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### Introduction

THE PURPOSE OF THIS CHAPTER is to give an overview of women's imprisonment in Canada during the 1990s, an eventful decade for women in prison and issue declarations about how prisons destroy far more lives than they save, their solutions are to hire more police and prison guards and to build more prisons. The renewed commitment by the state to correctionalism in practice contradicts their rhetoric. The current expansion of correctional practices also defies the vision and solicited recommendations of various consultant groups over the decade.

As of March 1997, 14,448 persons of a total Canadian population of approximately 30 million were serving federal prison sentences. Of this number, 357 (2.5 percent) were women.<sup>1</sup> The first text to be published in Canada on the subject of women in prison was *Too Few to Count: Canadian Women in Conflict with the Law*,<sup>2</sup> a title that well described the Canadian situation until the mid-1990s. As has been true in many countries, because of their small numbers and the inappropriateness of the rigid, militaristic, masculinist, hierarchical model of male prisons, women have been an afterthought in the correctional enterprise.

There are forty-two federal prisons for men in Canada,<sup>3</sup> generally allowing for placement according to security classification and proximity to

## Transformative Justice versus Re-entrenched Correctionalism

### The Canadian Experience

Karlene Faith



family. By contrast, until the mid-1990s, only one prison had been constructed for federally sentenced women who were serving prison terms of two years to life. Prior to 1934, when the Prison for Women (P4W) in Kingston, Ontario, was opened, women were confined to small, dark, cold, bug-ridden attics and cells in men's prisons.<sup>4</sup> The anachronistic P4W, a large, forboding, domed, limestone structure surrounded by eighteen-foot-high stone walls, the interior a dark maze of cells and corridors, offered little improvement in terms of comfort or civility. Between 1938 and 1978, eleven of twelve government-appointed investigative bodies agreed that P4W should be closed and the women dispersed to minimum security regional facilities in order to be closer to their families.<sup>5</sup>

In 1979, Simon Fraser University sponsored the first Canadian conference on women in prison, organized by Margit Nance, a director of continuing studies, and Curt Griffiths, a professor of criminology. One of the speakers was the Honorable Jean-Jacques Blais, then the Solicitor General of Canada; he prematurely announced, to cheers, that P4W would soon be phased out. Claire Cullhane, now a Canadian legend as a researcher-advocate-activist on behalf of prisoners' rights, was then newly involved in prison work. She, Lorraine Berzins (a long-time prisoners' rights activist), Marie-Andrée Bertrand (a Montreal professor whose research produced the first scholarly Canadian article on gender and crime),<sup>6</sup> and others among us organized a radical caucus. We lobbied other conference attendees to contribute to a critical analysis of prisons with sensitivity to gender issues. We didn't use diplomacy in exposing violations of women's rights within the prison; we spoke forthrightly in the presence of correctional officials. In 1981, spurred by feminist activists, the Canadian Human Rights Commission concurred that the physical structure and custodial practices at P4W were discriminatory. Correctional Service of Canada (CSC) funded cosmic improvements, but nothing changed substantively.

The landmark 1979 conference set in motion a small but growing national network of activists, former prisoners, advocates, and academics whose work is meant to serve the interests of women in prison. This work has had very mixed results, as will be discussed later in this chapter. On the one hand, it has been a demoralizing era, and the end is not yet in sight. The government, contrary to the progressive rhetoric of top officials, seems

### The Exposé

As committed as ever to confining lawbreakers in destructive environments that exacerbate the problems of crime. On the other hand, more people throughout this vast nation are serving a watchdog function and are determined to turn the penal tide. Throughout Canada, an Australian poster saying "Women Don't Belong in Cages . . . Prisons Are the Real Crime" is displayed illustrating an international coalition of concern for the problems of imprisoned women in our respective countries.

At a strategy meeting in 1997 (referred to as the Gatinreau Gathering), former prisoners, lawyers, researchers, and community activists, from different cultures and from all over Canada, met for two days to discuss strategies to address human rights violations in the prisons and to join forces for transformative changes in the justice system. The background for those meetings was a series of 1990s events, some of which aroused the public to a recognition of abuses in women's prisons and others of which raised hopes among human rights activists for more sensible ways of responding to law-breaking.

A videotape of abuses against eight women in segregation cells at P4W, committed in April 1994 by an emergency response team from a neighboring men's prison, was televised in February 1995. The clandestine video obtained by the Canadian Broadcasting Corporation (CBC) was taped according to official policy of the Correctional Service of Canada; restraint incidents that could produce personal injury were recorded for later evidence of unprofessionalism. When CSC learned that a popular news commentary television program, *The Fifth Estate*, was planning to air the tape, they filed an injunction. Months later the courts ruled in favor of public access.

