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The paradox of women’s imprisonment

It’s very hard…. It is very hard. There are eight women in one room, you know especially when everybody gets up in the morning and gets ready at the same time…. There was six to a cell; now they put another [bunk] bed in there, which made it eight. It’s terrible.

I think sometimes… we’re like, we’re getting warehoused, through storage, you know… women’s storage or something … just kind of put away, because um, you don’t see much focus on women’s prison. You see a lot on men’s.

– From inmates at Valley State Prison for Women

In 1991, during the height of the imprisonment boom in the United States, a distinguished scholar commenting on a Blue Ribbon Commission on Inmate Population Management noted that because females represent only a fraction of the prison population they are relatively unimportant. As he put it, “[W]hen you have got as much of a change as we do in a system, which is 95 percent male … you are not going to be looking hard at the females in the system.” On one level, this assertion makes perfect sense given the small percentage females occupy in the overall prison population. On another level, the increasing rate of imprisonment of female offenders may produce a wide range of unintended, and negative, developments for both communities and families. To unravel these developments, we first need to look at the numbers in both global and temporal contexts. We can then consider the collateral consequences of imprisoning an increasingly large number of women offenders. In other words, we are “going to be looking hard at the females in the system.”

Women make up between 2 and 9 percent of the total prison population in about 80 percent of the prison systems throughout the world. In the United States, women fall at the higher end of this distribution, making up 7 percent of all individuals under the jurisdiction of state and federal authorities. While this is a small percentage of the prison population, women have been hit especially hard by the mass imprisonment movement, as revealed by a comparison of proportionate growth rates of male and female prisoners. Between 1980 and 2008, the U.S. women’s imprisonment rate increased more than sixfold, moving from 11 to 69 per 100,000 residences, as the incarceration rate for men increased.
a little more than threefold, moving from 275 to 957 per 100,000. Although various factors contributed to this disproportionate growth in women’s imprisonment, two factors are particularly important. The first is the shift from indeterminate to determinate sentencing. Indeterminate sentencing, which guided penal policy for three-quarters of the twentieth century, was an “offender-based,” as opposed to an “offense-based,” system. In this context, judges could consider a woman’s role in the offense and the extent and severity of her prior record along with external factors, such as her family responsibilities, when determining the costs and benefits of a noncustodial or custodial sanction. With the move to determinate sentencing, judicial discretion was severely curtailed, and persistent offending rather than the severity or dangerousness of offending emerged as the most important criterion for imprisonment. Second, these gender-neutral sentencing policies were compounded by the war on drugs, which produced mandatory prison sentences for certain drug offenses.

The result of this legislation has been dramatic not only in terms of the sheer increase in the female imprisonment rate, but also in terms of the offender and racial compositions of the aggregate state prison population. Whereas in the 1980s most of the women behind bars were convicted of either violent crimes or property offenses (and only 12 percent were incarcerated for a drug offense), by the end of the century violent offenders made up just 28 percent of the female prison population and drug offenders 35 percent. Their numbers have grown so fast that, currently, one-third of all the women in the world who are being held behind bars are in the United States, and a disproportionate number of them are African American. Between 1990 and 2000, African American women’s imprisonment rates increased by 50 percent, topping out at 175 per 100,000. There are signs that this trend may be waning, as arrests and convictions of African Americans for drug offenses declined somewhat between 1999 and 2005. Nevertheless, the current incarceration rate for African American women in this country (150 per 100,000 in 2007) exceeds the total imprisonment rate (that is, both men and women) of all European countries except Spain. It is unlikely that this development will change in the near future, as the passage of “truth in sentencing” laws in twenty-nine states requires that offenders, especially those convicted of violent crimes, serve at least 85 percent of their sentence before becoming eligible for release.

Costs accrued to the United States, in both social and human capital, from the incarceration binge of the last several decades is the subject of serious concern to both scholars and policy-makers. Social capital (networks and collective action) affects how individuals can achieve their goals within their communities and neighborhoods; human capital (the resources and skills individuals use to function effectively in society) builds on and draws from social capital. Though the social capital of both men and women is important to understanding community life, assessments of the toll the mass incarceration movement has taken on society have been primarily concerned with the large numbers of men who are cycling in and out of already low-functioning neighborhoods. This inattention to female offenders, at least in this context, is surprising because women are particularly invested in community social networks. They have more networks outside of their families and are more emotionally responsive to social ties than are...
Early ethnographies of poor urban areas depicted women as the “glue” that kept disorganized neighborhoods functioning, as they drew upon their social networks to supplement welfare payments and minimum-wage employment. Recent empirical studies of support networks in disadvantaged neighborhoods, however, suggest that it is the leverage women have in child care, not in financial matters, that is crucial. They wield considerable informal social control in their interactions with neighbors and their children, and in some contexts, these ties can have a significant impact on controlling crime. As sociologist Dina Rose and criminologist Todd Clear point out, these types of support are particularly important in poor communities, which are more dependent on informal currencies of exchange than are individuals living in more well-off communities. Therefore, the threshold for negatively impacting socially disorganized neighborhoods by removing women may be lower than it is when men are removed; or, stated differently, removing fewer females through incarceration may have a stronger effect on communities than removing larger numbers of males.

