gelsthorpe, 2002). With regard to the 'gender ratio problem', scholars raised critical questions as to why male criminal activity was much more prevalent than female criminal activity. Related to this topic, it was also questioned as to why certain criminal offences categories such as prostitution and shoplifting were higher or more prevalent amongst females. Flowers (1987) indicated that besides prostitution, female crime was largely related to property offences and the majority of women who participated in crime were arrested for non-violent or minor crimes.

Woman as a Victim

Womens' victimisation also gained interest by feminist criminology during the 1975 to 1985 period. Daly and Chesney-Lind (1988) pointed out that during this period an even greater attention was given to female victims and survivors of men's sexual and physical violence. Although the character of the female criminal was being explored, scholars took a greater interest in analyzing women's victimization rather than women's offending. Central to this concern was the issue of men's

oppression of women and placing an emphasis on understanding the expression of female sexuality through the lens of patriarchal social relationships (Walklate, 2004). Heidensohn (2002) accurately refers to this phase as the exposing of domestic 'secrets'. However Daly and Chesney-Lind (1988) point out that there are several reasons why feminist approaches were more likely to analyse women's victimisation than women's offending. The first reason was because men's violence against women was connected to patriarchal power and secondly because men's violence against women was a fairly new untheorized terrain in criminology at that time. Nevertheless this period was also considered to be the period when the most important contributions were made by modern feminist criminology. The importance of these contributions surfaced on both academic and policy levels. The main reason for this is because refuges for victims were set up, rape crisis centres were founded and help for victims of sexual abuse were instituted (Heidensohn, 2002).

Treatment of the woman in criminal justice

The treatment of women in the criminal justice system was explained on the basis of the chivalry perspective. According to Flowers (1987), the chivalry notion holds that female offenders benefit from lenient treatment throughout the criminal justice system. Central to this argument is that the public perceives women as less threatening and for this reason *less often* requests official intervention for female deviant behaviour than it does for male deviant behaviour. Much of this bias was based on judicial paternalism. According to Heidensohn (2002), several scholars have reviewed the treatment of women in the criminal justice system. These research findings indicate that women conforming to conventional roles were better treated than those who did not; while other research findings indicate that women of colour were treated more *harshly* than white women.

2.3.2 The Second Phase: Feminist Criminology revisited

The second phase of feminist criminology started during the 1980's. Unlike the first phase, which documents women's lives, lawbreaking and victimization, the second phase places emphasis on two important aspects. The first is the emphasis placed on the diversity of women's experiences as lawbreakers, victims and justice system workers. The second aspect is an attempt to analyse how women are constructed in and by particular cultural or discursive formations (Daly & Maher,

1998: 4). It is with these two aspects in mind that this section will embark on exploring the second phase of feminist criminology.

Daly and Maher (1998) point out that there are two contradictory developments within the second phase of criminology. The first is based on the fact that feminist scholarship remains interested in the experiences of the “real women” of feminist social science, whereas the second is more concerned with “the woman” of legal and criminological discourses.

Experiences of the “real woman”

According to Daly and Maher (1998), by referring to “real women” they refer to studies that explore women as agents in constructing their life-worlds, lawbreaking and victimisation. It can also be seen as the characterisation of women as subjects of their own lives. Not only does it characterise women as subjects of their own lives, it also attempts to eradicate the idea that female criminal behaviour is determined by their physiology or their instincts (Heidensohn, 1997; Heidensohn, 2002). Thus the female criminal is portrayed as a rational being that is capable of making her own choices.

Carlen (1985), in her book *Criminal Women*, argued that, as a result of earlier theories, criminal women have always been presented as “other” than real criminals and “other” than real prisoners. However Carlen (1985) also critically evaluated the theoretical stance of feminist criminology by making the following claims:

- Feminist criminology has not been very successful because many of the feminist writers find it difficult to break from the notion that crime is essentially a ‘masculine activity’.
- The search for either a global theory (male and female) or a special theory of female crime is both theoretically and politically unsound.

By looking at these issues, Carlen (1985) problematised and deconstructed the preoccupation of feminist criminology with establishing a global theory or a special

theory of female crime. Central to this argument is that there exists no one theory of women's crime, neither is there such a thing as a 'typical criminal woman'. Through making such claims Carlen (1985) illustrates that using a 'typical criminal woman' approach to understanding women and crime is not very useful, as there is, in fact, no such thing - there is no essential female criminal with essential characteristics.

Carlen (1985) also stressed the fact that female lawbreakers were not perceived as serious and intentional criminals but their criminality was rather seen to be based on natural, biologically determined socio-sexual roles and destinies. Thus female criminals have intentions to commit crime and make rational choices about it. This allowed for the concept of agency to be accommodated in the explanations of female crime. Elsewhere Carlen (1988) argued that, firstly, when women commit crime they do so not only because they find themselves outside the conventional class and gender controls but they also choose their criminal means. Secondly, their methods are determined primarily by contemporary modes of criminal organisation and operation that are more class than gender specific. In other words, a carefully weighed decision is made with regard to the type of offence committed. Central to these arguments is that women do act with a sense of agency, if sometimes a distinctive one, so that their offences constitute purposive action (Heidensohn, 1997; Heidensohn, 2002).

The blurred line between victimisation and criminalisation is also considered important in the 'real women' argument. Daly (1994) in her study of women and their pathways into crime found that it is possible for women to find a variety of pathways into criminality. The blurred boundaries between victimisation and criminalisation are also pointed out as a crucial factor in this study. Daly and Maher (1998) state that the situational dynamics of female criminals can lead to the fact that crucial questions such as agency and responsibility in women's lawbreaking will be overlooked. Thus Daly (1994) poses important questions that challenged first-phase feminist criminology. The questions are 'where does victimisation end and responsibility for acts that harm others begin and how does one characterise women when they have committed a crime'. These questions still remain unanswered and

overlooked, as it is very hard to separate the woman as a criminal from her circumstances.

Woman in the legal and criminological discourse

The second development of the second phase was concerned with women *in* legal and criminological discourse and characterised women as effects of this discourse. This phase of feminist criminology argues and analyses ways in which women are constrained within, and by, legal and criminological discourses (Daly and Maher, 1998). Thus the main questions of concern are how women are represented in legal and criminological discourses. These scholars also raise the concern as to whether the woman of discourse can be connected with the 'real woman'. Daly and Maher (1998) persuasively argue that these two cannot be connected and the disconnection of the two creates a lot of problems for the field of feminist criminology. Therefore, this section will examine women in a criminological and legal discourse and look at the problems that have been encountered in the representation of women.

Smart (1990) argues that the core enterprise of criminology is profoundly problematic, since its value has been questioned, largely because scholars are still loath to consider the discipline of criminology as a scientific one. This makes it particularly important for feminism to engage with major theoretical and political questions, in a bid to establish criminology's relevance to the wider social context. The argument of criminology being a problematic enterprise is well researched elsewhere. However, Harding (1987) in Smart (1990) provides a conceptual framework for mapping feminism in social science and points out the following three categories:

- *Feminist empiricism*: Refers to the work which has criticised the claims of objectivity made by mainstream social sciences. Furthermore, this conceptual framework also points out that not only has social science perceived the world from the perspective of men emphasising sexism, but it has also excluded women and the interests of women. In relation to this claim, the first

phase of feminist criminology is also preoccupied with challenging mainstream criminology for the exclusion of women's voices and their perceptions of women and crime.

- *Feminist standpointism*: This approach to feminism has been explained in the first section of this paper. The main concern of this feminist knowledge is experience. However, Smart (1990) argues that the experiences of women's lawbreaking and victimisation is important but should be considered with caution. This approach can be seen as problematic because of its very nature of singling out women's experiences and as a result of this neglect *overlooking* other factors that should be taken into account.
- *Post-modern feminism*: This approach had a big impact on feminist criminology. This approach questions the very theoretical framework that feminist criminology has based its theories on. The first challenge that the post-modern strand posed to feminist criminology was the latter's theorisation based on the 'typical' woman. Smart (1990) points out that feminist criminology has the tendency to invoke the notions of womanhood as a core essence to unite women, thus referring to women as a unitary category. Critical questions were posed by black feminists and lesbian feminists who stressed the denial of women's diversity and difference by feminist criminology (Walklate, 2004). This approach deconstructs the woman or the universal truth about women that was created by feminist criminology. Smart (1990) refers to the core element of post-modern criminology as the rejection of one reality arising from the universalizing master. This also led to the question of power and referred to power being ubiquitous. Therefore, post-modern feminist ideas brought about a great shift in the field of feminist criminology.

2.4 Conclusion

Earlier explanations of women and crime focused primarily on the biological deficiencies of female criminals. With the contribution of feminists' scholars this idea shifted significantly. Feminist criminology started out by questioning the very foundation of mainstream criminology's perception that crime is a male activity.

Various debates as outlined in the body of this chapter highlights the fact that women and crime is a complex social phenomenon. However this gave rise to feminists becoming interested in women's experiences of imprisonment. Therefore, in the next chapter we move on to consider the issue surrounding women and imprisonment. As outlined in this chapter, the theory of women's crime has ranged from biological to psychological and from economic to social theories. This intensifies the complexity of the concept of women and crime.

Chapter 3

WOMEN IN PRISON: A REVIEW OF DEBATES AND RESEARCH

3.1 Introduction

The previous chapter focused on feminist debates regarding women and crime. Understanding women and crime is an important stepping stone to understanding women and imprisonment, even though there is no direct causal link between women's crime and their imprisonment (Carlen and Worrall, 2006). Central to this argument, there are a number of factors that intervene between the commissioning of the crime and serving of a sentence. The factors referred to by Carlen and Worrall (2006) are the process of criminal justice and its construction of the imprisonable woman, judicial attitudes towards women and the changes in sentencing policies and patterns, as well as the social and political priorities about the kind of offenders that should be incarcerated.

The existence of prisons and imprisonment is almost universal and raises issues that are far beyond the few buildings and the small minority of the population that prison houses (Morgan, 2002: 1113). Control is amongst one of the critical issues that are related to prison and imprisonment. Jacobs (1983) refers to imprisonment as society's most important instrument of coercive control. Not only does imprisonment as an institution represent coercive control but it also reflects society's attempt to control the 'dangerous' classes. This is evident by looking at the characteristics of the majority of the prison population. Thus prisoners are not drawn randomly from a population but, on the contrary, the character of the prisoner population reflects the stratification system of the larger society (Jacobs, 1983). Men make up the majority of the prison population. According to Morgan (2002) 92 to 94% of receptions into prisons are male. On the other hand, as mentioned before, female prisoners constitute a very small percentage of the total prison population. As a general population, male and female prisoners have a similar experience of the prison as institution. Despite

this fact, there are differences between male and female prison populations. It has been argued that female prisoners experience pains of imprisonment that are unique to them (Snider, 2004; Corston Report, 2006). In many cases, female prisoners are mothers and because of the geographical location of prisons, (prisons are not usually located close to the hometowns of inmates) mothers and children are usually separated from each other. However, this is considered to be one of many big dilemmas that the female prison population is faced with.

It is with these aspects in mind that this chapter will focus on women and imprisonment. Here the purpose is to explore the contributions of feminist research to our understanding of women's experiences *inside* prison. The chapter is divided into two sections. The first section gives a brief historical overview of women's imprisonment and the means that were used in order to discipline women as well as the theoretical questions raised with regard to women's experiences of prison as an institution. The second section moves beyond the broader explanations of women's imprisonment and looks at women's experiences of, and adaptations to, imprisonment.

3.2 Historical overview of women's imprisonment

If criminal women were considered 'unnatural' (as the previous chapter explained), imprisonment was used as a tool to free the 'unnatural' woman of all evil and reform her to adhere to society's rules, as represented by the 'ideal woman' aspect. According to Carlen and Worrall (2006) women's prisons have historically been organised to feminise, domesticise, medicalise, or infantilise women who have committed crimes. The stereotypical roles of women that were held by broader society dominated in the approach to the treatment of female prisoners. The three main factors that will be considered in discussing this brief history of women in prison are as follows:

Carlen & Worrall (2006) pointed out the factors as follow:

- *Feminisation*: Lawbreaking was usually considered to be a male activity. Thus women who committed crime were perceived as doubly deviant,

offending against both the law and their womanhood. Men committing crimes are viewed as deviant; thus when a woman commits a crime she offends society's notions on two levels. The first level being the crime committed and the second one being the fact that said crime is perpetrated by a woman. Criminal women were usually considered to be bad citizens and unnatural women.

- *Domesticisation:* There has been continuing social welfare anxiety about the role of the women in the family and society and the extent to which prison regimes and programs can limit the damage done to women prisoners. Prison systems attempt to, at least they claim to, rehabilitate the female prisoner so that if and when she is released back into society, she can contribute thereto in a meaningful and socially acceptable manner.
- *Medicalisation:* This refers to the recurrent pathologising and medicalisation of female inmates who have been seen as less physically and mentally robust than male prisoners. Female criminals were viewed as mentally sick and this influenced both the architecture of prisons and their treatment and confinement.

3.2.1 Discipline through Feminisation

Earlier penal reformers made religion a central aspect in the treatment of female prisoners. John Howard (1727-1790) was part of this group of reformers and was motivated by evangelical asceticism and rejected the appalling prison conditions that occurred in British and European prisons (Dobash, 1986). Elizabeth Fry, as mentioned in the earlier chapter, played a key role in changing the fate of female prisoners in Britain. Elizabeth Fry (1780-1845) like her predecessors also made religion a central aspect in the treatment of female prisoners (Carlen & Worrall, 2006). According to Dobash (1986), Fry was amongst the first who devoted attention solely to female prisoners and based her idea of reform on personal and paternalistic means of correction with religion as its main instrument. Central to this aspect was the view of reforming those women who did not adhere to the cultural specifications of an ideal womanhood. For Carlen and Worrall (2006), women's prisons in the mid-nineteenth century became benign institutions organized for the

'training' of 'unfortunate women'. Embedded in this strategy was the assumption that women are different and therefore they require special treatment appropriate to their sex (Zedner, 1991). The underlying aspect of Fry's reformation was to train those unfortunate women to become moral beings so that they could fit into the moral order that society has ascribed for women. Despite the underlying paternalist and religious approach of treating female prisoners, this approach did have a positive outcome as female prisoners were treated much better than previously.