The images televised across the nation included, first, a silent, late-night platoon of six or seven men (the exact number was never reported), wearing identical Darth Vader outfits. They are unidentifiable behind helmets, heavily padded combat suits, masks, shields, and enormous boots. Part of this platoon's function is to intimidate, and they are successful. On orders of the prison warden to conduct emergency strip-searches and cell extractions in the segregation unit, they burst into the cell of a woman who is asleep on her cot. They rouse her by slamming her onto the cement floor,



then cut and rip off her night clothing and underwear. They confine her with leg irons and handcuffs. Two or three of the "team" hold her naked body to the cement floor with their padded knees pressed into her back. They stand her against the cement wall, banging their batons right next to her ear. They repeat this procedure from one cell to the next. Some women scream, clearly terrorized. Others, their more experienced friends, call out reassurances, though in desperate voices; they tell the other women that if they just obey they won't be hurt. One woman pleads in vain for her glasses, which are kicked underfoot. After the televised scene, the women were led away, one by one, for "body cavity" searches. Their cells were overturned; their meager belongings were taken away; and the cots, mattresses, and bedding were removed.

Following the strip-searches in the cells and the body cavity searches, "the women were left in shackles and leg irons, wearing paper gowns, on the cement floors of empty cells."<sup>7</sup> Nothing at all was found. None of the eight women had been guilty of holding contraband of any kind. But their punishment continued because they had been judged to be threatening to the guards in the days preceding the assault. As reported later in the official inquiry,<sup>8</sup> one prisoner was accused of throwing urine at a guard, which she said was untrue. Apparently some women were yelling insults from their cells to the guards in response to what they construed as verbal abuse against themselves. Guards claimed they knew of an escape plan, but it was proven to be a false claim. Another guard insisted she had been pricked by an HIV-infected needle, though the accused prisoner said that that definitely did not happen and no evidence was found. Two Native women testified that a guard told them they should go hang themselves, as several of their friends had recently done. The guard vehemently denied having said it. Meanwhile, coinciding with these events inside the prison, the guards' union was demonstrating with pickets outside the prison, expressing serious anger about management decisions and demanding policy changes. As detailed in the Arbour report,<sup>9</sup> tensions and hostilities produced by prison culture itself were pervasive prior to and following the assault on the eight women in segregation in April 1994.

The women in segregation were denied bedding, mattresses, showers, telephone calls, reading or writing material, hot water, radios, adequate

feminine hygiene products, legal counsel, and clothing. Some of them were transferred to men's prisons, including men's mental hospital prisons and wards for sex offenders, where they have been ensconced in isolated, grim conditions amid men they fear, and have been subjected to debilitating drug treatments and continual "programming." Some of the assault victims were confined in segregation at P4W for as long as nine months, although expert witnesses who testified at the Arbour Commission Inquiry agreed that anything over a month poses a serious health risk to almost anyone.<sup>10</sup>

John Edwards, the commissioner of corrections, publicly defended the actions of the emergency response team (ERT). It was disclosed that this team included a woman whose uniform made her indistinguishable from the men. She apparently assisted with some of the strip-searches, and observed others. The commissioner thought the team had behaved very professionally, and the prison warden echoed his point of view. Both withheld information and attempted to cover up the details of what had occurred. The warden kept her job for a time, until pressured to leave under charges of giving prison contract jobs to her daughter. The commissioner was pressured to resign in the course of the investigation.

The CSC mission statement includes five core values, none of which was honored in the actions of the ERT. These core values are:

1. We respect the dignity of individuals, the rights of all members of society, and the potential for human growth and development.
2. We recognize that the offender has the potential to live as a law-abiding citizen.
3. We believe that our strength and our major resource in achieving our objectives is our staff and that human relationships are the cornerstone of our endeavour.
4. We believe that the sharing of ideas, knowledge, values and experience, nationally and internationally, is essential to the achievement of our mission.
5. We believe in managing the Service with openness and integrity and we are accountable to the Solicitor General.<sup>11</sup>



The atrocities, the clear helplessness of the women, naked in their vulnerability to armored, faceless men, aroused Canadian public interest in women prisoners in a way that nothing had before. On the video, the frightened women are stripped not only of clothing but also of dignity. They are degraded. In later televised interviews, they are well dressed, poised, some very young, small, feminine, all articulate, not the least bit fearsome. They describe how the assault brought back memories of rape and other painful events in their lives.

