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# Incarcerated Motherhood: Reflecting on 100 years of Imprisoning mothers

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## Introduction

**This paper reflects on a century of maternal imprisonment in the United Kingdom. Examining the historical context of incarcerated mothers, grandmothers and mothers -to be, it explores the relationship between patriarchy, religion, culture, motherhood ideology and criminal justice. Revealing how each has been and continues to be inextricably linked to frustrate, disadvantage and discriminate against mothers who break the law. Drawing on the extensive research of the authors,<sup>1</sup> this paper brings the conversation into the 21st Century. Centring the voices of mothers we highlight mothers' own experiences of their incarceration, revealing the profound hurt of imprisoned motherhood. The paper is concluded with recommendations drawn from our respective research and activism.**

## Context

To fully understand and appreciate the contemporary position of and response to mothers in the criminal justice system (CJS), one must examine the legacy of an entirely patriarchal society. Historically society has been constructed in a way that favours the male gender, and as such has shaped the experiences

and positions of women through time via the structures and institutions of a developing modern society. Gendered notions of how women should, and more importantly should not behave are heavily influenced by feminine (and masculine), ideology<sup>2</sup>. Women, especially women in the Victorian era, were expected to conform to 'traditional' and widely accepted ideals of femininity. Namely that women would be conformist, placid, amenable, innocent, nurturing, subservient, chaste and ultimately maternal. By the mid-19th Century middle class notions of femininity, family, and gendered roles were firmly established, underpinned and reinforced by 'patriarchal systems of reproduction and the capitalist mode of production'<sup>3</sup>, and by and large most women conformed to this pervading ideology.

Feinman<sup>4</sup> suggests there exists a universal fear of the 'non-conforming woman', further arguing that a 'criminal woman is the epitome of a non-conforming woman'. Women who strayed outside of gender norms and expectations were seen as deviant and damaging to wider society.

*"The conduct of the female sex more deeply affects the wellbeing of the community. A bad woman inflicts more moral injury to society than a bad man."*<sup>5</sup>

1. See Abbott, L. (2015). *A Pregnant Pause: Expecting in the Prison Estate*, in L. Baldwin (auth/ed.) *Mothering Justice: Working with Mothers in Criminal and Social Justice*, Sheffield on Lodden: Waterside Press; Abbott, L. (2016). *Becoming a Mother in Prison in The Practising Midwife*. No.19, Vol.9; Abbott, L., Scott, T., Thomas, H., and Weston, K (2020) *Pregnancy and Childbirth in English Prisons: Institutional Ignominy and the Pains of Imprisonment in Sociology of Health and Illness*. Vol.42, Issue 3. Pp 660 – 675; Abbott, L., (2018). *What is the experience of being pregnant in prison?* in *Early Career Academics Network Bulletin*, p.9; Abbott, L. and Lockwood, K., (2020). *Negotiating pregnancy, new motherhood and imprisonment in Mothering from the Inside*. Emerald Publishing Limited; See Also Baldwin, L. (auth/ed) (2015) *Mothering Justice: Working with Mothers in Criminal and Social Justice Settings*. Sheffield on Lodden: Waterside Press; Baldwin, L. (2017) *Tainted Love: The Impact of Prison on Maternal Identity in Prison Service Journal*. September, 233: 28-34; Baldwin, L. (2018) *Motherhood Disrupted: Reflections of Post-prison Mothers in Maternal Geographies* in (Sp Ed) *Maternal Geographies (Guest Editor: Catherine Robinson), Emotion Space and Society*, 26, pp. 49-56; Baldwin, L. (2019) *Motherhood Judged, Social Exclusion Mothers and Prison* in Byvelds, C. and Jackson, H (eds). *Motherhood and Social Exclusion*, Demeter press. Canada; Baldwin, L., (2020) *'A Life Sentence': The long-term impact of maternal imprisonment in Mothering from the Inside*. Emerald Publishing Limited; Baldwin, L. and Epstein, R. (2017) *Short but not sweet: A study of the impact of short sentences on mothers and their children*. Oakdale trust. Leicester. De Montfort University; Baldwin, L. and Mezoughi, L. (2015) *Mothers in the Dock: A critical reflection of women, mothers and the courts* in Baldwin, L. (2015) ed. *Mothering Justice: Working with Mothers in Criminal and Social Justice Settings*. Sheffield on Lodden: Waterside Press.
2. Zedner, L. (1991) *Women, Crime and Penal Responses: A Historical Account*. *Crime and Justice*, 14: 307-362; Johnstone, H., (2019). *Imprisoned mothers in Victorian England, 1853–1900: Motherhood, identity and the convict prison*. *Criminology & criminal justice*, 19(2), pp.215-231.
3. Johnstone (2019) p. 224. See n.2
4. Feinman, C. (1994) *Women in the Criminal Justice System* (3rd Ed). USA. Praeger Publishers. P.7
5. Hill (1864) p.134, cited in Zedner (1991). See n.2