3.2.2 Discipline through Domesticisation

Related to the conception of discipline through feminisation is the conception of discipline through domesticisation. However, it could also be argued that the conception of discipline through domesticisation is an extension of the concept of discipline through feminisation. Whereas the discipline through feminisation argument stressed the adherence to an ideal womanhood, the discipline through domesticisation argument stressed the attainment of domestic skills for women in prison. Carlen (1983) in her study of Scottish female prisoners pointed out that by 1957 it was acknowledged that female prisoners should be returned to society trained as efficient "housewives" rather than as efficient "housemaids". Prison regimes and programs were adapted for women to be trained domestically. Carlen (1983) found in her study that the main forms of training were based on domestic skills and health education, as it was seen that these skills would enable women to fill their place in the ideal family.

According to Carlen and Worrall (2006), the training in domesticity continued to be a central and visible feature of women's prison life throughout the twentieth century. However not much has changed with regard to this aspect in the twenty-first century -female prison activities still include sewing, cooking and cleaning today much as they did before. However, the conception of discipline through domesticisation was foreshadowed by the argument that the majority of the women in prison are in need of some kind of psychiatric intervention or therapeutic treatment.

3.2.3 Discipline through Medicalisation

The conception of female prisoners as intellectually deficient and emotionally disturbed gained a great amount of interest during the 1960's. This conception was based on the therapeutic model. Dobash *et al* (1986) argue that the therapeutic model represented a shift in the perception of the female offender from being bad to mad. Underlying this therapeutic model was the idea that the majority of female prisoners were in need of some kind of medical, psychiatric, or remedial treatment (Dobash *et al*, 1986). Just like the previous two forms of discipline (feminisation and domesticisation), medicalisation as a form of discipline was also based on the assumptions that were made about the nature of women in prison.

According to Dobash *et al* (1986) the notion that female prisoners are mentally ill or disturbed dominated the planning and architecture of the prisons for women. This notion completely ignored issues such as punishment and discipline from the 1960's onwards. The therapy ideal was criticized because it did not work and because it had the effect of enforcing behaviour, resulting in tightening and intensifying the conditions of confinement for women (Dobash *et al*, 1986). A classic example of the therapeutic model prison was reflected in the reconstruction of Holloway Prison in London during the 1960's. Holloway Prison, the largest prison in London was redesigned to operate on medically-orientated therapeutic lines (Morgan, 2002).

3.3 Responding to Imprisonment: Theoretical Questions

According to Sykes (1989) the loss of liberty, goods and services, heterosexual relations, autonomy and personal security are the basic deprivations that associated with prison life. Both males and females inmates are faced with the institutional challenges of prison, but research findings have reported that female prisoners found it more difficult than their male counterparts with institutional adjustment for various reasons. Earlier research has shown that women tend to value privacy more than

men, experience greater difficulty adjusting to community living and the degrading nature of body searches amongst many other reasons (Pogrebin and Dodges, 2001: 531). Nevertheless, sociological and criminological questions regarding women and imprisonment have been many and varied. The following three questions were considered by Carlen and Worrall (2006) as the most critical when it comes to the theoretical debate on women's imprisonment. The questions are as follow;

- Why do women's prisons take the form they do?
- What are women's prisons for?
- Why do relatively few women go to prison?

The first question of why women's prisons take the form they do is concerned with four main themes. The four dominant themes are prisonisation, discrimination, resistance and carceral clawback. The first three themes are concerned with the ways in which women respond to prison (Carlen & Worrall, 2006). They will be discussed in this section as they highlight important factors that deal specifically with how women respond to imprisonment.

3.3.1 Prisonisation

The first theme is that of prisonisation. Carlen and Worrall (2006) refer to this theme as the process whereby a prisoner adopts the behavioural style and values of the inmate culture as an adaptive response to imprisonment. This type of phenomenon is an obvious response to deal with circumstances that imprisonment presents to the individual, whether male or female. Ward and Kassebaum (1966) [in Carlen and Worrall (2006)] were amongst the first scholars to study the needs of imprisoned women. In this study it was found that the needs of women in prison were different from the needs of men in prison. An emphasis was also placed on the fact that incarcerated women are much more adversely affected by the loss of family and friends than incarcerated males (Carlen & Worrall, 2006: 80). This phenomenon is referred to as 'affectional starvation'. In other words Ward and Kassebaum (1966) in Owen (1998) argued that because women were suffering affectional starvation because of the loss of family and friends, there was a greater need to have emotional and reciprocal relations with one another.

Giallombardo (1966) in Owen (1998) put forward a similar argument with regard to women in prison. This scholar argues that the needs of women in prison are based on the family and kinship structure in which the women take on family roles such as wife, mother or sister roles. The main reason for this is that imprisonment blocks women from attaining the traditional goals of being a wife or a mother and therefore the social order of the prison provides an alternative way to achieve these internalized expectations (Owen, 1998: 6).

Carlen and Worrall (2006) criticize Ward and Kassebaum (1966) and Giallombardo (1966) for abandoning their analysis of the social structure of prison and rooting their explanations in stereotypical views of society. It was also pointed out that these studies were preoccupied with the dynamics of homosexual relationships and were not very informative about the nature of women's imprisonment (Carlen & Worrall, 2006: 80). Nevertheless, even though these studies may not reveal much about the nature of women's imprisonment, they were amongst the first to provide a description of women's prison culture.

3.3.2 Discrimination

The second theme is that of discrimination. Carlen and Worrall (2006) refer to this theme as one of the most persistent in both historical and contemporary stories of women's imprisonment. Carlen (1983) was amongst the first to have done research that reflected this theme with regard to women's imprisonment. In her study of female prisoners at Cornton Vale in Scotland, Carlen (1983) found that women were treated unfavourably within the prison system mainly because women comprised a very small percentage of the prison population of Scotland. The contradictory assumptions inherent in social constructions of femininity and female subjectivity were, according to Carlen (1983), at the core of discrimination against women in prison. Twenty-four years later Carlen and Worrall (2006) point out that the features that were present in Carlen's (1983) study of Scottish women prisoners, had contemporary relevance. The features include the following:

- Women tend to be invisible to the general population and therefore their needs are neglected.
- Women prisoners tend to be imprisoned at greater distances from their homes.
- Women's prisons are often organized in the same way as men's prisons, thereby not recognizing women's different needs.
- Released women prisoners suffer greater social stigma than male prisoners. This is based on the notion that women have not only offended against the state but they have also offended against their femininity.

Rafter (1985) in Carlen and Worrall (2006) has also done groundbreaking research on female custodial institutions in the USA. Firstly, Rafter (1985) provides a valuable historical perspective on the differential and discriminatory treatment of women in prison. Secondly, this scholar was amongst the first to recognize that the differential treatment of female prisoners requires analysis along the lines of race, class and gender. She recognises the fact that women of ethnic minority are further discriminated against by virtue of said ethnicity. They are still being discriminated against in the contemporary criminal justice system.

3.3.3 Resistance

Carlen and Worrall (2006) have identified three main processes with regard to the resistance of female prisoners to their conditions of incarceration. The three debates are as follows:

- *Adaptation*: This aspect is similar to the one of prisonisation. This is when the formation of prison subculture emerges where prisoners manage to adjust the prison rules to serve their own ends.
- *Institutionalization*: This is where prisoners become rule-governed in at least some aspects of their behaviour.
- *Resistance*: This is when prisoners directly evade or disobey rules or engage in psychological strategies for the maintenance of identity and self-esteem.

The second critical question raised with regards to women's imprisonment is what women's prisons are for. According to Carlen and Worrall (2006), much of the research that has been done focuses on the interaction of prisoners with the prison regime but does not pay much attention to the explanation of meanings of imprisonment in terms of its social, political and economic function. This approach calls for a move away from the empirical focus on prisoners towards the social, economic and political meanings of imprisonment.

Feminist criminology has made five major contributions to the understanding of the meanings of women's imprisonment. The first contribution made by feminists was that women's crime is committed in different circumstances than that of males and that the crime of women is the crime of the powerless. Secondly, the profile of the female prisoner is different to that of her male counterpart, with regard to the fact that most female prisoners are unemployed and have a history of sexual and physical abuse before imprisonment. Thirdly, the penal response to women's lawbreaking is the typification of femininity and womanhood and contributes to the further oppression of women. The fourth contribution of feminists to our understanding of the meaning of imprisonment for women is based on policy-orientated work. Lastly, some feminist writers did not advocate an explicit policy orientation but made campaigning for women prisoners in trouble their central concern (Carlen and Worrall, 2006). From the above it can be concluded that there is no generally agreed answer as to what women prisons are for and that the question encompasses a range of possibilities given rise to a range of answers.

The third question raised with regard to women's imprisonment is why relatively few women go to prison. This question was amongst the first questions posed in order to explore women's crime. An obvious answer to such a question would be that why relatively few women go to prison because relatively few women commit crime. Earlier explanations of why relatively few women commit crime were put forward by Otto Pollak (Klein, 1973). As mentioned elsewhere, Pollak made the assumption that women are the instigators of crime instead of the perpetrators of

crime and ascribed this as the reason why women's crime rates are much lower than males (Klein, 1973).

However, contemporary debates have argued that the notion of social control plays a central role in describing why relatively few women commit crime and go to prison. According to Carlen and Worrall (2006), many writers make the point that women are subject to greater informal social control than their male counterparts through family responsibilities and the control imposed on them by their male counterparts. Carlen (1995) in Carlen and Worrall (2006) argues that both social and anti-social control factors should be taken into account when explaining why few women go to prison. Central to this argument is the notion of avoiding the trap of assuming social control to be a good or bad thing. Nevertheless various arguments have been presented in order to explain why relatively few women go to prison and different answers have been provided, such as the social control aspect, lenient treatment of women by the criminal justice and other arguments that indicate that women's criminal activities are ignored. So far there is no single answer as to why relatively few women go to prison but rather a range of arguments and proposals.

3.4 Reactions to imprisonment: Women's Experiences inside of Prison

3.4.1 Women's pathways to Imprisonment

It is important to look at the women's pathways to crime as this highlights what female prisoners are struggling with while being imprisoned. It is important to guard against isolating women in prison from their life outside prison. The full extent of life in prison cannot ever really be appreciated unless one has a sense of the prisoner's experiences outside the prison. For those prisoners who have led a relatively comfortable life outside prison, the effects of imprisonment are likely to be harder than for those whose life outside prison was, in any event, extremely difficult.

Hannah-Moffat (2002) pointed out the importance of understanding the pathways of women into crime for devising programmes and policies designed for women in prison. Hannah-Moffat (2002) also highlights that a holistic understanding of women's experiences and needs, which encompasses physical, emotional, psychological, spiritual and material needs is crucial. If the needs of women are not understood in the context of past, present and future experiences then programmes and policies will continue to be inadequate and dehumanizing (Hannah-Moffat, 2002: 206).

Female prisoners come from both privileged and underprivileged backgrounds. However it has been argued that the majority of the female prisoners have been victims of physical, sexual or emotional abuse prior to incarceration (Marcus-Mendoza & Wright, 2004). Histories of abuse, coupled with economic marginalisation, substance abuse, and lack of education have been regarded as criminogenic factors that lead up to the imprisonment of women (Owen, 1998; Lowthian, 2002; Gelsthorpe & Morris, 2002; Morash, 2006; Moe, 2006). Numerous studies that have been done on female prisoners and their pathways into crime have proved this aspect to be compelling.

A recent study done by Owen (1998) in State Prisons of California brings together two important domains with regard to women's pathways to imprisonment. Firstly, the personal domain of drug abuse, physical and sexual abuse, oppressive relationships with men and the lack of economic skills shapes their immediate experience. Secondly, the structural domains of racism, sexism, decreased economic opportunity, and the devalued status of women, particularly marginalised women, limits the access to conventional roles. A combination of both the personal and structural domains produces conditions that can often result in offending (Owen, 1998: 41). These factors will be mentioned in a brief manner as they have been well rehearsed elsewhere. Owen (1998) like many other scholars points out the following factors;

- *Multiplicity of abuse*: Physical and sexual abuse is a defining feature in the lives of many female prisoners. This is often sparked by continued abuse of

women from childhood well into their adulthood. In addition to this is substance abuse (drug and alcohol-related). Substance abuse paves the pathways to imprisonment. The largest percentage of those women who were incarcerated were convicted of drug-related offences.

- *Early family life:* Early family life experiences also play a crucial role in the pathways to imprisonment. This involves inadequate or disruptive parenting and contributes to increased delinquency. Substance abuse of parents and a family history of offending also plays a crucial role in female prisoners' lives.
- *Children:* The presence of children in their lives and not having proper support structures in place to support the children, largely contributes to female offending. In many cases illegitimate opportunities are the only way of making enough money to take care of children.
- *Street life:* The involvement in gang-related activities. This is where most female prisoners accept responsibility and see their criminal behaviour as a result of conscious decision-making. In many cases, illegitimate careers were seen as more viable because of unemployment.
- *Economic disadvantage and subsequent criminality:* The pathways to imprisonment are shaped by choices looking for excitement or lucrative hustles or otherwise not being able to make it in the traditional world. This confirms the notion that women's crime is motivated by economic, psychological and emotional survival. Thus crime as a survival skill is seen as a viable alternative to unemployment.

Several studies have been devoted to understanding the experiences of male prisoners, while very little attention was paid to the female prisoners. Heidensohn (1997) pointed out that the literature on responses to imprisonment is dominated by studies of men especially with regard to prisonisation and inmate cultures. The author also stressed that there are important sex differences found in responses to imprisonment especially in subcultures. Relating to the matter of how women respond to imprisonment is the notion of prison culture. Moving away from the theoretical debates about women's imprisonment, this section will look at what the experiences of women in prison are. This question encompasses the notion of the culture of imprisoned women. Drawing on American and British studies, this section

will provide an understanding of what women experience while imprisoned, taking into account the broader social and political backgrounds of women.