Gayle Horii, a former prisoner at P4W who watched the strip-search on television, said "Please understand that the events of April 1994 at P4W were not as shocking to those of us who had already experienced prison, as to those who have not. However, the immediate condemnation by humanist groups across Canada, who easily recognized that women forced into positions of degrading submission is sexual violence, helped to legitimize our feelings."<sup>12</sup>

That prisons often operate outside the law did not come as a revelation. But correctional critics and journalists were nonetheless surprised at the willingness of CSC representatives to tell blatant lies in televised interviews, such as the new warden's insistence that none of the men with the emergency response team had removed women's clothing, and contradicting herself as to whether she'd seen the video at the time of making that statement. As one observer summed up the conclusions of the Arbour report: "Left to itself, the CSC is incorrigible."<sup>13</sup>

The Arbour recommendations included numerous demands that the legal and criminal justice systems increase surveillance of prison wardens and staff just as the staff and the wardens want more eyes on prisoners; everyone under the continuous, multidirectional gaze of the postmodern era.<sup>14</sup> And yet, within several years, prison violence was again inflicted and blamed on women who were incarcerated—in men's prisons in Saskatchewan and Nova Scotia, and in two of the new women's prisons—again bringing in unwaranted "emergency" responses. Old habits die hard (that is, using force to address an "emergency"), and the standard for what constitutes an "emergency" (that is, justifying force) has not risen in the 1990s. The P4W assault event was a historical milestone in public education in Canada regarding women's prisons and that event is bracketed by other

### Other Significant Events of the 1990s

significant events in the 1990s, most of which have promised changes in the way "corrections" are done to women in this country.

1. In 1990, a task force appointed by the Solicitor General to evaluate federal corrections for women produced its report, *Creating Choices*. This document represented the work of hundreds of people, primarily women—many feminists; First Nations women; and representatives of many national women's organizations, including the national Elizabeth Fry association, which provides leadership for effective prisoner advocacy work and human rights monitoring. Prisoners were also directly involved in the research. Like the task forces that preceded them, this task force first recommended the closure of the federal Prison for Women (P4W) in Kingston, Ontario, an archaic structure situated thousands of miles from most women's families. To replace it, they recommended regional minimum security facilities that would make room for children and that would draw on noncarceral community resources to assist women in rebuilding their lives.

Five of the "woman-centered" principles by which the task force formulated their recommendations, as discussed by Margaret Shaw,<sup>15</sup> were based on the women's needs for personal empowerment, meaningful choices, respect and dignity, a supportive environment, and shared responsibility. The success of the regional centers would depend on the implementation of those principles.

2. The Solicitor General promised to close P4W by 1994 and to follow the task force recommendation for small, low-custody, regional, cottage-style "homes" for women "in conflict with the law." Local communities submitted proposals for four of the new prisons and the sites were selected: Edmonton, Alberta; Joliette, Quebec; Truro, Nova Scotia; and Kitchener, Ontario. In addition, a Healing Lodge for Aboriginal women was to be constructed outside Maple Creek, Saskatchewan.

3. Meanwhile, in 1993, the Burnaby Correctional Centre for Women opened in British Columbia (capacity of 120), with responsibility for both provincially sentenced women and federally sentenced women from British Columbia and the Yukon and Northwest Territories. In an exchange of services agreement, the federal government helps fund the new prison, which



houses both women prisoners serving up to two years provincial time (including weekends) and federal prisoners serving up to life sentences. The provincial authorities govern the prison according to provincial regulations, which are often more punitive and restrictive than federal regulations, and which deny long-term prisoners their rights under federal law. The concern is that other regional prisons will be similarly abandoned by the federal government to the control of the host province to the detriment of federally sentenced women.

4. By 1995, P4W was still crowded with women but the new prisons were under construction. The rhetoric of the five newly appointed wardens was generally in the direction of community involvement and allocation of attention and resources to the issues women face in and out of prison concerning children; employment; housing and transportation; drug and alcohol dependencies; and unresolved issues such as rape, battering, or childhood sexual abuse. When the evidence of abuse at P4W was revisited, CSC rushed completion of the new prisons. It was announced that when the remaining prisoners were transferred, P4W would definitely close.

