

I have

Acknowledge Gubbi Gubbi people of the Gulum area where we meet today. I offer my respect to elders passed and present.

Acknowledge Mr Brian Fitzpatrick for inviting me to speak today.

Acknowledge all the women in prison today and their courage to keep surviving the horrendous prison system.

Speak about what is happening for them right now.

Acknowledge the women who have passed before us and lets think of their children, family and friends who grieve.

As a non Indigenous woman who lives on Jagerra land and has the privilege and responsibility of walking with many Indigenous women and young women and men, I consider it a duty to name the negative impact of colonisation on all of us – for we see the consequences in very stark and profound ways when we enter our prisons and see firsthand the over representation of Aboriginal women and men, and young women and men. Aboriginal women in this jurisdiction alone make up 39% on the women’s prison population and Aboriginal women make up less than 1% of our total population.

I have been asked to address the question “is prison obsolete?”

So “Is Prison Obsolete?” –

Surprisingly the answer is “No it’s not obsolete”.

“Obsolete” gives the impression that prison is something that once worked but is now somehow “broken”.

The truth is it’s never worked – well it’s never worked supporting the most disadvantaged women in our communities

It’s never worked for Aboriginal women

It never worked at eliminating crime.

It’s never worked at making the community safe for every person all the time.

It has just never worked.

In fact, the idea of “fixing” or “reforming” prison is not new either and has been a fundamental failure for centuries.

Sisters Inside is an independent non government organisation which exists to advocate for the human rights of women in the criminal justice system and to address gaps in the services available to them.

We work alongside women in prison in determining the best way to fulfil these roles. In practice this means that women in prison are part of the Management committee of Sisters Inside and have to be part of decisions made by the organisation as per our constitution.

Our organisation provides services to all women and young women in our prisons across Queensland, providing services to marginalised, victimised, criminalised, racialised and institutionalised women and girls, especially those who are imprisoned.

We also undertake policy and reform initiatives, most of which, these days, are aimed at trying to undo the outrageous injustices being perpetrated at breakneck pace in this country and the western world. We have consultative status with the United Nations and participate in United Nations processes. More recently in the writing of the Standard Minimum Rules for Women Prisoners which was accepted by member States of the United Nations last year.

We also make every effort to address the interconnectedness of economic, social, legal and political decisions that contribute to women being the fastest growing prison population, not just here in Australia, but in the western world.

As we see the further erosion and lack of Australia's international reputation as human rights defenders of women, children, especially those most vulnerable because of multiple intersections of marginalisation and discrimination, be it race, sexual orientation, ability – particularly disabling mental health issues - or those escaping violence, we are witnessing the exponential growth of women in prison.

Women and girls are the fastest growing prison population world wide.

The fact that women and girls are the fastest growing prison population is not accidental. In Australia, we recognise that our links to Canada and the United States have meant that we were amongst the countries to be impacted by the regressive, so called, law and order agenda, which are making prisons the default option for those most significantly impacted by the destruction of social safety nets, and the evisceration of medical, housing, economic and education standards and services.

In too many communities and contexts, prisons are the “only” service that cannot turn people away because of waiting lists, a lack of beds or resources, change in mandate etc.

Imagine if, instead of continuing to cram more people into overcrowded prisons, we limited the number of beds available for judges to impose as sentences, or if we turned women away and

would not allow them access to prisons when they really need housing, a shelter to escape violence, treatment to deal with past sexual abuse and other forms of trauma, drug and/or alcohol detoxification and treatment to address mental health and /or addiction issues.

Our organisation, at the state and national level, we have recognised this reality very concretely by the change of our mission to articulate that we work with women who are criminalised versus the historic orientation of working with women who come into conflict with the law.

With this reality, we recognise that it is the laws and policies that are increasingly coming into conflict with people's lives, resulting in the virtual inevitability of criminalisation; rather than the notion that people are the full and consenting authors of their own circumstances.

In Australia, despite having made international human rights commitments, such as the Convention of the Elimination of all forms of Discrimination against Women, we decided to follow the United States lead where we have witnessed the evisceration standards of social, medical, housing and educational resourcing.

We have now experienced the same sorts of cuts and knee jerk band aid responses – all of which norm crime and criminal justice and penal responses, thereby presuming criminality and perpetuating the

problems of the past, be they crime prevention, homelessness, restorative justice or other responses.

