

# Grief in Gaol

Indigenous women's incarceration problems in Australia

By libay linsangan cantor

Indigenous women in Australia face a multitude of problems when it comes to incarceration. Often, their problems stem from the discrimination they experience because of their ethnicity. These conclusive facts were presented in the 2002 Social Justice Report (the annual report by the Aboriginal and Torres Strait Islander Social Justice Commissioner to Australia's federal Parliament).

This report reveals the alarming increase in the number of Indigenous women imprisoned in recent years. Within a ten-year span, a 255.8 percent increase has been noted: from 104 women imprisoned in 1991 to about 370 in 2001. The problem lies not only in the increasing number of crimes apparently being committed by these women, but also in the treatment they receive while in prison, and the lack of follow-up programmes for those released.

There is still no conclusive evidence of the actual increase in the commission of crimes. But why is the number of imprisoned Indigenous women continuing to rise? The

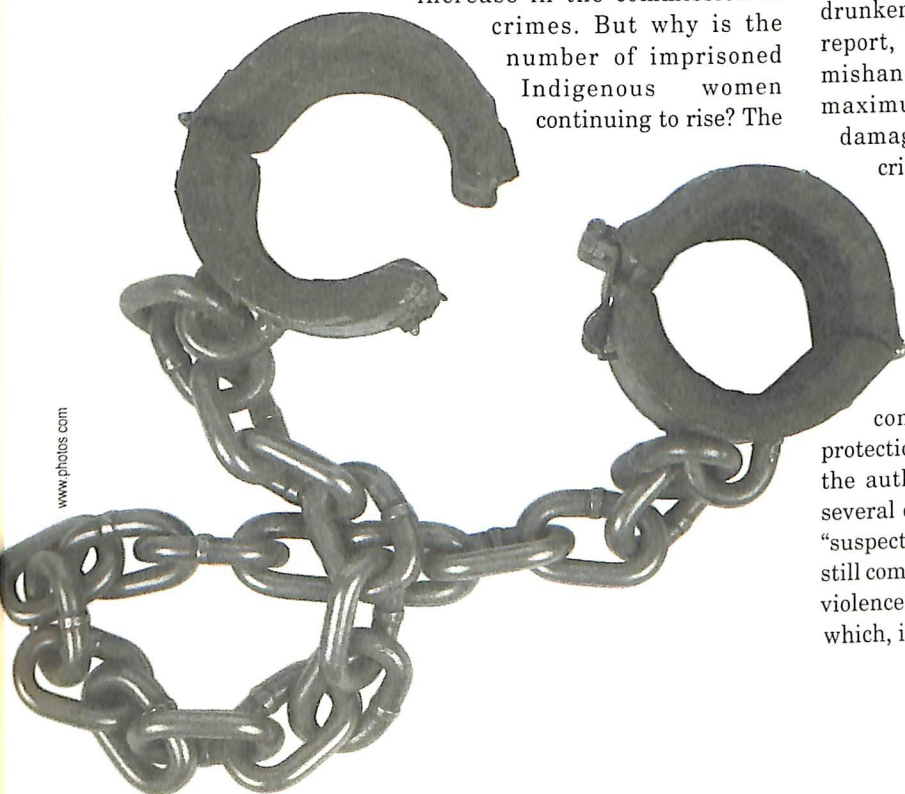
study points to two possible factors: an increase in police activity and changes in judicial attitudes to sentencing.

One conclusion of the study is that criminal conduct by Indigenous women must be viewed as a symptom, and that the offenders should be seen as "casualties of colonisation." The report further suggests that as the basic problem seems to be rooted in ethnicity, the connections must be made and holistic models developed to address the connection between culture, drug use, alcohol use, separation from family, violence, poverty, spiritual needs, housing, health, boredom, race discrimination and gender discrimination—issues which plague the Aboriginal community in general.

## Tribal Norm

In its formulation of conclusions, the report considers heavy crimes committed by Indigenous women such as homicide or assault and other offences such as robbery. However, there have been other "lighter" crimes that land these women in jail. For instance, statistics show that 80 percent of women detained in police custody for public drunkenness are Indigenous women. According to the report, however, even such minor offences have been mishandled, resulting in the accused's detention in maximum security-level prisons, a psychologically damaging practice that spurns other traumatic or criminal behaviour.

The study traces the obvious discriminatory treatment against Indigenous women to the general attitude of Australian society to people from Aboriginal communities. It also notes a strong historical continuity in the way law enforcement has treated Aboriginal communities—as people "undeserving" of police protection. Those who experience violence and report it to the authorities are often dismissed as unimportant. In several cases, the victims of abuse or violence become the "suspects" and end up imprisoned. Another misconception still common in several parts of the country is that domestic violence is part of the Aboriginal culture, or a "tribal norm" which, in the eyes of the police, is out of their jurisdiction.





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Another serious problem pointed out by the study pertains to the sentencing patterns for Indigenous women. Indigenous women tend to receive shorter sentences than non-Indigenous women. While this may actually sound like a positive development, it is not—because the judges perfunctorily sentence the women to prison instead of finding other non-custodial sentencing options. Given the majority of minor offences committed by these women, a prison term seems too heavy a price to pay. The need for programmes to help support minor offence violators was highlighted. For example, instead of locking up someone for public drunkenness, she should instead be brought to a sobering-up centre or detoxification facility, but no such places exist.

### Prison set-up

If Indigenous women experience trouble while operating within the law, imagine the kind of trouble those who have run-ins with the law experience. Again, because of their ethnicity, Indigenous women are treated shabbily inside correctional facilities. Numerous cases were cited by the report about women being raped by prison guards or undergoing humiliating strip-searches when family members come to visit. There are also cases when family

members do not even know where their detained relatives are being held.