The degree to which women can effectively draw from and contribute to their communities depends on their own human capital and the educational and economic opportunities which they, in turn, provide for their children. Researchers take seriously the missed educational opportunities and attendant job prospects for male offenders and their families when men are sent to prison. But what is the cost to society and individual families when women are sent to prison? As Bruce Western and Becky Pettit point out in their essay in this issue, serving time diminishes subsequent economic opportunities among individuals who are, by and large, already socially and economically disadvantaged. This is no less true of women than of men, many more of whom are the only caretakers in the family. Because the number of female prisoners grew at a faster pace than the number of male prisoners over the last decade of the twentieth century, the number of children with a mother in prison doubled (up 98 percent), whereas the number of children with a father in prison increased by just over 50 percent. Specifically, at the end of the last decade, 65 percent of the women in state prisons (and 59 percent of those held in federal facilities) had children under the age of eighteen, and the majority of these women were single custodial parents prior to their arrest. Despite their heavy “breadwinner” responsibilities, 70 percent of female state prison inmates (compared to 53 percent of male inmates) report they were living on less than $1,000 a month prior to their arrest. These prisoners were three times more likely than their male counterparts (and five times more likely in the federal prisons) to rely on transfer pays such as welfare or unemployment insurance to support their families prior to imprisonment.

Loïc Wacquant suggests in his essay for this issue that “workfare and prisonfare” are two sides of the same coin that serve to “ensnare” marginal females and males. Welfare ensures poor women and their children are held personally accountable to the state, while the accountability of their male counterparts is controlled through various arms of the criminal justice system. In reality, however, women inmates are held disproportionately likely to have been under the aegis of the welfare system both prior to imprisonment and after. Moreover, the restructuring of welfare regulations has added to the obstacles...
faced by incarcerated women, with the move from Aid to Families with Dependent Children (AFDC) to the Temporary Assistance to Needy Families (TANF). Since all but eight states imposed a lifetime ban on TANF for persons convicted of drug felonies – an offense for which women are much more likely to be imprisoned than men – it is not surprising that 20 percent of the mothers in state prison reported being homeless or living on the streets prior to their incarceration.

A central concern with sending women to prison has always been what happens to their children; this concern has been heightened, of course, with the increasing numbers of women behind bars. When fathers go to prison, in virtually all cases (90 percent), the children reside with their mother. But when mothers go to prison, only a little more than one-quarter (28 percent) report that their children are residing with their father. Instead the children are often moved to live with a grandparent (53 percent) or another relative. In some cases, they are placed in, or remain in, foster care (10 percent).

The passage of the Adoption and Safe Families Act (ASFA) by Congress in 1997 furthered women’s insecurities about the whereabouts of their children when they are imprisoned. The ASFA, unlike its predecessor (the 1980 Adoption Assistance and Child Welfare Act, which discouraged states from removing children from their homes), places time limits on reunification efforts and encourages states to terminate parental rights when reunification is not feasible within specified time frames. Because twenty-five states have adopted statutes that are applicable to incarcerated parents, women prisoners’ chances of post-incarceration reunification with their children have substantially diminished. Reunification is virtually impossible for women, such as this prisoner, who lose track of their children after birth:

I was there for four days because I had a C-section, otherwise most of the girls are there less than twenty-four hours. They give birth, they see the baby, and then they’re brought straight back here . . . either they have arrangements for family to pick them up or they go to the State. . . . [Y]ou’re not allowed to make phone calls from the hospital. [The social worker] was making the phone call back and forth between the twin’s father and up north [where my friend lived] . . . [W]hen it got down to the fourth day, she told me, “Well, I think it’ll be okay if he takes them.” But he’s on drugs; now he’s in jail; now I don’t know where my kids are.