5. In 1995, spurred by the public outcry over the televised strip-searches, the Solicitor General commissioned an official "Inquiry into Certain Events at the Prison for Women," chaired by an appeals court judge, the Honorable Louise Arbour (who later became the chief justice in the United Nations war tribunal court). As commissioner, Judge Arbour was meticulous in her investigation, seeking perspectives and information from the prisoners, guards, and management on the inside and from researchers, activists, lawyers, and academics on the outside. In documenting the events before, during, and after the assaults, Judge Arbour and her two assistants, Dr. Tammy Landau and Dr. Kelly Hannah-Moffat,<sup>16</sup> presented abundant evidence of law-breaking on the part of the correctional service.<sup>17</sup> The very act of the ERT entering the segregation unit was illegal because with women in bed in their cells, there was no emergency.

Although Judge Arbour's focus was primarily on the particular need of prison authorities to observe and strictly adhere to the law and to function under the direct eye of the judiciary, she also examined evidence of practices that were legal but nevertheless inhumane. For example, she was out-

raged at the abuses permitted through extended segregation practices and she referred to corrections as a "deplorable defensive culture."<sup>18</sup>

CSC's defiance in responding to so few of the recommendations has been met with scorn. For example, Saskatchewan Member of Parliament Chris Axworthy wrote to the deputy commissioner with two pages of examples of human rights abuses in women's prisons, in particular the transfer of women to men's mental hospital prisons. He concludes, "My astonishment at CSC's disregard for the observations and recommendations of the many task force reports, most notably the Arbour Commission Report and Creating Choices, cannot be overstated."<sup>19</sup> On 1 April 1997, the Elizabeth Fry association issued a public "report card" on the performance of CSC in the year since the Arbour review. The CSC got an F-minus, especially for the racist policy of excluding Native women from the Healing Lodge on the grounds of classification. On 18 April 1997, Ovide Mercredi, the national chief of the Assembly of First Nations (AFN), said that the CSC is "going back a hundred years in its treatment of women prisoners."<sup>20</sup>

The only potentially significant recommendation offered by Judge Arbour that has been implemented to date is the establishment of the position of deputy commissioner in charge of women's prisons. The appointee, Nancy Stableforth, is well qualified but because ninety-five staff are answerable to the commissioner, not to her, there are many questions about how effective she can be. In her first years she has served more as a diplomatic broker of information and a consultant than as a policy maker. She is, nevertheless, frequently approached with recommendations from community groups that urge her to take action on such issues as classification inequities; the need for culturally sensitive programming and job training; and peer-based services to address substance abuse, the effects of physical (including sexual) abuse, self-injury, and problems with parenting.

Although feminists opposed the action, the CSC did heed another recommendation from the Arbour report: They created all-female emergency response teams. This is regressive because it wrongly assumes that women, as men's "equals," have need for these teams. Giving women the entitlement and skills to conduct strip-searches of other women is not a step forward for women in either role.



Community coalitions have also pushed for proactive reduction of the numbers of women who are incarcerated. In a discussion paper, the deputy commissioner affirmed her agreement with this principle,<sup>21</sup> making reference to one of the key recommendations of the 1990 *Creating Choices* Task Force, namely "the development of a release strategy which would enhance community resource and support networks for women released from federal custody."<sup>22</sup> With the valid implication that parole boards may release women earlier if practical resources are awaiting them. With practical support, women are also less likely to violate parole and be returned to prison. Because the government itself is cutting rather than increasing funds for such resources while investing increasing resources in prisons, such pronouncements may be heard as a self-rebuke.

6. In late 1995, the Okimaw Ohci Healing Lodge was opened to thirty First Nations women. The brochure for the opening states: "Healing for Aboriginal women means the opportunity, through Aboriginal teachings, spirituality and culture, to recover from histories of abuse, regain a sense of self-worth, gain skills and rebuild families." Planned and designed by members of various First Nations, the buildings are arranged in the shape of an eagle seen from the sky, situated in a beautiful prairie setting near aspen woods and green hills; they are staffed mostly by Native people who have no history with corrections. The Healing Lodge posed a significant challenge to punishment models, yet CSC gave considerable latitude to the planning committee and did not object to the plans for healing circles; the steady availability of elders for personal counsel; or the absence of locks, fences, and walls.

For two years following its opening, women testified about the nurturing they received at the lodge and the spiritual strengths they gained that have assisted them since their departures. In the past few years, however, more women have been reporting that it has become "more like a prison," more punitive than healing. Rather than CSC letting itself be led by the principles of the Healing Lodge in setting policy for the other women's prisons, as Arbour and many others have advised, "corrections" is imposing its timeworn penal principles onto the Okimaw Ohci "Healing" Lodge. Perhaps this was inevitable given the line of state authority.

