The home and the prison

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NOTE

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THE HOME AND THE PRISON

A thesis submitted in fulfilment of the requirements for the award of the degree of

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from

The University of Wollongong

by

DECLARATION

This thesis is an original piece of research, the main content of which has not been previously submitted for a University Degree or other similar Award.

ANN AUNGLES
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ABSTRACT

The thesis investigates a specific example of the interdependence between the domestic and the public spheres of social life. Through an examination of the social construction of 'the home' and 'the prison', the thesis examines the argument, from the feminist challenge to the social sciences, that it is the marginalisation of the domestic and the arbitrary privileging of the public, that maintains the false assumption of the self-sustaining nature of public life.

The central theme of the thesis is that the contradictory intersection of 'the home' and 'the prison' is a particularly significant example of the tension between interdependence and incompatibility, that characterises the nature of the relationship between domestic and non-domestic spheres in other areas of social life.

The corollary of this argument is that it is the people in the population 'families of prisoners' who bear the greatest burdens of this contradiction. Moreover, one especially important aspect of the work of 'caring' for prisoners is the invisibility of the range of forms of exploitation and of the personal, social and economic costs that is involved in that work.

The thesis examines the specific ways in which the population 'families of prisoners' has been variously constituted in the several legal, economic and scientific rationalities that construct penal life. Four major models of interdependence between 'the prison and 'the home' are identified in the analysis of these discourses: the 'family in the prison', the home clearly segregated from the prison, the boundaries between 'prison' and 'home' becoming more permeable when the home is constituted as the site of 'resource and resolve' and most recently, 'the home' as the site of imprisonment and control. It is in the work of the social scientific constructions of 'families of prisoners' that these last two models have been most closely defined.

By drawing on the work of three approaches to social analysis, the feminist materialist critique of social policy, the radical critique of penality and the feminist analysis of criminology, the thesis develops nine major propositions about the impact of these variously constructed intersections of 'the home' and 'the prison' on the actual day to day lives of the people in the population 'families of prisoners'. It is especially in the contradictions between these various intersections that the work of caring has to be carried out. It is this contradictory nature of the work of caring for imprisoned men that is associated with the condensed nature of the inequality that is experienced by the people in the population 'families of prisoners'.

Through an examination of the penal policies and practices operating in N.S.W. in the 1980s and from interviews with thirty eight people who have family obligations to imprisoned men in N.S.W., the thesis demonstrates firstly, that that obligation leads to an extensive but hidden provision of unpaid labour. Secondly, that obligation to care also commits the carers to major economic and physical costs. Thirdly, the commitment to care then implicates the carers in the network of punishment and control that operates both within the prisons and in various forms of community control in N.S.W.
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STYLE NOTE

The style of referencing used in this thesis is an amalgamation of the author/date system and the numbered footnote form. In order to have the advantage of a relatively free flow of information in the text, the numbered footnote form has been used. However, the simplified form of referencing associated with the in text author/date system has been used to avoid the inclusion of unnecessary detail on each page. The full details of each reference are included in the bibliography.

The full name of each author is included, where possible, on the first occasion that that author is mentioned. All later references include only the surname. Where there is more than one author with the same surname, the author's initial is used in the second and later references.
CHAPTER ONE


Substantive area of thesis

This thesis is an examination of the experiences of a specific group of people, mainly women, who are drawn into the legal penal system through their family obligations to men who have been sentenced to imprisonment.

There have been several studies of ‘families of prisoners’. However, most of these texts or articles are prefaced with the claim that ‘families of prisoners’ are an under-researched group. This paradox of the collective amnesia of official and academic awareness of the situation of people caught up between the dual constraints of the family and the legal/penal realms highlights the central focus of this thesis: that the contradiction of interdependence and incompatibility that characterises the nature of the relationship between the public and the domestic spheres in other aspects of social life, is particularly condensed in the intersection of the two spheres as it occurs in the realm of punishment and control.

The basic theme is this: that the people, who have a family obligation to care for prisoners, bear the burden of a complex and contradictory set of expectations and constraints that result from an especially significant intersection between the structures of patriarchy and capitalism. The lives of people in the population, ‘families of

1 Fifty seven texts that address the issue of ‘the prisoner’s family’ are listed separately in the bibliography. This literature is reviewed in chapter four.
prisoners', are experienced within a particular social space: the intersection of areas of social symbolisation which bear great power. This power results in very specific forms of economic exploitation, political domination and cultural oppression. One especially important aspect of this particular intersection between the public and the domestic is the marginality or invisibility of the forms of exploitation and domination that are experienced by the women, men and children, who are in that social space, who take on the responsibilities of being 'families of prisoners'.