Moreover, Johnstone, and Zedner, suggest should the deviant woman also be a mother the intersection between her gender and maternal role rendered her 'doubly deviant'. Through time immemorial, and as portrayed by mythology, philosophy and theology, the mother/child relationship has been presented as the most significant human relationship, later 'confirmed' by developments in psychology and psychoanalysis. As such the 'burden' of responsibility for the wellbeing, welfare and outcomes of children (ergo society) have historically been laid squarely at the feet of mothers. Thus ensuring that mothers were somehow seen as responsible for the moral health and wellbeing of society.

*'Female crime has a much worse effect on the morals of the young and is therefore of a more powerfully depraving character than crimes of men [...] the influence and example of the mother are all powerful, and corruption if it be there, exists in the source and must taint the stream'<sup>6</sup>.*

Following the abolition of the transportation of convicted criminals to the colonies in the 1850's, there followed an 'enforced period of reflection' with regard how to respond to the 'the problem of what to do with female prisoners'. This was compounded by the view that as the 'weaker sex' women were inherently unsuitable for 'hard labour', the usual way of dealing with their male counterparts at the time. Early prison reformers like John Howard (The Howard League's namesake), and slightly later, Jeremy Bentham and Elizabeth Fry, were all heavily influenced by religion and/or rehabilitation by reform. Thus, whilst being committed to improving prison conditions and treating women prisoners more humanely, the combination of religious and gendered thinking influenced early penal reformers and the focus was on the 'saving of lost souls' and returning women to their 'feminine virtues'<sup>7</sup>. Furthermore, particularly in the early 20th Century

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attention was focussed on female criminality and a biological perspective. Which Zedner<sup>8</sup> suggests was 'because in their role as mothers, they were identified as the biological source of crime and degeneracy'. Ergo, women, especially mothers were seen as a major source of corruption and juvenile delinquency. Thus 'criminal mothers' were seen as a 'moral menace', judged more harshly than their male counterparts because they were acting far outside of not only their gender but also their maternal role.

This paper will explore the experiences of criminalised mothers and draw comparisons between historic descriptions of incarcerated motherhood and contemporary experiences. Revealing that the legacy of patriarchal and societal beliefs about mothers and motherhood persist, which then continues to bear some relationship to responses to criminalised mothers in contemporary society. Moreover, that whilst conditions for criminalised mothers have improved, as this paper will illustrate there is still some way to go.

#### **Methodological background of the studies informing this paper.**

The evidence informing this paper is drawn from three studies. These studies are, the Doctoral research of both authors, and additionally a small scale research study by Baldwin and Epstein from 2017<sup>9</sup>.

Baldwin's study<sup>10</sup>, 'Motherhood Challenged; A study exploring the persistent pains of maternal imprisonment' was a feminist, qualitative study drawing on twenty eight, one to one recorded and transcribed interviews with mothers and grandmothers who were between one year and forty six years post release, additionally drawing on 20 letters from 15 mothers and grandmothers who were incarcerated at their time of writing. The data collected was analysed thematically. Abbott's study<sup>11</sup>, 'The Incarcerated Pregnancy: An Ethnographic Study of Perinatal Women in English Prisons' involved ten months observing the

6. Symons (1849) p.25, cited in Baldwin, L. (2021) *Motherhood Challenged: A matricentric feminist study exploring the persisting impact of maternal imprisonment on maternal identity and role* <https://dora.dmu.ac.uk/handle/2086/20813>
7. Barton, A. (2000) 'Wayward Girls and Wicked Women': *Two Centuries of 'Semi-Penal' Control*. *Liverpool Law Review*, 22(2-3), pp.157-171.
8. Zedner (1991) p.308. See n.2
9. Baldwin, L. and Epstein, R. (2017). See n.1
10. Baldwin, L. (2021). See n.6
11. Abbott, L. (2018) *The Incarcerated Pregnancy: An Ethnographic Study of Perinatal Women in English Prisons* <https://uhra.herts.ac.uk/handle/2299/20283>

prison environment. Twenty eight pregnant or post-natal mothers participated in recorded and transcribed interviews: Twenty-two mothers participated whilst incarcerated and six following release from prison. Five of the mothers who were still incarcerated agreed to follow-up interviews. Ten staff members consented to audio-recorded interviews, including six prison service staff and four health care personnel. The data was analysed thematically.