7. In 1996, shortly after the opening of the new prison in Edmonton, a

woman was killed. She had been suicidal and had made several failed attempts. This time she persuaded a friend who was also in prison to help her. The friend was convicted of manslaughter; the event was interpreted as an act of institutional violence because the suicide was not a solitary act. There were also half-hearted escape attempts by other women. The immediate conclusion drawn by the CSC, which did not address the reasons why the women were so eager to get away one way or another, was that the prison needed tighter security. The prison was virtually shut down for several months and opportunistically transformed into a maximum security prison. The prison outside Halifax likewise became a maximum security prison after a woman walked away and others were in conflicts with staff and each other. All the other new "minimum security facilities" followed suit, hiring more staff, constructing high, double chain-linked fences topped with coiled razor wire and installing radar detection, cameras, tape recorders, and other security devices.<sup>23</sup> Once on the grounds, having passed through a security check, these prisons appear very attractive until one recognizes the level of technological surveillance or hears cries from segregation units. The voices of women who have been isolated in men's mental illness prison wards can scarcely be heard at all. As Kim Pate said, "We face a situation now where corrections for women is basically back at the turn of the century."<sup>24</sup>

Through the use of euphemisms, CSC has avoided clear communication about the nature of the new prisons; the segregation units, for example, are called the "enhanced" units. Pastel walls and "living units" notwithstanding, the negative consequence of these new prisons has been to illustrate the impossibility of creating a "community" involving freedoms, responsibilities, and choices within a "correctional" penological enterprise. These new prisons serve as both empirical and symbolic evidence that punishment and healing practices are incompatible.<sup>25</sup> Some women do heal in prison, not through institutional regimens but with self-help such as peer counseling or through the Native Sisterhood groups organized by First Nations women in Canadian prisons.

In the new prisons, planned as alternatives to the penitentiary model, guards now unapologetically use pepper spray on women who are disruptive and exercise the control that is fundamental to a total institution. In 1996, a woman in one of the regional prisons became very agitated and cut



herself. Jo-Ann Mayhew, a former prisoner, reports that "the staff responded by using pepper spray, placing the woman in shackles and handcuffs, locking her in an isolation unit, stripping her naked, repeated use of pepper spray, then left her in the shackles, handcuffs, naked on a steel frame without a mattress or blanket for several hours."<sup>26</sup> The Board of Investigation concluded that all this punishment, force, and restraint was "not seen as excessive and appears reasonable." They did say that leaving her naked on the cell floor was unjustified.<sup>27</sup>

### Who is Affected?

The profile of women in prison in Canada reflects that of women elsewhere in the Western, carceral world. The majority are young, under thirty-five. Political minority groups are overrepresented. In Canada this minority group is First Nations women, who constitute up to 100 percent of women in some provincial and territorial jails. They make up 18.7 percent of the federally imprisoned women's population (the proportion of Black women has increased to 11.5 percent and the proportion of Asian women to 3 percent). Although Natives represent just 4 percent of the total population of Canada, almost 30 percent of federal prisoners overall are Native.<sup>28</sup> Although they commit fewer crimes, Native women are incarcerated in jails and prisons at a higher rate than Native males; generally they are women who have left the reserves, who are disconnected from Native traditions, and who drift into the inner cities without shelter or skills. The majority of women sent to prison (of all ancestries) are single mothers. The majority have histories of illegal drug dependency and childhood sexual abuse.<sup>29</sup> Many suffer from inner pain, often produced by the prison itself, "slashing" (self-injury) is not uncommon.<sup>30</sup>

The crimes of women in Canadian prisons run the gamut. Women commit up to 15 percent of all violent assaults and homicide. They are convicted of 14 percent of cocaine charges and over two-thirds of charges involving pharmaceuticals. They engage in petty theft, chronic larceny (shoplifting), writing bad or fraudulent checks, and welfare fraud. Since the 1980s, increasing numbers of African American and Caribbean women have been incarcerated in Canada for drug trafficking offenses, usually can-

### Progressive Rhetoric/Regressive Practices

tenced women are at the new prison in Joliette.

Overall, federal sentences of women average less than six years, but for the less serious crimes they serve longer sentences than do men.<sup>31</sup> The number of federally sentenced women in prison is constantly fluctuating, but is now generally between 300 and 350. From the mid-1970s to the late 1990s, up to half of these women were incarcerated in the Prison for Women. Most others, not always by their choice or to their liking, have been held in provincial jails through exchange of services agreements (ESA). For example, beginning in 1982 women from Quebec—one-fifth of federal prisoners<sup>32</sup>—have been locked in the Maison de Tangway in order to remain in a French language environment. Now the federally sentenced women are at the new prison in Joliette.