3.4.2 Reactions to Imprisonment

Studies that specifically focus on women's experiences in prison emerged in the 1960's. Ward and Kassebaum (1965) and Giallombardo (1966) were amongst the first to explore the experiences of women in prison. Both emphasised that women respond to imprisonment differently and therefore have different needs while being imprisoned. Owen (1998) has argued that the prison culture described in these pioneering studies has remained relatively stable over the decades. On the other hand scholars have argued that one of the (paradoxical) conclusions regarding female prison subcultures is that they are weaker and more diffuse than male prison subcultures (Heidensohn, 2002).

Owen (1998), in her study of female prisoners in California, pointed out that the complex and diverse histories of incarcerated women in the prison community produce a prison culture that is itself complex and diverse across numerous dimensions. In her ethnographic study, Owen (1998) observed three critical areas of prison life with regard to women prisoners. They are as follow:

- Negotiating the prison world: this involves the dimension of respect and reputation.
- Styles of doing time: this involves the commitment to the prison code
- "The Mix": one's involvement in trouble, conflicts, hustles and drugs.

A critical factor to highlight based on these three factors is that participation in prison culture is dynamic, fluid and very often situational (Owen, 1998). Prison culture is not static. Prison culture varies depending on the institution and its rules. Heidensohn (2002) makes the following statement with regard to women's adaptation to imprisonment, which provides an explanation for the notion of situationalism:.

"women's adaptations to prison may not be fundamentally structured by gender in many of the ways traditionally assumed...The

adaptations described in so many other studies of women in prison are likely as much or more a product of the nature of women's corrections at a particular time and place as they are a product of the nature of the women themselves" (Heidensohn, 2002: 513).

Before embarking on discussing these critical factors, it is important to note that women's participation in prison culture is determined by a number of factors. According to Owen (1998), women's participation in prison culture is determined by a number of factors including the time spent in prison, previous imprisonment, her commitment to a deviant identity and the time left to serve. On the other hand Kilroy (2002) highlights the importance of knowing the prison culture of women prisoners in order to understand what women are experiencing while being incarcerated. It is with this aspect in mind that the next section will deal with the three critical life areas of prison life with regard to women prisoners.

The first critical area of life for women prisoners is the *process* of negotiating the prison world. According to Owen (1998), entering prison presents the woman with a new experience and involves learning a new set of strategies, behaviours and meanings. All of these factors are central to the notion of survival in prison. Carlen (1985) in her book *Criminal Women* made reference to female inmate lives in Holloway Prison, London, and emphasizes the fact that survival is the main name of the game in such custodial institutions. Kilroy (2002) points out that the culture within the prison walls that women live day in and day out is their survival. Thus one could argue that survival is the most fundamental aspect underlying most prison activities whether physical, emotional or mental. Part and parcel of the question of survival in women's prisons is the notion of gaining respect and reputation. Owen (1998) states that experience of previous incarcerations and a commitment to knowing what is happening is how the female prisoner negotiates the prison world on her own terms. Being knowledgeable about certain aspects regarding prison life provides the women prisoners with some kind of respect from their fellow inmates and this in turn builds up their reputation. Having a reputation (whether it is good or bad) plays a central role in many prisoners' lives. Even though much of the

knowledge is context-specific and derived from experiences inside the prison world, many women are able to become skilled in managing the prison bureaucracy by relying on cleverness and ability (Owen, 1998). Nevertheless the context-specific knowledge deriving from experiences inside prison is what establishes the two most important factors, respect and reputation inside prison. In order for one to survive in prison, the ability of knowing how to negotiate the prison world is central in order to gain respect and reputation. On the other hand Carlen (1985) considers what happens to those women who fail to survive prison life:

- *Institutionalization*: This refers to the phenomenon where some women have lived in institutions for a long time and find it very difficult to establish life outside these institutions. The institutions become the only psychological and physical shelter for these women who cannot establish a life outside the confines of these institutions.
- *'Cutting'*: This is one of the most common responses to imprisonment for women. Cutting and self mutilation are common responses to the pains and tensions, to the emotional and sexual deprivations experienced by women and girls in prison.
- *Madness*: This is one of the biggest fears that lurks in the minds of women prisoners. Constant threats are made to the sanity of these women, especially in the case where women are being held in solitary confinement for a certain amount of time.
- *Death*: This is the ultimate price to be paid by those whose strategies to survive imprisonment are unsuccessful. This refers to those women prisoners who have not been emotionally and mentally strong.

The second critical area of prison life is the styles of 'doing time' which involves the commitment to the prison code. According to Owen (1998), styles of 'doing time' are partially based on the stage of one's prison career, commitment to convict or conventional identity, length of sentence and level of commitment to prison culture. Kilroy (2002) points out a similar aspect that on entering prison a woman is inducted into the culture, and the crime committed and sentence to be served will usually determine where the woman is placed within this culture. Central to the styles of 'doing time' and being committed to the prison code is the adherence

to the convict code. Therefore one could argue that the convict code is a sub-set of rules established by prisoners to deal with the rules of the total institution. The convict code encompasses aspects from the other two critical areas of prison life. It can also be argued that the convict code phenomenon is a form of resistance to the rules of the total institution. The following paragraph will deal with the ways created by women prisoners as a form of resistance and a means of surviving prison in its totality.

The third area of prison life is termed “the mix” and it refers to one’s involvement in trouble, conflicts, hustles and drugs. Owen (1998) in her study found that “the mix” involves continuing the behaviour that got the women in prison in the first place. Central to the “mix” concept is the notion of drugs. Many of the women in prison either become users of drugs, while others continue their drug addiction inside and others become sellers of drugs. This phenomenon can also be seen as a means of coping with prison life. Owen (1998) in her study divided “the mix” into three categories, drug mix, the homosexual mix and the fighting mix. All three of these categories present female prisoners with the means of coping with day to day life behind bars.

There are two relevant aspects to prison culture. The first is the one described above in which the female prisoner finds ways and means of coping with prison life. The second refers to the prison culture that silences and disempowers women. Kilroy (2006) states that prison culture silences and disempowers women and therefore it is crucial that the female prisoner gain a voice. This aspect advocates for the human rights of women prisoners. Mandatory strip searches, physical abuse by prison staff, sexual abuse and being tortured for being at risk of self-harm are amongst the human rights infringements that women prisoners face on a daily basis in countries such as Australia, the UK and USA (Kilroy, 2006: 292).

3.5 Conclusion

In this chapter many important issues regarding women's imprisonment have been examined. The central focus of this chapter was on the different contributions of feminist research in order to gain an understanding of women's experiences inside prison. Historically female imprisonment has been characterised by different methods and justifications in comparison with that of male imprisonment. This is evident of how gendered stereotyping influenced prison policy. However, research studies on women and imprisonment have reported that female prisoners create different ways and means as survival strategies in order to cope with prison life. Women prisoners also experience different pains of imprisonment in comparison with men and very often one would find that the pains of imprisonment is closely related to prison culture.

Chapter 4

WOMEN IN PRISON: INTERNATIONAL DEVELOPMENTS

4.1 Introduction

The previous chapter explored women's imprisonment from a theoretical and empirical research angle. Because women comprise such a small percentage of the prison population critical issues surrounding women's imprisonment are often overlooked (Carlen, 2002). Incarcerated women are easily forgotten in a criminal justice system which is largely run by men, to deal primarily with male offenders.

In this chapter feminist debates regarding women in prison are considered with particular emphasis on policy developments. This chapter moves away from the theoretical discussion regarding women in prison towards a discussion of what happens in practice. The chapter will be divided into two sections. The first section deals with the international debates regarding women in prison by focusing on the causes of rapid growth in the female prison population. Based on these aspects the second section will specifically look at policy implications profiling England and Wales and its policy approach with regard to women in prison.

4.2 Women in Prison: International Perspectives

4.2.1 Profile of a Woman Prisoner

Women in prison come from diverse backgrounds. Despite the diversity of backgrounds of personal circumstances, once women are in prison custodial experiences are to some degree shaped by stereotypes of women prisoners (Almeda, 2005: 190). An international profile of women prisoners as outlined below reflects

the following (Kampfner, 2005; Almeda, 2005; Judicial Inspectorate, 2005; Annual Report of HM Chief Inspector of Prisons, 2004):

- *Age*: the majority of female offenders are between the ages of 18 and 35 years old.
- *Marital status*: Single, married with a few divorced
- *Dependents*: majority of female offenders are mothers.
- *Education*: the majority of female offenders have primary or secondary school education. Some percentage are illiterate with very few having a tertiary education.
- *Crimes committed*: Crimes committed are usually considered to be less serious in nature. Often don't pose any serious risk to society.
- *Employment*: Prior to incarceration the majority of female offenders were homemakers and the other half participated in the workforce as petty traders, domestics, waitresses, secretaries, cashiers, prostitutes, and less in agricultural or industrial employment.
- *Ethnicity*: ethnic minorities are overrepresented in women's prison population.
- *Health and disability*: drug and alcohol addictions are widespread amongst sentenced females. Alcohol and drugs have a more prominent place in the criminal offences of incarcerated women. In England and Wales it was also found that an estimated 40% of women had serious mental health and substance use problems.

The following table shows the world women prison population. The list gives an international representation of the women prison population according to the continents. For purposes of this chapter all the continents will be documented but only the countries with the highest women prison population will be documented. Walmsley (2006) has described key features of the women prison population:

- More than half a million women and girls are held in penal institutions throughout the world. This figure includes pre-trial and sentenced prisoners.

- About a third of this half million are in the USA (183, 400) and a similar number are in China (71, 280), the Russian Federation (55, 400) and Thailand (28,450). Other countries like India (13, 350), Ukraine (11, 830), Brazil (11, 000), Vietnam (10, 990), Mexico (10, 990) and Philipines (6. 860) have less than 15, 000. Every other prison system has less than 6, 000.
- On the whole women prisoners constitute between 2 and 9% of the total prison population.
- There are continental variations in the prevalence of women and girls within the total prison population. For example, in African countries women constitute a much smaller percentage of the total (the median is 2.65%) than in the Americas and Asia where the median level is twice as high (5.3% and 5.4%). The median levels in Europe and Oceania are 4.4% and 4.3% respectively.

Table 1: World Female Imprisonment List⁷

Continent	Female prison population (number of girls and women in penal institutions)	Female prisoners percentage of the total prison population
AFRICA		
Northern Africa		
Egypt	2, 213	4,3%
Morocco	1, 776	3,3%
Western Africa		
Nigeria	756	1, 9%
Ghana	256	2, 1%
Central Africa		
Angola	196	3, 3%
Democratic Republic of Congo	83	3, 7%

⁷ Walmsley, R. (2006). Women's imprisonment list. <http://www.kcl.ac.uk/depsta/rel/icps/women-prison-list-2006.pdf> accessed on 17 January 2007.

Eastern Africa		
Rwanda	2,925	2,6%
Tanzania	1,515	3,3%
Southern Africa		
Botswana	306	5,0%
South Africa	3,333	2,1%
AMERICAS		
North America		
USA	183,400	8,6%
Canada	1,586	5,0%
Caribbean		
Dominican Republic	433	3,1%
Jamaica	231	4,8%
Central America		
Mexico	10,068	5,0%
Panama	811	7,0%
South America		
Brazil	11,000	3,3%
Columbia	4,656	6,8%
ASIA		
Western Asia		
Saudi Arabia	1,639	5,7%
Kuwait	550	14,9%
Central Asia		
Kazakhstan	2,870	5,4%
Kyrgyzstan	700	4,4%
South Central Asia		
India	13,355	4,0%

Iran	4,985	3,5%
South Eastern Asia		
Thailand	28,452	17,2%
Vietnam	10,990	12,4%
Eastern Asia		
China	71,286	4,6%
Japan	4,545	5,9%
EUROPE		
Northern Europe		
UK England and Wales	4,392	5,7%
Latvia	422	5,8%
Southern Europe		
Spain	4,964	7,9%
Italy	2,632	4,7%
Western Europe		
France	1,958	3,7%
Europe/ Asia		
Russian Federation	55,400	6,5%
Turkey	1,775	3,3%
Central and Eastern Europe		
Ukraine	11,832	6,1%
Belarus	3,098	7,5%
OCEANIA		
Australia	1,734	6,8%
New Zealand	435	6,1%

Table 1 shows that the women prison population in general accounts for a very small percentage of the total prison population. The women prison population in the majority of countries constitutes less than 10% of the total prison population. There are isolated cases where it exceeds 10%. (The countries that exceed 10% are Thailand, Kuwait and Vietnam).⁸

Despite the fact that the women prison population constitutes such a small percentage of the total prison population it is however growing rapidly (Chesney-Lind, 2004, Neve and Pate, 2005). Various research studies reported that women who go to prison are most likely women who have histories of abuse, substance abuse problems, lack of education, lack of financial resources etc (Richie, 2001; Neve and Pate, 2005; Weston-Henriques & Manatu-Rupert, 2001 ; Chesney-Lind, 2004). Thus there is a link between the social characteristics and the criminogenic factors of women prisoners. Possible explanations for the rise in female offending will be discussed more fully below.

4.2.2 Increase in Women Prison Population

The reasons underlying the increase in the women's prison population have been a subject of both debate and research (Chesney-Lind, 2004). Drawing on US and UK research the three most common explanations found in the literature (Hudson, 2002; Chesney-Lind, 2004; Neve & Pate, 2005,) are the following:

- a) The "war on drugs"
- b) Lack of education, health, and other social support systems or services.
- c) Zero tolerance crime policies.