In Baldwin and Epstein work, 'Short but not Sweet: A study of the impact of short custodial sentences on mothers and their children', seventeen mothers participated via questionnaires and interviews. All of the mothers were post- release and were at least one year post- prison, again the data was analysed thematically.

Thus, this paper draws on the experiences of eighty eight mothers in total, all who had experienced or were experiencing maternal imprisonment. All of the participants gave their informed consent and were accessed initially via targeted sampling (i.e. Women's centres and the Prison), and thereafter by snowball sampling. All research was appropriately approved and undertaken with the relevant permissions and ethical approval.<sup>12</sup>

### Historical Experiences of criminal mothers

Women have long had an uneasy and unequal relationship with the law<sup>13</sup>. A whistle-stop tour of the relationship between women and the law reveals an established pattern of inequality. Historically women have occupied a significantly weaker position than men, not least initially being the 'possession' of her father, then her husband (hence the term to 'give away' in marriage). Women have been prevented by law from accessing divorce, ownership of property, access to education, equal pay and suffrage. Indeed women were denied sexual safety, even in marriage- up until 1994 a man could not be charged with the rape of his wife due to common law 'conjugal rights'.

Moreover, historically, mothers were denied the 'rights' to their children and even their own bodies. The Offences Against the Person Act (OAPA) (1861), made

it illegal and punishable by life imprisonment to either procure an abortion or as a mother to undergo an abortion under any circumstances. Many women either died or were imprisoned due to illegal abortions. The Life Preservation Act (1929) amended the original OAPA act to permit abortions but only in circumstances where the mothers life would be at 'imminent risk' if the pregnancy continued. It wasn't until the Abortion Act (1967), abortion became more widely available as a choice for women and women ceased to be criminalised for having an abortion (within the parameters of the law). However, then as now abortion is closely regulated and requires the signature of two Doctors to confirm a fixed set of criteria exist. As recently as 2015 a 23- year- old mother was imprisoned for using medication bought online to induce an abortion after the legally permitted limit (24 weeks)<sup>14</sup>.

When comparing the experiences of Victorian criminalised mothers with contemporary mothers' experiences, the similarities of experiences and pathways into offending are alarming. Johnstone, and Zedner<sup>15</sup>, observed that 'overwhelmingly' historical mothers were imprisoned for non-violent offences, and their offences were often related to poverty, mental ill health, substance misuse and prostitution. For the most part, in the absence of any positive

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policies to the contrary imprisoned women and mothers 'were treated rather like difficult men' or 'lunatics'<sup>16</sup>. Again, with striking similarity to the present day, through the 19th and 20th centuries, mothers were most often serving short custodial sentences and their children and families were left to cope with very little, if any state support.

Early records of imprisoned motherhood experiences are lacking, particularly with reference to mothers own voices. However available records do reveal that mothers were sometimes permitted to bring babies into prison with them for up to two years — with some flexibility if the mothers sentence were due to end shortly after the permitted period expired. Records do indicate that mothers did give birth in prison and sometimes their children were permitted to remain

12. The studies were approved respectively by De Montfort University faculty research ethic committee (FREC); University of Herts FREC and through NOMS and IRAS, and; Coventry University FREC. Furthermore Baldwin is a qualified social worker, Abbott a qualified midwife and as such both are additionally bound by professional codes of conduct and ethics.

13. Baldwin and Mezoughi (2015). See n.1

14. 'We Trust Women ' information about the campaign to decriminalise abortion in the UK <https://wetrustwomen.org.uk/about-the-campaign/>

15. Zedner (1991); Johnstone (2019). See n.2

16. Priestley, P. (2012) *Victorian prison lives*. Random House.

with them, although many died either in childbirth or soon after. Prisons were reluctant to accept mothers with babies already born due to the additional cost of upkeep and as such mothers and non-nursing babies were often separated. Some courts at County level simply advised magistrates not to send pregnant mothers to prison. At the point of sentence children would be 'sent out' to family or the workhouse and would become the responsibility of the local Parish. A small number of older children would serve a longer sentence alongside their mothers, but records are scarce.