Australian jurisdictions are rushing to follow the Canadian and the United States race to incarcerate the most dispossessed for longer and more brutalising periods.

Ironically, this is occurring at a time when many US jurisdictions are retreating from regressive “law and order” agenda.

By creating criminally low social assistance and in particular for young women – low or no social assistance – many poor people are immediately relegated to the criminalised underclass.

Rather than resulting in the criminalisation of poor women for welfare fraud, petty theft of food, transport, prostitution, stealing or whatever other survival strategies are employed, if we were truly interested in addressing fraudulent transactions that harm others, then criminally low welfare rates might result in the criminalisation of those who craft, those who pass and those who enforce, the law and policies – NOT those subjected to them.

We are also seeing the increased feminisation and criminalisation of poverty.

Welfare fraud is one example of how poor women are increasingly likely to be criminalised.

Their attempts to survive poverty too often results in charges ranging from fraud (including welfare fraud), soliciting, pimping, living off the avails, or, importing and trafficking.

Women who are trying to make the rent and/or feed their children/families are especially vulnerable. Young women are trying to survive abuse, poverty and survival on the street.

It used to be that we might see women resorting to such means to address extraordinary expenses such as birthdays, Christmas and/or other holidays, child care, summer camp expenses, et cetera. It is increasingly the manner in which sole support moms are attempting to cover basic living costs. Hence, the children end up on the streets with their mothers or separated from their mothers and or family.

In the United Kingdom, noted policy leaders such as Pat Carlen and the Howard League are amongst those calling for the criminal justice system to refuse to proceed with criminalizing the young, those escaping violence, those with intellectual disabilities and mental health issues; they are also amongst those calling for more decarceration, community development, and social (re)investment.

Indeed, many academics, professionals and practitioners on the front lines have also characterized the push to criminalize the most dispossessed as the present manifestation of race, ability, class and gender bias, and argue that this demands we examine our fundamental beliefs and notions of whose interests and biases are privileged, and at whose expense?

When we know the histories of abuse, poverty and extreme marginalization that is the reality of most of the women and girls with whom we work, it seems quite ludicrous that we continue to pretend that telling women and girls not to take drugs to dull the pain of abuse, hunger or other devastation, or tell them that they must stop the behaviour that allowed them to survive poverty, abuse, disabling health - - especially mental health -- issues, et cetera, in the face of no current or future prospect of any income, housing, medical, educational or other supports. Surely none of us thinks it of benefit to anyone to continue to imprison women and girls, and then release them to the street with little more than psycho-social, cognitive skills or drug abstinence programming, along with the implicit judgment that they are in control of and therefore responsible for their situations, including their own criminalization.

We all must rethink, resist and reject such notions.

Indigenous women and girls continue to suffer the shameful and devastating impact of colonization. From mission schools, to child welfare seizure, to juvenile and adult imprisonment, Aboriginal women and girls are vastly over-represented in institutions under state control.

As I said before Aboriginal women make up less than 1 % of the Queensland population, they make up 39% of the Queensland prison population and over 75% of the youth prison population, and too often represent the majority of the women classified as maximum-security prisoners. Over 90% of the Aboriginal women in the North Queensland prison cannot even read or write.

Indeed, even as we work to deinstitutionalize and decarcerate, we are seeing that “treatment” is increasingly the colonial control mechanism of choice.

I want to discuss the recent control method in the area of fetal alcohol spectrum syndromes.

The focus on fetal alcohol spectrum syndromes and disorders are gendered, classed and racist in approach and we must venture forth very carefully. Consider for a moment the reality that such alphabet soup diagnoses of FAS, FAE, FASD, ARND [alcohol-related neurological disorders] et cetera, are most prevalent in countries that have high rates of criminalized Indigenous populations. Even although the shopping lists of symptoms or characteristics of foetal alcohol labels overlap significantly with other conditions ranging from inadequate nutrition, oxygen deprivation, learning disabilities, attention deficit, et cetera, the labels are persistently utilized in places such as Canada,

New Zealand, Australia and the United States. It is not coincidental that these are also countries with high rates of criminalization of racialized Indigenous peoples.

In the European Union, on the other hand, this approach is not seen as particularly helpful – they consider the symptoms and impact of other toxins, be they pollution, bad water, insufficient nutrients, lack of prenatal and postnatal supports, accidental brain injuries, lack of oxygen, et cetera, as equally important. After all, despite the rhetoric that it is 100% preventable, since many women do not know they are pregnant before the apparently crucial day 17 of gestation, the only way to make it so would be to prohibit the consumption of alcohol by all women of child-bearing age.