The "war on drugs"

The "war on drugs" argument dominates US and UK literature on women's imprisonment. For example Chesney-Lind (2004: 260) draws on a study that has been done by the US Bureau of Justice Statistics. This study showed that the growth in the women prison population was ascribed to drug offences as the largest source

⁸ Ibid.

of incarceration. Gelsthorpe and Morris (2002) in their study of female prisoners in England and Wales have found that the number of women found guilty or cautioned for drugs increased in the last 10 years. It was also found that the most recorded drug offences was related to the unlawful possession of drugs rather than serious drug offences such as the sale of drugs (Gelsthorpe and Morris, 2002).

In relation to drug offences the majority of women who are incarcerated have substance abuse problems (Moe, 2006; Morash, 2006; Radosh, 2006; Carlen and Worrall, 2006). The drug offences debate is divided into two groups, the users and the non-users. The reason behind non-users selling drugs are usually economically related but the case for users are different as they commit crime to support their habits. Moe (2006: 338) reported that in a study of burglary it was found that women were more likely than men to report that they were addicted to drugs during the time period in which they committed crime and that the money went towards supporting their drug use. As mentioned before many of the women being incarcerated enter prison with some kind of substance abuse problem. In England and Wales it was found that the majority of women who enter prison have substance abuse problems (Annual Report of HM Chief Inspector of Prisons, 2004).

The 'war on drugs' has been described as a 'war on women'. Many women have been incarcerated for minor drug offences. Women are more likely than men to fall prey to drug related crime. In Spain it was found that women commit proportionally twice as many drug related crimes as men and this phenomenon proportionally affects female delinquents more than men (Almeda, 2005:186). The enactment of gender neutral policies escalates rather than reduce punitive outcomes for women offenders (Chesney-Lind, 2004; Mc Corkel, 2004; Weston-Henriques and Manatu-Rupert, 2001).

Lack of education, health, and other social support structures

Feminization of poverty

According to Morash (2006) the feminization of poverty is the women's worsening economic situation reflected by increased divorce rates, the increasing

prevalence of female headed households, the father's failure to support their children and the segregation of women into low-paying traditional female occupations. Because of such circumstances many women become involved in consumer-based crimes such as shoplifting, and fraud. Involvement in crimes such as shoplifting, theft or fraud provide some form of income and financial support for those women who cannot afford to keep up with the provision of basic needs of the family.

Zero Tolerance Policies

Gelsthorpe and Morris (2002) have pointed out that it could be possible that male and female offenders are dealt with in a more 'equal' way by the police, prosecutors and judges. American scholars have suggested that a shift to more 'equal' sentencing is a powerful explanatory factor for increases in the rate of women's imprisonment in the US (Gelsthorpe and Morris, 2002). However, more evidence is needed to generalize to other countries.

According to Almeda (2005) drug offences are severely punished under Spanish legislation. Drug smuggling legislation which in previous eras carried a six month to six year prison sentence has, been increased to a three to nine years sentence to imprisonment. This trend is not unique to Spain. Similar trends are visible in third world countries. As a result the number of women incarcerated for drug offences constitutes a very high percentage of the overall female prison population. Many of these women are addicts and in many cases there are no appropriate rehabilitation facilities to deal with the drug addiction of female prisoners. Carlen and Worrall (2006) argue that the misuse of drugs is a major issue for women in prison. The limited availability of treatment for drug problems inside prison is likely to affect women detrimentally.

Sentencing patterns

"Gender neutral" zero tolerance policies have contributed significantly to the rise of women's imprisonment especially when it comes to sentencing. Since the early 1990s the numbers of women in prison have grown in different jurisdictions across North America, Europe and Australia, due mainly to increased sentence severity (Hannah-Moffat, 2002; Almeda, 2005; Player, 2005).

Over the past few years the severity of sentencing patterns has increased as a crime control measure. Ivone and Da Cunha (2005) described law enforcement as becoming increasingly proactive instead of reactive with the potential for bias. The debate about women and drug offences can be used as an example to explain this phenomenon. Those women who are victims of the war on drugs approach are usually from the poor and marginalized communities of a country. The women that usually fall prey to this are the poor, racialised minorities who do not have any other means of economic survival but to engage in the illegal drug economy. According to Ivone and Da Cunha (2005: 156) racialised minorities have become collective targets of increased surveillance, increased police attention with a much higher probability of arrest. For this reason crime control measures have become the control of the poor and marginalised. Similar trends are present in other countries such as the UK (Gelsthorpe and Morris, 2002).

Related to this aspect is the significant increase in the female prison population because of shorter sentences. Hudson (2002) pointed out that female offenders often engage in property offending which is the crime pattern typical of the impoverished, addicted, deprived and depressed identikit of female offenders. Thus the new sentencing framework makes the female offender more vulnerable to imprisonment than ever before. Women who commit crime out of need are imprisoned more readily than those who commit crime out of greed (Hudson, 2002). However, both men and women have been affected by these sentencing reforms.

4.3 Women in Prison: Policy Implications

Central to the policy debate regarding women in prison is the need to establish gender-specific interventions that would contribute positively to the lives of women prisoners. The main reason for such an approach is based on the differentiation of male and female needs once they have been incarcerated. Traditionally in US prisons (and elsewhere) men and women in the correctional system have been subjected to nearly the same standards of operational management (De Cou, 2002). The problems confronting men and women in custody however are different. In the majority of the cases female offenders have sole responsibility for children, experience more

problems acquiring adequate finances and housing and usually suffer from serious physical and sexual abuse together with the accompanying mental problems (De Cou, 2002: 97-98). Based on these reasons feminist debates have argued in favour of a gender specific or gender sensitive approach to women's imprisonment.

Lowthian (2002) points out that all of the women who are imprisoned share one particular experience, the experience of imprisonment which resulted in damage and harm inflicted on women as a consequence of the forced removal from family, home and community. This aspect has been well documented in numerous studies on women in prison. Those female prisoners who are mothers suffer specifically with regard to this aspect. Relating to the aspect of forced removal from family networks, Snider (2004) stated that it is during the period of imprisonment that women are more likely to lose a partner and close personal relationships. Women also tend to do time in a remote location far from their community. As a result of this, ties with family and community networks are severed and this has a big impact on the female offender upon her eventual return to her home and community. This aspect emphasises the pains of imprisonment that are specifically related to women and should be crucial in addressing women's issues in prison.

Player (2005) points out that there is evidence to suggest that a woman's responses to incarceration are different from a man's. Women have less access to resources in the community upon release and that the issues they face, in terms of reintegration, are often contextually different from men's. For this reason, feminists argue that the social and economic needs of women prisoners should be addressed. Lowthian (2002) indicated that amongst the areas of outstanding concern amongst women prisoners is the great need to address some of the social and economic factors that play a part in women's offending.

Based on the above mentioned reasons the following section will profile England and Wales and its approach to policies when it comes to women prisoners. This section will look at the initiatives taken by the UK government with regards to women prisoners as well as exploring the extent to which these initiatives have been

put into practice. Lastly, it will look at how policy impacts on the ways in which prisons are administered for females.

4.3.1 Women in Prison: Towards a Profile of England and Wales

England and Wales are amongst the few countries that have undertaken research on women in prison quite extensively. So far the debate explicated in this chapter was on the general international debate regarding women and prisons. However this topic will be taken further in terms of its policy implications and focus specifically on England and Wales.

The Government Strategy on Women Offenders

So far England and Wales have done considerable research on women's lawbreaking. Research has been undertaken by academics as well as non governmental organisations that are campaigners for women's rights. Such research has highlighted the need for penal and criminal justice reform.

In October 2000 the Home Office published a key document, *The Government's Strategy for Women Offenders*. This document is based on the *Correctional Policy Framework: Aim 4*.⁹ The latter made the following provision with regard to women offenders:

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Correctional policy and the Prison and Probation Services recognise the importance of research to identify the different risks and needs of women who offend and to provide programmes that are relevant and address those factors which cause their offending.

The Prison Service's Women's Policy Group aims to ensure that policies reflect the different needs of women and young female offenders and develop regimes which are aimed at reducing offending and the factors which contribute to it. To ensure improved integration, the head of the Prison Service's Women's Policy Group, who also has

⁹ This Correctional Policy Framework: Aim 4 reduces re-offending and protects the public (Home Office, 1999).

extensive experience of probation management and operations, is leading on the achievement of Aim 4 generally in this specialised area of work. Correctional policy and the Prison and probation services support other Government reforms, such as policies on the Family and Sure Start Programme which are particularly relevant to women offenders (Correctional Policy Framework, 1999: 14).

The Correctional Policy Framework: Aim 4 recognised the different needs of women offenders and it with this reason in mind that *The Government Strategy for Women Offenders* set out what is already known about women offenders and the action that the government is taking to ensure that the Prison and Probation Service work effectively in reducing the risk of women re-offending (Home Office, 2000: 4). *The Government Strategy for Women Offenders* reviewed the then existing initiatives aimed at reducing women's offending and sought views on how the criminal justice system dealt with women offenders. It also looked at how the latter can be improved and what the main gaps are. In September 2000, the findings were published in *The Government's Strategy for Women Offenders: Consultation Report* (Home Office, 2004: 6). The findings were divided into three main groups and are as follow (Home Office, 2000):

- Tackling the causes of crime, and tackling crime early, to reduce offending and re-offending by women.
- Effective sentencing to reduce offending.
- Reducing re-offending.

The first outcome was based on tackling the causes of crime and crime early, to reduce offending and re-offending by women. Linking the work of prison services with other government services were seen as crucial. This document also recognised the fact that women prisoners have different characteristics from men prisoners. Factors that were significant for women prisoners were that most women prisoners are mothers; a high proportion of these women are drug dependent; women prisoners are more likely to have harmed themselves and some have committed suicide while in custody; the majority of women prisoners have suffered violence at home and have been sexually abused and, lastly, a significant proportion of these women prisoners had spent time in a mental hospital and have had treatment for mental

health problems. Particular focus has been devoted to drug abuse and mental health problems as these two factors frequently contributed to re-offending. For these two factors in particular joined up policies with other services in government were seen as crucial in order to ensure that developments for women offenders in both the Prison and Probation Services are linked effectively to wider initiatives to support women in the community (Home Office, 2000: 5-8).

The second outcome was based on effective sentencing to reduce re-offending. In order to deal with this aspect the Home Secretary announced a fundamental review of the sentencing framework and its impact on re-offending. The review that was introduced to examine the foundations of the Criminal Justice Act and explore the possibility of more flexible sentencing options which joined up custodial and community penalties. In order to make sure that women offenders receive fair and effective sentences from courts a variety of initiatives were introduced. It was important for sentencers and practitioners to be aware of the profile of women offenders and the impact of their treatment (Home Office, 2000:13). The research highlighted that a very high percentage of women are placed on remand. In such cases the need for proper accommodation and services was stressed in order to develop accommodation strategies for women offenders with children with local social services and health authorities (Home Office, 2000: 14-15).

The third outcome of reducing re-offending was made the key aim of the Prisons and Probation Services. The key initiatives of this outcome are as follow; new structures for joint working which will include a new Strategy Board for Correctional Services covering Prisons and Probation Services, well-targeted programmes should be developed to tackle the problem of re-offending, and Offender assessment systems have been developed for the Prisons and Probation Services that will identify characteristics of the offender in order to reduce re-offending. Women's resettlement needs were considered central. The need for education and training, drug treatment, maintenance of good family ties and equal treatment for ethnic minorities were highlighted as important. The need for further research into the criminogenic factors of women offenders and the effectiveness of

offending behaviour programmes was identified. The results of this research will then be used to develop effective practice in women's prisons. Another factor that was considered as important was ensuring that all new build prisons for women have facilities and regimes to meet their needs (Home Office, 2000: 16-22).

Women's Offending Reduction Programme

In order to put the above mentioned strategies into action, the Women's Offending Reduction Programme was introduced. The main purpose of this programme is to reduce women's offending and the number of women in custody by providing an appropriate response to the factors which has an impact on women's offending. The duration of this programme was three years. This is a multi-agency strategic plan of action to deliver a distinct and 'joined-up' response to the needs and characteristics of women offenders (Home Office, 2004: 5). A particular focus was on substance abuse and mental problems of women offenders and how to meet these needs in conjunction with the other governmental departments. The main priorities of the programme include the following (Home Office, 2004):

- Making community interventions and programmes more appropriate and accessible for women.
- Meeting mental health needs.
- Dealing with substance abuse misuse.

In order to keep track of the progress of the Women's Offending Programme an Annual Review of the programme was published in 2005. This report recognised that there is still a long way to go before gender becomes an integral consideration in all policy development and implementation, but the programme is encouraging this to happen. This resulted in a greater awareness that achieving gender equality in the criminal justice system is not about treating women similar to men but recognising the differences which affect why women offend and making sure that interventions and services are in place to deal with this. Lastly this report also recognised that in the pursuit of gender equality the role of non-governmental organisations is important. The Women's Offending Programme made remarkable progress. The main areas of progress was the introduction of community programmes and

interventions; meeting the mental health needs of women offenders; ensuring appropriate drug intervention programmes; meeting housing needs of those who at risk of re-offending; allocating women offenders in prison that is closest to their hometowns; research done to understand the link between victimisation and offending (Home Office, 2005: 4).

4.3.2 Critical commentary

In the case of England and Wales the gender-specific approach was highlighted as a crucial factor for women in prison. The Corston Report (2006)¹⁰ highlights the need for a distinct, radically different, visibly-led, strategic, proportionate, holistic women-centred integrated approach. There are two central questions related to this: firstly, should there be a need for a gender-specific approach and secondly, what are the implications of such an approach. In this section I will argue that there is indeed a need for such an approach but it is paradoxical. Thus the argument will neither favour nor discredit this approach but it will reflect on the problems that such an approach can be faced with.

Covington (2000) in [Bloom, Owen & Convington (2004)] defines gender-specific as follow:

“Gender-responsive means creating an environment through site selection, staff selection, program development, content, and material that reflects an understanding of the realities of women’s lives and addresses the issues of the participants. Gender-responsive approaches are multidimensional and are based on theoretical perspectives that acknowledge women’s pathways into the criminal justice system. It also provides a strength-based approach to treatment and skill building” (Bloom *et al*, 2004: 42).