Most children of imprisoned mothers were likely find themselves in institutional care, and from that point onwards (from the perspective of the prison), a female prisoners' motherhood was essentially ignored. Family contact was difficult for imprisoned mothers in the Victorian era, with letters and visits affected greatly by geography (and the associated cost), and an established system of minimal and conditional contact (conditional concerning length of sentence and behaviour). Most of the mothers in prison were working class mothers whose relatives would already have been struggling financially to support their own families, as such most children of imprisoned mothers were sent to various establishments like 'Industrial Schools', Barnardo's, Waifs and Strays Society, or the Workhouse. Johnstone's paper details the experiences of several mothers, many whose children were subsequently adopted without their knowledge or agreement.

Post-release, many mothers were returned to the chaos of their pre prison lives and many had lost contact with their children. Mothers often remained on a pathway of offending, returning time and time again to prison. There is little evidence of direct support to imprisoned and post-prison mothers of the time. Thus, despite a desire to 'return women to their femininity', paradoxically their role as mothers was not supported,

only condemned and instead, Johnstone suggests, 'women's efforts at mothering were rendered invisible'.

### Contemporary Experiences of mothers in prison

Maternal imprisonment has only very recently garnered interest in the field of criminology, indeed Baldwin's 'Mothering Justice'<sup>17</sup>, was the first complete book to devote itself to exploring the experiences of mothers in the criminal justice system (and social justice system) in the UK. Since then however, there has been a significant increase in attention paid to the experiences of criminalised mothers and their children<sup>18</sup>

Contemporary thinking about motherhood remains centred around the 'feminine ideal' and is constructed around women's positions in wider society and the family.

Motherhood provides an additional layer of judgment and punishment in relation to criminalised women and remains influenced by middle class ideological and gendered thinking, in a not dissimilar way to the Victorian era mentioned above. As is vividly evidenced and illustrated by the case of R v Ursula Nevin [2011]<sup>19</sup>. Ursula herself did not take part in the 2011 Manchester riots, however her lodger did and passed on to Ursula a pair of shorts (value £10). Ursula, a mother of two children under five and with no previous convictions, was charged and convicted of handling stolen goods. She was sentenced to five months in prison. In his summing up Judge Qualid Quereshi told Ursula that she had two children she was 'responsible for' and as such should have turned her flatmate in, telling her 'you are supposed to be a role model to your sons'. Ursula's sentence was later successfully appealed, and her sentence defined as 'wrong in principle', Ursula was released, and her sentence commuted to 75 hours community punishment, but not before she and her two young children were traumatised by their separation. One must raise the question, was Ursula

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17. Baldwin (2015). See n.1

18. See for example O'Malley, S. and Baldwin, L. (2019). *Mothering Interrupted: Mother-Child Separation via Incarceration in England and Ireland in Mothers without their children*. Demeter press; Booth, N., (2020) *Maternal Imprisonment and Family Life: From the Caregiver's Perspective*. Policy Press. Datesman; S. K., and Cales, G. L. (1983). "I'm Still the Same Mommy": Maintaining the Mother/Child Relationship in Prison in *The Prison Journal*, 63(2), 142-154; Easterling, B. A., Feldmeyer, B. and Presser, L. (2019) *Narrating mother identities from prison in Feminist Criminology*, 14 (5), pp.519-53; Lockwood, K. (2020) *Mothering from the Inside*. Emerald Publishing Limited; Masson, I. (2019) *Incarcerating motherhood: The enduring harms of first short periods of imprisonment on mothers*. Routledge; Minson, S., (2020). *Maternal Sentencing and the Rights of the Child*. Palgrave Macmillan.

19. The case of Ursula Nevin as reported in the Guardian <https://www.theguardian.com/uk/2011/aug/19/riots-mother-looted-shorts-freed>

originally sentenced due to the seriousness of her 'crime' or because she was judged to be a 'bad mother'?

Corston, cites Baroness Hale, who highlighted the distinct and additional impact of imprisonment on mothers and the prevalence of gendered judgement.