The experiences of people with family obligations to prisoners are constructed within a particular intersection between the public and the domestic spheres. It is that social space that occupies the intersection between that symbolically most rational realm - the legal penal sphere, and that symbolically most arational realm - the family. The contradictions that are engendered by this overlap between such essentially incompatible areas of social life are resolved through specific forms of marginalisation. These then add to the material, psychological, and political costs of being a member of a family of a prisoner.

The examination of this specific intersection between the public and the domestic domains, the penal and the family spheres, is an inquiry into the impact on the day to day lives of people of the way that the two spheres, the domestic and the penal have been constructed around the social relationships of power, morality and rationality in the successive forms of liberal capitalism.

The investigation of these two contradictory sites of power, morality and rationality, brings together questions posed in two areas of investigation of social life - the radical critique of penalty on the one hand, and the feminist materialist analyses of the social construction of the work of caring. These questions are set out as specific proposition on pages 26 to 27, while chapter two comprises a review of the two literatures on domesticity and penalty. However, underpinning both the major propositions, and the
approaches to the analysis of 'the home and the prison', are three conceptual assumptions. These three assumptions, which inform the basic perspective of the thesis, have been developed from the recent theoretical debates which are addressed here through a discussion the definitions of the key terms to be used in the thesis: 'the state', 'the separation of the public, private and domestic spheres', and 'caring',

Key terms: 'the separation of the public, private and domestic spheres', 'the state', "caring",

Key term: 'the public, private and domestic spheres'
The first term concerns the conflations that have been evident in the feminist and the materialist critiques of liberalism. More specifically the conflations that occur in those debates that centre on the relationship between the public and the private spheres, and between public and domestic life.

In the current feminist literature analysing state policies and domestic life there are two sets of terms that are most commonly employed. On the one hand, are the texts that address the intersections between 'the state, the family, and the economy'.

Alternatively, although not necessarily exclusively, the discussion is about the relationship between the 'public/private' or the 'public/domestic' domains. The boundaries between the two spheres of public and domestic life are analysed as part of the false dualism, inherited from classical liberalism, that legitimates, through masking and devaluation, the exploitative nature of the domestic work of caring.

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3 Gillian Pascal (1987) Elisabeth Wilson (1977) n.b. These two forms are not necessarily mutually exclusive
4 the work that addresses this false dualism is summarised in Anne Edwards (1988) pp. 49-53.
The work of Carol Pateman, Anna Yeatman and Carol Gilligan detail the implications of these processes of marginalisation and masking in political theory, sociological theory and in moral psychology.

Pateman's challenge to liberal philosophy centres on her dissection of the political philosophy of its 'key theoretical figure' - John Locke. The liberal argument for the separation of the political and the economic spheres was expressed through Locke's argument with Sir Robert Filmer, the defender of a political authority that was based on patriarchy.

The moral power of the state in Locke's version of liberalism rested on the continual achievement of the consent of the governed in contrast to patriarchal authority within the private sphere of the family which was based on the ascribed natural authority of the father. Locke, in rejecting Filmer's defense of monarchical power, centred the liberal argument for the separation of the political and the private on this distinction between public sphere authority based on the principle of universalism, and the form of family authority in the private sphere which was based on the 'natural' superiority of the father. Pateman points out that liberalism is thus inherently associated with the mutual embrace between 'patriarchy and liberalism'. Locke in arguing that '... a wife's subordination to her husband has a "Foundation in Nature" and that the husband's will prevailed in the household as he is naturally the 'abler and the stronger. ' then excludes women from the public world as their 'natural subjection' is in conflict with the liberal prerequisite for participation in public life - freedom as '... ...one cannot be both naturally subject and naturally free.'

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5 Carole Pateman (1982)
6 Gordon Schocet (1975)
7 Pateman (1982) p. xi
Pateman argues that this patriarchal character of liberalism is rarely acknowledged. The invisibility is a consequence of its essentially contradictory character. If individualism and universalism are based on the separation of the domestic and the public spheres and on the denial of citizenship to women then universalism itself is open to question. Universalism applies only to particular groups.

That universalism of classic liberalism is merely the particularism of the powerful has been successively the basis for claims to citizenship in terms of class, religion, race and gender. The primary individuals of classic liberalism, the adult male white Protestant property owners, are no longer the only representatives of citizenship. The argument for exclusion based on 'natural superiority' has been successfully contested within the framework of liberalism itself. Universalism has a symbolic power that extends far beyond the initial basis of its introduction.

However the continual contestation and extension of the boundaries of universalism masks the related but separate epistemological and political problem with liberal theory. The point is, Pateman argues, that the problem with liberalism is not so much that it is gender blind as that it embodies patriarchy. Moreover the major contestants of liberalism, the Marxist investigations of the class structure, often fail to recognise this embeddedness of discrimination centred on the 'naturalness' of the separation of the public and the domestic spheres and replicate the same biases as liberalism itself.

