

CULTURE CRIMES

Migrant women face a conglomeration of disadvantage. MARIA FARRUGIA examines a hostile criminal justice system which does not understand them.

STUDIES on migrant women's crime are almost non-existent. Women have appeared in the literature as relevant mainly for the role they play in the process by which men are incarcerated. Criminological studies emphasise the central role that marriage and family life plays in many migrant communities, thus paving the way for an examination of the problems associated with the socialisation of migrant women and the imposition of conflicting values by the non-migrant community.

A 1989 report on ethnic family structure found that the domestic group is where the performance of distinctive roles is most clearly delineated and enforced. These roles result in low levels of education in migrant women and girls, or in education which is influenced by expectations about the family role daughters fulfil, and subsequently in language problems and low levels of employment. Given that the majority of women in Australian prisons have minimal education, few job skills and are impoverished, many ethnic women could be seen to be at risk of criminalisation, especially if the family buffer were to break down for some reason.

Culture conflict can arise between the dominant culture which ostensibly objects to the oppression of women and the migrant culture which denies female advancement. Should a young migrant woman refuse to participate in her own victimisation however, for example by running away from home, she will be labelled and processed by the dominant culture as deviant and subsequently, as criminal.

This is so because women are faced with a process of law enforcement that reflects the kinds of attitudes which serve to cause the conflict in the first place. Confusion must result for migrant women who kill the man who has been abusing them when the dominant culture tells them this is wrong. Statistics show that certain ethnic groups are over-represented in NSW homicide figures. Many of these are intra-ethnic killings arising in the domestic situation. In this context it must be remembered that the social isolation of migrant women, the cultural constraints such as shame combined with their limited access to legal advice prevent women from seeking appropriate welfare services in crisis situations.

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On the other hand, women who do conform to their own cultural constraints can find themselves being punished by the law of the dominant culture as a result. An example comes from the *Women in Prison Task Force Report*. Four Lebanese women were arrested on arrival in Australia on drug importation charges. In one case “incitement by husband” was recorded. Under Lebanese common law, obedience to the husband is absolute. This becomes

particularly problematic when it is recognised that a high percentage of migrant women currently in NSW gaols are there on drug importation charges.

Dealings with the Police

To add to the obvious dislocation between the police force and the ethnic community (people of ethnic origin are grossly underrepresented in the force), police training in dealing with migrants is completely inadequate. When migrant women are introduced into this scene the problems are exacerbated because they are often not fluent in English and are unaware of Australian laws and services available to them. Also their existence in cultural enclaves has diminished their contact with the legal system, they may come from countries in which dealings with the police are negative. They may be taught to obey men, and police are predominantly men. When police and migrant women meet therefore, there are bound to be problems. A 1987 survey of ethnic girls in youth hostels indicated that the girls' dealings with the police were affected by (or induced by) police racism and sexism. Accusations of unnecessary harassment and ill-treatment are particularly disturbing in the context of the recent *Kids in Justice* report in which females surveyed recounted incidents of police violence, including sexual harassment and strip searches.

As far as migrant women, rather than girls, are concerned, the fact that the police are guilty of stereotyping is a relevant factor. One survey noted that police saw problems with immigrant women's “irrational and emotional behaviour”. It is reasonable to conclude that such a perception may arise from the fact that the women cannot speak English and are unaware of

what is happening to them - yet this seems to be passed over in favour of the propagation of a racist stereotype.

After arrest

Language difficulties can cause problems for women trying to understand police questioning, as can ignorance of the law. Embarrassment and intimidation must be heightened for those women who are being questioned by policemen and whose culture tells them that men must be obeyed and agreed with.

A major problem in the area of police contact with migrant women is that of communication. The inadequate use of interpreters for police questioning of migrants is well documented and the *Women in Prison Task Force Report* found none of the women who participated in the study had an interpreter available to them during police questioning.

In the minimal number of cases where interpreters are used, their value is severely undermined by other factors. Professional interpreters are rarely called. Often family members and neighbours are used. This is quite objectionable as the woman's privacy is invaded and frequently she is pressured by the family and neighbours to confess as a way to avoid alienating the interpreter from the police.