*'Many women still define themselves and are defined by others by their role in the family. It is an important component in our sense of identity and self-esteem. To become a prisoner is almost by definition to become a bad mother'.<sup>20</sup>*

Indeed, many if not most of the mothers across all three studies referred to in this paper highlighted the additional layer of judgement that they experienced as mothers. Mothers felt they were consistently responded to and 'judged' more harshly both in court and in prison because they were mothers. In addition to the external judgement women experienced, they were also highly critical of themselves and their self-criticality intersected with their motherhood.

*'I was a good mam, well I did my best... when I went to prison I felt like all that was wiped out, I'd failed...Even worse because I'm a Nanna and a mam ... I'm meant to be respectable at my age...I just looked around when I first went in [prison] and thought that's it...I've let them all down' (Maggi).<sup>21</sup>*

Baldwin, and Abbott evidenced the internal shame felt by the mothers, which was over and above the oft cited 'spoiled identity' of prisoners.

*'I'm tainted now aint I? Forever ... I'll always be that mum that to went jail. Every time I hear that song 'Tainted Love' ... I think that's me that is' (Kady). (see footnote 1; 'Tainted Love')*

Abbott's, research describes how mothers would feel that the 'symbolic props' of prison such as

handcuffs, chains and prison uniforms contributed to their shame, particularly when on 'escorted' appointments to ante-natal appointments. Sammy describes how she felt 'judged' and defensive when attending the hospital in handcuffs with uniformed officers.

*'You've got all the Mums and the Dads, husbands and wives and sitting there holding their precious little bump, and there I am walking in and they just looked at me like I was filth. And it's like, I've just made a mistake, I was stupid; I haven't hurt anybody, I'm a good Mum' (Sammy).*

Given the rarity of female prisoner escapes, the low risk of harm of most women prisoners, alongside the motivation of most women to want to attend antenatal appointments, it is worth questioning why all mothers would ever have been routinely handcuffed for hospital appointments when it could be individually risk assessed. Thankfully this policy has now been revised (see footnote 32). Furthermore, given the nature of women's offending, Baldwin questions why most imprisoned women, ergo mothers, are subject to the additional

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harshness of closed prisons at all<sup>22</sup>- which then restricts mothers abilities to engage, interact and maintain contact with their children. 'Rita' in Baldwin's, study questioned why 'most' women are held in closed conditions, raising the valid point that this hinders the positive and supportive relationships they are able to make, especially in relation to supporting their motherhood.

*We all bonded over motherhood [in open conditions] it felt lovely to be able to talk about our kids, it wasn't all we talked about, but it was mostly, it made us all feel 'normal'. [...] we had nothing in common at all other than we were mothers. We probably wouldn't have spoken outside, yet in prison we walked in the grounds about three miles a day every day, just walking and talking. Closed*

20. Corston, J. (2007) The Corston Report: A review of women with particular vulnerabilities in the criminal justice system. p20

21. Quotes are taken from Baldwin, L. and Epstein, R. (2017) see n.1; Baldwin, L. (2021) see n.6, and Abbott, L. (2018) see n.11

22. Ten out of the twelve prisons in the female estate are closed prisons (despite over 80% of women being in prison for nonviolent offences)- which means they have additional levels and layers of security and a more restricted regime- particularly in relation to freedom of movement and physical contact with families during visits.

*conditions you can't do that, it makes it harder ... and for what for, for nothing ... most women don't need to be in closed conditions ... what were we going to do? Shoplift them or fraud them to death?' (Rita).*

As previously stated, astonishingly many women's pathways to prison continue to be influenced by structural failures to adequately meet or respond to the needs of women and their children. Yet as ever it is the mothers themselves to be punished for these 'failures'<sup>23</sup>. Mothers across all three studies revealed how debt and poverty remain relevant factors concerning women's pathways into offending and subsequent imprisonment. In Baldwin and Abbott's, studies, Debbie for example, was imprisoned for theft after stealing nappies, baby bottles and food after her Universal credit was sanctioned and she had 'no money'. Debbie, as is typical of so many incarcerated women, was struggling with a traumatic past, addiction and mental health issues. She described how mounting debts and loans and the feeling of 'not knowing how you will heat the house or even put the kettle on', compounded her depression and anxiety. However, like many women, Debbie's prison sentence merely compounded her 'problems' whilst simultaneously inflicting trauma on her four children and causing her significant maternal pain.