Moreover, since we don't really know what the impact of alcohol is on male sperm, then likely it should also be illegal for men to drink too. Obviously, we all want to limit the impact of alcohol and other toxins on foetal development, but we know that criminalizing behaviour is only likely to end up with a focus on those least able to defend themselves against it.

Current access to justice issues being what they are, a focus on fetal alcohol exposure, in isolation, is likely to continue to result in the disproportionate application of the law and societal judgment against poor and racialized women.

How many fewer diagnoses of FASD (fetal alcohol spectrum disorders), et cetera would there be if that label meant that the recipients thereof could not be relegated to the most isolating prison conditions? If such a label meant that someone could not be criminalized but must be found to be in need of community supports because their disability renders them incapable of forming criminal intent, we predict that the diagnoses might virtually evaporate.

Courageous jurists, like Mary Ellen Turpel-Lafond (as she then was) have tried to take on this issue in individual cases. We applaud and encourage such efforts and continue to push for broader, systemic change.

It is no accident who is criminalized, nor who is imprisoned; and, nor is it an accident who is not! What if, instead of denying and defending abuse of power and force by police and prison personnel, as well as the neglect and abuse of institutionalized persons, we collectively condemned and stopped such practices.

In our attempts to address these issues outlined above, we have met with judges, prosecutors, the defence legal profession, correctional authorities, youth prison authorities and mental health professionals.

The non-government sector, in particular, have lamented the reality that the evisceration of their resources, combined with the advent of zero tolerance to violence policies, have resulted in policy directives that

instruct them to call the police and urge the pursuit of criminal prosecution in cases where those with mental health and/or intellectual disabilities are assaultive or abusive.

Behaviour that might previously have been considered to be symptomatic of the psychiatric or mental health label attached to the individual is treated as criminal or “bad” behaviour in the criminal justice context.

Reduced resources and priorities mean that they are usually without the requisite supports to handle the most challenging folk. There is a long line-up of others in the community who are not criminalized awaiting treatment options, so they are seen as legally and ethically justified in making such decisions.

The reflex of prison authorities – which includes youth prison authorities to develop mental health service in prisons sounds positive to many, yet, in reality, it is only serving to exacerbate the trend to increasingly criminalize women with mental health issues and intellectual disabilities.

Developing such services in prisons at a time when they are increasingly non-existent in the community is resulting in more women receiving sentences or remanded into custody until trial because of a presumption that there is an ability to access services in prison that are not available in community settings.

It is vital that we recognize, however, that prisons are not, and cannot be, treatment or healing centres for women and girls.

Unlike the sentiment expressed by many Non government workers, corrections staff necessarily categorize the mental health considerations as secondary. Because they are dealing with women and girls who have been criminalized, the behaviour is generally labelled as bad – manipulative, attention-getting, capable of control, [indeed, within the control of the individual] -- and mental health issues almost always take a back seat to security and punitive responses.

We need to continually question who benefits from such approaches.

The off-loading of responsibility without requisite resources, the lack of appreciation by many of the impact of resource cuts, and the apparent belief that someone else will address issues, is resulting in the reality that increasingly, we are witnessing the abandonment of social issues to the criminal courts and penal systems to rectify.

I would like to talk briefly about the

The Differences Between Men's and Women's Violence

The manner in which young women and girls behave "violently" has been largely ignored or minimized historically. Where and when it is addressed, violence by women and girls tends to either be seen as a function of masculinity or a lack of femininity, or as an indication of extreme behaviour often characterized as madness. Perhaps the greatest difficulty in terms of addressing violence perpetrated by young

women is that most of the "research" in this area is, in fact, the postulating of theory by academics that often does not include the voices and/or experiences of women and girls themselves. Some notable exceptions are Christie Barron's research, Justice for Girls in Vancouver, and the National Youth in Care Network, as well as that of a group of researchers who work out of the University of Glasgow in Scotland under the name of Girls and Violence.

It is interesting to note that up until the 1970s, the occasional violent acts committed by women were generally ignored by law enforcement authorities world-wide.

During the '70s a new mythology emerged that linked the women's movement to a new wave of violent offending by women. White, adult women, as leaders of the women's emancipation movement, were identified as causing the surge in serious criminal offending by women.

