

WHY DO WE STILL IMPRISON PREGNANT WOMEN?

by Rona Epstein and Geraldine Brown

The latest reports of HM Chief Inspector of Prisons and the Parliamentary Joint Committee on Human Rights revealed the conditions in some British prisons.

The Chief Inspector describes conditions as “appalling”, “intolerable”, “squalid”, rife with “vermin and filth”. Conditions like these, “should not feature in 21st century jails”. This conclusion was expressed prior to the further impact caused by the COVID-19 pandemic.

Since the pandemic, the Government has introduced measures to address the risk of contagion including a blanket ban on visits since around 24 March which is still in force despite the COVID-19 threat level having been reduced to level three on 19 June.

Human rights and the Government's response to COVID-19: children whose mothers are in prison, the report by the Joint Committee on Human Rights, was published recently. It concludes that the right to family life of children whose mothers are in prison risks being breached. It proposes that the Government end the ban on children visiting and consider the temporary release from prison of every low risk mother of dependent children, alongside pregnant women and women in Mother and Baby Units.

The outbreak of COVID-19 has exacerbated problems of the separation of children from mothers in prison. Prohibition of visits and the seeming inability of the Government's early release programme to reunite a large number of mothers with their children have put at risk the right to family life of up to an estimated 17,000 children of mothers in prison.

The Guardian has reported that only 24 women have been released in England and Wales during the pandemic under the proposed release scheme for pregnant prisoners and new mothers, along with another seven women who were within two months of completing their sentence.

The Government is largely working on these issues in the dark, as they do not have even the most basic information about the numbers of women in prison who are separated from dependent children. This could be easily remedied and it should be. You cannot protect the human rights of children who are invisible.

The Committee recommends:

- The Government should consider the temporary release from prison of every low risk mother of dependent children, alongside pregnant women and women in Mother and Baby Units.
- Children must be allowed to visit their mothers in prison on a socially distanced basis, where it is safe for them to do so. Any prohibition of visiting must be both necessary and proportionate in each individual case.
- It should be mandatory to ask all women entering prison whether they have dependent children and what their ages are.
- Prisons should undertake an annual census asking women whether they have children and what their ages are. This information must be collated and published.

New research

An estimated 600 pregnant women enter prisons in England each year, and about 100 babies are born inside. Others are detained under immigration rules, having committed no crime.

Pregnant women are especially vulnerable and in need of extra care, so why are there pregnant women in our prisons and detention centres? The suffering some women experience while pregnant in prison was poignantly described in a recent post by Laura Abbott and Lucy Baldwin who ask, "Why do we still imprison pregnant women?".

Our research seeks to answer that question.

Very few women commit violent offences or present a serious risk to the public. Almost half of first receptions in the female prison estate are for unconvicted women. So 15 per cent of the women in prison are on remand. Many women remanded into custody don't go on to receive a custodial sentence. In 2018, 63 per cent of women remanded into prison by the magistrates' courts and 38 per cent remanded by the crown courts did not go on to receive an immediate custodial sentence. They were, however, in jail long enough to disrupt further lives often already marred by chaos and distress. In the year ending September 2019, 44 per cent of all prison receptions were remand receptions.

The Transforming Rehabilitation Act 2014 provided that all offenders who had served prison sentences of more than one day must attend probation supervision for one year. They can be recalled to prison if probation staff find they have failed to comply satisfactorily. Women on licence recall now make up 8 per cent of women in custody.

The dominant factor for recall is failure to keep in touch with the supervising officer, rather than direct risk of re-offending. In a recent study by the Prison Reform Trust, of 24 women who had been recalled, three of these were pregnant at time of recall and one stated that failure to attend one appointment had been due to a hospital visit for a pregnancy scan. This woman reported she was recalled and separated from her daughter the day after she gave birth.

Women predominantly serve short sentences for minor offences. An earlier study by Lucy Baldwin and Rona Epstein found that even very short sentences of imprisonment can be hugely damaging to mothers and their children. Why are these short sentences imposed rather than a suspended sentence or ordering community punishments? Research shows that community sentences are now outperforming short prison sentences and are more effective in reducing re-offending. The rights of the child should be considered by a court sentencing a mother but this is not established practice.

Online survey

Collaborating with Birth Companions, we have set up an online survey asking women who have been pregnant in prison about the court processes which led to imprisonment and about their experiences in prison.

Why now?

On 27 September 2019, a woman held in HMP Bronzefield on remand gave birth alone in her cell, the baby died. Following this incident a number of investigations were set up, among them:

- Internal investigation at HMP Bronzefield
- Joint investigation between the Prison Service and HMP Bronzefield
- Police Safeguarding investigation
- Surrey Social Services Rapid Response Review.

The Prisons and Probation Ombudsman (PPO) is to carry out an overarching independent review into the circumstances of the baby's death.

None of these inquiries will ask why was this woman on remand in prison. Nor enquire why the other pregnant women - about 50 at any one time - are incarcerated. On remand, on sentence, on recall - should a pregnant woman be in prison?

There is now a new investigation following the stillbirth of a baby at HMP Styal on 18 June. The woman had complained for days of pain and was not apparently referred to a doctor or offered any medical care. This fits in with what we know from the research of Miranda Davies and Laura Abbot.

To conclude

The link between issues of poverty, deprivation and social exclusion and involvement in the criminal justice system is clear. What is also clear are the wider costs ensued by punishing the vulnerable and the excluded rather than working towards equality and social justice. We aim to generate evidence that supports a different approach - one that seeks first to understand and then to repair the fissures in our society, and to expend energy and resources to that end rather than to punish those at the margins of society. Our research to explore why pregnant women are in prison should be seen in this context.

Our survey is accessible at <https://coventry.onlinesurveys.ac.uk/survey-why-are-pregnant-women-in-prison-copy-copy-co-2>.

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