Datesman and Cales described mothering from prison and being separated from children as a 'profound hurt'. Yet, many women in Baldwin and Abbotts studies' stated that they were reluctant to disclose their maternal pain and anguish because they feared the response of officers/prison staff, both in terms of additional judgement, but also they were fearful of being labelled as 'poor copers' and triggering unwelcome surveillance and attention- particularly with regards to their motherhood and mothering capabilities. Mothers in Baldwin's studies described feeling, 'surveilled', 'powerless', 'hopeless', 'scared',

Mothers in Baldwin's studies described feeling, 'surveilled', 'powerless', 'hopeless', 'scared', 'angry' and 'traumatised' in prison.

'angry' and 'traumatised' in prison, but significantly also many years post- release. The impact of maternal imprisonment was felt far beyond the prison, on mothers themselves, their children and grandchildren and their wider families gates (the longest period post release in Baldwin's studies was 46 years). Many mothers described themselves and their relationships with their children as 'forever changed', something many mothers did not necessarily expect.

*I used to worry all the time when I was inside ... Where was she? Who was she with? Was she safe? I kept myself going thinking: Not long now, then it will all be OK, and I can keep an eye on her properly ... But she doesn't tell me anything now ... we don't have the same relationship as before. She got used to being without me I guess ... I wasn't expecting that. (Shanice).*

Particularly salient in both of the authors' research, and echoing past research findings, was that for many of the imprisoned mothers there were often multiple missed opportunities for support, potentially of a nature that might have prevented their criminalisation in the first instance.

### **Pregnancy and Prison**

Bennett describes how the Duchess of Bedford — Adeline Russell, a prison reformer and philanthropist from 1919 — 1920, made several recommendations pertaining to prison pregnancy and maternity<sup>24</sup>. Russell led an enquiry into prison conditions and brought to light not only the poor accommodation, but the inadequate conditions for pregnant women and the lack of specially trained staff. In the recent Ministry of Justice (MOJ), review of operational policy on pregnancy and separation from children under two years<sup>25</sup>, shockingly many findings and questions raised, echo findings from the Russell review from 1919, particularly in relation to the lack of specialist staff and

23. Clarke, B. and Chadwick, K. (2018) From Troubled Women to Failing Institutions; The necessary narrative shift for the decarceration of women post Corston, in Moore, L, Scraton, P, Wahidin, A. (2018) *Women's Imprisonment and the Case for abolition; Critical Reflections of Corston ten years on*. Routledge

24. Bennett, R. (2017). *Identifying & Advocating for Women's Health: The Duchess of Bedford's 1919 Committee of Enquiry into Medical Care in Holloway Prison*. [https://warwick.ac.uk/fac/arts/history/chm/research/current/prisoners/outputs/duchess\\_of\\_bedford.pdf](https://warwick.ac.uk/fac/arts/history/chm/research/current/prisoners/outputs/duchess_of_bedford.pdf)

25. Ministry of Justice, (2020). *Summary report of the review of PSI 49/2014 and operational policy on pregnancy and women separated from children under 2 in prison*. Published 31 July 2020. Open Government Licence. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/905559/summary-report-of-review-of-policy-on-mbu.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905559/summary-report-of-review-of-policy-on-mbu.pdf)

the question of babies in prison. Thus, fundamental questions are still being asked as to whether it is appropriate to accommodate mothers and their babies in prison at all or whether alternative community based models such as the one practised by Trevi House<sup>26</sup> would be more fitting in most circumstances-particularly when the nature of their mothers' offending is most often low level and low risk of harm.

Around 100 babies are born to mothers in prison annually<sup>27</sup>, although this is an estimate only as, until very recently formal data around pregnancy, miscarriage and births in prison was not formally or consistently collated. Although the recent aforementioned MOJ review states an intention for this data to be collected in the future.

Most women are offered a routine pregnancy test on reception into prison and subsequently many women only find out they are pregnant at this point. However, the recent death of a baby born in prison to a mother who did not know she was pregnant (she had refused the test believing she 'couldn't' be pregnant), highlights the need for more thought to be given to routine pregnancy testing in such a way that balances the rights and privacy of the mother with the overall safety and wellbeing of women in the care of the prison. In theory mothers are permitted to apply for an MBU space as soon as they enter prison, similarly mothers with a baby living outside who is within the MBU permitted age range are also entitled to apply for an MBU space however mothers are not always informed of this<sup>28</sup>. Being pregnant in prison is a frightening, stressful and emotional experience. Mothers- to- be generally feel protective over their 'belly' and fearful of volatile situations which may lead to their baby becoming harmed.

