

Government Policy on Women Offenders: Labour's Legacy and the Coalition's Challenge

Abstract

After thirteen years of a majority Labour government, a minority Conservative government was elected in the UK in May 2010. Within weeks, the Conservatives had created a Coalition government with the Liberal Democrats. In developing its policies on a range of social issues, the new administration will need to take account of what its immediate predecessor achieved and the lessons that Labour failed to take from *its* forerunners. In relation to women offenders, such an analysis shows that, while towards the end of its third and last term, Labour began to deal more effectively with the social exclusion needs of women offenders, through a range of community-based initiatives, its approach to diverting women towards such assistance and away from custody was, at best, half-hearted. The result is that more women than ever are being remanded and sentenced to custody. This came as a surprise only to those who had not noticed that this approach had also failed in the 1980s and 1990s. The Coalition might like to take note.

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Introduction

Those who cannot remember the past are condemned to repeat it.

George Santayana (1905)

After thirteen years of a majority Labour government, a minority Conservative government was elected in the UK in May 2010. Within a matter of days, they had formed a coalition government with the Liberal Democrat Party. Although, as part of the election campaign, criticising their predecessor's approach may have helped them to defeat Labour, in developing its policies on a range of social issues, the new administration will need to take account of what its Labour achieved and the lessons that the Labour government failed to take from *its* predecessors. In relation to women offenders, such an analysis shows that, while towards the end of its third and last term, Labour began to deal more effectively with the social exclusion needs of women offenders through a range of community-based initiatives (see Gelsthorpe, forthcoming), its approach to diverting women towards such assistance and away from custody involved the same tired approach which had failed to work for previous administrations. The result was that the use of custody for women continued to grow. This came as a surprise only to those who had failed to notice that this approach had also failed in the two previous decades.

This article begins with the obvious first task facing anyone seeking to argue the case for a change in government policy, which is to show that the increased use of custody for women is not simply a legitimate response to higher offending rates or more serious offending. This is followed by a review of

the way Labour's policy position on women offenders developed over their three terms in office. Evidence about the impact, or otherwise of these policies is then considered. The article ends with a consideration of how the new administration might build on what has been achieved to date but also what changes are needed if the problems associated with responding to women offenders are to be addressed.

Women offenders

Although self-report studies show a narrower gender gap than official statistics, both sources show that it is still comparatively rare for girls and women to commit criminal offences. While nearly a third (32%) of all men in England and Wales are convicted of a criminal offence before the age of 40, this is true for only nine per cent of women. Girls who offend grow out of it more quickly than boys and only 20 per cent of the women who do offend continue for more than a year, compared with 45 per cent of men who offend (Home Office, 2003). Women's offending also tends to be less serious than men's (Institute for Criminal Policy Research, 2009). For example, looking at the figures on those cautioned or convicted of more serious ('indictable') offences in England and Wales, by sex and type of offence in 2007, shows that over 60 per cent of offences by women and girls were theft related, compared to only 36 per cent of those for which men and boys were responsible (Ministry of Justice, 2010a).

It is true that the number of women and girls being arrested for violence has more than doubled since 1999/2000 from 37,100 to 88,100 in 2007/8 (Hand and Dodd, 2009). It is also true that violence has recently become the most

common offence for which women are arrested. The media (e.g. Ford, 2009; McVeigh, 2009; Whitehead, 2009) have been quick to suggest that this is a consequence of binge drinking and girls are behaving more like boys or as 'ladettes', but a closer look at the figures suggests that there may be other causes for the apparent increase. The *proportion* of arrests related to violence has increased partly because the number of such arrests rose but also because the *number* of women arrested for theft and handling, fraud and forgery, burglary, drugs and sexual offences fell by over 27,000 during the same period (see Hand and Dodd, 2009). It is also worth noting that the *number* of men arrested for violence has risen over this period, from 218,400 to 389,600; and remains four times the number of women. Also, as increases in arrests for violence occurred during a period in which the British Crime Survey reports violent crime falling by 23% (Hoare, 2009), it is reasonable to think that some of the change in arrest statistics is explained by a change in police behaviour.ⁱ This is also indicated by the fact that two-thirds (66%) of the women cautioned or convicted for violence in 2008 were cautioned, compared to well under half (44%) of the men (Ministry of Justice, 2010a). In other words, a much lower proportion of the violence by women is deemed to be serious enough to merit prosecution or, if it does reach court, to result in conviction.