Such reports from prisoners about the location of their children are taken, and reflect their whereabouts, at only one point in time. Yet interviews with children of incarcerated mothers reveal they often experience considerable instability in their home life and schooling as a result of, for example, living first with a grandparent, then with an aunt, and then in a foster home or with a friend. Further, the homes of relatives, and even foster homes, are rarely ideal living situations. Relatives often reside in marginal neighborhoods, lack steady employment, and have substance abuse problems of their own, thereby adding to the risks these children already face. As the following woman makes clear, prisoners are often acutely aware of how this affects their children:

My daughter is having problems because I’m not home with her, you know? And sometimes they treat her good where she lives, and sometimes they don’t, you know? She lives with my cousin . . . they start messing with her and that makes her sad.

There is no question that incarceration restructures families, but when mothers are incarcerated, it often devastates them.
Developmental outcomes of children who have lost a parent to incarceration are not well understood, particularly when it is the mother who has been removed from the home. While scholars have been careful to consider the possibility that losing an unstable or abusive parent may actually be beneficial to a child’s development, the available evidence suggests there are few, if any, advantages for children to parental imprisonment. Specifically, the best available research (prospective longitudinal studies that are able to account for competing risks like parental criminality, low family income, poor parenting, and low child IQ) finds that parental imprisonment increases the risk of school failure, delinquency, unemployment, mental health problems, and drug abuse among children. There is also evidence suggesting that maternal or paternal arrest increases family instability and economic strain independent of parental traits (for example, substance abuse, mental health problems, lack of education, race) that may contribute to such instability and economic adversity.

There are several reasons why we might expect that maternal imprisonment is particularly difficult for children. First, because mothers are often the primary caretakers and source of parental attachment, especially for young children, their loss may be felt more acutely by children than when fathers are removed from the home. Second, it may be harder to maintain close ties with an imprisoned mother than an imprisoned father since there are fewer state prisons for women than men, and they are often located in more remote regions. Certainly, the vast majority of imprisoned mothers and fathers report having some contact with their children since admission to prison (either by mail or by phone), but more than one-half of the mothers in state prison report never having received a visit from their children. For those who haven’t seen their children, or who haven’t seen them for many years, the toll it takes on their well-being can be quite significant:

I saw my children a few years ago….I need to see them. I need to know, besides a letter….I need to see them, person to person, and to be able to look in their eyes and I’ll know whether they’re alright or not….I need it for peace of mind. I need it for structure, for myself. And I have told myself for years that it didn’t matter, but really it does matter.

Unfortunately, most of the research on the developmental effects of parental incarceration has failed to examine (1) whether children’s behavior problems are worse when mothers, rather than fathers, go away and (2) how age at parental separation due to incarceration affects children. There are, however, a few studies that report worse effects for children of imprisoned mothers, relative to those with imprisoned fathers. While these findings may be attributed to differences in maternal versus paternal attachment or contact availability during the carceral period, they also may be due to the high probability that these children will have no parental figure, or a deviant one, when their mother is incarcerated. Women offenders’ prospects for mate selection are clearly limited by both the disorganized neighborhoods in which they reside and their deficiencies in human capital, which are compounded by a period of imprisonment. It is also important to recognize that the stigma derived from having a parent incarcerated is likely to be much greater when it involves the mother rather than the father. Despite increases in female arrest rates, offending remains more normative for men than women. Not surprisingly, and even with limited data sources, the
most complete review of this literature concludes “that children may have worse reactions if their mother is imprisoned, if parents are imprisoned for longer periods of time and if parents are held in more punitive penal contexts.”

These are distressing findings because we know that sentence length and conditions of confinement have changed for women. Largely as a result of truth-in-sentencing legislation and various “add-ons,” which allow prosecutors to increase sentences based on offenders’ prior records, the average time served in state prison for those serving a first sentence increased by seven months (from twenty-two to twenty-nine months) during the 1990s. For federal prisoners, this average increased further still between 1986 and 1997, doubling from fifteen months to twenty-nine months; for drug offenders, it jumped from twenty to forty-three months.

Several scholars are also documenting how the boom in prison construction is affecting women’s conditions of confinement. California is particularly noteworthy in this respect. Over the course of the 1990s, three new correctional facilities for women opened; two of these facilities (Central California Women’s Facility and Valley State Prison for Women) have a design capacity of two thousand each (holding four women in each cell). Currently, these two facilities are both at 200 percent occupancy, housing four thousand inmates who are double-bunked (eight per cell) in each facility. Because both of these facilities were designed to accommodate male offenders in the event that the female prison population eventually declines, the women are subjected not only to extreme levels of overcrowding but also to far more security than they need.