*'I kept my hands on my belly all the time...it was instinct, like I was protecting her'*  
(Kady).

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Mothers' in Abbotts' research worried about not having enough food and the impact this would have on their unborn babies. Although there are clear directions about pregnant women receiving additional nutrition<sup>29</sup>, staff were often confused by the policy or inconsistent with their provisions. Women across all three projects, and reminiscent of Victorian times, described feeling 'hungry' as a pregnant prisoner and relying on of the 'kindness' of individual officers.

*'She's been to all of my scans so it's quite nice, so she saw me grow from like literally the first, so it would be nice (to have her attend birth) as I am really relaxed with her, so it would be nice to get her'* (Susan)

However, reflecting the sad reality of their often complex needs and lives before prison, several mothers across all of the studies stated that by being in prison they were 'safer' and 'better provided for' than they might have been 'outside'.

*'My life was so chaotic I wouldn't have attended any appointments or had anyone care for me outside, ironically me and my baby were safer in there [prison], at least I was warm and not being battered'* (Emma).

Mothers across all three studies, described having worries about theirs and their babies wellbeing alongside additional worries about whether or not they would secure a space on the mother and baby unit (MBU), or whether they would be separated from their new-born. Many mothers described the stress of 'not knowing' if they would be separated from their child as particularly traumatic.

*"Throughout this battle, he's still here with me (strokes pregnant abdomen). But mentally I don't know how well I'll be able to cope when he's not there? I'll have no bump and*

26. Trevi House is a community based residential unit which can be used as an alternative to custody- permitting mothers and children to reside together whilst the mothers receives targeted multi agency and specialist support- children are cared by their mothers with the support of relevant professionals where required, (weblink unavailable due to site update 24/10/20)

27. O'Keeffe, C and Dixon, L. (2015) *Enhancing Care for Childbearing women and their Babies in Prison*. Hallam Centre for Community Justice

28. Sikand, M. (2015). *Lost Spaces: Is the current procedure for women prisoners to gain a place in a prison Mother and Baby Unit fair and accessible?*. London: The Griffins Society.

29. See 32 also



*no baby. I don't know what I'm going to do' (Caroline).*

Imprisoned pregnant mothers worry about access to specialist healthcare and are especially fearful of labouring and giving birth alone in their cells.

*"I was literally terrified of going into labour at night on my own and I had nightmares about giving birth on my own my babies come quick they do, it's a really scary place to be pregnant you know". (Tarian)*

Both Baldwin and Abbott spoke to mothers who had experienced labour and birth in their cells. Abbott describes how Layla, a second time mother, was 'not listened to' by officers and prison staff despite repeatedly telling them she was in labour. Despite not being appropriately qualified, health care nurses 'told' Layla she was not in labour. Layla described feeling 'powerless', and obviously frightened, furthermore her ongoing trauma and distress remained evident to Abbott during her interview. Layla's baby was born breech in her mother's cell, a potentially dangerous, life threatening situation for both mother and baby.

*'These (nurses) were not even trained in that field whatsoever...telling me that I wasn't in labour, so I ended up having (baby) in my cell. The male nurse wasn't allowed to be in there, so I had one nurse that was telling me what I should and shouldn't be doing' (Layla).*

Layla goes on to describe how she did not know if she would be permitted a space on the MBU or whether she would be separated from her baby or not, or even whether she should breast feed her baby or not. The uncertainty for a new mother who had experienced a traumatic and dangerous birth only added to her pain. Mirroring previous research, mothers across all of the studies found waiting to hear if their application to the MBU had been successful or not, incredibly stressful. Mothers who 'knew' they would be separated from their babies at birth described their awful feelings of impending doom. Mothers described feeling desperate to bond *with their baby's whilst still in*

*utero, 'in the hope somehow he will remember I loved him' (Helen). Mothers' in Abbotts' studies described 'putting off' thinking about the point of separation until they 'had to', fundamentally because it was just 'too hard'. Others described how it was all they thought about.*

*I'm anxious...I can't sleep at night, like I need to know now, I want to know. It's my baby. I want them to tell me if I'm allowed my baby or not' (Abi).*

Mothers' stress was compounded by how late in their pregnancies decisions about their MBU place was made. Indeed, Kady, in Baldwins studies did not find out about her space until after her baby was born and described how this felt.