¹⁰ The Corston Report (2006) is a review done by Baroness Corston on women with vulnerabilities in the criminal justice system.

Current research has established that women offenders differ from their male counterparts in personal histories and pathways to crime. This is mainly because most women offenders are low-income, undereducated, and unskilled with sporadic employment histories and they are disproportionately women of color (Bloom, Owen & Covington, 2004). By recognising the different needs of women prisoners from their male counterparts is critical because it will result in improving penal policy for women. Bloom *et al* (2004) argues that in order to improve policy for women offenders' policy developers should begin by targeting these characteristics. Therefore there is a need to establish gender-specific programmes as it is critical for effective rehabilitation and reintegration of women offenders.

Recognising the need for gender-specific or responsive approaches is a positive step towards reform in female prisons. Despite the positive nature of such an approach one should guard against possible problems underlying such an approach. Creating gender-specific or responsive programmes do not necessarily equal better lives for female prisoners as outlined in the England and Wales profile. Chan (1992) in [Hannah-Moffat (2002)] said that reforms should not be taken at face value; they do not necessarily lead to progress; often reforms can lead to further repression. This aspect is often ignored as it is assumed that reforms will result in progress and not further oppression.

Gender-specific programmes are contradictory in nature. As much as it advocates for the differential need in treatment of female prisoners it also reinforces traditional conceptualisations of punishment of female offenders. Hannah-Moffat (2002) argues that the gender-specific approach is a well-intentioned reform initiative but it reinforces traditional conceptualisations of punishment and further entrenches the reliance on prisons as a solution to crime. Traditional conceptualisation of imprisonment for female offenders was based on domesticisation, feminisation and therapeutic models. This kind of approach to corrections is evident in gender specific programmes for females. According to Hannah-Moffat (1995) embedded in gender specific programmes is the image that women prisons should be benevolent, caring, therapeutic and supportive. However,

this is problematic based on the fact that it assumes it knows what women offenders need.

Underlying the gender-specific approach is the assumption that male orientated corrections is not suitable for women, prisons are suitable for women as long as they are based on a feminist vision of justice, punishment and care (Hannah-Moffat, 1995). The problem with this is that it assumes that a feminine approach will improve the situation of female prisoners. However, what it does is to reinforce normative standards of femininity in the correctional discourse (Hannah-Moffat, 1995). By reinforcing normative standards of femininity is reinforcing control over the women.

The gender-specific approach is based on the cognitive behaviourist model. *The Government Strategy for Women Offenders* in England and Wales is based on this model. Underlying this model is the assumption that female offenders are regarded as inherently more prone to mental illness as male offenders and this assumption is embedded into the programmes. The cognitive behaviour model also highlights the development of individual responsibility for women offenders. This notion is problematic because it assumes that prisoners can develop individual responsibility. Individual responsibility cannot be developed effectively because of the oppressive nature of prisons (Kendall, 2002: 196-7). Hannah-Moffat (1995) in her study of woman-centred prisons in Canada found that such programmes enforces control over women because it ignores the fact that prison contributes to the lack of power and autonomy of women offenders.

In relation to the above, it could be argued that the gender-specific approach silences and minimizes the oppressive nature of prisons. Hannah-Moffat (1995) is also of the opinion that reforming the content of a regime tends to obscure (and to some extent silence or minimize) the oppressive aspects of prisons and the unequal relations of power that characterise this sanction. This is problematic because the gender-specific approach does not question the oppressive nature of prisons but rather enforce the idea of imprisonment as a solution.

The gender-specific approach focuses on women as a unified category. In other words this approach looks at the woman from a universal perspective and emphasises the commonality amongst women offenders. However, such an assumption is also problematic. An over emphasis on the commonalities of women results in an insensitivity to the differences among women and, subsequently the experiences of women prisoners are trivialized (Hannah-Moffat, 1995). The lack of attention of the difference amongst women offenders leads to the assumption that all women offenders come from similar backgrounds. Aspects such as race, class and other related factors are important because it modifies the unified idea of what constitutes a women offender.

Therefore the gender-specific approach is paradoxical but at the same time it is necessary. The gender-specific approach recognises the social realities of women and attempts to respond to the needs of these women. This however, is crucial because it allows for space and guards against the notion that the 'criminal' is unified category. It recognises the diversity of experiences and differential pathways to crime which is critical.

4.4 Conclusion

In this chapter the central focus was on the international feminist debates and its contribution to the policy debate regarding women in prison. Internationally the female prison population constitutes a very small percentage of the total prison population and for this reason their needs are often overlooked. Based on this reason policy developments are often informed by the leading debate on male prisoners. Several scholars have argued that the pathways of males and females to imprisonment differ and for this reason males and females experience the pains of imprisonment differently. Therefore feminist scholars have argued in favour of a gender-specific or responsive approach when dealing with female offenders. England and Wales are amongst the few countries that have integrated this approach into their policies with regards to female offenders. A critical question to ask is whether the gender-specific or responsive approach for female prisoners will address the needs of

female prisoner. One positive aspect amongst others about this approach is that this is indeed a starting point in recognising the different needs of female prisoners.

Chapter 5

WOMEN IN SOUTH AFRICAN PRISONS

5.1 Introduction

The previous chapter dealt with international policy developments for women prisoners. Internationally women prisoners often get neglected or overlooked in prison policy developments. A similar problem is present in South Africa. While embarking on the research journey a critical question came to mind namely why the needs of women in South African prisons should be recognised in a criminal justice context of overload and strain.. It is with this question in mind that this chapter will explore women's imprisonment and policy development. As mentioned before, in addition to this review a series of 5 case histories has been done to fully engage with this aspect. The findings of these case histories have briefly been outlined in a previous section.

This chapter will be divided into two sections. By way of contextualisation the first section gives a brief overview of the current state of South African prisons. In the second section the situation of women in South African prisons will be discussed.

5.2 Overview of South African prisons

South Africa currently has a prison population of 159, 961 prisoners.¹¹ This figure includes both sentenced and awaiting trial prisoners. The biggest problem that South African prisons face is the issue of overcrowding. In 2006, 74 prisons had less than 100% occupation, while 161 prisons exceeded 100% with 72 prisons having more than 150% including 38 prisons with more than 175% (JIP, 2006: 17).

¹¹ <http://www.dcs.gov.za/WebStatistics> accessed on 3 August 2007. This figure represents the total prison population as at the last day of May 2007.

Overcrowding contributes to other problems. For example it contributes to the degrading treatment of prisoners as well as the miserable conditions South African prisoners face on a daily basis. Recent reports on overcrowding done by the Judicial Inspectorate of Prisons (2006) indicated the following: inmates sleeping on the floor or in toilets in showers; medium and maximum prisoners being mixed; about 74 inmates in cells for 16; a single toilet and shower being used by 59 inmates; insufficient nurses; locking up at 3pm etc. These issues are amongst the logistical problems that the Department of Correctional Services (DCS) is facing.

Overcrowding in South African prisons also hampers the rehabilitation process. In the foreword to the White Paper on Corrections (2005) Minister of DCS, Mr Balfour said that The White Paper on Corrections represents a

“final fundamental break with a past archaic penal system and ushers in a start to the second decade of freedom where prisons become correctional centres of rehabilitation and offenders are given new hope and encouragement to adopt a lifestyle that will result in a second chance towards becoming the ideal South African citizen” (White Paper on Corrections in South Africa, 2005: 7).

Underlying this statement is the notion that South African prisons will be rehabilitation and reintegration centred. However Muntingh (2005) argued that even an effective rehabilitation and reintegration intervention will achieve only as much and that expectations of these interventions should be realistic. Since the release of the White Paper on Corrections in 2005 DCS came up with two policies in order to put the White Paper on Corrections into action. The first policy presented by DCS was the Offender Rehabilitation Path (ORP). ORP refers to the process of what happens with the offender from the point of entry (admission) into the correctional centre to the point of reintegration into society (societal reintegration).¹² This approach relies on societal involvement and a multidisciplinary approach.¹³ The second policy presented was the position paper on social reintegration. The Social

¹² <http://www.pmg.org.za/docs/2006/060822rehabpath.ppt#358,5> accessed on 11 August 2007.

¹³ <http://www.pmg.org.za/viewminute.php?id=8100> accessed on 11 August 2007.

Reintegration policy is aimed at the preparation of offenders to successfully re-enter their communities and not repeat their offending behaviour through a five phased strategy.¹⁴ These two policy frameworks shed some light on the rehabilitation process of offenders but the questions remain, how much of these frameworks have been put into practice. To date it remains unclear how far these policies have been implemented. Overcrowding poses serious constraints on the prospects for rehabilitation as outlined in policy statements.

Keeping all these factors in mind it is important to note that South African prison reform still have a long way to go. The gap between policy and practice and the lack of resources and skills largely contribute to the problems that prisons face. It is with these factors in mind that the following section will focus on women in South African prisons.

5.3 Women in Prison in South Africa

In South Africa too women prisoners make up a small percentage of the general prison population. South Africa currently has a prison population of 159, 961 prisoners.¹⁵ This figure includes both sentenced and awaiting trial prisoners. Of this total number of prisoners 3, 333 prisoners are women (awaiting trial and sentenced).¹⁶ The female prison population thus represent 2% of the total prison population (Judicial Inspectorate, 2006: 14-15). Vetten and Bhana (2005) point out that because women make up such a small percentage of the overall prison population the conditions and circumstances of men's imprisonment defines and shape policy discussion around imprisonment in South Africa.

Currently there are 240 prisons in South Africa. Of these 240 prisons, 8 prisons are designated as women's prisons while a further 72 prisons contain a

¹⁴ Ibid.

¹⁵ <http://www.dcs.gov.za/WebStatistics> accessed on 3 August 2007. This figure represents the total prison population as at the last day of May 2007.

¹⁶ Ibid.

separate space to accommodate women. Women prisons in South Africa are overcrowded but not to the same extent as men's prisons. The South African female prison population has increased since 1995. According to Vetten and Bhana (2005) in 1995 there were a total of 1, 905 sentenced women prisoners indicating an increase of 68% between 1995/6 and 2002/3 by compared to an increase in men by 69%. The growth in the female prison population is not peculiar to South Africa but consistent with the trends internationally in women's incarceration (Haffejee, Vetten and Greyling, 2006a).

As elsewhere women prisoners are generally overlooked in research studies of imprisonment in South Africa. The research that has been done on women in prisons in South Africa focuses mainly on the influences of imprisonment on infants and young children incarcerated with their mothers and women who kill their abusive partners (Schoeman and Basson, 2006; Du Preez, 2006; Vetten & Bhana, 2005).

5.3.1 Profiles of Women prisoners in South Africa

Thirteen years into democracy South Africa has made significant progress. Deep inequalities along the lines of race, class and gender however continue to characterise life. African and Coloured women are more likely to live in poverty. They are also overrepresented in the female prison population.

Many of the traits present in the profile of women prisoners in other countries are also present in the woman prisoner profile in South Africa. During 2004 the Judicial Inspectorate of Prisons found the following aspects regarding women prisoners in South Africa:¹⁷

- *Age:* the majority of women prisoners fell within the age group of 30 to 50 years. The female prisoners were slightly older than their male counterparts who are on average younger than 30 years.

¹⁷ 1, 756 women from the different female prisons were interviewed for the project of 16 Days of Activism Campaign against Women and Child abuse.

- *Marital Status*: the majority of women prisoners were unmarried. A small percentage was divorced while others were still married.
- *Children*: the majority of women prisoners were mothers. The highest percentage of this group have one child, second highest have two children and the rest have three or more children.
- *Education*: 13% of the 1756 female prisoners that were interviewed had not attended school, 29% attended primary school, 58% attended secondary school and only 2% had a tertiary education.
- *Employment*: 58% were unemployed prior to being imprisoned. Those who were employed were earning a salary less than R1000 per month. Only 11% of women prisoners were earning a salary of more than R5000 per month before being imprisoned.

Regarding the statistics on female inmates and the crimes for which they are incarcerated, there seems to be a different opinions. Certain scholars share the opinion that most women are in prison for economic crimes while, on the other hand, other scholars believe that most women are in prison for aggressive crimes. This conflict will become apparent later on. Nevertheless both possibilities will be considered in detail. According to Gibbons (1998) most female inmates in South Africa are incarcerated for housebreaking and stealing or shoplifting. In 2004 the Judicial Inspectorate of Prisons in support of the 16 Days of Activism Campaign against Women and Child Abuse found that the crimes that women were convicted for the most are aggressive crimes and economic related crimes. However even though Gibbons (1998) only refer to the economic circumstances of female inmates other aspects such as abuse and violence against women is also crucial in understanding the pathways of these women into crime. The following statistics shows the offences committed by women in South Africa.¹⁸

¹⁸ Ibid

Table 2:
Females in South African Prisons: Inmates per crime category as on 31 May 2007¹⁹

Crime categories	Unsentenced	Sentenced	Total	Percentages
Economic	346	990	1336	40,1%
Aggressive	337	1109	1446	43,4%
Sexual	14	15	29	0,8%
Narcotics	85	219	304	9,1%
Other	68	150	218	6,5%
Total	850	2483	3333	

Table 2 shows that the majority of crimes committed by women in South African prisons are aggressive in nature. 43,4%²⁰ of the total number of women in prison has committed aggressive crimes.²¹ The second highest crime category for women is economic crimes which constitutes 40,1% of the total female prison population. The third highest is narcotics with 9,1% of the total female prison population. The crimes as laid out in Table 2 present a reflection of women's pathways to imprisonment. The following table indicates the general demographics in terms of race and gender:

Table 3:
Females in South African prisons: Inmate gender and racial composition as on 31 May 2007²²

Race	Gender	Unsentenced	Sentenced	All sentence groups
Asians	<u>Female</u>	<u>12</u>	<u>31</u>	<u>43</u>
	Male	140	495	635

¹⁹ Ibid

²⁰ This figure includes both sentenced and unsentenced prisons.

²¹ The definition of the category of aggressive crimes is problematic because it does not define what aggressive constitutes.