The masking of gender discrimination in Locke's formulation of liberalism involves a particular conflation in the argument for the separation of the spheres of social life: the conflation of the 'private' with the 'domestic'. This conflation is associated with what Pateman points out as a key confusion in liberal thought, the nature of morality. It is

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8 although this order varies with the specific nation state in which the claims have been made
9 Pateman (1982) p. xiv
10 Pateman (1985) p.5
unclear in liberalism whether morality is associated with particularism or universalism, affectivity or impersonality, ascription or achievement. On one hand morality is based on love and altruism, the particularistic and affective values of domestic life, yet on the other hand, morality becomes the basis for the regulation of the free 'amoral' market. The rational legal power of the state in liberalism depends upon its operating upon the impersonal universalistic principles which are derived from the common morality of the society. Domestic morality is based upon its very arationality, in the terms in which rationality comes to be defined in liberal capitalism.

Pateman does not follow through the implications of this conflation of the two forms of morality. However it has major import for the construction of domestic life in terms of the separation of the sphere of the family from power in public life. 'Morality' is paired in liberal theory with 'power' as the opposing dichotomies on a shared dimension. But this is a false duality that has been particularly effective in masking the actual relationship between the construction of domestic, civil and public life in liberal capitalism. If power and morality are conceptualised instead as operating on separate dimensions in the construction of the spheres of public, private and domestic life in liberal thought, then the intersections between the three spheres can be identified as the 'amoral power' of the market in the private sphere controlled through the 'powerful morality' of the state in the public sphere which is supported by the 'powerless morality' of domestic life.11

Why should the morality of the domestic sphere be characterised as powerless? Nancy Cott’s examination of the development of the 'culture of domesticity' in middle class families in the U.S.A. in the early nineteenth century indicates the answer. This set of values was specifically characterised by the asymmetric power relations within the family. The husband became the family's bridge between the public and the domestic worlds and the woman's retreat into the home sanctioned her specific domestically based moral role as wife and mother. Cott here charts both a topology of spaces, the

retreat into the home and a typology of discourses, a commitment to a gender differentiated set of values. The values underpinning romantic love between husband and wife depended on 'disinterested love' which was equated with the woman's economic dependence. 'Only by giving up all self interest did women achieve the purity of motive that enabled them to establish moral reference points in the home'.

The husband however, has two statuses: as a public person and as a private person. Jean Elshtain, drawing on her analysis of Hegel, points to the implications of this gendered moral double standard. Man could attempt to become, with 'the aid and succor of women', all that women were in private - loving and responsible, at the same time keeping his right to 'his power as a citizen - the life of the social, the rights of desire'. However, women could not become what men were, because they would then forego their essential womanhood.

Morality then has different connotations for men and women. The segregation of the two spheres of morality is reworked in different forms in specific historical eras. The 'progression' to the complex intersection of public/private/domestic of classic liberalism evolves out of two earlier bifurcations. Firstly, there is the association of a higher morality with the rational thought of the political public sphere in contrast to the lesser morality of affective family relations. Elshtain shows how this bifurcation derives from Aristotellean thought. Secondly, with Machiavelli's reworking of the concept of politics, a further bifurcation of the two spheres complicates the dual standard. The public world in Machiavellian terms is also the world of power. So there is a new definition of 'the good' not simply one of higher order to the family but one that stands in opposition to it. The effective ruler is a 'bad man' in terms of Christian morality. But with Machiavelli the rules change. Criteria based on this morality are inappropriate

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12 Nancy Cott (1978) p.71
13 Elshtain (1974) p. 460
14 Elshtain p.460
15 Elshtain pp. 454 - 458
to the public sphere. Men are successful if they operate according to two opposing standards, public self-interest and private altruism. Women have access only to the latter.\textsuperscript{16}

As Pateman points out this duality of power and morality does not hold for classic liberal thought. The separation of the political and the economic creates the more complex configuration between power, rationality and morality outlined on page 6. However, with the shift from laissez faire to welfare, corporate and to advanced corporate capitalism the political economic boundaries are less clearly defined and power and morality are again not so easily distinguishable.

With the extension of formal political citizenship to women it could be expected that a gendered double standard of morality would be dissolved. Elshtain argues that this is not so.\textsuperscript{17} Her argument is supported by the feminist critique of the level of gender blindness in two current disciplines: in the field of moral philosophy and in the mainstream psychology of moral development.

John Rawls, in a neo-liberal social contract theory of justice distinguishes between three kinds of morality. At the most primitive level of justice, a 'morality of authority' based upon fear of retribution is developed within the family.\textsuperscript{18} From this the second level of morality, a 'morality of association' is developed, still within the family but also now in conjunction with relationships in other in small associations. This is the phase in which the virtues of 'a good son', 'a good wife', and so on, are acquired.\textsuperscript{19} However this second level of moral commitment is limited as it is extended only to the individual's immediate relations with others in these small groups. The third and highest stage, the 'morality of principle' is achieved when the principles of justice are valued for

\textsuperscript{16} Elshtain p.459
\textsuperscript{17} Elshtain p.453
\textsuperscript{19} Rawls (1972) p 468. cited in Kearns p. 198.
themselves and when moral attitudes are shaped not by the particularism of the small group but by the more abstract universalistic principles of the concept of 'right' chosen 'irrespective of contingencies'.

