# In the Shadow of Prison
Families, imprisonment and criminal justice

## Helen Codd

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In loving memory of Sheila Beedle,
a good friend who died while this
book was being written.

# Acknowledgements

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The papers were heavy, and when she had to wait at the level-crossing while a train went by, she rested the parcel on the top of the gate. And idly she looked at the printing on the paper that the parcel was wrapped in.

Suddenly she clutched the parcel tighter and bent her head over it. It seemed like some horrible dream. She read on – the bottom of the column was torn off – she could read no farther.

She never remembered how she got home. But she went on tiptoe to her room and locked the door. Then she undid the parcel and read that printed column again, sitting on the edge of her bed, her hands and feet icy cold and her face burning. When she had read all there was, she drew a long, uneven breath.

'So now I know,' she said.

From *The Railway Children* (1906) by E. Nesbit.

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## Chapter 1

# The landscape of punishment: family ties and penal policy

### Introduction: about this book

Most prisoners do not exist in a vacuum. They may stand alone in the dock in court and serve a prison sentence alone, but most prisoners are members of family, kin and friendship networks (Paylor and Smith 1994). While prisoners experience the primary effects of detention and deprivation of liberty, their families live their lives in the shadow of prison. This shadow is cast not only over individuals but also over entire communities. The partners and children of prisoners experience the effects of imprisonment most acutely during the sentence but also often have to cope with the manifold challenges posed by prisoner release and community re-entry. Even when an individual has been released from prison their future job and housing prospects, relationships and social status can be affected by their previous incarceration, and the circumstances and lives of their family members will often have undergone major change.

There has been an expansion of interest in prisoners' families in the last five years, which in the UK has been prompted by the publication of the influential Social Exclusion Unit Report (2002), which identified the positive role played by prisoners' families in relation to resettlement. In an era of the decline of social work, this offered a new strategy for dealing with offenders leaving prison, stressing the responsibilities not only of prisoners but also their family members. In the US, the decimation (or worse) of the population of some urban areas as a consequence of mandatory minimum sentencing policies and a shift towards longer prison sentences has led to an explosion of research on

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urban inequalities and the mass imprisonment epidemic, this research including consideration of the experiences of prisoners' families. There is, as a consequence, a deluge of published literature.

This book offers an introduction to the situation of prisoners' families, primarily in the UK but also in a range of other jurisdictions, particularly those such as the US and Australia which, like the UK, are experiencing a dramatic increase in the prison population and a shift towards punitive policies in sentencing. The book offers an introduction to this diverse field and encourages further research, debate and discussion. It does not claim to identify all possible relevant issues nor does it claim to have answers to every dilemma or controversy. The book draws on empirical research conducted by the author and others in the past and more recently, and although based in the UK incorporates extensive references to current research emerging from other jurisdictions, particularly the US.

The book begins with a discussion of the social and penal backdrop to a discussion of prisoners' families, and Chapter 2 offers a range of explanations and justifications for supporting and researching prisoners' family members. Chapter 3 provides an extensive summary of the many and diverse impacts ·of imprisonment for prisoners' partners and children. Unusually for books such as this, this book then includes a chapter on law. After all, it is mechanisms of the law and legal process which render families subject to the effects of imprisonment. The prison itself operates as an arm of the state and is created, regulated and managed within a framework of legislation and case law. While it is possible to consider prisoners' families from a sociological or social work-based perspective, their position is so intertwined with law, especially in relation to human rights, that it is essential in my opinion to include a consideration of legal responses to such families.

Following on from the law chapter is a chapter in which family relationships are considered. The family relationships of female prisoners have, with the exception of women's relationships with their children, hardly been researched. To discuss these issues is timely due to policy shifts over the last decade which have led to a dramatic increase in the female prison population in a number of jurisdictions, with many associated consequences particularly for children. The penultimate chapter offers examples of current and/or recent programmes in relation to prisoners' families and provides potential evidence of good practice in service provision. The book concludes with a critical commentary and suggestions as to responses to the current situation of prisoners' families both in

the short and long term. This book offers the reader an introduction to the current issues, with the caveat that the literature is already extensive and being frequently augmented, and thus this book offers an introduction. If the reader wishes to know more then the reader is urged to listen to the voices of prisoners' partners and children themselves as they speak through the research data.