The police also rely on local citizens and business people as interpreters. As well as constituting an invasion of privacy, which would be particularly felt within a close-knit ethnic community, the problems of impartiality and subtle dialectical differences could arise.

Processing through the Courts

The problems with interpreters also arise

sought. Lawyers, even legal-aid lawyers, are unlikely to come from backgrounds similar to the women they are representing. They are likely to be of higher socio-economic status, they work within a system alien to many of their clients and they are likely, as a result of background and education, to carry with them stereotypical assumptions. A power relationship is immediately established, and if a solicitor

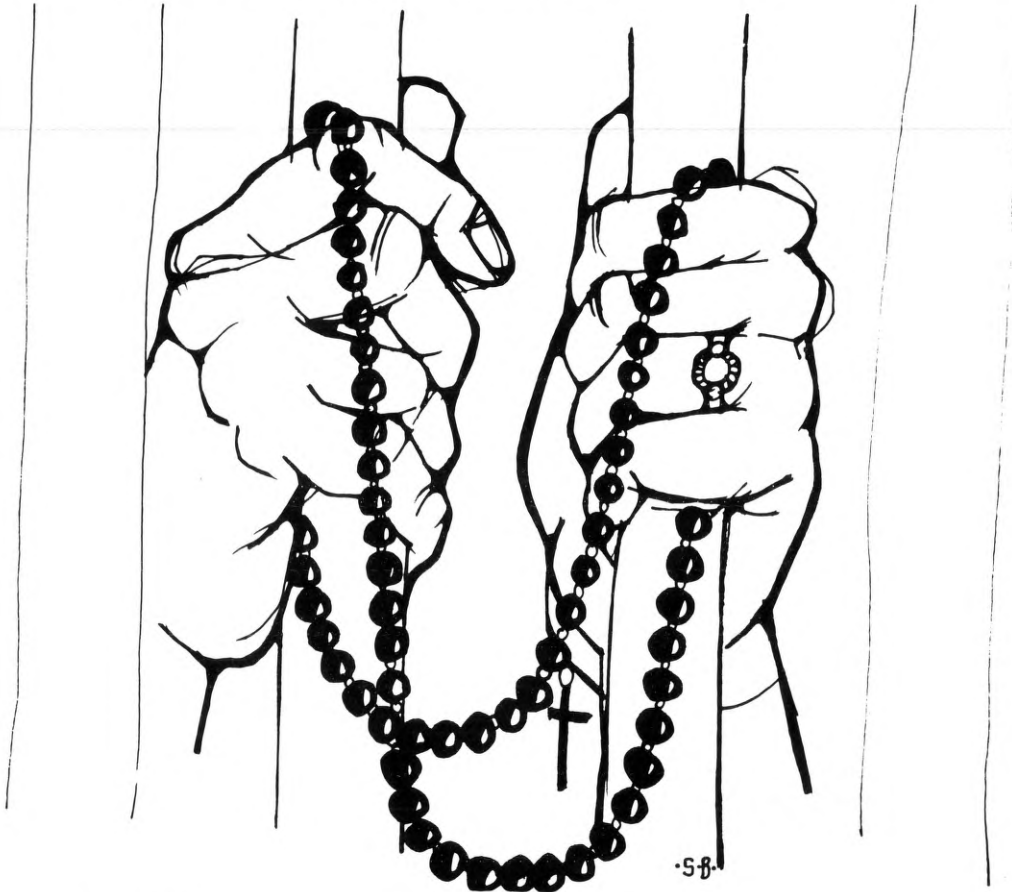
tells their client that they do not believe she needs an interpreter, a decision against an interpreter is almost inevitable.

Judges are likely to be even further removed from migrant women defendants. Studies of judicial attitudes show that women who are not middle class, battered women, and girls seen as beyond parental

control are more likely to be sent to prison. Such deciding factors are relevant for migrant women, who are often of low socio-economic status, who, when they are battered, are unaware of assistance which may be available to them and who, when they are teenagers, are more likely to be labelled as deviant for refusing to participate in their own victimisation.

