



## *Conference on Women and the Criminal Justice System*

### **Opening address by Cherie Booth, QC 31<sup>st</sup> March 2004**

It is a pleasure to be with you today at this Fawcett Society Conference on the critical subject of women and the criminal justice system. The Fawcett Society has been making an invaluable contribution to the attainment of equality between women and men for nearly 140 years and I am delighted that the criminal justice system is now a focus of the Society's work.

It gives me particular pleasure that this Conference launches the Final Report of the Fawcett Society's Commission on Women and the Criminal Justice System. I had the privilege of speaking at the launch of the Commission itself in 2002 and I am delighted to be present as the completion of the Commission's work is marked.

As you will be aware, the Commission was established by the Fawcett Society to investigate the widely shared concern that our criminal justice system is failing to meet the needs of women. It took the form of a year long inquiry into women's experiences of the system, conducted by an expert group of Commissioners and chaired by Vera Baird QC MP.

In undertaking its task, the approach of the Commission was innovative – rather than focussing exclusively on the experiences of women as victims and offenders, the investigation included the experiences of women working within the criminal justice system. To my knowledge, this is the first time, either in the United Kingdom or elsewhere, that the experiences of women in *all* areas of the criminal justice system have been brought together in this way.

The significance of the Commission's holistic approach far exceeds the uniqueness of the endeavour. By including the experiences of women as victims, offenders and practitioners in its investigations, the Commission was able to explore potential links between the areas and, in doing so, to offer a fresh perspective on the issues under consideration. I look forward to seeing the results of this innovative approach in its Final Report.

The Commission's work is important not just for the way in which it brings together all aspects of the criminal justice system. It also ensures that the voices of women are heard at a time when many criminal justice issues are under

debate. Consider, for example, the proposals to modernise the way in which judges are appointed or the ongoing development of a Victims' Code of Practice.

This current climate of reform presents significant opportunities for the criminal justice system to become more responsive to the needs of women and I am confident that the Commission's Report will play an important role in the achievement of this goal.

Against this background of reformative potential, I would like to consider *why* it is so important that a project of this nature has been undertaken. Let me begin in the same place as the Commission – with women who are victims of crime.

Violence against women remains a pervasive problem in our society. As a trustee of Refuge, domestic violence is a subject with which I am familiar. However, the statistics remain shocking. Domestic violence accounts for almost one quarter of all violent crime and it is estimated that 1 in 4 women will be the victims of domestic violence at some point in their lives. Equally disturbing is the prevalence of sexual violence. According to a Home Office study, 5% of women over the age of 16 have been raped. When attempted rape is also taken into account, other studies place the number of women nearer to 25%.

Disturbing evidence of the need for change in this area is provided by the clear indications that the criminal justice system is currently failing women who are victims of crime. The statistics regarding rape provide the most striking indication of this failure. Over the last decade, reported incidences of rape have trebled, yet the conviction rate has fallen from 24% to 5.8%. It seems inevitable that statistics such as these are contributing to the gross under-reporting by women of violent attacks against them. If improvements are not achieved, we surely risk a crisis of confidence in the ability of the system to provide justice for women victims.

In recent years, the prevalence of violence against women has prompted efforts to ensure that the criminal justice system is meeting the needs of women victims. For example, there has been significant legislative reform, such as the enactment of the Sexual Offences Act and the development of the Domestic Violence, Crime and Victims Bill represents the biggest overhaul of domestic violence law in 30 years. I am pleased that further proposals are also under consideration. The extension of Specialist Domestic Violence Courts, recently recommended by an independent report, is just one example. The Commission's Report will offer valuable insights, which I hope will inform these current developments and prompt the creation of further changes.

The second area that the Commission looked at was the experiences of women accused and convicted of criminal offences. And it is to this area that I would now like to turn.

In the past 10 years, the women's prison population has increased by a staggering 194%. This increase is not because women are committing more offences, nor is it because the nature of their offending is becoming more serious – in fact, shoplifting and fraud remain the most common offences committed by women. Rather, the increase is because imprisonment is becoming increasingly relied upon as the appropriate means of dealing with women offenders. This

trend causes me great personal concern and I am delighted that the work of the Commission has highlighted the need for us to re-think how we deal with offending by women.

I believe that in re-thinking how we deal with offending by women, we should be guided by the basic principle that the criminal justice system should provide constructive outcomes for both the offender and society. Unfortunately, despite its prevalence, imprisonment is rarely a constructive means of dealing with offending by women, neither for the offender nor for society.

On my visits to women's prisons, I have been struck by the palpable levels of distress and despair among the women. This perception of emotional suffering is borne out by the fact that we are witnessing the highest ever levels of suicide amongst women in prison – in 2003, 13 women took their own lives while in custody. The high incidence of self-harm amongst women prisoners paints a similarly bleak picture. In an environment of such despair, I wonder whether we can realistically expect any positive outcomes to emerge from imprisonment. My doubts gain support from the high rate of recidivism among women offenders - 55% of women now re-offend within 2 years of leaving prison. Imprisonment, it seems, is simply not working.