In 1998, Solicitor General Andy Scott and Commissioner of Corrections Ole Ingstrup spoke in various public venues, to the press, and in Parliament about the futility of prisons as a response to illegal behaviors. Both came into office following the decisions for new prison construction. The Solicitor General acknowledged that prison "can be detrimental or counterproductive" for most people. He stated that offenders "could be more safely and effectively handled through community programs." And he spoke of the "need to develop effective alternatives to incarceration for offenders." Scott argued that public safety, his number one priority, would be better met with community programs that include education and job training and that interpersonal conflicts involving illegal behaviors should be resolved through restorative justice methods.<sup>33</sup>

Ingstrup, in charge of fifty-six prisons and camps, halfway houses, and other aspects of "corrections," is unequivocal: "Prison is a costly and often destructive response to social ills. Harsher penalties do not lead to safer communities. We must deal with the public perception, and fear, that crime is greater than it actually is."<sup>34</sup> Notions of various forms of restorative justice, either innovative or based on traditional aboriginal practices, have

officially entered the lexicon of criminal justice agencies.

In his report evaluating the performance of CSC over the previous year, the then Solicitor General Andy Scott concluded decisively,



Keeping offenders in prison for long periods of time is costly. There does not, furthermore, appear to be any clear link between crime in society and levels of incarceration. In addition, community-based interventions appear to equal or outperform institutional measures in the safe reintegration of offenders. There is a growing acceptance of the principle that incarceration should be reserved for higher risk offenders who have committed violent crimes, and that non-violent offenders are best managed through community-based supervision and programs.<sup>35</sup>

Echoing Scott, the National Parole Board states in its manual, "The lowest recidivism rates occur when incarceration is used as a last resort and treatment is offered by programs outside the correctional system."<sup>36</sup> And in a discussion paper the Canadian Criminal Justice Association (CCJA) has this to say:

We need to recognize that the retributive approach is not the most effective. The fact that Canada is over-reliant on incarceration as a response to crime is well documented. Canada is outranked only by the United States. While the number of adults charged has decreased, the rate of those charged who are being incarcerated has increased.<sup>37</sup>

The report notes that the passage of Bill C-41 in 1996 requires courts to consider "all available alternatives to imprisonment and to use imprisonment only if no other course of action can ensure the protection of society."<sup>38</sup> This significant legislation was perhaps fiscally motivated, but it suggests a political will to move away from a punishment model. Because relatively few women prisoners are a threat to public safety, the increased use of incarceration (for both men and women) suggests that courts are still operating on the basis of "prison as the norm" and community-based alternatives are not yet sufficiently developed to provide the courts with new options. Because of cutbacks in social services state funding for alternative justice services is very limited. Victims' rights groups, via the media, have aggressively persuaded "the public" of a need for more stringent incarceration practices. Law-and-order politicians respond to their constituents by putting pressure on parole boards to withhold releases.<sup>39</sup>

Even as the rhetoric of officials has shifted to a decarceration philoso-

phy, the ratio of guards to prisoners has increased, and women's cell space in Canada has nearly tripled since 1992. In addition to the new prisons in Turo, Edmonton, Kitchenner, Joliette, Vancouver, and Maple Creek, women have been incarcerated and drugged in solitary confinement in a variety of men's prisons, a return to the barbarism of the nineteenth century. Having installed maximum security technology in each of the new women's prisons and transferred all but seventeen of the women from P4W to the new facilities, at the first signs of trouble CSC then transferred all the women with maximum security classification to isolated segregation units and psychiatric wards in men's prisons. Over time, women have been sent to the Saskatchewan Penitentiary, the Regional Psychiatric Centre in Saskatoon, Ste-Anne-des-Plaines in Quebec, and the Springhill Institution in Nova Scotia. At one point, women were incarcerated in eleven different prisons.

Far from the vision of the "Creating Choices" Task Force, and far from the stern judgment of the Honorable Louise Arbour that "corrections" lawlessness had to cease, some of the new women's prisons perpetuated many of the same old abuses: "illegal strip searches, no access to counsel, excessive use of force and segregation, illegal involuntary transfers."<sup>40</sup> The departure of maximum security women prisoners from the new prisons left primarily minimum and medium security women in the chain of new maximum security prisons. Even the Healing Lodge, contrary to its intended mission, and despite the recommendations of the Arbour Commission and initial CSC agreement, was not permitted in the end to accept women with a maximum security classification.