Although the facts clearly do not support such contentions, many have concluded that more women and girls are committing offences because of the influence of some women's desires to be equal to men.

Furthermore, the breakdown of the family (also perceived to be a consequence of women's desire for emancipation) is believed to have resulted in girls not having their fathers around to help socialize them. The juvenile justice system has a long history of paternalism, such that young women who defy authority, particularly if they defy parental authority and run away from home, tend to be sanctioned more harshly than their male counterparts.

American author Meda Chesney-Lind calls this the "liberation" hypothesis.

She furthermore states that in the 1990s we were in the midst of a second wave that causally links women's equality with girls'-especially poor, minority girls-participation in gangs.

Nevertheless, throughout both "waves" of the women's movement, there have been no substantiated significant changes in the levels and patterns of girls' violent and aggressive behaviour in Australia, Canada, the United States, and the United Kingdom.

There are, however, marked differences in external responses to violent or aggressive actions, especially those perpetrated by youth.

The development of so-called zero-tolerance policies has resulted in increased policing and prosecuting of all forms of violence committed by boys and girls.

Proportionately, because the overall number of young women charged with violent offences remains relatively low, the increased numbers create more substantial percentage increases in the statistics for girls than they do for boys.

In addition, there has been an increased criminalization of young women's survival skills.

In the past, it was relatively easy to institutionalize or enforce social controls on young women if they ran away, missed curfew, engaged in sexual activity or displayed behaviour that might be defined as "unfeminine" or, worse yet, unmanageable.

In Queensland under the old legislation in the 60s and 70s, a young woman could be imprisoned in the Sir Leslie Wilson Youth Hospital for such activities.

The introduction of the Juvenile Justice Act in the 90s was supposed to end the arbitrary detention of young women for such activities.

However, we hear discussions now about imprisoning young women again for the same as is the 60s and 70s defined as care and protection.

Indeed, Ann Campbell and others have challenged us to consider whether it is morally or ethically appropriate for women and girls who need to use violence and aggression as a means to survive should relinquish these tools. She maintains, that:

Secure in our relationships and relatively protected from physical harm, most women do not need to use aggression as a tool to keep the world at bay. But when the ties that bring women close to others are destroyed, what do they have to fear in aggression? They cannot fear the loss of what they do not have. And the indisputable law on the street is fight or get beaten.... Wherever women face lives of brutal exploitation that destroys their faith in the value of trust and intimacy, they will be driven to it. We cannot demand that women desist from its use when their survival requires it. (1993: 140).

As Megan Stephens further points out:

Instead of making it a priority to lock up youth, society must begin to try to deal with the environmental factors that compel these young women to behave violently. If the young women that I spoke

with were victims, they are victims of a system that has dismissed them as 'bad girls' instead of trying to understand why they think they are driven to act violently.... Any attempt to 'eliminate' youth violence will need to take into consideration the social contexts from which these children come and we need to understand how these contexts seem to make the use of violence not only legitimate but, at least in the minds of these young women, sometimes even necessary. (169-170)

Finally, Mark Totten confirms that,

the literature suggests that women's use of violence is qualitatively different from that of men: whereas male violence tends to be more frequent, serious, and utilitarian, female violence is more often contextualized in significant factors related to self-defence, anticipation of an upcoming physical or sexual assault, and prior victimization by physical and sexual abuse. (51)

So, where do we go from here?

There is sufficient evidence that a preventative approach to addressing crime within the context of socio-economic, gender, racial, and ethno-cultural realities is far more cost-effective than current criminal justice approaches.

Rather than placing women and girls in with adult or youth prisons, most people would prefer to see better services for women in girls in community settings.

While popular in the short term, "quick fix" criminal justice responses cannot address what are fundamentally social justice and equality issues.

It is far too simplistic and short-sighted to presume that the off-loading of scapegoated women and girls onto the criminal justice system will solve crime.

Nor will offending be eliminated by the mere enactment of legislation in isolation. Broader-based social reform is fundamental

The legal system reinforces sexist, racist, and classist stereotypes of women and girls while simultaneously legitimizing patriarchal notions of the need to socially control women.

We must commit to transforming the social and economic position of women and girls and adamantly challenge attempts to further subjugate women if we are truly interested in addressing violence in our communities.

We must also refuse to fuel panic with exaggerated and inaccurate claims about increased violent offending by women and girls.