Given that women's involvement in crime has become only a little more prevalent, and the seriousness of their offending has either increased marginally or remained static, it is hard to see why the number of females in custody rose by 68 per centⁱⁱ between 1997 and 2008 to reach 4,505. The scale of the increase is even more surprising given that the male prison population rose by a comparatively modest 35 per cent during this period (Ministry of

Justice, 2009a). Gelsthorpe and Morris (2002) suggest that this could be associated with the simultaneous increase in the social and economic marginalisation of women and to legislative changes. A further explanation is that the sentencing climate has become harsher, partly fuelled by media demands for the courts to use custody and not let offenders 'go free from court' by using community sentences (Hedderman, 2004a). The impact on women's imprisonment has been greater because the baseline numbers are smaller and because the tougher climate has affected the sentencing of their generally less serious offending (especially theft and handling) particularly severely.

Not only should the increased use of custody for women be regarded as a problem because it is disproportionate, it is also worth tackling because there is evidence that the 'pains of imprisonment' are felt more keenly by women. They are held much further from home (Prison Reform Trust, 2000); they have measurably greater mental and physical health problems; and they have higher rates of self harm and suicide than men (Corston, 2007). It has also been estimated that 18,000 children experience having their mothers sent to prison each year and a third of women in prison are lone parents (Corston, 2007).

Women's resettlement plans on release are also less certain than men's in that they are less likely to have accommodation or training and employment in place (Niven and Olagundoye, 2002; Niven and Stewart, 2005). As more than two-thirds of women receive sentences of less than one year, they also receive minimal help with these or other problems on release as such short sentences are not subject to statutory supervision. Despite this, women have consistently lower reconviction rates than men. The difference is in the region of 5-15 per cent.ⁱⁱⁱ Using the most recent figures (Ministry of Justice, 2010b) as an

example, shows that of the 6,463 women and 43,818 men released from custody or commencing a court order in the first quarter 2007, 34% of women (N=2,074) and 40% of men (N=17,500) were reconvicted within a year.

Finally, when the social, environmental and economic outcomes of sending women to prison are ascribed monetary values. imprisoning women who are mothers for non-violent offences carries a cost of at least £17 million over ten years (New Economics Foundation, 2008). This is not only because of the damage imprisonment does to the women's own future life chances but because of the damage it does to their children who are more likely to be unemployed and out of education, more likely to become problem drug users and more likely to offend.

Labour's policy on women offenders

Most of the issues which Labour faced in relation to dealing with women offenders, when they took over government in 1997, were not new. They had been identified in a series of research studies conducted between the early 1980s to the mid-1990s by researchers such as Carlen (1983;1990), Edwards (1984), Gelsthorpe (1989), Genders and Player (1987), Heidensohn, (1985;1986;1996), Hood (1992); Morris (1987), and Worrall (1990). However, the unusually large majority (179 seats) with which Labour was elected encouraged expectations that they would act on both elements of their Manifesto commitment to be 'tough on crime *and* tough on the causes of crime' (New Labour, 1997, emphasis added). Instead, Labour demonstrated a much keener interest in outdoing its Conservative predecessor in being 'tough on crime', as judged by its decision to put forward more than 50 criminal justice

bills between 1997-2008 and to create more than 3,000 new criminal offences (Travis, 2007; Open University, 2008-9). Yet at least three clear differences can be identified between the Labour government's position on crime and those of their predecessors. First, Labour's Manifesto explicitly acknowledged that crime had social as well as individual causes. Second, it attempted from the outset to establish 'what works' in tackling crime and dealing with offenders (see, for example, Vennard et al., 1997 and Underdown, 1998). Third, the new Government sought to ensure that work with offenders took account of such evidence although, at that point, little thought seems to have been given to the fact that the evidence base consisted mainly of studies of young males or that 'what works' for women might be different to 'what works' for men (Hedderman, 2004b).