Kearns feminist analysis of Rawls' theory of morality indicates the problems with this concept of universalism. She points out that as the nuclear family is currently constituted, Rawls' willingness to retain it as the basis of the development of moral maturity depends upon one set of people voluntarily giving up their right to achieve full moral autonomy and the ultimate sense of justice. Kearns emphasises the contradictions in which Rawls ensnares himself by fudging this socio-historical construction of the family in his thesis.

For Rawls, the sense of justice is a form of love in which one's own self interest is subsumed in this greater commitment to the other. This highest morality of supererogation involves the virtues of 'benevolence, a heightened sensitivity to the feelings and wants of others, and a proper humility and unconcern with self', a description, Kearns argues, that seems to delineate the especial virtues of women in the domestic sphere. Nevertheless, the self sacrifice that is evident in women's willingness to forego their right to participate in the higher orders of morality does not fit the definition of true supererogation according to Rawls, as women do not rationally and freely choose their sacrifice. It is rather an element of their status as wife and mother, 'founded on precepts which are followed because they seem authoritative and not because they are right and just.'

Genevieve Lloyd identifies a parallel differentiation in the philosophical reflections of Rousseau, Kant and Hegel on the higher morality of men in the public sphere and the

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lower morality of women in the domestic sphere. She isolates the way that these three modern Western philosophers ground the 'maleness of citizenship' in the masculinity of war. In the wider world men demonstrate their superior capacity for ethical behaviour by rationally and freely choosing to make the 'supreme sacrifice' of being prepared to kill and to die in battle for the universal social good. This contrasts with the lesser form of self sacrifice of women in the mundane, particularistic and arational sphere of the family. Lloyd details the several ways in which this theme of morality through militarism is constantly re-evoked in contemporary life especially through the principle that women although allowed to serve in the armed forces are not allowed to be front line troops. This taboo, she argues, safeguards 'the masculinity of war'. Nevertheless she highlights what is masked in these modern accounts of morality. The universalism for which men are prepared to die, and in this commitment achieve the highest form of citizenship, depends upon the particularism to which women have to continue to be committed. However that particularism is itself constructed as a threat to the higher 'ethical self-consciousness' of men at war. Lloyd's analysis of this militaristic construction of domesticity has especial relevance to the feminist materialist analysis of 'the home' and 'the prison', as it is in the legal penal sphere in liberal democracies that people within a society would seem to be at most risk of being defined as internal enemies.

Carol Gilligan looks at the similar masculinist bias in the moral psychology of Jean Piaget, Erik Erikson and Lawrence Kohlberg the three major writers in the field. Her argument is that all three build models of cognitive and moral development that privilege aspects of personality defined as masculine. This privileging of the masculine takes two forms. Cognition and morality are charted on a hierarchical model of development. The higher steps in each of the three models coincide with qualities of individual autonomy, the moral and intellectual ability to develop a legal sense based on

24 Lloyd (1986)  
25 Lloyd (1986) p. 64  
26 Gilligan (1982)
impartiality and objectivity, an interest in the legal elaboration of rules as fair procedures for adjudicating conflict. All three psychologists then argue that these highest forms of morality are the qualities achieved by boys but not by girls. In Kohlberg's model the highest stage is the sixth, the ability to understand and be guided by a form of justice that is characterised by impersonality and universalism. Women however, reach only the third stage - the ability to be sensitive to the needs of others.

Morality based on detachment is described then by all three as the highest achievement of human intellectual and moral ability. Morality based on attachment is at a lower stage in the scale of moral development. Gilligan points to the masculinist bias in such models. The highest moral order involves the subordination of the ethic of responsibility for personal relations to the ethic of individual autonomy.

The work of I. Broverman et al shows how this dual morality is manifested in the general and routine expectations about male and female values and behaviour in everyday life. There is a taken-for-granted set of expectations of moral behaviour that privileges masculinity, conflates the human with the masculine and both defines the feminine, and devalues it as socially immature.

These identifications of the continuing gendered basis of the humanities' and the social sciences' interpretation of the relationship between rationality and morality has significance for the inquiry into the way the state mediates and reconstructs the relationship between caring and dependence, but it has particular relevance to the ways in which these processes are played out in the penal realm.