The conditions of confinement, subject to much research during the rehabilitative era of the 1960s, have virtually been ignored in the current punitive climate. Yet we know that the effects of overcrowding and extreme levels of security are debilitating and last beyond the period of incarceration.

Reentering and “soon-to-be-released inmates” paint the saddest picture of our current imprisonment crisis. Women are 8 percent to 10 percent of these returnees. They have very different needs and obstacles than their counterparts did in earlier years because women’s prisons now hold more drug offenders and offenders with mental health problems. Prison programs that might address these needs are nearly absent since state budgets have been sharply cut in the recession, and state legislators want to make it clear that the prisons they are running are not “country clubs for cons.” Even the most basic skills necessary for rebuilding their lives are often difficult for prisoners to obtain while incarcerated. For example, only about one-third of all inmates who were preparing for release from prison in 1997 had participated in either an educational program (35 percent) or a vocational program (27 percent). Most states cut back on educational programs for prisoners when the federal government eliminated inmates’ eligibility for Pell Grants (which supported their efforts to obtain secondary education) in the mid-1990s. The reduction in prison education programs occurred as part of the Violent Crime Control and Law Enforcement Act, despite numerous findings that link education to lower recidivism rates, especially among female ex-offenders.

Vocational training and work release programs are also known to be effective in reducing recidivism. Yet in California (which had the largest prison population of any state in 2007) nearly one-half of all the prisoners released in 2006 report-
ed they had not participated in any work assignment or rehabilitation programs for the entirety of their imprisonment. Vocational programs and job training are especially important for women prisoners who hope to reunite with their children and overcome their dismal work histories to support them. In fact, job assistance has been shown to be quite important for reducing women’s odds of reoffending. A sample of women with felony convictions in Minnesota and Oregon were interviewed as they entered a period of probation/parole supervision and reinterviewed six months later. At the time of the follow-up interview they were asked whether they reoffended (had been rearrested or had violated their conditions of supervision) and whether they had received one of two kinds of state resources: subsidized housing or assistance in identifying potential employers, filling out job applications, and developing interview skills. Analysis of the data (which addressed risk level, education, age, and race) revealed that providing these resources reduced the odds of recidivism by 83 percent.

The lack of planning for the reentry of female offenders is particularly striking given the sizable growth in the female inmate population and the considerable rhetoric that has developed around the notion of “what works” for women offenders. The conventional wisdom is that women need “gender responsive” programming to address their unique backgrounds and circumstances: histories of abuse, drug addiction, and poor parenting skills. Nevertheless, the development of such programs, particularly in prison and in the period of transition from imprisonment into the community, has been spotty at best. In California, 80 percent of prisoners report having a substance abuse problem, but only 18 percent are placed in programs that would address this problem, even though such programs are known to lower levels of post-release substance abuse. Prisoners are well aware of the lack of resources they have for changing their lives and the apparent abdication of rehabilitative services by the “California Department of Corrections and Rehabilitation.” As the prisoners describe it, this shortage of services includes not just basic education but much-needed drug treatment as well.

There are many fewer programs now than when I came…. The system has given up on rehabilitation; it’s warehousing, not rehabilitating, people. We need more education programs. The youngsters coming in need to be tested on reading and writing; they should be required to get their GEDs first and then be assigned to jobs. They have to learn to read and write before they leave here or they’ll be coming right back.

I’m third time committed. I never got drug diversion to begin with…. I asked the judge when I got busted this time for a rehab, in-patient program out on the street. No chance…. I don’t understand that. I really honestly do not understand that. Why would you want to continually put somebody in here and to bring them back? Because it’s not helping; it’s not. All it’s doing is creating a worse attitude out there on the street. You go back and create more criminal activity.

Programming that would address parenting needs is also absent despite research that shows that children often act as a catalyst for positive change in women offenders. The Vera Institute study of maternal incarceration found that “being responsible for children often serves to put a brake on a parent’s destructive behaviour, including drug use and illegal activities [and] once that brake is removed, destructive behaviour accelerates.” But the chances of reunification hinge not
only on the degree to which women are seen as “adequate” parents but also the degree to which they can provide a stable environment for their children. Public housing has long been the most viable option for released prisoners since private property owners have the right to deny housing to anyone with a criminal record. But since 1988, when Congress amended the public housing statute with a “one strike” option that can exclude applicants with a criminal record, women offenders have few options for providing a safe, secure, and affordable place for their children to live.