Several problems that burden the prison life of Indigenous women were identified, the foremost of which is the disruption to family life. Most of those incarcerated were found to have committed minor offences—often non-violent ones at that—such as welfare fraud. A number of these offenders were discovered to be mothers. Their incarceration leads to multiple levels of problems, the most significant being their children's welfare and well-being. Some territories in the country are beginning to address this, creating programmes that allow these mothers' care for their children inside the prison. However, only a small percentage of Indigenous women have availed of this programme, the others apparently unaware of the existence of such programmes. In other cases, the women's application are pending and taking a long time to be assessed.

Another problem that imprisoned women worry about is the loss of their homes. Whenever they cannot pay for the arrears or rent of their house, the government agency in charge of housing takes over the house. For single-parent households, the eldest child will assume the role of the incarcerated mother and try to run the household. However, this puts both the house and the children at further risk because when the government finds out of their status, not only is the house taken into jurisdiction, the children are taken into custody as well. This leaves multiple burdens on the mothers who cannot do much about the situation because of their detention.

Health care is also an issue identified by the study. Indigenous women prisoners are often treated inhumanely at the prison's health centres—they are even handcuffed to their beds during health check-ups. Some are examined in public, in full view of everyone else, making the prisoners feel more degraded.

The family's support is crucial to incarcerated women, but their families also encounter problems. The study noted that visiting hours should be flexible enough to accommodate those whose families come from remote areas. Instead, the family members cannot easily access the correctional facilities because of lack of proper transport or incongruent transport schedules and visiting hours.

As a result, not surprisingly, the imprisoned women are further disconnected from their families. Another additional trauma for them is the standard procedure in prisons that all prisoners undergo a complete strip-search



before and after receiving visiting relatives. While the practice is justifiable, the particular way this is conducted with Indigenous women leaves psychological scars on the prisoners, especially for those who experienced sexual abuse in the past. For instance, they are made to strip in front of fellow prisoners and in front of prison staff. They are made to bend forward, backward, and every inch and crevice of their body is searched (e.g., they are asked to part the cheeks of their buttocks while bending forward for inspection). If they have their menstrual period at the time of their search, they are also made to remove their sanitary pads or tampons there and then. The prisoners are so traumatised by such strip-searches most of them choose not to receive visitors instead.

The study also cited that a growing problem for authorities in recent years is the increasing number of suicides committed by Indigenous women inside prisons. Reasons cited above contribute to the hopelessness that these women feel, adding to their own individual emotional burden. Most of them even inflict self-harm, another recent problem that state prisons are trying to address.

### Reintegration

Indigenous women who are released continue to relive their trauma, albeit in a new form. Their hopelessness prevails, especially on finding out the status of their children or that their homes were taken into custody. Some experience a feeling of disconnection from society in general, plus they are also tortured by the stigma that imprisonment attaches to one's person. There have even been cases of suicide shortly after the woman's release, a problem that the government has been trying to address in recent years.

Amid this bleak picture, there has been growing awareness of the specific cultural needs of Indigenous women in corrections. The idea that non-economic deprivation (such as damage to identity and culture, trauma and grief) has a significant relationship to offending behaviour is gaining currency. Effective crime prevention and pre- and post-release programmes are beginning to recognise the need for Indigenous self-determination and participation, with a focus on cultural restoration and healing.

The study stresses the need for an integration programme with an intersectional approach in order to define specific needs of prisoners, especially disadvantaged Indigenous women. It defines intersectionality as the connection between aspects of identity such as race, gender, sexuality, religion, culture, disability and age. An intersectional approach asserts that aspects of identity are

indivisible and discussing them in isolation from each other results in concrete disadvantage.

Indigenous women are often subjected to 'intersectional discrimination,' which refers to types of discrimination or disadvantage that are inseparable and that feed each other. Note that intersectional discrimination is not merely the sum of the consequences of race, class and gender discrimination. That is, an Indigenous woman's life is not simply the sum of the sexism she experiences as a woman, plus the racism she experiences as an Indigenous person, plus the disadvantage she experiences because of poverty and exclusion from services. A person may be discriminated against in qualitatively different ways as a consequence of the combination of the aspects of their identity.

Other studies that consider these notions are being conducted to correct erring systems. A recent survey of Aboriginal women in New South Wales, for instance, found that although 91 percent of Indigenous women received support to draw up a pre- and post-release plan, most felt that they needed the support of an Aboriginal worker who understood their situation. It is but natural that Indigenous women would seek Indigenous-run, culturally and spiritually appropriate services. The study therefore recommends that programmes for Indigenous women should be run by Indigenous people and linked into other Indigenous-specific programmes such as crime prevention strategies.

### Further Strategies Needed

While it is clear is that there is a crisis in the level and type of contact of Indigenous women with correctional systems in Australia, the study notes several worthy efforts initiated in each territory. Even if there is insufficient attention devoted to the specific circumstances of the women in custody and even more insufficient attention to the environmental factors that contribute to their being in custody at all, the study remains hopeful that solutions are being considered for Indigenous women to escape this perceived "landscape of risk" at the crossroads of race and gender. ↷

*This article is an edited version of Chapter 5 of Social Justice Report 2002 entitled "Indigenous women and corrections—A Landscape of Risk." The full report, which was published by the Australian Human Rights and Equal Opportunity Commission, can be found at <[http://www.hreoc.gov.au/social\\_justice/sjreport\\_02/chapter5.html](http://www.hreoc.gov.au/social_justice/sjreport_02/chapter5.html)>.*