Given the new Labour government's unwillingness to talk down the use of imprisonment, it is unsurprising that the prison population continued to escalate during its first term. Although its own 'Social Exclusion Unit' report (2002) showed that those in prison were amongst the most socially disadvantaged, the decision not to use this as an evidence-base from which to argue for decarceration and a welfarist response to crime were signalled in the report's title 'Reducing Re-Offending by Ex-Prisoners'. The problem, as the then Prime Minister, Tony Blair, described it in his foreword to the report, was not the number of men and women in prison but the failure 'to capitalise on the opportunity prison provides to stop people offending for good' (Social Exclusion Unit, 2002:3).

The lost opportunity in relation to women is particularly obvious given that the report acknowledged that women's needs were often greater than

men's; that the female prison population was growing at a faster rate; and, that '[b]ecause of the relatively small numbers of women in the prison system overall, their needs are often felt to be overlooked, or dealt with within a system designed primarily for male offenders' (Social Exclusion Unit, 2002:139). Rather than using this as justification for taking immediate and specific action in relation to women, any decision about how to create a 'distinct response to the particular needs of women' (Social Exclusion Unit, 2002: 142) was to be delayed until the Women's Offending Reduction Programme (WORP) could be formulated. This took a further two years by which time the impetus for radical change had been lost.

Nevertheless, the WORP (Home Office, 2004a) was a welcome development, beginning with its acknowledgement that:

Statistics show that the courts have been using custody more frequently for women over the last few years, even though the nature and seriousness of their offending has not, on the whole, been getting worse. ...The evidence suggests that courts are imposing more severe sentences on women for less serious offences. (Home Office, 2004a:3)

Its aims were also clear and tailored to the problem:

Its purpose is to reduce women's offending and the number of women in custody, by providing a better tailored and more appropriate response to the particular factors which have an impact on why women offend. The intention is not to give women offenders preferential treatment but to

achieve equality of treatment and access to provision. (Home Office, 2004a:5)

The reference to reducing offending may seem superfluous, given that women's offending was acknowledged to be neither a large nor worsening problem, but this was an essential nod towards being 'tough on crime'. The document was otherwise focused on the need to address the underlying causes of women's offending, including: poverty, debt, unemployment, sexual and physical abuse and substance misuse.

Overall the WOP approach was described as seeking to embed a consideration of the needs of women in existing systems and approaches. This seemed to signal an understanding that it was neither desirable or feasible to respond to the high levels of mental and physical illness, poverty, debt and other social exclusion factors women offenders experience, by creating parallel services within the criminal justice system, but by improving access to existing provision for those caught up in the criminal justice system. However, the reference to utilising existing provision is also Whitehall shorthand for the fact that no new or specific funding was to be allocated to secure delivery. The authors of the WOP clearly realised this. Knowing that new but unfunded policy initiatives stand little chance of implementation, they ensured that specific objectives and timeframes had been agreed with the agencies tasked with delivering them, taking account of the resources available.

While this constrained the opportunities for inaction, it did not eliminate them. This is partly because only one of the 'objectives' listed under the six Delivery plan areas (Bail and Remand; Sentencing; Community Provision;

Prisoner Resettlement; Women Offender Management; Crime Prevention) was actually framed as an outcome. This, listed under the 'Resettlement' heading, was to achieve 'fewer women reoffending', although even here no specific numbers were mentioned. The other objectives took the form of aspirational statements about improving processes and information sharing. For example, the sentencing outcomes were (Home Office, 2004a:19, emphasis added):

- Better *information and understanding* of the reasons behind the courts' increasing use of custody for women;
- Sentencers *influenced to consider* credible alternatives to custody;
- Perception *challenged* that prison is the 'safest' place for women with mental health and substance misuse problems, supported by *increased opportunities* for women to access appropriate community provision;
- Sentencing Guidelines Council *invited to consider* guidance and instructions on how the new sentencing powers in the Criminal Justice Act 2003 may impact differently on women.