Most remarkably, the archaic Prison for Women is still open. In late 1999, over twenty women are incarcerated there with up to ninety men and women on the staff to guard them day and night. P4W is costing CSC and the taxpayers Can\$300,000 per year per woman.<sup>41</sup> Instead of being closed, the P4W now has a growing population, perhaps in part to justify its budget. Many of the determined women who were never transferred out of P4W have served virtual life sentences for incremental or steady failure to adapt to prison. They would act up, get write-ups, and be denied parole. The plan was to send them to the notoriously "masculinist" Kingston Penitentiary across the street, which houses sex offenders. Construction of a



segregated women's section in the psychiatric ward was already under way when four of these women developed a court case against CSC. With public support for the women, represented by Elizabeth Fry Societies across Canada,<sup>42</sup> CSC relented, permitting the women to stay at P4W. Now other women are being returned to P4W if they do not adapt to their new prison, and some new prisoners are being sent to P4W direct from sentencing. As cynics predicted after each new delay of the promised closure, P4W has become the CSC dumping ground for women with maximum security classification, almost half of whom are Native women and most of whom do not represent a threat to public safety. In addition to containing unruly women who assert their rights and those of other prisoners, the maximum classification is assigned to women who have not learned how to be compliant prisoners, but who, instead of "fighting the system," retreat into drugs, injure themselves, or attempt suicide.

Although it continues to expound on a decarcerative philosophy to pacify its more liberal critics, in practice CSC traveled full circle in re-trenching correctionalism in the women's system. Despite its purported commitment to the principles of the *Creating Choices* recommendations, despite the findings of a federal commission of inquiry that CSC was breaking the law, despite the men at the top who profess a belief in community-based restorative justice, more women are being locked up—with-out an increase in their crime rate. Instead of giving women choices for turning their lives around, the punishment industry, which leads to a dead end, is thriving as never before.

### The Cruel Farce of Classification

The population mix of high security, low security, long-term, and short-term prisoners has negative effects on virtually every woman in a mixed federal-provincial Canadian prison. Short-termers may be traumatized, but they are just passing through. Long-termers are there to stay; it's their home, their community. Technically, every woman in prison is classified as a minimum, medium, or maximum security risk. The classification is not generally based on the seriousness of the crime or the length of her sentence but rather on the woman's behavior as a prisoner. If she is passive and compliant, she is a good prisoner. Many women entering prison have been

experience.

oversocialized to be dependent, and have formed self-destructive dependency patterns involving men, social services, and drugs. These women are often highly adaptable to prison, being very obedient. They are credited with "institutional adjustment" or "adaptive behavior." Overdependency, the very problem that led them to prison, is exacerbated by the prison

Officially, classification is constructed from the level of risk represented by each woman: risk that she will attempt to escape and risk that, if she is successful, she will cause harm. But there is no clear way to predict risk.<sup>43</sup> It is the independent, unruly, opinionated women who are more likely to be classified maximum security, along with women who feel defeated. Maximum security women are at higher risk for suicide as a response to the conditions of maximum security confinement, and it is primarily Native women who are dying.<sup>44</sup> Collectively resistant to the White man's prison, Aboriginal women are disproportionately classified as maximum security, at 41 percent,<sup>45</sup> though they represent less than 20 percent of federally sentenced women. Although it observes the "antisocial attitude" among maximum security women, especially toward law enforcement and other criminal justice agencies and institutions,<sup>46</sup> CSC fails to acknowledge the reasons why Native women, in particular, might be alienated from the White man's law and order.

Women classified as maximum security—8.1 percent of the imprisoned women's population<sup>47</sup>—have limited opportunities for prison jobs, study, interaction with others, vocational rehabilitation programs, and self-help groups. Another issue eliciting protest from prisoners and advocates is the reclassification of women with mental health needs to maximum security as a means of justifying more control over them and sending them to men's prisons for "medical" care.<sup>48</sup> In 1996, the CSC identified twenty-six federally sentenced women whom they deemed to be mentally unstable, but a psychiatrist's independent review found that just eight women had need of mental health intervention.<sup>49</sup> Although some women who are classified as maximum security do have assault on their record, or more serious violent offenses, their crimes are highly situational and they are not commonly violent within the prison. Like women classified as medium or minimum security who have also assaulted or killed, most of the maximum



security women are not characterized as women at risk of committing violence, either inside or out of prison. It is their classification, rather than anything about themselves, that suggests their "dangerousness."