27 I. Broverman et al. (1970)
28 I. Broverman et al. (1970) p. S
However, in both mainstream moral psychology and in Gilligan's reworking of its findings there is a problem of the ahistorical nature of the three models that then masks their class bias. 29

A model of morality that privileges a commitment to individual rights secured through universalistic standards is notably associated with the development of the historical concern to secure the concept of individual property. 'The individual legal subject is essentially the bearer of commodities, the owner of economic assets producing a revenue.'30

Individual legal subjectivity is a consequence of the necessity to establish and guarantee the conditions of exchange at the earliest stage of capitalist economic development, the securing of the rights of individual bourgeoisie to be free of political or kinship commitments in the process of accumulating capital for the business of exchange or trade. Law as an autonomous social institution guaranteeing this economic freedom of exchange is the development then of a specific form of government, the development of the capitalist state.

So the idea of the universalism of universalism is problematic in terms of class as well as gender. The privileging of a morality based on individual rights over a morality based on collective relationships is a social product of a particular set of political economic relations occurring in a specific historical era.

Social life in liberalism is based on the construction firstly of two realms of morality, but importantly also on the constitution of those two domains as inherently unequal spheres of social relations.

29 Ngaire Naffine (1987) p. 119
30 Sol Picciotto (1979) p. 172
Anna Yeatman works out the implications of the restructuring of the institutional sites of power, morality and rationality not so much in terms of the gendered personalities of 'men' and 'women' but in relation to the construction of domestic life. Through a critique of sociological theory, she argues that feminism and sociology hold out great promise to each other. Sociology with its insistence on the social nature of domestic life should open the door to questions that go beyond the duality of the focus on the constitution of gendered personalities and the subsequent limited concern with the various forms of asymmetric competition between the two interest groups, men and women. Sociological theory, in emphasising the importance of the differentiation of public and domestic life, offers feminism the potential for an analysis of the generative aspects of the relationship between class and gender.

There are, she argues, two main issues in sociological theory that have major relevance for the analysis of the social construction of domestic and public life. The sociological concern with these two issues - the importance of 'the division of labour' in modern society and the social construction of personality - means that a sociological perspective can generate questions about the particular forms of the mutual dependence between the two spheres without reflecting and reinforcing the processes of the marginalisation of the domestic and the privileging of the public that occur in the actual policies and practices of social life.

However, paradoxically, mainstream sociological theory itself continues to marginalise the domestic domain whilst seeming to offer the analytic tools for opening up the area to social analysis. Yeatman details the specific ways in which the promise is broken in the

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31 Yeatman (1986) In her later article (1990) she reconsiders this argument.
32 In a later article Yeatman reconsiders this argument. (1990) This further discussion is taken up in chapter three of this thesis.
33 This criticism is especially relevant to the imbalance of interest in feminist criminology where the discussion tends to be dominated by questions about female deviance and women prisoners.
work of Durkheim, Cooley, Tonnies and Weber in classical sociology, by Parsons and, finally, in post-Parsonian sociology.

Her argument is that classical sociological theorists replicate the liberal concern with the relationship between the individual and society but replace 'the individual' with 'society' as the starting point of their inquiry. However this inversion then also masks the importance of the domestic sphere through a process of conflation that reflects in inverted form the liberal conflation of the domestic with the private. In various forms the classical sociological theorists all foreclose on the question of the social construction of domestic life and its distinctively gendered form, by assimilating the family to an undifferentiated abstract sociality.34

Yeatman especially focuses on what she describes as the second phase of sociological theory, on Parson's analysis of the family, as it is in his work that the promise of an understanding of the social construction of domestic life is most explicitly made.

34 Yeatman pp. 159 -165
35 Yeatman p. 166

Nevertheless, Parsons' work fails to fulfill this promise. This failure takes two forms. Yeatman points to what other feminists have earlier emphasised: Parsons' dependence on the 'natural' basis for the explanation of the gendered allocation of domestic parenting.36 Mothers, according to the functionalist perspective, are the specialists in the family because they have the biologically ascribed tasks of child bearing and breast feeding. In 'modern' society characterised by specialisation this early commitment to caring through these biologically ascribed aspects of mothering lead to the most efficient
form of division of labour within the family with women taking responsibility for the other routine tasks associated with child rearing in the early years of socialisation.\textsuperscript{37}

However, Yeatman points too, to the way that Parsons also privileges the public aspects of the social control of the personality whilst emphasising the importance of the family in the initial primary stages of personality development: 'domestic sociality is admitted but it is admitted more as a condition than as an inherent feature of sociality ... domestic sociality is identified with immaturity.'\textsuperscript{38} There are echoes here of Elshtain's point about Aristotle's views of women

\begin{quote}
... who, although they do not share in public life per se, nevertheless provide the basis or precondition upon which that public life rests. Aristotle compares rulers and subjects to flute players and flute makers; one makes use of what the other makes.\textsuperscript{39}
\end{quote}