It is important to recognise and applaud the positive developments which were undoubtedly the direct result of the WORP (see Women's Policy Team, 2006), particularly given the lack of additional funding. These included: setting up a cross-departmental liaison group; and encouraging the development of guidance concerning services for women on probation. The WORP also added support and impetus to other initiatives which were already in train such as arrangements to improve community-based responses to the mental health needs of all women. Given the range and severity of health needs identified

among offending women, it is reasonable to expect them to benefit from such developments.

Building on these achievements, the Home Office Women's Policy Team, tasked with coordinating the WORP, eventually managed to obtain over £9 million to support a demonstration project which sought to provide holistic support for women who were current or former offenders or whose social exclusion needs were considered to put them 'at risk' of offending (see Hedderman et al, 2008). However, many of the criticisms levelled by Carlen (2002) and Tombs (2004) at previous policies to reduce the use of custody for women are equally applicable to the WORP. In particular, the assumption that providing sentencers with more information and better community options would reduce their use of custody runs entirely counter to the evidence. As Table 1 indicates, this approach has not worked in England and Wales, despite being recommended as a solution to the rising female prison population in the 1980s (Women's National Commission, 1991) and 1990s (Prison Reform Trust, 2000). Nor did it work in Scotland in the 2000s (Tombs, 2004).

There is good evidence to suggest that introducing supposed alternative to custody, without taking away the power to sentence to custody is generally ineffective. Sentencers have explicitly said on a number of occasions (for example, Hough et al., 2003) that they do not sentence women or men to custody because of a lack of suitable community alternatives. Rather they consistently say there is no real substitute for custody. Moreover, the history of introducing alternatives such as community service and combination orders confirms this (see, for example, Pease, 1985), as such sentences quickly became alternatives to each other and go down tariff. For example, in 1993

only 19% of community service orders were imposed on offenders with no previous record. By 2003, this had risen to 29%. Over the same period, first time offenders went from comprising 10% to 16% of those on combination orders. (Home Office, 2001; Home Office, 2004b). Meanwhile the numbers being sentence to custody continued to rise.

[Table 1 here]

Unfortunately, at exactly the same time WOP was being published, a range of provisions of the Criminal Justice Act 2003 were being implemented which increased magistrates' sentencing powers and decreased their discretion to use noncustodial measures to deal with breach. As Player (2005) predicted, the impact of the negative consequences of these changes have fallen particularly heavily on women (see below).

In the same way that Stephen Lawrence's death focused government thinking on racism (Macpherson, 1999), it took the deaths of six women in HMP Styal in little more than a year to revive government interest in the record number of women entering prison and the negative effects this had on them and their families. The deaths led the government to commission Baroness Corston (2007) to review of 'women with particular vulnerabilities' in the criminal justice system. The term 'particular vulnerabilities' is revealing: it suggests that the system works for the majority of ordinary women, but perhaps some vulnerable ones need special consideration. Fortunately, Corston chose to interpret her brief liberally, not least because:

There are *many* women in prison, either on remand or serving sentences

for minor, non-violent offences, for whom prison is both disproportionate and inappropriate. *Many* of them suffer poor physical and mental health or substance abuse, or both. *Large numbers* have endured violent or sexual abuse or had chaotic childhoods. *Many* have been in care (Corston, 2007:1, emphasis added).

The Government accepted just over half (25) of Corston's 43 recommendations for change in their entirety and a further 14 in principle or in part (Ministry of Justice, 2007). Together with the WOPR, Corston's report has raised the profile of women offenders under supervision in the community and in prison.^{iv} This led the National Offender Management Service (NOMS) to issue a national service framework for women offenders setting out the sorts of services which were to be provided (NOMS, 2008a) and a guide to 'support the implementation of the Government's strategic aims and objectives as set out in the National Service Framework for Women' (NOMS, 2008b:2). The Prison Service (2008) issued related guidance on regimes and standard of care. As these require the preparation of 'detailed, costed service specifications' (NOMS, 2008a:4), there is reason to hope that that these will ultimately feed through into more effective assistance for women in the community and better conditions for women in prison.

