

scottish justice matters

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WOMEN AND JUSTICE ARE WE MAKING PROGRESS?

FROM PRISON TO POVERTY



Emma Trottier on why women leaving prison should have immediate access to social security

WOMEN'S safety, security and access to resources have been disproportionately affected by the UK government's welfare reform programme and wider austerity agenda. Between 2010 and 2020, it is estimated that 86% of net 'savings' raised through cuts to social security and tax credits will come from women's incomes (Women's Budget Group, 2016). The reason for this imbalance lies in women's existing inequality. Factors such as caring responsibilities, barriers to women's participation in the labour market, and violence against women, render women twice as dependent on social security as men. As regressive and punitive social security policies continue to be rolled out, women are at greater risk of deeper and sustained poverty.

Leaving prison

In the context of the criminal justice system, the subject of social security and women was recently raised at an event in Holyrood. The event, hosted by the Scottish Working Group on Women's Offending, marked the five years that have elapsed since the release of the report by the Commission on Women Offenders. The independent commission, set up by the Scottish Government, published a report in 2012 highlighting policies and practices the Scottish Government could implement to reduce the number of women in custody (and see elsewhere in this special issue). Among its many recommendations for reform, the Commission identified social security as a key issue for women leaving prison, as it found that women were returning to the community without access to a safe home and

without the means to support themselves. The Commission recommended that women be provided with access to social security payments on the day of their release from prison.

At the time the report by the Commission on Women Offenders was released, social security was a matter reserved to Westminster and as such the Scottish Government had little power over the administration of social security in Scotland. Since then, the landscape has shifted considerably. Today, the Scottish Government has new powers over certain social security programmes, so that it now has the ability to implement the recommendation by the Commission to give women leaving prison immediate access to social security. The devolution of social security programmes, such as carers allowance, early years assistance, and the power to create new social security programmes, allow the Scottish Government to build a social security system that responds to the needs of people across Scotland, including addressing the immediate needs of women being released from custody.

During the event in Holyrood, much of the discussion focused on social inequalities. Repeatedly shared was that the root causes of criminality can be traced back to the unequal distribution of wealth and disparate access to social services. First-hand accounts were given of the realities of transitioning from prison back to the community, specifically focusing on the barriers women face in accessing material, financial and human resources to support their safe and successful reintegration into the community. Delayed access to social security payments continues to be particularly troublesome for women leaving

prison. A story was recounted of a woman waiting 42 weeks after being released from prison to receive her first social security payment; a wait which is not unusual for women returning to the community from prison.

In its *Justice in Scotland: Vision and Priorities* published in July, the Scottish Government reiterated its commitment to reducing the female imprisonment rate in Scotland (Scottish Government, 2017), one of the highest in Northern Europe (Prison Reform Trust, 2015). To contribute to this commitment, the Scottish Government has introduced legislative reforms, such as the presumption against short-term sentences. While legislative reforms are one tool to foster social change, it is a positive development that the Scottish Government is looking outside the introduction of legislation to reduce the number of women in prison. In July 2017, the Scottish Government acknowledged that it better understands the 'associations between poverty, victimisation and imprisonment' (Scottish Government, 2017). As part of its efforts to contribute to public safety, the Scottish Government plans to work with other sectors (such as housing and social security) to improve support for people coming out of prison. Ensuring women have a safe home and money in their pocket will contribute to their safe reintegration and to safer communities across Scotland. As the Scottish Government progresses in the development of its social security system, it will be vital that links be made between the new social security agency and the Scottish Prison Service. Women should be given the help, including financial assistance, to get back on their feet in a safe and dignified way. The Scottish Government has the power to support women in prison, both in ensuring they receive advice on social security programs in Scotland and the UK, but also with a payment on the day women leave prison. Support should not stop at the prison gate, and Scotland now has full power to make this financial support a reality.

Gender inequality and social security

The social security system in Scotland can support women leaving prison, but it can also challenge gender inequality in Scotland. As Scotland gains powers over payments for certain social security programmes, an opportunity exists to remedy power imbalances within Scottish households. Access to resources is a fundamental aspect of gender inequality. Income and other resources are often not controlled or shared equally within households, which is a contributing factor in women's economic inequality (Joseph Rowntree Foundation, 2014) and a reality for many women who are imprisoned (Prison Reform Trust, 2015).

As reported by Prison Reform Trust, nearly half of women in custody in Scotland reported experiencing domestic abuse (Prison Reform Trust, 2015). The current practice of awarding Universal Credit payments to one partner in a couple ignores the evidence that financial decision-making occurs within the context of gendered power dynamics. The majority of jointly awarded social security payments are claimed by men, and assumptions that couples own, access and control joint bank accounts on an equal basis are unfounded. The Scottish Government has the power to automatically split payments for social security programs like Universal Credit, meaning they have the power to prevent or reduce power imbalances within

Scottish households. As a matter of principle, every person in Scotland should have access to an independent income.

Social Security (Scotland) Bill

Before the summer recess, the Scottish Government tabled its proposed social security legislation, which would set the legal framework for the social security system in Scotland. The Social Security (Scotland) Bill has laudable principles, including that social security is a human right. While this right is strongly affirmed in international law, there are questions as to whether the Bill meets a human rights based approach to social security, including from organisations like the Scottish Human Rights Commission. To meet a human rights based approach means building a system that provides people with opportunities to be involved in the decisions affecting their rights; giving people access to a redress mechanism; and complying with procedural fairness requirements. While the Bill should be strengthened to meet its intended human rights based approach, it should also commit to advancing equality in Scotland. In its current iteration, the Bill makes no mention of the principle of equality and non-discrimination, specifically that social security should be enjoyed without discrimination and freely between men and women (International Covenant on Economic, Social and Cultural Rights 1966). Building equality and non-discrimination into the principles of the social security system in Scotland, and ensuring gender is considered from policy development to practice, would be one measure to foster women's equality in Scotland.

Building an equal, just and safe society in Scotland will mean breaking down the barriers that stand in the way of women's full participation in society, and Scotland's new social security powers can be used as one tool to achieve this aim. Providing social security to support those in need leaving prison, would not only support a safe reintegration into the community, it would contribute to safer neighbourhoods across Scotland. In combination with other social justice initiatives such as increasing access to mental health care as well as safe and affordable housing, Scotland may achieve its vision of a more equal society, where people can lead safe, fulfilling and dignified lives, and where prison really is a last resort for women who come into conflict with the law.

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