Prisons

Both the NSW and Australian figures indicate a disproportionate representation of migrant women. This puts Australia in similar straits with the US and UK, where more than four times the expected propor-



in the court context. One study found that during hearings before a magistrate, over half the women felt they did not need an interpreter, 29% did not know they were entitled to one, 12% were not granted one although they requested one and in 3% of cases the solicitor did not think an interpreter was necessary.

Migrant women also have very low levels of legal representation. Low socio-economic status, lesser linguistic ability and less knowledge of the system are some reasons for the poor amount of legal representation and they also play an important role when legal representation is

tion of adult women in prison are likely to be from ethnic minority groups. It must also be remembered that none of the statistics include women who were born in Australia of non-English speaking migrant parents. There are no such figures available.

Government polices indicate an ignorance of the facts and an unwillingness to canvass issues. There is no such thing as a policy statement on women in prison, let alone one on migrant women in prison.

The NSW Department of Corrective Services has issued an ethnic affairs policy statement some of the recommendations of which have been implemented in the women's prison, Mullawa. However there are many problems with this statement. Primarily, the policy is in relation to ethnic and Aboriginal people. One coordinator is responsible for both Aboriginal and ethnic affairs. Given that migrant and Aboriginal women have different needs, disadvantages and cultural backgrounds, it is unrealistic to have the same policy for both groups. Furthermore, the ethnic agenda is

given secondary priority. So far, over 70% of the coordinator's work has been in Aboriginal affairs.

Policy objectives have only been partly achieved. There is no accurate data profile; there is only variable progress in prisoner awareness of services; there is only one ethnic services coordinator for the whole of the State, situated at Long Bay prison; and training of prison officers is inadequate. As well as its limited implementation, the policy itself is fundamentally flawed. It explicitly states that the objective of taking into account linguistic and cultural diversity of non-English speaking groups for the formulation of the Prisons Act, regulations, rules, local orders and department policy and planning, is not considered a priority. Given that so many of the problems migrant women in prison encounter are based solely on their linguistic and cultural diversity, the policy statement appears naive and discriminatory.

There are also a significant number of migrant women on remand in prisons. This is not surprising given that they are largely unaware of bail rights and that police provide them with no information.

Communication difficulties present the biggest problem for migrant women in prison. There is insufficient use of interpreters, a lack of multilingual information, rules on the walls and canteen lists are only written in English. There are also rules requiring that English be spoken in the prison. Because of the lack of interpreters, the censoring of migrant women's mail takes longer than usual. Because migrant women are unable to read information on prison services, and because they cannot communicate with prison staff, medical and psychiatric problems experienced by the women are often inadequately dealt with. Welfare officers in prisons are rarely bilingual, so women often leave prison not knowing of any services available to them. The need for multilingual capabilities in welfare officers also extends to parole officers.

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Presently there is no post-release accommodation for migrant women. In cases where such women, as a result of the criminalisation process, have been rejected by their families, the lack of such a service must be harshly felt indeed.

Conclusion

Migrant women, as a result of cultural clashes which render them torn between the disparate expectations of two communities, find themselves in a powerless position when faced with criminal sanctions. Whilst the process by which this power relationship is established is extremely complex, involving problems of class, ethnicity and gender, there are certain conclusions which cannot be ignored and which require immediate redress. It may be a long time before women generally, and migrant women in particular, are equal before the law, but measures are necessary to place migrant women on a more equal footing, if not with their male, at least with their female anglo co-defendants and co-prisoners. ■

Women sent to prison

There is a strong correlation between low education, low employment and the incarceration of women. Migrant women therefore begin with a handicap. Migrants are also more likely to be imprisoned than to be given alternative sentencing. This is probably due to communication difficulties involving clients and probation officers. The implication is that certain migrant women who are in prison would not be there had they committed the same act and been non-migrant.

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