There are a number of factors, peculiar to women offenders, which make it particularly unlikely that imprisonment will provide constructive outcomes. Significant in this regard is the estimation that 17,000 children are separated from their mother by imprisonment each year. In light of the demonstrated link between parental imprisonment and an increased risk of future offending, a criminal justice system that favours imprisonment of women is in danger of perpetuating a cycle of crime.

A further factor, which I believe inhibits the constructive potential of imprisonment, is the disproportionately high incidence of pre-existing mental health problems among women in prison. According to a recent report from the Prison Reform Trust, two-thirds of women prisoners suffer from a mental disorder. In addition, they are twice as likely as men to have received treatment for a mental or emotional problem in the twelve months prior to custody. Accordingly, for many of the women who are imprisoned, they are already in a desperate state, with acute mental health needs, before they even arrive at the prison.

If the rising number of women in prison has achieved anything positive, it has been to stimulate consideration of the alternatives to custodial sentences. In many ways, sentencing an offender to a custodial sentence is the straightforward option and we must encourage the criminal justice system to think outside the box and adopt a more creative approach to sentencing. Already, the system has a range of sentencing options at its disposal, which enable women offenders to account for their crimes while avoiding the negative outcomes of imprisonment. Consider, for example, community penalties or electronic tagging. These are far from being soft or ineffective options and in many instances offer a decidedly more proportionate sentencing response than imprisonment.

I am greatly encouraged by the results of a survey, which was recently published by the Fawcett Society. This survey revealed that 68% of people would like to

see greater use being made of community sentences. Also favoured were providing more treatment centres for offenders with mental health problems and more residential treatment of drug problems. Results such as these give us a promising indication of support as we seek to replace the trend of imprisonment with more constructive ways of dealing with women offenders.

Finally, I would like to consider the subject of women as professional participants in the criminal justice system. Let me begin on a positive note. We can be encouraged that the traditional male dominance of criminal justice workplaces is steadily being eroded. Women are now working in all sectors of the system and are doing so in increasing numbers. Indeed, two-thirds of the Crown Prosecution Service staff are women and there are similarly high numbers of women working in the Probation Service.

However, deeply discouraging is the absence of a concomitant development in the representation of women in senior positions within the criminal justice system. The statistics reveal a clear picture of gross and widespread under-representation; an under-representation that comes alarmingly close to near-exclusion in certain sectors.

Consider the following. Until late 2003, no woman had ever been appointed to the House of Lords; now, following the appointment of Dame Brenda Hale, of the 12 judges in our highest court, only 1 is a woman. The situation in the Prison Service is similarly concerning - of 138 Prison Governing Officers, only 31 are women. In the face of such statistics, it is hard to avoid concluding that the glass ceiling is as firmly installed in the criminal justice system as it is in so many other areas.

The lack of female presence in senior roles is a critical issue for the system. Already, I have mentioned the crisis of confidence that factors such as declining rape convictions engender. This is a crisis that is aggravated by the under-representation of women amongst those who develop the policy and make the decisions. After all, we can hardly be surprised if women doubt the ability of a system that does not hear their voices to meet their needs.

Clearly then, the current gender imbalance within the system undermines its credibility as a system that delivers justice equally for women and men. However, I suggest that the potential impact of the gender imbalance extends far beyond the issues of credibility and confidence. We must seriously question whether a criminal justice system, which has only limited female participation at its senior levels, is *in fact* able to deliver justice to women and men on an equal basis. If, as the Commission's findings indicate, the answer is that such a system *cannot* do so, then increasing female representation in senior positions becomes a key factor in improving women's experiences of the criminal justice system.

Given the significance of women's participation, it is vital that we identify and remove the barriers that prevent women progressing to senior roles in the criminal justice workforce. We know already that indirect discrimination remains prevalent in the legal profession and I welcome the important contribution that the Commission's Report will make in exposing the specific ways in which this and other barriers operate within the criminal justice workforce. In particular, I hope that the ongoing reforms in this area, such as the review of the judicial

appointments system, will be influenced by the insights provided by the Commission.

I have said much about my hopes for the potential impact of the Commission's Report. And I am delighted that, already, we have reason to be confident that the work of the Commission will contribute to the development of a criminal justice system in which all women receive a fair deal. Here, I am referring to the Government's adoption of the Commission's recommendation that a national network of Sexual Assault Referral Centres should be set up. This recommendation was made in the Commission's *Interim Report on Victims and Witnesses* and the Government recently announced that £250,000 of funding has been given to enable the establishment of six new Centres and the improvement of three existing Centres. I understand that the Commission's recommendation that a national rape crisis helpline should be established is also under consideration by the Government.

I would like to remain focussed on this note of hope as I conclude my comments today. Certainly, we must be disturbed by the myriad of ways in which the criminal justice system fails to meet the needs of women. But I am confident that the current climate of reform creates an unprecedented potential for improvements to be made. And I welcome the undoubted contribution that the Commission's Report will make in this endeavour.

Cherie Booth QC  
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