### The Importance of Place

The place of incarceration matters to the woman who is locked up. In the 1980s, Gayle Horii, then a lifer at P4W in Ontario, went on a fast that, when it was clear that her life was at risk, resulted in the authorities meeting her demand that she be transferred to an all-male prison across the country in British Columbia so she could be near her husband, who had serious heart trouble. She later successfully avoided transfer to the new Burnaby women's prison in the same region on the grounds that she could not obtain the higher education at the women's prison that was available to her in the men's prison. She currently has a case pending which, if heard, will call on the Supreme Court of Canada to consider gender equality issues in corrections.

Other women have similarly fought successfully to stay in their home province through exchange of services. In a Saskatchewan case, a federally sentenced Native woman was held by the Court to be in danger if sent to P4W, citing evidence of the ill health, disorder, and fear that pervades that institution. For example, it was noted that between late 1988 and early 1992 seven women at P4W committed suicide, and that six of those were Native women.<sup>50</sup> This woman was kept in her home province for her own safety and protection.

A primary reason for building regional prisons is to give imprisoned women closer proximity to their children and extended family. Although the geographic dispersal of imprisoned women has brought some women closer to their children, many others, including those from the far north who are incarcerated in a southern province, are still thousands of miles from their families. Also, the new facilities have not addressed the parenting issues that cause grief to so many imprisoned women; nor have they facilitated unsupervised time for mothers with their children. In every respect, the state persists in withholding consideration for the ultimate victims of incarceration: the children of prisoners.

### Political Signals

One effect of this string of new maximum security women's prisons in Canada is to falsely convey that we now have many more women committing crime and that they are dangerous and need to be kept away from us, under guard and behind bars and fences. A likely effect of all the new beds, from 30 to 80 in each of the five newest prisons and 120 in Burnaby, is that judges will send more women to prison for less serious crimes. This is what has happened in the United States over the past twenty years, where a burgeoning prison industry is justified in part by the war on drugs. Judges routinely pronounce sentences according to options familiar to them. For all the rhetoric about restorative justice, when new prison cells become available, judges fill them. Create more space and the net widens. Previously insignificant petty charges now receive a lock-up punishment.

Prison reform movements are as old as the history of prisons. It is essential that when we learn of a human rights abuse within a prison we seek to end it. But every effort to reform the punitive features of imprisonment results in more bureaucracy, yet more punitive policies, and more societal dependency on the prison system not only to contain the bad guys but to reentrench a punitive, adversarial approach that disproportionately criminalizes low-income and political minority communities.

Reforming specific injustices within prisons is often necessary for the basic human needs of those who are incarcerated. They are paying for their crime with banishment and imprisonment. Inhumane practices beyond confinement are not generally respected by either the prisoner or the law, but prison illegality is seldom prosecuted. To embark on reforms based on the assumption that prisons themselves can change from houses of punishment to beneficent, nurturing, educational, community environments that promote human growth and solid ethics is to avoid the fundamental contradictions. Healing and punishment methods are antithetical. They cannot be reconciled under the conditions of incarceration.



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## Women's Imprisonment in England

### Current Issues

Pat Carlen

#### Introduction

THE MAJOR CONCERNS about women's imprisonment in England in the late 1990s are those provoked by: the rapid increase in the female prison population and the consequent overcrowding in the women's establishments; the special plight of imprisoned mothers; and the continued failure of the prisons to recognize that the needs of women prisoners are different from those of their male counterparts.

Throughout the 1990s, financial restrictions have resulted in a series of cuts in the operating budgets of all English prisons. At the same time, the continuing steep increases in the female prison population together with the security measures introduced after two major and well-publicized escapes from men's prisons<sup>1</sup> have combined to make women's prisons more oppressive. For, whereas in the early-1980s the discipline of the women's penal institutions centered around a complex of concerns relating to the domesticizing and feminizing of women prisoners,<sup>2</sup> by the mid-1990s the main custodial priorities were the maintenance of tight security and the creation of more punitive prison environments.<sup>3</sup>

In the 1990s changes in the women's prisons have stemmed primarily from the introduction of the opposite sex posting policy in 1988, security measures taken after the escapes from White Moor and Parkhurst men's prisons, cuts in amenities as a result of decreases in prison operating budgets, and a determination on the part of government that the public should be convinced that prisons are unpleasant places.