The impetus for this book came from several strands of ongoing research in criminology and criminal justice and has been particularly influenced by feminist perspectives and research into gender, sentencing and punishment. For over thirty years feminist writers have questioned the relationship between women, crime, criminology and criminal justice, documenting and challenging the injustices faced by women in prison; the poor conditions; the unsupportive and oppressive regimes; and the specific needs of imprisoned mothers, pregnant women and women with complex mental health and substance abuse needs. These feminist perspectives have also been visible in work on prisoners' partners originating from outside the UK, such as the work of Ann Aungles (1994), Lori Girshick (1996) and Laura T. Fishman (1990). It is often said that regardless of the gender of the inmate it is women who bear the burdens of caring. To be blunt, if a man is imprisoned then he can probably rely on his male friends to have a party or take him to the pub and buy him drinks when he is released, but it will be his mother, partner, sisters and female friends who will visit, provide extra clothes, books and hobby materials, pay for phone calls and write letters. Thus, although it is almost universal that there are far more men than women in prison, regardless of the jurisdiction, women are not immune from the consequences of imprisonment; they experience these impacts in a variety of forms and contexts beyond the immediate experience of loss of liberty and freedom.

As writers such as Pat Carlen (1983, 1990) and others have shown, women's prisons and women's experiences of imprisonment are different from those of men. An extension of a feminist discussion of female imprisonment is to question how women are affected by male imprisonment. In her discussion of the possibilities for the development of a 'women-wise' penology Pat Carlen (1990) proposed this as involving two elements. First, that the penal regulation of female law-breakers does not increase their oppression *as women* still further, and second, that the penal regulation of law-breaking men does not brutalise them and make them even more violently and ideologically oppressive towards women in the future. It is a matter of constant awe to me that families cope with often objectively almost

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impossible circumstances and still manage to keep the relationships together. I have seen women – for it is more often women – see their lives turned upside down and found themselves living through a period of immense turmoil and struggle, but have seen women find inner strength, power and determination. Equally, I have seen women cowed, depressed and ill as a consequence of the extreme stresses and anxieties that imprisonment can bring to a family. From a feminist point of view, the evidence is indisputable that women are often profoundly affected by the imprisonment of men. It is thus an integral element of feminist approaches to imprisonment to not only consider women as prisoners but also their role as partners of men. Very little, however, is known of who visits women prisoners, or indeed of who, if anyone, provides the kind of emotional and practical support which is often provided to male prisoners by female relatives and family members.

## The shadow of prison?

Right now, the shadow of prison squats at the corners of, and often at the center of nearly every black family's life in this nation (Dixon 2005).

The image of living in the shadow of the prison resonates throughout research into prisoners' families and their communities, not only in relation to black people as referred to in the above quotation but in relation to families generally (see Combessie 2002; Roberts and Gabor 2004; Comfort 2007). The idea of the shadow as a metaphor in this context has many aspects and implications. For a shadow to exist there must be a source of light and an obstruction. That is, in criminal justice terms there are policies and penal establishments which may have implications for the lives and circumstances of people who are not themselves living in the prison. A shadow can be bigger than the object creating it, and distorted so it is not the same shape. In terms of prisoners' families, the impacts of imprisonment may affect many more people than are actually incarcerated and these impacts may be diverse and broadly spread. Shadows fall differently depending on the time of day; the impacts of imprisonment vary with changes in the social and penal climate. It is often cold in the shadows, as I experienced in downtown San Francisco when I walked around the bottom of the well-known landmark, the Transamerica Pyramid.[1] The height of the surrounding skyscrapers means that little sunlight

makes it through to street level, so at the base of the pyramid there is not only less light but it also feels colder than in more open areas of the city. This uncomfortable coldness can reflect the social coldness sometimes experienced by prisoners' families.

People standing in the shadows may not be able to see clearly due to the lack of light. A shadow is impossible to pin down; it shifts. It is possible to draw around the edges but then it moves again, as does penal policy. One cannot pick up and contain a shadow; similarly it may be impossible to identify and quantify all the impacts of imprisonment and all the families and individuals affected. Unless viewed in the context of shadow-puppetry or silhouette portraits, the shadow is not the main focus or aim; rather it is a consequence of light hitting an object. In policy and research terms the focus usually falls on prisoners, and not their families. Sometimes people seek out shadows, for example when standing in the sun feels too hot and the sun is too bright; the shadow may provide respite from the heat and glare, rather as Comfort's work has talked about prison as a source of relief and support (Comfort 2007). To find shadow on a hot day can be essential for survival or comfort and well-being. The bigger the object the bigger the shadow; so the more people in prison the more aspects of family and community life affected. Although, as for some plants, shade can be a health-promoting environment, the absence of sunlight can have a negative impact on health; for example, Vitamin D is obtained by the body from food and is also produced as a result of the skin's exposure to the UV rays in sunlight. Vitamin D deficiency, such as that due to insufficient sunlight exposure, can lead to serious illness. With this brief consideration in mind, it is clear that the idea of 'the shadow of prison' has many implications and connotations for understanding the impact of imprisonment on families.