Yeatman here emphasises that it not so much Wrong's famous point about the 'over socialised conception of man' in Parsons description of personality development, as the fact that Parsons 'renders residual precisely what it is that makes a personality a particular personality'.\textsuperscript{40} The importance of the domestic work of caring that underpins the development and the maintenance of the particular unique personalities of individuals in modern life then is marginalised in Parsons' analysis of socialisation. Although he outlines the social determination of the individual personality and the mutual dependence of the public and domestic aspects of social life, his insistence on the primacy of the public form of morality, the set of values or pattern variables associated with 'modern' society - universalism, specificity, achievement, individualism, rationality over a domestic sociality based on particularism, diffuseness, ascription, collectivity and emotionality, eventually reinforces the masculinist bias in classical sociology. So Parsons work continues what Yeatman describes as the Gordian knot that has beset

\textsuperscript{37} Although even on this aspect of Parsons analysis, Yeatman emphasises that he is giving a \textit{sociological} rather than purely \textit{biological} account of gender differentiation (p. 167)

\textsuperscript{38} Yeatman p.169

\textsuperscript{39} Elshtain p. 455

\textsuperscript{40} Yeatman (1986) p.168
sociological theory, its contradictory and incoherent character inherited (although in inverted form) from the individual/society dichotomy of liberal theory.

Yeatman argues that although there is a well established sociology of the family this does not mean that sociology effectively accommodates the world of women. This is because, in spite of its seeming access to the appropriate tools for the analysis, sociology does not apply them to the three key concerns:

(i) the mutual dependence between the public and the domestic spheres,
(ii) the false assumption of the self-sustaining nature of public life, and the consequent
(iii) arbitrary privileging of public aspects of social life and the marginalisation of the domestic.

Yeatman points out that so far feminist theory has not remedied the invisibility of the domestic domain mainly because its focus remains on the dualistic concern with gendered personalities. She argues that this is a connected but essentially separate question to the social construction of domestic life.

This does not mean that the two are not connected. The gendered nature of the differentiation between the two spheres resolves the basic contradiction of the mutual dependence yet mutual incompatibility between public and domestic life. This contradiction derives from the conflict between the values underpinning the expressive character of caring work, upon which the constitution of the unique personality of the individual is based, and the instrumental character of the public world of competitive individualism which makes domestic life so important in liberal capitalism and in its successive forms. Nevertheless there is a conceptual difference between the two issues.

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41 Yeatman (1986) p. 159
42 Yeatman (1986) p. 171
of the constitution of the personality and the constitution of the domestic and public spheres.

were the social categories of women and men to be deconstituted, that is, if the gender division of labour were to be abolished, the distinction between and mutual requirement of domestic and public aspects of social life would remain... ... (although) the differentiation of public and domestic domains must operate and appear very differently. 43

Although feminism calls into question the 'naturalness' of the gendered division of labour that characterises the present constitution of the two spheres, Yeatman argues that this critique is too often limited by a focus on 'men' and 'women' as the main objects of the inquiry and the inequality of various aspects of life based on this distinction. 44

The distinction that she makes between the two forms of inquiry points to the argument made by David Garland about the specific nature of the penal realm. This is that penalty is the sphere in which the relations of the wider world are played out in a particularly condensed form.45 The world of imprisonment is a 'domain within the domain' of public life. It is one in which the gendered nature of social life is most masked, the social space in which the individual is defined most specifically in terms of rationality rather than affectivity. The prisoner is a legally constituted individual specifically redefined in the narrowest terms of rational individualism in the legal sphere of the courts and then sentenced to a life in a social space that specifically excludes the domestic. It is at the same time the social space that is the most masculine but where that masculinity is most specifically denied. The totality of social existence is lived in a sphere in which rationality is most clearly differentiated from affectivity in the language of liberal pluralism or, in the reconceptualisation taken from socialist feminism, where state power is most openly divested of its domestic components of loving.

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43 Yeatman (1986) p. 171
44 Yeatman (1986) p. 172
45 Garland (1983) p. 21
Anne Edwards in her review of the work of feminist analyses of the three major areas of social control, the legal/penal, medical and social security fields, also argues that the earlier work of radical and marxist feminists was essentialist in either biological or economic terms (a slightly different argument to Yeatman's above). Nevertheless, she indicates that there has been in the more recent work from a socialist feminist perspective, a more complex sociological perspective that incorporates a critique of the traditional dichotomies of reason/emotion, emotion/materiality, culture/nature, private/public, as well as a detailed examination of the interrelationship between the state, the economy and the family in the reconstruction of social control in successive stages of political economic development. These analyses, Edwards points out, do not just 'add women and stir' in an extension of Marxist categories of class but they do address the problems of the false dualisms of liberal thought and their manifestation in the way that social institutions are conceptualised and reconstituted.