²² Ibid

	All genders	152	526	678
Coloured	<u>Female</u>	<u>170</u>	<u>463</u>	<u>633</u>
	Male	6984	20198	27182
	All genders	7154	20661	27815
African	<u>Female</u>	<u>621</u>	<u>1755</u>	<u>2376</u>
	Male	38313	88014	126327
	All genders	38934	89769	128703
Whites	<u>Female</u>	<u>47</u>	<u>234</u>	<u>281</u>
	Male	507	1977	2484
	All genders	554	2211	2765
All races	All gender	46794	113167	159961

Table 3 shows that the majority of the crimes committed in South Africa by women were committed by African (Black) women. The second highest were committed by Coloureds, followed by Whites and lastly Asians. The race demographic aspect provides an interesting analysis for the fate of the women criminal in South Africa.

The Judicial Inspectorate of Prisons shows the following trends in the sentences of female offenders:

Figure 1:
Prison Profile, Durban Westville Female Correctional Centre (JIP, 2005: 4)

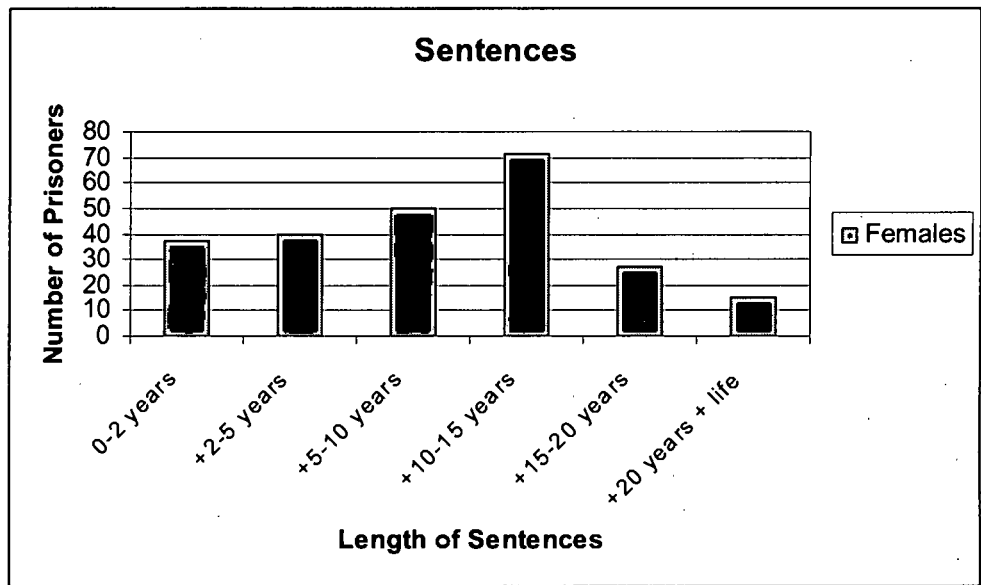


Figure 2:
Prison Profile, East London Medium C Female Correctional Centre (JIP, 2005: 3).

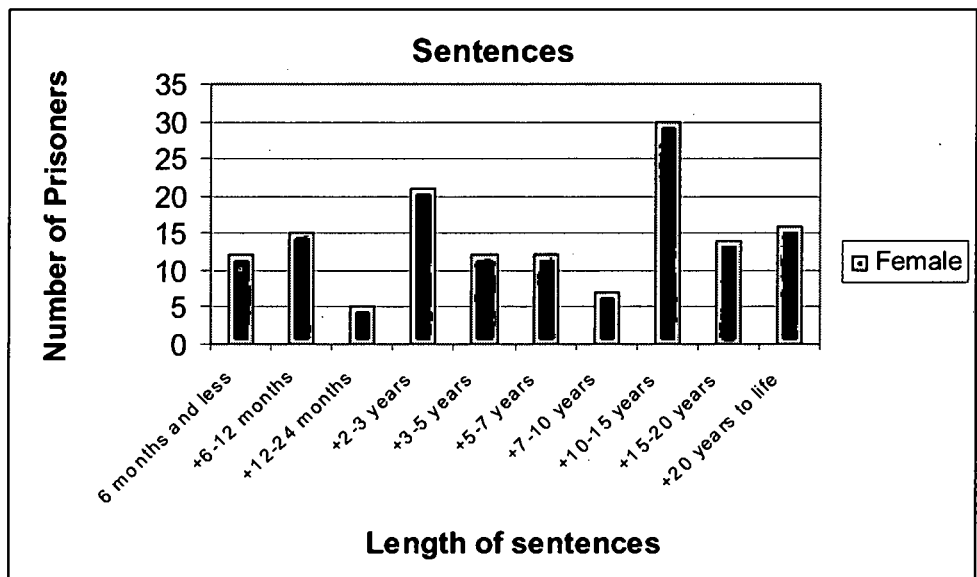


Figure 3:
Prison Profile, Johannesburg Female Correctional Centre (JIP, 2005: 5)

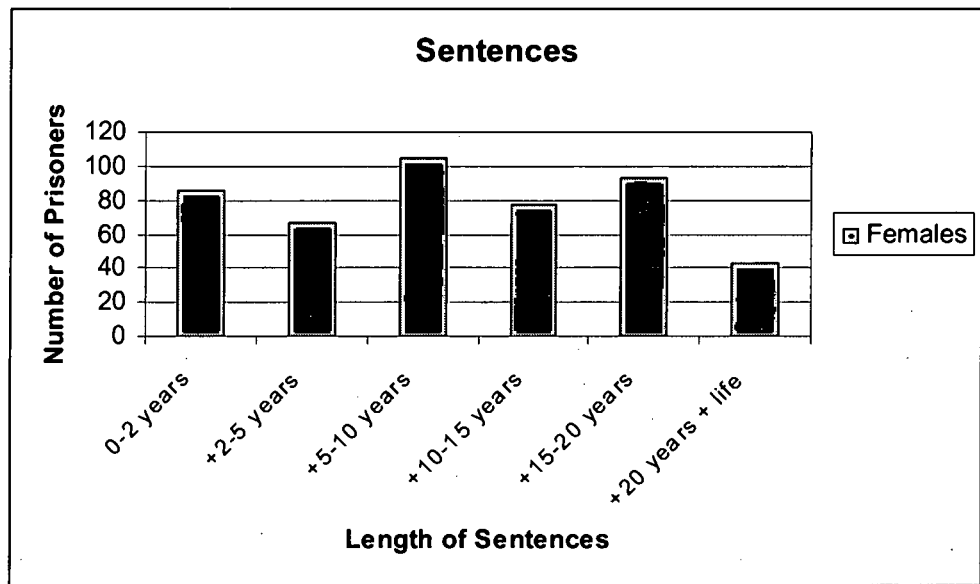
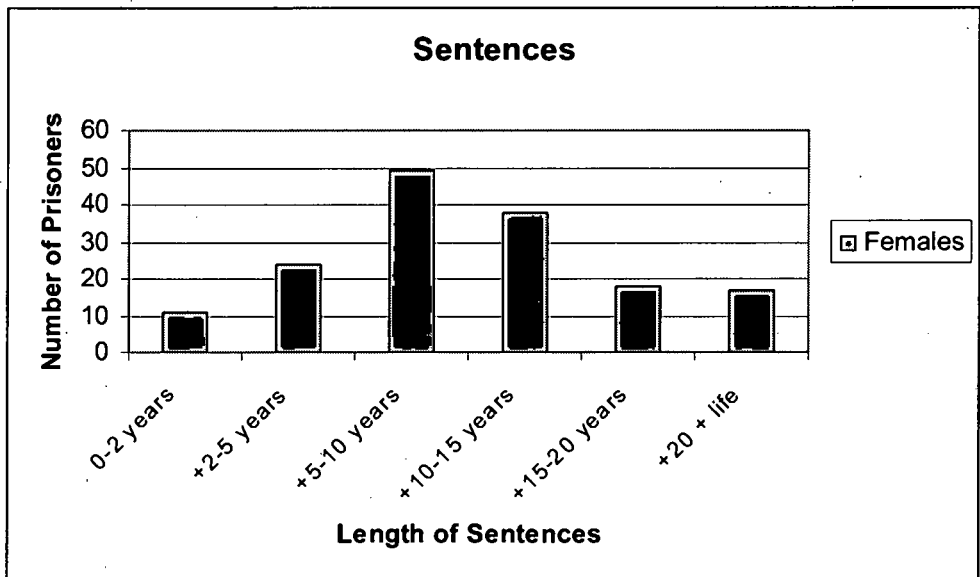


Figure 4:
Prison Profile, Worcester Female Correctional Centre (JIP 2006: 4)



Based on the analysis of these graphs the average sentence of a woman prisoner is 5 years. According to Sloth-Nielsen (2005) on 31 August 2004 the average sentence of a female prisoner was between 5 years (maximum) and 10 months (minimum). The above graphs also illustrate the high percentage of women

who serve sentences longer than 5 years. Sloth-Nielsen (2005) referred to this phenomenon as the marked trend towards longer sentences. The increase in the number of women prisoners for longer sentences is a function of minimum sentence legislation (JIP, 2004: 9).

5.3.2 Pathways of South African women to imprisonment

Recent studies that have been done by the Centre for Violence and Reconciliation Studies in 2006 investigated women's imprisonment in Gauteng prisons. In these studies Haffejee et al (2006a, 2006b) found that the most common crimes committed by women in South African prisons are murder and attempted murder. The statistics compiled by Haffejee et al (2006a, 2006b) showed the following information regarding the crimes of the women:

- 38% of the women across the three prisons were convicted for murder and attempted murder (most common offence in prisons for women)
- 18% of the women were imprisoned for robbery
- 16% were imprisoned for theft
- 12% of the women were sentenced for fraud
- 9% of the women were sentenced for assault
- 8% of the women were in for drug related crime.

Looking at these factors the incarceration rates for women in South Africa differ as the highest percentage of women are imprisoned for murder and attempted murder in comparison with other countries like the USA and UK. In these countries the majority of women are imprisoned for drug related crimes. According to Krutchmitt and Gartner (2003) international trends of the characteristics of imprisoned women in countries like USA, England and Wales and Canada show that the majority of the women are incarcerated for drug related crimes. In contrast to such international trends South Africa women are least likely to be imprisoned for drug related crimes.

Nevertheless these statistics also reflect the pathways of South African women to imprisonment. The prevalence of violence and histories of abuse is a common factor reflected in the characteristics of South African women prisoners. Haffejee et al (2006b) found that there is a close relationship between the abuse of the women and their offending. Thus women convicted of murder or attempted murder is much more likely to have experienced some form of violence in their previous relationships. Research findings indicated that 41% of the women who have been convicted of murder have experienced sexual violence in their last relationships. However it was also found that 64% of the women convicted of theft have experienced economic hardships. Women in Gauteng's prisons like women in other parts of the world have been subjected to substantial victimisation. The study has also shown that women's abuse did not end with entry into prison but continued during incarceration (Haffejee, 2006b). This aspect will be discussed later.

5.3.3 The Law and Women prisoners in South Africa

This section will look at what is available in terms of legislation with regard to women prisoners in South Africa. The Correctional Services Act 111 of 1998 makes provision for women prisoners. For the purposes of this chapter only the relevant sections with regard to women prisoners will be noted.

Section 8: Nutrition

(2) Such diet must make provision for the nutritional requirements of children, pregnant women and any other category of prisoners whose physical condition requires a special diet.

Section 20: Mother of young children

(1) A female prisoner may be permitted, subject to such conditions as may be prescribed by regulation, to have her child with her until such child is five years of age.

[Sub-s. (1) substituted by s. 10 of Act No. 32 of 2001.]

(2) The Department is responsible for food, clothing, health care as contemplated in section 12 and facilities for the sound development of the child for the period that such child remains in prison.

[Sub-s. (2) substituted by s. 10 of Act No. 32 of 2001.]

(3) Where practicable, the Commissioner must ensure that a mother and child unit is available for the accommodation of female prisoners and the children whom they may be permitted to have with them.

Section 41: Treatment, development and support services

(7) Programmes must be responsive to special needs of women and they must ensure that women are not disadvantaged.

Section 134: Regulations

(B) The conditions subject to which a female prisoner may be permitted to have her child with her

[Para. (oB) inserted by s. 41 (b) of Act No. 32 of 2001.]

* The application of these sections will become clearer in the subsequent discussions which deal with these sections in practice.

5.4 Policy and Practice

In 2005 the Judicial Inspectorate of Prisons embarked on a project to evaluate the conditions of women's prisons. Only four female correctional centres were part of the evaluation process. The four correctional centres were East London

Medium C Female Correctional Centre; Johannesburg Female Correctional Centre; Durban Westville Correctional Centre and Worcester Female Correctional Centre. As mentioned before I have also embarked on doing small case histories tracking the life stories of 5 ex female offenders.²³ The discussion following below will be based on the prison profile reports, case histories and the publication by Judicial Inspectorate Office. The following factors were found to be common problems in the prison profile reports, case histories and the publication by Judicial Inspectorate of Prisons (2004):

- a) The most common complain amongst women was the loss of contact with children and families.
- b) Incarceration of women prisoners far from their home towns.
- c) The application of social grants for the children of inmates outside of prison remained a consistent complaint.
- d) Concerns with regard to the provision of toiletries for inmates.
- e) Inadequate facilities for mothers and babies.
- f) Inmate violence: inmate to inmate assaults.
- g) Rehabilitation programmes not sufficient especially in the case where women serve longer sentences.