Unfortunately, Corston's (2007:i) optimism in taking on the review that '[t]here are signs that the government would welcome a radical approach to these issues', seems to have been misplaced. While agreeing in principle with Corston's conclusion (2007:8) that '[t]he continued use of prison for women appears to offer no advantages at huge financial and social cost', the Labour

Government persisted with the line that sentencing was a matter for the courts. All that could appropriately be done, it insisted, was to re-emphasise to the courts 'how intensive packages of requirement on a community order, together with supportive interventions and services, can be more effective in responding to women's needs and reducing re-offending' (Ministry of Justice, 2007:19). Strangely, this concern with judicial independence was not in evidence when it curtailed sentencers' discretion in dealing with breach in the Criminal Justice Act of 2003. The argument that it is for sentencers to decide on individual sentences is valid, but it is the government which has expanded the range of sentencing powers generally, so surely it is for them to constrain them generally. To say otherwise is to say that the legislature can only increase the severity of existing sentencing options, never reduce it. While this may be what successive governments in the UK have done, it is not inevitable. For example, in early 2010 the US State of South Carolina began the process of enacting legislation to reduce the use of custody for non-violent offences including certain forms of burglary and drug possession offences (<http://www.scstatehouse.gov/citizensinterestpage/SentencingReformCommission/SentencingReform.html>).

In rejecting Corston's recommendation that women should not be remanded to custody if they were unlikely to face a custodial sentence if convicted, the government simply stated (Ministry of Justice, 2007:20) '...it would not be appropriate to amend the Bail Act to the effect that custodial remands should never be used in cases where it is unlikely to lead to a custodial sentence'. Clearly this was such a ridiculous idea, no explanation for this decision was needed.

And finally, although the 2006 WOPR progress report (Women's Policy Team, 2006:21) also acknowledged 'the particular challenges of meeting the resettlement needs of women because of the limited number of women's prisons and their geographical spread'; the Government ultimately rejected Corston's recommendation that large prisons for women should be replaced by small custodial units sited closer to women's homes (Ministry of Justice, 2008). This was partly on the grounds that such small units (20-30 women) would not meet all needs efficiently or effectively and partly on the grounds of cost. Instead there was a carefully worded promise to 'utilise any headroom gained from increased community provision to re-configure the prison estate *if* necessary, and *if* resources allow, so that women's establishments are of optimum size and specification for meeting women's needs' (Ministry of Justice, 2008:15, emphasis added). This phrasing provided the previous administration with plenty of scope for inaction. In the current financial climate, it seems even less likely that its Coalition successor will honour such a vague and conditional promise.

The impact of Labour's policy changes

One year after the then Government responded to Corston's recommendations, it reported on progress (Ministry of Justice, 2008). The response was in four parts. First, the report noted the publication of a national framework for service provision (NOMS, 2008a). Second, under community provision, there was reference to an additional £40 million funding to promote effective community provision 'particularly where offenders are at risk of receiving short custodial sentences' (p.6). This money was not earmarked

specifically for women, it was simply assumed that they would benefit automatically because so many are subject to short custodial sentences. The remainder of this section of the progress report refers to guiding, scoping and exploring future improvements, but no concrete achievements are mentioned. In the third section, describing progress on improving custodial provision, 'achievements' are couched in such a way that it is not clear which have actually been achieved and which are still in progress. In the final section on mental health, the list of achievements comprises a list of future intentions.

While it may be unreasonable to argue that more could have been done in the year immediately after Corston reported, it is worth remembering that this was four years after the WOP was published, six years after the Social Exclusion report was published, nearly 10 years after the Prison Reform Trust identified the same issues, and almost 20 years after the Women's National Commission did so. It also nearly 90 years since the then Conservative Home Secretary, Winston Churchill, acknowledged that women in prison had less access to support than men because they were so often inside on short sentences; and noted that he had recently written to every magistrate in the country individually recommending that they make use of probation as an alternative (Churchill, 1910).