There still remains however a problem of 'naming' in socialist feminist literature that has been inherited from the conflations and false dualisms in political philosophy. It was argued above that the separation between the state and the economy in liberal capitalism involved a double segregation, the separation of political power from economic life which was named as the separation of the public from the private and the segregation of family life from the world of the market which is also named as a public-private split. The economic sphere becomes private in relation to the state but public in relation to the family. What is the difference between the three spheres and how then should they be named? It was suggested above that the most useful way of distinguishing between the three spheres was by using the conceptual grid formed from

47 Edwards pp. 48-63
48 Edwards is referring here to the 'domestic labour debate' of the 1970s
49 This literature is examined in greater detail in chapters two and five.
50 Pascal (1986) pp. 25-27 and Elisabeth Wilson (1981) pp. 100-132 both use the distinction public/private to describe the separation of the family from the political economic spheres
the two separate dimensions of power-powerlessness and morality-amorality. This form of distinction has particular relevance to a study of the domestic and the penal realms as the two major sites of social control and the reproduction of the social relations of production. There is a double dilemma of conflation - of the 'family' with the 'individual' as it occurs in liberalism, and of its inversion in sociology (and in social policy informed by sociological thought); of 'family' with the 'community' - that has particular importance for people caught between the individualism of the legal penal sphere and the familism of the social security/penal reform world. In both cases the actual domestic work of caring performed by women is masked but through different elisions.

**Key term: 'the state'**

This delineation of the terms, 'the public', 'the private' and 'the domestic', touches on the ongoing debate in the sociological critique of public policies: the debate between post-Marxism, Marxist structuralism, and what has variously been called alternative, institutional or humanist Marxism, on the role of the state.

The particular ways in which this debate concerns the domestic labour of women who are partners or parents of prisoners are detailed in the review of the radical critiques of penality and the socialist feminist analyses of caring and dependence in the next chapter. The general points of difference between these approaches however are outlined here in order to indicate the basis for the argument that the political and economic aspects of the domestic work of 'caring' need to be considered as separate but interlocking factors.

The position of the post-Marxist writers on the role of the state has been summarised by Christopher Pierson as a conflict over five aspects of orthodox Marxist view: derivationism, essentialism, the cohesive character of the state, the level of generality at
which the analysis is conducted, and the practical consequences of whether the aim should be towards 'smashing the state' or the 'withering away of the state'.

His summary of the post Marxist school is that in their view the state does not function unambiguously in the interests of a single class. The state is not a single actor but represents an 'arena of struggle' internally divided not only by actors representing different factions of capital but by representatives of a variety of other non-class groups within civil society. There can therefore not be any general theory of a capitalist state only specific historical examinations of the intersections between the polity and the economy in the variety of public policies that are generated in any one of a number of societies. The state will always be a necessary evil able to be subjected only to limitation and control but neither seized nor smashed. The necessity for the continuance of the state lies primarily in its pluralistic role as guardian of civil rights. These civil rights can be extended only by maintaining a political system of conflicting, accountable parties. The present penetration of the state into civil society that threatens the possibilities for pluralistic control can be effected by slow reforms achieved by working within the numerous agencies of the state. This approach does indicate the limitations of the abstract orthodoxy of Marxist structuralism: that it is overly abstract, that there is no room for agency, that there is a tendency to over determinism. However, it does not do justice to the alternative criticisms of structuralism from within Marxism. Ian Gough and Sol Picciotto for example argue that the constitution of civil life and the state are developed within the processes of the struggle for free markets and for the commodification of labour. Nevertheless there is a distancing from the position that this initial derivation necessarily leads to an uncomplicated continuing derivation of a coherent set of state policies and practices unambiguously working in the interests of a cohesive united ruling class.

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51 Pierson (1984)
52 Gough (1979) and Picciotto (1979)
Barry Hindess, one of the leading post Marxist writers, argues that Gough's materialist analysis of the welfare state is confounded because it argues for both the functional and the anti-functional aspects of the welfare state.\(^{53}\) However, the problem with Hindess's criticism here is that class analysis of the welfare state rests exactly on this dynamic between tendencies and counter tendencies, and on the tensions that result from the conflict between classes. It is not an argument for a simple reversal of the smooth progressivism of functional analysis, a supposition that there is a reverse law of an uncomplicated move towards the polarisation of increased impoverishment and centralisation of power.