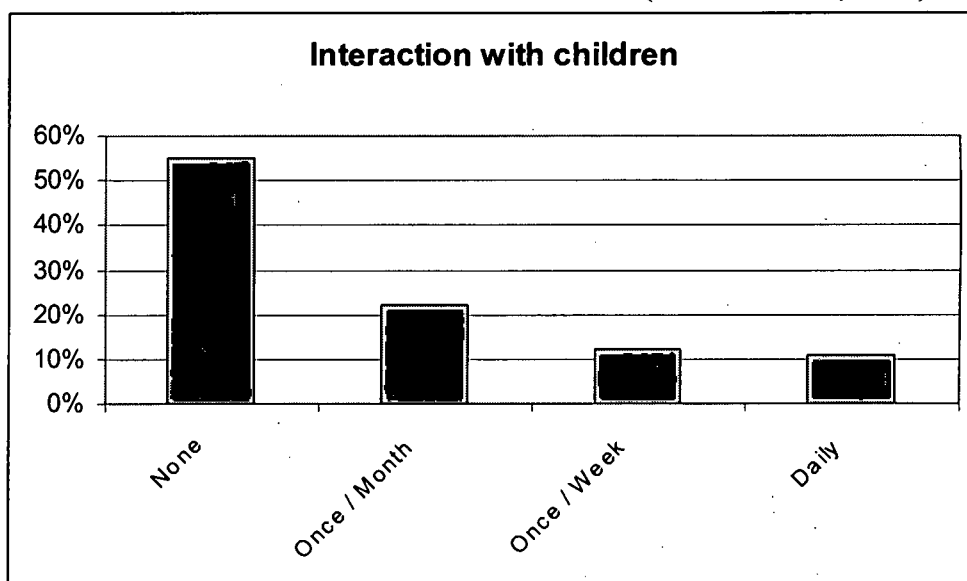
Loss of Contact with children and family

The most common complaint or problem amongst female offenders was the loss of contact with children and families. This problem was apparent in the case histories, prison profile reports and the publications by the Judicial Inspectorate of Prisons. Sloth-Nielsen (2005) confirmed this aspect by pointing out that the most common complaint Independent Prison Visitors noted concerned the difficulties female prisoners have in maintaining contact with their families. In 2004 it was found that 84% of women prisoners are mothers. Three quarter of the women, reported that their children were in the care of family or friends with only 17% of them having children placed in foster care, children's homes or having been adopted

²³ The case histories focused on three phases. They are as follow pre incarceration, incarceration and post incarceration. See research section .

(JIP, 2004: 5 & Sloth-Nielsen, 2005). 55% of the 84% reported that they have no interaction with their children and have lost all contact with them (JIP, 2004: 5).

Figure 5:
Women Prisoners and their interaction with children (Sloth-Nielsen, 2005)



In a recent comparative study done by Du Preez (2006) similar findings were recorded. Sixty seven women in prison who are mothers of minor children participated in the South African case study. Here three quarters still had contact with their children through phone calls and or letters. About 60 (90%) of the women received visits from their children. It must also be kept in mind that some of the women received visits only once or twice per half year from their children. The women who had no contact with their children indicated that they had lost contact with their children during imprisonment. The following reasons were given for not having contact with their children (Du Preez, 2006: 32):

- They had no money to send to their children for them to come and visit them (i.e. pay for transportation).
- In addition some mothers did not have money to make a telephone call to the children.
- Many of the women were illiterate and they could not write a letter to their children.

Poverty is the underlying factors in these three reasons mentioned above. Poverty on the part of the mother is a great burden for incarcerated women because it makes regular or even any contact between mother and children much more difficult. However there are other reasons why women also lose contact with their children. Those children who are in the care of foster parents also found it difficult to have contact because of the unwillingness of foster parents to take children to parents. In other cases where the ex husband have custody over the children the ex husband is reluctant to have contact with ex wives and for this reason the children also lose contact with their mothers (Du Preez, 2006: 32).

The problem is further exacerbated by the fact that women are more likely than men to be incarcerated in prisons far from their hometowns and, when one bears in mind that many female inmates have children, the gravity of this situation starts to become clearer, as illustrated by the following quotation taken from the case histories:²⁴

“Since my divorce I lost everything. Most important I lost my children. I have two lovely daughters, one aged 10 and the other 14. My children is currently staying with my ex husband and his new wife. I miss them so much but I don’t think he will allow me to see them. I have spoken to them on the phone on a few occasions. Sometimes I ask myself whether I want to see my children, will I be able to face them, what am I going to answer them if they ask me where have I been and why have left them. I am so scared... maybe once I move back to Krugersdorp I will be closer to them... maybe things will be fine...” Hannah²⁵

Women prisoners often request transfers to prisons closer to their homes and complain about limited access to the public telephones that helps them keep in touch with their families (JIP, 2004: 12). However DCS has made some effort with regard to this problem. Under certain circumstances the policy of permitting 45

²⁴ All direct quotations from case histories are taken from a study conducted by myself in January 2007 in which I interviewed ex female offenders resident at Beauty for Ashes halfway house. Brief results of this study outlined in research methodology section. .

²⁵ Case histories: Interview no 2.

Pseudonyms were used to protect the anonymity of the participant’s identity.

minutes for non-contact visits and an hour for contact visits is waived. This was done so that families who travel significant distances to their loved can be extended for up three hours (JIP, 2004: 12).

Snider (2004) pointed out that female inmates will suffer pains of imprisonment unique to their role as mothers. Therefore the loss of contact with children not only creates a lot of frustration on the part of the female inmate but it also intensifies the breakdown of relationship ties with her children. Additional to the breakdown of relationships are feelings of shame, helplessness and inadequacy on the part of the female inmate. The female prisoner is more likely to shame and stigmatise herself as an inadequate mother (Snider, 2004). Du Preez (2006) in the South African case study also pointed out that the incarcerated mothers reported feelings of inadequacy by thinking they have failed as mothers. The following quotation was made in the case histories:

"My daughter was raped when she was 18 months old. Now she is facing a life time filled with the effects of the trauma. I should have protected her...I was too blind to see that the man I was with was such a bastard. The guilt is eating me up, I should have protected her but I was not there..."Esther²⁶

"I was in prison when my son died in that accident. I should have been there to make sure that he has taken his medicine...I should have been there to make sure that he is safe and taken care of... I was furious with my sister for not taking care of him when he needed her most. The accident would never have happened if I was there..."Magdalene²⁷

Incarceration in distant places far from hometowns

Related to the previous aspect is the incarceration of women prisoners in distant places far from hometowns. According to Sloth-Nielsen (2005) 63% of the women in prison reported that they are being kept in a prison which is more than 100km from their hometowns. As mentioned before the distance intensifies the loss of contact between prisoners and children and family members. The women who

²⁶ Case histories: Interview no 4

²⁷ Case histories: Interview no 3

participated in the case histories reported that all of them were placed in prisons that were far from home. The main reason for losing contact was based on the fact that children and family members could not always pay visits to the women. Findings from the case histories also showed that the women lost contact with children and family members because they have been allocated to prisons that were far from their hometowns. As mentioned before finances are a big problem amongst the women and their families. The following illustrated this factor:

“I was transferred to Klerksdorp prison. My family could not come and visit me. It was too far...this resulted in me not being able to see my children for 3 years. From Klerksdorp I was transferred to Kroonstad Maximum Security facility...still I had no contact with my children...”
Esther²⁸

Application of social grants for the children of inmates

The application for social grants for the children of inmates was also found to be a common problem with women in prison. Vetten (2000) argued that there is a general preponderance of single parent, female-headed households and poverty amongst many South African women. The majority of the women who are incarcerated were at one point or other sole providers for their families (JIP, 2004: 5). Du Preez (2006) also pointed out that the situation regarding the care of children while their mother was incarcerated was of grave concern to the women. One of the most worrying factors for the women in prison is the question of where their children are currently accommodated. Other major concerns were the safety and security of the children and the provision of the basic needs such as food and clothing of the children (Du Preez, 2006).

However in many cases the family members who have custody over the children of imprisoned mothers do not have financial resources to take care of the children. Du Preez (2006) reports that most of the children with incarcerated mothers in both South Africa and Scotland are cared for by relatives especially by maternal grandmothers. The following statistics was found apparent in South Africa from the women who participated in the study (Du Preez, 2006):

²⁸ Case histories: Interview no 4

- 40% of the women stated that their children were living with the parents of the mother.
- 18% said that their children were staying with their biological fathers who in most cases were the ex husbands of the women in prison.
- 16% said that their children were staying with friends or neighbours.
- 10% said that their children were in foster homes or children's homes.

In the case where the children are staying with maternal grandparents very often it is found that other children are also residing with grandparents which often happens in South African disadvantaged communities the grandparents who are living from a monthly government pension has to support the children financially. Very often this is the only source of income for these people. The women in the case histories reported similar factors. This is illustrated in the following quotation:

“While I was in prison my daughter was staying with my sister...she is unemployed and cant really work because she has arthritis...things are not going well...some nights I used to lay awake and wonder if they have anything to eat...” Magdalene²⁹

Toiletries

The provision of toiletries for female offenders has also become a major issue. DCS provides for the basic needs of the women such as soap, toothbrush and toothpaste, and sanitary towels. It is the responsibility of the women to provide their own deodorant and shampoo (JIP, 2004 & Sloth-Nielsen, 2005). This requirement is problematic because many of the women in prison cannot afford to buy these necessities. Despite the fact that women have access to the basic necessity of sanitary towels the process they have to undergo is degrading. This was mentioned in the case histories interviews with the ex women offenders:

“Yes they do provide one with pads inside prison...but one has to show the warders first...[Q: Can you elaborate more?]...you see what happens is that when it is that time of the month and it happens you

²⁹ Case histories: Interview no 3

have to call a warder to inform them that you got your period and then you have to show them your underwear... "Magdalene"³⁰

Inadequate facilities for mothers and babies

According to section 20 (1) of the Correctional Services Amendment Act (Act no 32 of 2001) female prisoners are permitted to keep their children up until the age of 5. Furthermore according to section 20 (2) the Department of Correctional Services is responsible for the food, clothing, health care and facilities for the sound development of the child for the period such child remains in prison. During 1996 the need for specialised care for this group of offenders was recognised and specialised mother and baby units were established (Schoeman and Basson, 2006). However it has been found that not all correctional centres cater for these needs (Sloth-Nielsen, 2005). For example, in Thohoyandou mothers and their children share a communal cell with 35 other women (JIP, 2004: 13). Hence, the architecture of some female prisons is not conducive for mother and baby units. In many cases women prisoners are incarcerated in a separate section of a male prison which does not make provision of the special needs of female offenders.

Inmate violence: inmate to inmate assaults

Inmate violence is a common feature of prisons worldwide. Inmate violence is also feature of female prisons. Investigations by Judicial Inspectorate (2005, 2006) captured complaints from female prisoners with regard to inmate violence. In male prisons inmate violence are mostly ascribed to gang-related activities. With regard to women prisoners the link between inmate violence and gang affiliation is unclear. Vetten (2000) pointed out that women are left out completely in South African research on gangs and there is no clear conceptualisation of what constitutes a gang amongst females. Similar findings were present amongst the women that there was no clear conceptualisation of what constitutes prison gangs in female prisons. This is an issue which requires research into female gangs.

³⁰ Case histories: Interview no 3

It is not clear whether violence is an attribution of gang related activities or other factors. It is not clear whether prison gangs exist in female prisons in South Africa as this is an under researched area. However, findings from the case history interviews indicated that gangs do exist in women's prisons and are the cause of a lot of violence amongst women inmates. The women made reference to gang related activities but were not clear on the roles of the gangs and its influence within the female prison structure. The following quotation was made with regard to this:

"You do get gangs in the women's prisons. You get 28's, 27's and 26's..." Hannah³¹

"Basically you have to know your place and you should not get involved with the top gangsters...if you do give them the benefit of the doubt they will treat you as a slave...like the 26's and the 28's...you will shocked if you knew what is going on there...the 28's kill for money and the 26's robs for money...that is basically the common thing amongst these gangs...the 28's like to control the women and if they would do anything in their power to control you...these gangs are put in separate cells for the safety of other prisoners..." Maria³²

Rehabilitation

The White Paper on Corrections (2005) emphasises the importance of rehabilitation and reintegration. In practice, however rehabilitation is subject to various constraints. One of the main reasons for this failure is prison overcrowding. Women prisoners highlighted the lack of rehabilitation programmes. As mentioned before many of the women serve sentences of ten to fifteen years and in such cases offenders serving long sentences are likely to repeat rehabilitation programmes. Most female inmates who serve longer sentences stressed the need for more programmes to become available. In the case where there is no sufficient rehabilitation programmes inmates resort to other ways of dealing with imprisonment. In the interviews (case histories) that I conducted with five ex-prisoners all of the

³¹ Case histories: Interview no 2

³² Case histories: Interview no 1

interviewees complained about boredom. The prison profile reports also indicated that the inmates stressed the need for more recreational and development programmes for prisoners. There are a few exceptional cases where there is no access to formal education for female prisoners. For example, in the East London Medium C (Female) Correctional Centre it was found that there is no formal education on offer for females whilst male prisoners at the prison had access to educational programmes. The programmes that were available to female prisoners were non-academic in nature and consisted of curtain making, design farming and organic farming and so forth (JIP, 2005: 7).

5.4.1 White Paper on Correction in South Africa 2005

The White Paper on Corrections (2005) makes provision for the needs of women prisoners in Chapter 11.4 under, what is described as, a special category of offenders.

In this regard it states the following:

- That DCS has an obligation to incarcerate female offenders as close to home as possible in order to minimise the negative impact on family ties.
- That it is important that development opportunities offered to women enable them upon release to take their place in the formal economy of South Africa and be financially independent.
- Providing Mother and Baby Units within the correctional facility for mother and children with separate sleeping, accommodation for mothers and a crèche facility.
- That children who are not in prison with their mothers should negotiate access to their mothers in order to reduce the negative effect that separation from the mother may have on children. The provision of appropriate environments is crucial so as to foster the mother-child relationship.

So far the White Paper on Corrections (2005) is the only policy document that deals explicitly with the needs of female offenders in South Africa. In comparison with international debates on female offenders, South Africa is still in an

early phase when it comes to identifying the needs of female offenders on the one hand, and seeking ways of addressing such needs. This section will be concerned with three questions. Firstly, is there a need for a gendered-responsive or gender-specific approach in South Africa given the realities of systemic overload within the criminal justice system? Secondly, how can correctional policy in a country like South Africa address the different needs and behaviour of female offenders? Thirdly, what are the implications if the relevant department does not adopt gender-responsive or gender-specific approaches for female offenders?