Extra resources specifically earmarked to divert women from custody are mentioned in a further progress report published two years after Corston (Ministry of Justice, 2009b). Although whether this £15.6 million is additional to the £40 million mentioned in the first progress report, or part of it, is not clear. Also, although this report was optimistically entitled 'Diverting women away from crime', it was only able to report that the re-offending rate for adult women

was stable and that, while the rate for girls had fallen, the fall for boys was greater. Strangely, this report neglects to mention that there were also increases in reoffending following release from custody for both women and men or that 'whilst men have shown little change in reoffending following a court order, the rate of reoffending for women has increased.' (Ministry of Justice, 2010b:67).

Another piece of 'good news' reported in the second progress report also repays close scrutiny: 'There has been a 4.2% reduction in the number of women in prison over the past two years' (Ministry of Justice, 2009b:5). The figures on which this claim is based are not presented in the progress report so it is hard to know how they are calculated. However, the prison population figures which are considered reliable enough to be published as national statistics do not show anything close to this scale of reduction. Comparing the figures from 2004 to 2008 shows an overall reduction of 0.7% for the last two years and 0.8% for the whole period.^v Even this reduction is not caused by a fall in the number of women being sentenced to custody. As the latest s95 report reveals (Ministry of Justice, 2010b:50): 'In 2008, 8,359 women received an immediate custodial sentence, which represented a seven per cent increase in the numbers of sentences of immediate custody issued in 2007 (7,795).'

Although this may initially seem counter-intuitive, it is possible for the use of custodial sentences to increase *and* the prison population to fall, because prison populations are not simply determined by the numbers sentenced to imprisonment each year, but also by the length of such sentences and the number and length of sentences imposed in previous years. Thus, the most recent fall in the prison population is associated with an 11 per cent *increase* in

the proportion of women being received on very short sentences (under six months). It seems that efforts to persuade the courts not to use short custodial sentences for women have so far, yet again, been ineffective. This is also suggested by two further sets of official figures (Ministry of Justice, 2010b): two-thirds (63%) of the women sentenced to custody received sentences of up to six months compared with less than half (46%) of men; and nine per cent of the women sentenced to less than six months had no previous convictions compared to four per cent of men. The simplest way to avoid presenting such a confusing picture is to focus on the number of women being sentenced and remanded to custody. This is also important as the number of women sentenced to custody in a year is twice as around great as the number in prison at any one time, so the damage being done by the excessive use of custody is twice as great as the prison population figures suggest.

The second Corston progress report also noted that there had been 'a corresponding 1% increase in community orders for women between 2007 and 2008; an increase of 181 (14,906 to 15,087)...' (Ministry of Justice, 2009b:5). Even this is not unalloyed good news, as all of that increase occurred in orders of one year or less. Taken together with the fact that in 2008 there were over twice as many women than men with no previous convictions (23 per cent compared with 11 per cent) under community supervision, it seems that far diverting social excluded women from the criminal justice system, recent policy changes have led to an increasing number of less serious cases being dealt with by means of a community sentence. Thanks to the breach provisions of the Criminal Justice Act 2003, if women breach the terms of these orders, they could easily end up in prison. The unremarked rise in the use of suspended

sentence orders from 5,552 in 2007 to 5,959 in 2008 (Ministry of Justice, 2010a) raises similar concerns, given that breaching such orders, at best, leads to additional conditions (and an increased risk of further breach) and, at worst, leads to the suspended term being converted directly into immediate imprisonment.

Looking to the future

There is no question that in the last few years of its administration, the Labour government made important progress in supporting and fostering the development of community-based programmes for women offenders; and that support was not just rhetorical but financial. While £26 million is not a huge sum compared to £3 billion spent on prison each year, it bought a significant amount of support for some of the most socially disadvantaged women in England and Wales. Moreover, by basing those interventions on best practice advice and other evidence about the types of approaches which worked best for women, and supporting efforts to evaluate such initiatives, the Labour government leaves a legacy of which it can be proud.