The paradox of women’s imprisonment, then, lies in the sizable repercussions it has on society given the small number of individuals it affects. There is no question that many of these women have exercised poor judgment, but most are still an important resource for their communities and their families, and all of them will have a significant impact on the risk of criminality in the next generation of youth. It seems reasonable to suggest that many communities and children will be better off if we imprison fewer women. But how will this be accomplished? Legislative changes that give greater weight to the severity and dangerousness of an offender’s actions, rather than to their risk of reoffending, would be an important start. Relatively few women offenders pose a serious risk to society, and many would be much better served by remaining under court supervision in their communities. Such legislative changes must, however, be coupled with scientifically credible drug treatment programs. Because women’s substance abuse problems play a large role in both their offending histories and in the likelihood that their children will suffer family and economic instability, we need a greater public health (as opposed to criminal justice) investment in effective interventions for drug addiction. Women prisoners’ needs obviously extend beyond these suggestions and include, as noted, adequate housing and secure employment; but, at least in the short term, these investments could have sizable payoffs by generating more community stability and putting fewer children at risk.

ENDNOTES

1 These quotes, and subsequent quotations from prisoners throughout this article, are taken from the study “Women in Prison in the 1990s: A Temporal and Institutional Comparison” conducted by the author and Rosemary Gartner and funded by the National Science Foundation (Grant #9617285).


7 California’s passage of the Three Strikes law in 1994 is paradigmatic of this shift. As Zimring and his colleagues noted about this piece of legislation, “Any trivial felony by a twice-convicted burglar will call down a larger sentence for a third time loser than a non-aggravated second degree murder will generate for a non-third strike defendant”; Zimring, Hawkins, and Kamin, *Punishment and Democracy*, 9.


9 Walmsley, *World Female Imprisonment List*.


17 See Bruce Western and Becky Pettit, “Incarceration and Social Inequality” in this issue.


19 See Loïc Wacquant, “Class, Race, and Hyperincarceration in Revanchist America” in this issue.

20 See Kristin F. Butcher and Robert J. LaLonde, “Female Offenders Use of Social Welfare Programs Before and After Jail and Prison: Does Prison Cause Welfare Dependency?” working paper series 07.18 (Chicago: Harris School, University of Chicago, 2006). Butcher and LaLonde examined patterns of welfare receipt for 45,000 women inmates from Cook County, Illinois, sentenced to prison or jail terms. They found that in the four to five months after parole, women's welfare receipt rates drop, but after one year they approach their base levels of receipt prior to prison.

21 Butcher and LaLonde also found that the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) had no effect on the use of TANF by female drug offenders in Illinois, but the Illinois legislature provided these women with a variety of avenues for waiving the bans; Butcher and LaLonde, “Female Offenders Use of Social Welfare Programs Before and After Jail and Prison,” 35. See also Christopher Wildeman, “Parental Incarceration, Child Homelessness, and the Invisible Consequences of Mass Imprisonment,” unpublished paper (University of Michigan, School of Public Health, 2009).


24 Grandparents are severely limited in the financial assistance they can obtain when they agree to take a grandchild in due to maternal incarceration. Most states only offer official financial assistance for caregivers if they have obtained legal guardianship of children who have been in the foster care system; American Association of Retired Persons, *Help for Grandparents Raising Grandchildren: Guide to Public Benefits for Grandfamilies* (2009), http://www.aarp.org/families/grandparents/raising_grandchild/public_benefits_guide.html (accessed November 12, 2009).


28 Bureau of Justice Statistics, *Incarcerated Parents and Their Children*.


30 Murray and Farrington, “The Effects of Parental Imprisonment on Children,” 186.


Joan Petersilia, “California’s Correctional Paradox of Excess and Deprivation,” in *Crime and Justice*, vol. 37, ed. Tonry, 211.

Kristy Holtfreter, Michael D. Reisig, and Mary Morash, “Poverty, State Capital, and Recidivism among Women Offenders,” *Criminology and Public Policy* 3 (2004): 185–208. Research on 142 women released from Texas state prisons and jails in 2005, as part of the Returning Home Study of prisoner reentry in Maryland, Illinois, Ohio, and Texas, found that women who participated in job training in prison were more likely than those who did not participate to be employed eight to ten months after their release; La Vigne, Brooks, and Schollenberger, “Women on the Outside,” 7.


See also La Vigne, Brooks, and Schollenberger, “Women on the Outside,” 5.