As mentioned before, it is clear that female offenders are neglected when it comes to prison policy. Vetten and Bhana (2005) argue that because the female prison population constitute such a very small number of the total prison population, prison policy is dictated by the needs of male prisoners. Whilst the neglect is a function of demographics, it does contribute to a certain marginalisation of the experiences, needs and voices of female offenders in prisons. As discussed earlier, the pathways to imprisonment is different for women in comparison with men. International research has shown that most women who enter prison are poor, have histories of abuse, substance abuse problems as well as mental health problems. More often than not imprisoned women are uneducated and unemployed (Richie, 2001; Neve and Pate, 2005; Weston-Henriques & Manatu-Rupert, 2001 ; Chesney-Lind, 2004). Female inmates in South African prisons reflect similar social profiles. The practical factors outlined in the previous section illustrated that women offenders do have differential needs in comparison to their male counterparts and it is critical that these needs gets addressed with appropriate (and gender-specific) policies.

Although the White Paper on Corrections (2005) has made a significant contribution to improving the conditions of prisons and prison life it does not sufficiently provide or recognise the differential needs of women prisoners. The White Paper on Corrections (2005) only superficially deals with women offenders under the special categories of offenders. In doing so it further marginalises women offenders instead of recognising areas of improvement in conditions and treatment for women offenders.

The question that remains is how correctional policy in a country like South Africa can address the particular needs of female offenders in a pragmatic manner. Much more research is needed in order to engage substantively with the particular needs of female offenders. So far very little is known about the pathways to crime of female offenders in South Africa. According to Bloom *et al* (2004) research on women's pathways into crime indicates that gender matters significantly in shaping criminality. Nevertheless, research into the pathways or pre-incarceration of female offenders is not sufficient enough as experiences inside prison and post incarceration is also important to provide a holistic approach in the treatment of female offenders. Further research on all three phases is required so as to arrive at a comprehensive understanding of the needs of female offenders.

In order for South Africa to move towards establishing a gender-responsive or gender-specific approach in correctional policy for women it needs to recognise gender-responsive elements. This however, stresses the need for knowledge into the pathways to crime of women offenders and their social realities. For this reason research into the three phases as highlighted above is critical. According to Bloom *et al* (2004) a variety of disciplines and effective practices suggested that addressing the reality of women's lives through appropriate policy is fundamental for the improvement of outcomes for female offenders. According to the authors (Ibid) there are six guiding principles which should guide the development of a blueprint for gender-responsive or specific policies and practices (Bloom *et al*, 2004: 43):

- *Gender*: Acknowledging that gender makes a difference.
- *Environment*: Creating an environment based on safety, respect and dignity.
- *Relationships*: Developing policies, practices and programs that are relational and promote healthy connections to children, family, significant others and the community.
- *Services and Supervision*: Addressing issues of substance abuse, trauma and mental health through comprehensive services and appropriate supervision.

- *Socio-economic status*: Providing women with opportunities to improve their socio-economic conditions.
- *Community*: Establishing a system of community supervision and re-entry with comprehensive, collaborative services.

What may we ask is the relevance of the six guiding principles to female offenders in South Africa? First and foremost acknowledging that gender makes a difference, is crucial. According to Covington and Bloom (2006) women and men come into the criminal justice system via different pathways; they respond to supervision and custody differently; they exhibit differences in terms of substance abuse, trauma, mental illness and parenting responsibilities, and women represent different levels of risk within both the prison institution and the community at large. All of the above-mentioned factors emphasise gender differences. As a starting point for South Africa it is critical that correctional policy recognise the reality and importance of gender differences. In recognising that gender makes a difference it is important to create parity. According to Bloom *et al* (2004) creating parity means that females should receive the equivalent range of services that male offenders have access to, including access to opportunities for individual programming and services that recognise the unique needs of the sub-population. The emphasis should be on females getting programmes that are equivalent but not identical to male offender programmes. In this regard the challenge for South African correctional policy is to recognise the differential pathways into crime and create policies that will address the specific needs of women.

In the second instance, creating an environment that is based on safety, respect, and dignity is essential. Underlying this, is the idea of taking precaution to ensure that the criminal justice setting does not recreate the abusive environment that many women offenders experienced in their lives (Covington & Bloom, 2004). This is critical challenge for South African prisons more generally given the coercive controls exercised by gangs inside prisons. As mentioned before not much is known about the shape, size and impact of female gangs in prisons. More research is

required so as to arrive at an understanding of the influence which gang structures and gang politics exert over the lives of female prisoners.

Following Bloom et al's (2004) exposition there is a third challenge which related to the development of policies, practices and programs that are relational and that promote healthy connections to children, family and significant others. Nurturing relationships however is particularly problematic as incarcerated women seem to loose contact with their children. Currently there are no programs in place which aim at sustaining and building relations between incarcerated women and their children, families etc. Therefore there exists a great need for correctional policies and practices in South Africa to take into consideration the significance of women's relationships with children and families. The aspect that mostly intensifies the break up of relationships between the female offender and children and family is distance. In South Africa too women are imprisoned in locations that tend to be geographically removed from the homes. As a consequence they are more likely than their male counterparts to lose contact with their families. Whilst the White Paper on Corrections (2005) recognises the need to incarcerate women in prisons close to their homes, the opposite tends to happen in practice as women prisons are few and far between. Against this background there is a particular need to establish programmes for female offenders that would allow them to have contact visits with their children. In this regard the Department of Correctional Services may find it instructive to look at policy in Scotland as discussed by Du Preez (2006).

Fourthly, addressing issues of substance abuse, trauma, and mental health through appropriate services and supervision is critical. International research has showed that most women who enter prison have substance abuse problems (Krutchnitt & Gartner, 2006; Moe, 2006; Carlen & Worrall, 2006). Although no substantial research has been conducted in South Africa on this aspect, the small sample of interviews conducted with ex-female prisons also reflected that most of the women who enter prison have substance abuse problems. Findings from the interviews also indicated that most of the women had histories of abuse and mental health problems. This is also evident in the small amount of literature on women offenders in South Africa and internationally. DCS has general approaches in dealing

with substance abuse, trauma and mental health but has no specific policies for women.

Fifthly, providing women with opportunities to improve their socio-economic conditions is crucial. Covington and Bloom (2006) highlight that addressing both the social and material realities of women offenders is an important aspect of correctional intervention. Related to this aspect, South African correctional policy has made some progress but still have a long way to go. Improving the socio-economic outcomes for incarcerated women will require opportunities for education and training so that they can, upon release, stand a better chance of supporting themselves and their children (Covington and Bloom, 2006). In relation to this DCS provides some education and training for women offenders, but on the whole such provision is very limited. Given the state of the economy, many of the skills learned in prisons is not of much use on the outside and ex-prisoners struggle to find employment.

Sixthly, establishing a system of community supervision and re-entry with comprehensive, collaborative services is crucial. Findings from the five interviews suggest that upon release most of the women had nowhere to go. They were left homeless. Currently there are organisations such as *Beauty for Ashes* amongst others that assist in providing women with accommodation upon their release. Finding employment is another critical issue confronting former prisoners. Establishing partnerships between community-based and non-governmental organisations is critical in order to address and assist in the reintegration process of women offenders into their communities.

Lastly, what are the implications for South Africa if it does not adopt gender-responsive or specific approach for female offenders? In a country like South Africa, where equal rights of citizens is critical because of various reasons related to the apartheid past, it is important that gender is recognised. In reality, equal rights do not mean equal opportunities for all. Disadvantage women in particular are often further disadvantaged because of their circumstances. Their lives are often

characterised by poverty and abuse which means that equality is far from a reality. Unless these issues are addressed in the broader society it will have a negative impact on the few women who are in prison.

One of the most critical factors related to this is the further marginalisation and silencing of women's voices, particularly the few women who are in prison. The treatment of women offenders in prison is often a reflection of society's attitude towards the role of the women in society. Women from poor and disadvantaged backgrounds are more likely to come in contact with the criminal justice system. If correctional programs and interventions are not sensitive to the needs of women at the bottom of the status hierarchy it will lead to further oppression of those who are already oppressed.

In comparison with the United Kingdom, South Africa still has a long way to go in developing correctional policies that are attentive to the needs of women in prison. The historical context of South Africa in particular had a great impact on correctional policy in the past. For this reason, it does not seem fair to compare a developing country with a developed country but it is necessary. The gender-specific approach of the United Kingdom can be used as a model to develop gender-specific policies that are appropriate to local context. This is critical as South Africa needs to move from its basic level policy for women offenders towards substantive policy for women offenders if it wants to aspire to an institutional environment within which equality between the sexes can be enjoyed.

In an article that was published in the Cape Argus some light have been shed on the position of women offenders. A landmark Constitutional Court judgment, of a single mother found guilty of fraud had her appeal against a jail sentence upheld as the court took into account the interests of her children. The judges agreed that the interests of the children should be taken into account during the sentencing process.³³ This case sets a much needed precedent for recognising

³³ www.iol.co.za/index.php?set_id=1&click_id=6&art_id=vn20070927112124490C142220 accessed on 8 October 2007.

the needs of women offenders in the South African criminal justice system. Only the future will tell whether the future judgments will sustain the momentum.

5.5 Conclusion

In this chapter the case for women's imprisonment in South Africa was explored. By drawing on a review of South African literature on women's imprisonment and the information obtained from the interviews it was found that the issues that incarcerated female face in South African prison are in many respects similar to those elsewhere in the world. However, in comparison with the UK, USA and Canada the highest percentage of women in South Africa is incarcerated for aggressive crimes in comparison with drug related crimes as in the UK, USA and Canada.

The female prison population constitutes a very small number in South Africa and is, as a consequence, often neglected or overlooked in prison policy. It is against this background that the argument in support of a gender-specific policy framework for women offenders was developed. Correctional policy should be sensitive to the needs of women offenders with the view to effectively addressing such needs.

Chapter 6

CONCLUSION

The phenomenon of female offending has for too long remained in the shadows. This is probably due to the fact that relatively few women (compared to men) commit crimes and are subsequently imprisoned (Carlen and Worrall, 2006). Nevertheless, there is a growth of research that suggests that female offending is steadily rising. This has led to scholarly interest which has focused largely on the pathways into prison, the social identities of incarcerated; their experiences whilst in prison and upon release from prison. (Coyle, 2002).

As a result of social stereotyping of women, female offenders have come to be regarded as more than just criminals. Women, who offend, offend not only against the law but also against the femininity. In so doing, female offenders have come to be 'othered' and viewed as in need of treatment. The female offender is penalized by the criminal justice system as well as by society at large. What is interesting to note is that, despite society's insistence that a female offender offends against her femininity by committing a crime; it is that very femininity which, upon imprisonment, is overlooked and left largely unaccounted for.

The issue of women and crime is all too often equated to that of women in prison. This is problematic since the two are distinct events separate from each other. Although it is the commission of the crime which leads to the subsequent imprisonment, the experiences of a woman progressing through the different stages of the criminal justice system are most definitely incomparable to the experiences of a woman in prison. Furthermore, there is a tendency to ascribe experiences of males in prison to female prisoners. This thesis has attempted to expose the problems inherent in such an approach, which fails to take into consideration the unique needs and psychology of women compared to men.

Feminist criminology has acknowledged the unique circumstances and experiences of women in prison and this has spurred it into rallying towards adopting a gender specific or responsive approach.

This approach is considered to be critical as it recognizes the differential needs of women offenders' vis-à-vis their male counterparts. Debates concerning such gender-specific policies have given rise to a measure of controversy. On the one hand gender-specific policies highlight the needs of female offenders. On the other hand such policies assume that a 'feminine' approach will improve the situation of female offenders. Yet the outcome of such a gender-responsive approach could be both beneficial and detrimental to the situation of female offenders. Therefore the gendered approach toward women's imprisonment is potentially paradoxical but is critical and necessary.

Such a gender specific approach is relatively new and uncharted territory. As outlined in this paper the UK is one of the few countries that have adopted such an approach. There is much to be gained from a consideration of the British approach to women in prison. Much can be learned in a way of the success of the approach as well as improving upon the shortcoming thereof.

A common thread that links many female prisoners in South Africa is the existence of a history of abuse, substance abuse, poverty and illiteracy. For this reason a gender specific approach which focuses on deconstructing and explaining this trend, in a bid to reduce re-offending by females and/ or prevents female offending is appropriate.

At the moment South Africa does not explicitly recognize gender as a critical aspect in correctional policy. Gender stereotypes continue to influence correctional policy. The voices of women prisoners are not very audible at present. At the same time it needs to be appreciated that the Department of Correctional Services confront a wide variety of administrative and other challenges. The institutional environment is indeed a difficult one and policy implementation at the most general of levels confronts many challenges. The search for gender equality inside prison is likely to continue in years to come.

Whilst South Africa has along way to go in terms of the reform of its correctional policies, there is much room still for improvement when it comes to examining and addressing the specific needs of women behind bars. In this discussion some attempt has been made to highlight the critical factors that should be taken into account with regard to women offenders and their situation in the South African criminal justice system. We should be concerned with women in prison because they are still part of society even though they have violated the law. If we reject the female offender and ignore the critical role she can play or ought to play in society we deny ourselves the opportunity of re-establishing hope. In an ideal world or ideal society the correctional system should be a vehicle for complete rehabilitation and I believe that addressing these issues is a key to improving the plight of women in prison.

Currently it would seem that imprisonment punishes women for committing crime but also for offending against society's accepted notions and construction of the role of a woman. This punishment manifests in the form of loss of liberty as well as loss of right to femininity. Have we not reached a stage where individuals are free to determine the way they wish to live out their lives, the way they choose to be "female" and enact such femininity?. That right should not extent to the right to commit crime but it must extend to the right to be treated equally as compared to a man who commits crime. Punishment and imprisonment should not serve to further entrench social stigma and narrow minded stereotypes but should foster and facilitate equal access to justice for all.

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