However, Labour's legacy in relation to the escalating use of custody for women, is a matter of doing too little, too late. By the time it left office more women were being sent to prison for comparatively trivial offending: nearly one third of the custodial sentences imposed on women in 2008 were for theft and handling; and the proportion of the women sentenced to short periods of imprisonment who were first time offenders was twice that of men. By ignoring this problem for all of its first term and most of its second term, Labour lost the

opportunity to make radical changes in relation to the sentencing of women. By the time it developed the WORP, the opportunity to take radical action in relation to the use of short-term prison sentences had passed, leading it to follow the same tired approach so many of its predecessors had adopted – exhorting magistrates to use custody a little less and alternatives a little more. Given this approach did not work on any previous occasion, it is difficult to imagine that there was any real expectation of success associated with this decision. The only other explanation is that the government simply did not realise it was repeating the mistake of others. Decades of evidence now demonstrate that magistrates must be required not simply encouraged to use alternatives to short-prison sentences for at least some women, as stopping short of this step simply has not worked.

Given that the first Coalition Cabinet of 23 contained only 4 women and that, within a month of taking power they had announced their intention of giving anonymity to rape defendants, it is doubtful that the Conservative-Liberal Coalition will be persuaded to put women's issues at the top of their agenda. Indeed, at the time of writing (August 2010) the Fawcett Society has sought a Judicial Review of the government's first budget on the grounds that it had failed to take account of the particularly adverse effects this would have on women.^{vi} In this context, it seems highly unlikely that the Coalition will rush to consider the needs of women offenders. But such a change of approach would not only benefit the women caught up in the criminal justice system, it would also be in the broader public interest. As noted above there is evidence to suggest that resorting more frequently to custody is associated with rising reconviction rates for women. So sending more women to prison, particularly

on short sentences, is not an effective way of safeguarding the public. In most cases it simply disrupts already chaotic lives even further. It is also an unnecessary expense. As the incoming Justice Secretary's initial pronouncement that 'Too often prison has proved a costly and ineffectual approach that fails to turn criminals into law-abiding citizens' (Clarke, 2010) shows, the sheer cost may well be the most persuasive argument to put to the new government. However, his reference in the same speech to 'many a man' being made worse by the prison experience suggests that the use of short prison sentences for women has not registered with him as an issue in its own right. In this context the best we can currently hope for is that women will soon be swept up in a move away from short custodial sentences for men, in the same way women have been swept up in the move towards such sentences over the last two decades.

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Table 1: increases in the number of women going in to prison

Report	Year	Sentenced Population *	Receptions under custodial sentence *
Women' National Commission	1991	1,148	2,247
Wedderburn/PRT	2000	2,666	7,006
WORP	2004	3,449	8,264
Corston	2007	3,345	8,056
Latest National Statistics	2008	3,524	8,862

*These figures are taken from the Home Office (2002; 2006); Ministry of Justice (2009a).

ⁱ Sharpe and Gelsthorpe's (2009) review of the international evidence reaches a similar conclusion.

ⁱⁱ There were 2,675 women in prison in 1997 (Home Office, 2003).

ⁱⁱⁱ It is not possible to be more precise as the Ministry of Justice has changed its method for calculating this several times since 2000.

^{iv} Although there is no clear evidence for this, it is possible that the Gender Equality Duty (GED), which took effect in April 2007, also played a part in promoting change as it imposed a legal duty on all public authorities to eliminate unlawful sexual harassment and to promote equal opportunities for men and women.

^v Since the UK Statistics Authority was set up in 2008, official statistics may only be badged as 'National Statistics following a formal accreditation process to ensure that they are accurate and complete. The prison population figures which have been produced to this standard show the following figures for the total female prison population 2004-2008 (Ministry of Justice, 2009a; 2010).

2004 4,448
2005 4,467
2006 4,447
2007 4,374
2008 4,414

^{vi} The Fawcett Society contend that the Treasury did not follow the requirements of the Gender Equality Duty, under sections 76A and 76B of the Sex Discrimination Act 1975 in that they

either failed to conduct a gender impact assessment or failed to take proper account of such an assessment (see <http://www.fawcettsociety.org.uk/index.asp?PageID=1165>).