*'I went to hospital to give birth not knowing if I was coming back with my baby or not, I had my mum on standby ...it was awful' (Kady).*

## Mothers who 'knew' they would be separated from their babies at birth described their awful feelings of impending doom.

Tragically, over the last few years, and twice in the last year, babies have lost their lives when their mothers gave birth in prison<sup>30</sup>. The investigations are ongoing, and the full results are not yet publicly available, however certainly in the two most recent deaths indications are that labouring mothers did not receive timely midwifery care and the babies were both stillborn in their mothers' cells. In 2020, 100 years from the Duchess of Bedford's review, we continue to find that babies are being stillborn inside prison cells. To continue to be providing evidence and commentary on these tragedies is disturbing.

### Summary and Concluding Thoughts

This paper has examined the experiences of criminalised mothers over the last century or so. It reveals how responses to mothers in the criminal justice system have historically been influenced by gendered ideology and patriarchally influenced structures and institutions in which women have been systematically disadvantaged and discriminated against. This paper has evidenced how the shaming and blaming of criminalised women is magnified when criminalised women are mothers.

30. Baldwin, L. (2020), *Why has another baby died in prison?* <https://www.russellwebster.com/prison-baby-death/> Baldwin, L. Abbott, L. (2020), *Why do we still imprison pregnant women?* <https://www.russellwebster.com/pregnant-prisoners/>

As has been evidenced in this paper, there remains a need to continue the work of early reformers such as John Howard and Elizabeth Fry, and the Duchess of Bedford, to continue to improve existing provisions for and responses to mothers, grandmothers and mothers-to-be, before, during and after prison. It is alarming that modern day activists in the field of maternal imprisonment are making similar requests to those made over one hundred years ago. In order to achieve positive change in criminal justice responses for women, there must exist a parallel commitment to social justice. Women's, ergo mothers pathways into 'offending' remain influenced by disadvantage, discrimination, abuse, inequality and poverty. All too often the response to women in contact with the criminal justice system is to criminalise rather than support, to punish the individual rather than challenge the system which inflicts harm on her and often has failed her multiple times. As argued by Segrave and Carlton<sup>31</sup>, 'the justice system separates and decontextualises women's actions from the broader social and structural context of their lives', and as such criminalised women are scrutinised in terms of their 'lives and choices', which then facilitates and encourages an over reliance on punitive responses to 'manage' inequality.

It is positive that the Ministry of Justice<sup>32</sup> has committed to improving conditions for mothers and

their babies and are heeding advice and guidance in that improvement from experts like the authors' and organisations like Birth Companions<sup>33</sup>, and we echo the recommendations we have made previously, and those outlined in the recent review. Recommendations currently being implemented include collecting data on mothers in custody, on pregnancy, miscarriage, births and stillbirths to mothers in prison, simplifying the MBU application process and ensuring decisions are made as early and quickly as possible, committing to staff training and the provision of specialist midwifery presence in all female establishments. Ultimately we would like to see the cessation of the imprisonment of pregnant and nursing mothers, alongside a commitment to community alternatives to imprisonment for all women are sought wherever possible.

The authors and others such as Birth Companions, Women in Prison, Lord Farmer, the Prison Reform Trust, the Joint Human Rights Committee, and the All Party Parliamentary Group (APPPG), on women and girls in the penal system, through their activism and research seek to challenge the failings and inadequacies in current provisions throughout the CJS for women and mothers.

Furthermore, through our collective activism we seek to highlight, replicate and encourage the good practice that does exist where lessons have been learned and women and mothers have been responded to compassionately and appropriately.

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31. Cited in Clarke, B. and Chadwick, K. (2018) *From Troubled Women to Failing institutions: The Necessary Narrative Shift for the Decarceration of Women Post Corston*. In Moore, L, Scraton, P. and Wahidin, A. (2018) *Women's Imprisonment and the Case for Abolition: Critical Reflections of Corston Ten Years on*. London, Routledge.

32. Review of operational policy on pregnancy, Mother and Baby Units and maternal separation [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/905559/summary-report-of-review-of-policy-on-mbu.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905559/summary-report-of-review-of-policy-on-mbu.pdf)

33. Birth Companions, a charity supporting mothers in and after prison in pregnancy birth and new motherhood <https://www.birthcompanions.org.uk/pages/8-our-work>

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