## Families: a note on terms

The situation of prisoners' partners arises as a consequence of their relationship with someone else. The term 'prisoner's family' itself places the prisoner in the possessive position. In my view, however, defining the prisoner as the subject and defining the family in relation to the prisoner does not give sufficient attention to family members in their own right and there is (arguably) a need to reconceptualise the debate even down to the terminology. This is difficult if we are to avoid clumsiness. I would be far happier reconceptualising the debate as involving 'families in which one or more family members

are in prison' in that this terminology prioritises and foregrounds the family and not the prisoner. It places the emphasis on the ongoing familial circumstances and stresses that the family exists even if one or more members are in prison. This viewpoint would make sense in the context of the research, such as that by Megan Comfort (2002), which has documented the lengths to which family members go to play out family lives, rituals and decision-making in the environment of the visits room. Her phrase 'the prison as a domestic and social satellite' stresses the idea of the family having to live out its family life in multiple locations, one of which is a prison. However, although this appellation is ideologically desirable in my view, it makes for clumsy writing. Thus, reluctantly I have chosen to continue to refer to 'prisoners' families', but with an express statement from the outset that a family- rather than prisoner-based perspective is a desirable goal to be worked towards in future research and writing.

## The penal context

The experiences of prisoners' families are not simply the product of individual responses to imprisonment but reflect broader shifts in penal practices, criminal justice and societal attitudes to crime and criminals. Most of the research referred to in this book has emanated from the UK and the US, both nations having recently experienced sharp rises in their prison populations and a swing towards more punitive sentencing policies and practices (Pratt *et al.* 2005). To fully understand and appreciate the impacts of imprisonment, it is necessary to look beyond the individualistic focus on the offender and instead recognise that imprisonment affects family members and, as has been considered in recent research from the US, communities. Other research has documented the impacts of other non-custodial penalties, such as fines and curfews, and the possible impacts on other family members (Aungles and Cook 1994). It is imprisonment, however, which has the greatest impact on families. Of course, sometimes it is the best possible outcome for a family which has suffered; on other occasions it creates a range of difficulties and challenges

## The US – mass imprisonment and its collateral consequences

A number of countries including the UK have experienced a dramatic growth in their prison populations during the last decade, some of the

most drastic changes being seen in the prison population in the US. For some young men from socially excluded communities, especially members of urban minority ethnic groups, imprisonment has become as commonplace as the 'gap year' for middle-class white young men, with associated discourses of freedom, responsibility, self-discovery and new life experiences.

Indeed, the growth and consequences of the prison population has led to writers such as David Garland (2001) referring to 'mass imprisonment', which has emerged in the US during the last twenty-five years and which has two defining features. The first is 'sheer numbers', that is, a rate of imprisonment and a prison population which is markedly above the norm for similar societies. Second is 'the social concentration of imprisonment's effects', as he explains:

> Imprisonment becomes *mass imprisonment* when it ceases to be the incarceration of individual offenders and becomes the systematic imprisonment of whole groups of the population (Garland 2001: 6).

Writing in 2001, Garland argued that we have scarcely begun to address the question of the extent of the impact of 'mass imprisonment', pointing out that

> we have libraries of criminological research about the impact of imprisonment upon the individual offender, but scarcely anything on its *social* impact on communities and neighbourhoods. (2001: 6).

Since 2001, academic and policy-orientated research publications have begun to assess these broader implications of the mass imprisonment epidemic, some of these addressing the precise question of the impact on communities (Travis and Waul 2003a; Braman 2004; Mauer and Chesney-Lind 2002). This recent research on the unintended and associated consequences of imprisonment has focused not only on the impact of incarceration on inmates themselves, their families and their children, but also on their communities and on society as a whole, building on the research into the impact of imprisonment on families which has been published in the US since the 1960s (Brodsky 1975; Swan 1981; Fishman 1990; Girshick 1996; Gabel and Johnston 1995). Echoing the language of the military, some writers have labelled these unintended impacts the 'collateral consequences of imprisonment'. These 'invisible punishments' have, in the words of Marc Mauer and