Refusing to address the issues raised by the involvement of women and girls in our criminal justice system will continue to cost us much more than money.

We need to breath life into the initiatives proposed by true leaders who have called on us to demand an Australia that pushes for human rights that equate with freedom from want.

We must push State, Territory and Federal governments to restore or develop sorely needed housing, social assistance, supportive women-directed counseling, educational and advocacy services, and facilitating access to them.

Encouraging and facilitating the access of advocacy groups like ours and others doing feminist, anti-racist, anti-poverty and human rights work, to provide women and girls with accurate and accessible information and tools as to how to advocate individually and collectively, is yet another strategy. Currently, Sisters Inside's *Human Rights In Action* Information Booklets regarding their rights are denied and being labeled as "contraband" within the prisons.

Affordable academic and vocational training opportunities for women and girls is another vital need for women in and from youth and adult prison.

In a time where governments will be cutting social services in an attempt to balance their books, such spending is not only fiscally disastrous for all of us, but the diversion of funds into prison systems will further erode the social fabric of our country.

It is more than disingenuous of our Parliamentarians of all political stripes to not challenge this rise in penal expenditure at a time when all jurisdictions have been described as having a stable 'crime' rates.

Most of us do not want to have our tax dollars spent on building prisons instead of on social services, schools, and hospitals including dental services.

It costs substantially less to host and maintain community programs, than it does to build more prisons.

Furthermore, community-based prevention and sentencing options are more effective than prison in promoting public safety.

Members of Parliament have a fiduciary responsibility to exercise due diligence and cost benefit analysis before they spend taxpayer dollars.

By passing the current crime legislation across jurisdictions without any idea as to how much they will cost Australians, they have abdicated their fiduciary responsibility.

Moreover, by expecting taxpayers to write the government a blank cheque, they are further violating this relationship of trust.

We must stand up and object to the current trend to send more people to prison instead of college and university. Penal expansion has far reaching consequences beyond prison walls which are extremely damaging to all of us.

Much is possible, right now, if we merely have the will to stand together, to collaborate and confront the myths, misconceptions as well as the realities that are out current challenges.

Further Crime is a theory.

Name any behaviour and we will be able to identify times when it is considered legal and times when it is not. Law and criminalization are theories and choices made by those who we give the authority, as well as those who take power.

Who among us does not already acknowledge that prisons are not the shelters battered women need, that they are not treatment centres or places of healing, that they are not an appropriate substitution for adequate and affordable housing, education or skills development.

We know who is and who is not in our adult and youth prisons.

With few exceptions, the wealthy and most privileged are not jailed.

Crime is a theory -- defined, monitored and enforced for specific identifiable purposes.

Rather than personalizing the various legal, human rights and social justice struggles and uprisings of prisoners, we are hopeful that increasingly, all will recognize that it is always in our collective interest when the oppressed resist and challenge their oppression.

Increasing prisoner access to the justice and equality occasioned by social inclusion will benefit all of us and all of our communities of interest.

We encourage you to join the growing world-wide political, economic, and social coalition to stop the increased intrusion of the state in terms of surveillance and social control as well as the retreat of the state in terms of the provision of supportive social, health, housing and educational services.

I say forget about reform, it is time to talk about abolishing prison in our society.

You may be thinking where do you put the prisoners?

The criminals?

What's the alternative?

First, having no alternative at all would create less crime than the present criminal training centres do.

Second, the only full alternative is building the kind of society that does not need prisons.

A decent redistribution of power and income so as to put out the hidden fire of burning envy that now flames up in crimes of property – both burglary by the poor and embezzlement by the affluent. And a decent sense of community that can support, reintegrate and truly rehabilitate those who suddenly become filled with fury or despair, and that can face them not as objects – criminals – but as people who have committed illegal acts, as have almost all of us.

And, as Lilla Watson, an Aboriginal woman in Queensland has stressed, we need to work together to correct current injustice. I will conclude with her words,

If you have come here to help me,
you are wasting our time.

If you have come here because your liberation is bound up with mine,
then let us work together.

I dedicate these words to the memory of all the women and girls languishing in our prisons across this county

Thank you to all of you for the part you do now and will do, to change the world, and try to prevent harm befalling others. And, to women and girls with the lived experience who are my constant allies, agitators, mentors and friends, your strength, courage and perseverance continue to inspire and drive me.