Picciotto, in a class analysis of the development of the legal penal sphere, specifically points to conflicts that occur not only because state officials work on behalf of different fractions of capital but because there are contradictory aspects of penal policies that are internal to the form of rational legal thought. Because this form was initially associated with that system of values guaranteeing free trade between legally constituted individual subjects it results in policies that derive from the conflict between specificity and universalism.\(^{54}\) Paul Hirst describes this tension between specificity and universality as a choice between applying universal punishments to a heterogeneous population or individuated punishments to create universal effects. In either case 'pure' universalism is not achieved.\(^{55}\) It is this contradiction that is internal to the state that underpins the variety of forms that penal policy and decision making can take. The initial derivation of the legal penal realm of the state from the values of liberal individualism then does not lead to a deterministic working out of the actual policies and practices in the domain of punishment and control. This inherent contradiction of penalty in liberal capitalism leads to the continuing debates between the legal rationalists and the scientific rationalists in the legal penal sphere and has major consequences for the way that the individuals in

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\(^{53}\) Hindess (1985) pp. 106 -109

\(^{54}\) Picciotto (1979) p. 174. Picciotto uses the terms 'the tension' between the 'need for generality' and the 'need for precision'.

\(^{55}\) Hirst (1986) p.143
the population 'families of prisoners' are constituted as a visible or invisible element of punishment and control.

Hindess argues that civil life is composed of membership of social groups including, but also other than, those of class and that membership of these other groups is not reducible to class analysis alone. These two points are sufficient then for Hindess to demonstrate the inadequacy of class analysis. What this position neatly side steps is the usefulness of the materialist analysis in uncovering the range of ways that non-class relations, especially patriarchal relations, are reworked within capitalism, and the ways that this reconstitution of domestic life serves to mask the severest contradictions of a society centred on the values of self interest.

Hindess, in this part of his criticism of class analysis, bases his argument on the language that the non class groups bring to explicit political struggles. This is hardly a refutation of the importance of the materialist basis of the way that the state mediates domestic life in class society. By constituting class struggle only in terms of its manifest articulation by the dominated this approach underestimates the significance of the continuing struggles of the powerful class to work through the contradictions of their own philosophy and to impose their version of reality both on the exploited and upon the day-to-day recording of social life. An understanding of class relations may not be a sufficient, but it is certainly a necessary, aspect of the way that the work of caring is remodelled and exploited in the variety of public policies of the welfare state in both the period of the expansion of welfare and the retreat from welfare in the late 1970s.

In summary, socialist feminist analyses of public policies draw on materialist analyses of the intersection of the state and the economy. Nevertheless, within these analyses there

58 Hindess pp. 104-105.
is room for an interpretation of the political control of the state as a separate but intersecting factor: political domination interpenetrates but is not coterminous with, economic exploitation. There are several bases for contradictions between state policies and practices: the contradictions that reflect the different interests of different fractions of capital and the different interpretations of the appropriate balance between the different political principles that are derived from the centrality of a 'free' labour market. In addition, there is conflict between policies and practices deposited at various successive stages of political economic development. These variations confer a degree of elasticity on the forms of political control of 'caring work' than can be manifested in a variety of ways in specific examples of class relations.60

This interpretation of domestic labour as the work of 'caring' has become an especially useful analytic tool in the current feminist materialist investigations of the relationship between the family and the state. From being a taken-for-granted aspect of everyday life, it has become a term that has generated major theoretical and empirical studies of the embeddedness of masculinism in state policies, practices, and in the political and academic critiques, both orthodox and radical, of the welfare state.61

**Key term: 'caring'**

There is, currently, a dual agenda in the feminist materialist perspective. Firstly, there is the programme that comprises

(i) the several analyses of the complexities of the mutual dependence of the two spheres - the domestic and the public,

(ii) the processes of masking and marginalisation that define the 'inferiority' of the domestic world, and

(iii) the several delineations of the consequent forms of exploitation, oppression and domination that derive from the liberal paradox of the mutual interdependence and incompatibility of the domestic and the public.62

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60 Sheila Kamerman & Alfred Kahn (1978)
61 detailed on the following two pages and in greater detail in chapters four and five.
62 Reviewed in detail in chapters two and five
Secondly, but intertwined with these policy analyses, are the feminist challenges to the social sciences' continued conflation of 'the individual' with 'the masculine'. This process, of masking by conflation, serves, either explicitly or latently, to legitimate the policies and practices that reinforce discrimination based on the separation of the domestic and the public realms. 

The processes of masking and marginalisation that serve to devalue the caring work of domestic life, are bound up with imprecisions and conflations in the language of both the theorists and the administrators of public life. One school of feminism has been concerned with renaming the experiences of women through challenging the words and the forms of language in which gender is experienced. Their emphasis is to move to a more diffuse expression of that experience. However, it is more important in terms of this thesis to define more precisely the language of liberal pluralism in both political philosophy and the social sciences. It is the language in these academic areas that has influenced the particular biases in state legislation, policies and practices that marginalise and devalue the domestic work of caring. Paradoxically, the conflations are also reflected in the conceptual terms in the academic disciplines that criticise liberal pluralism.

Hilary Graham has shown how the analyses of the caring work of women have reflected the false dualisms of the way that caring itself has been constructed with the social and spatial segregation of public and domestic life, and the relations of production and reproduction. The separation of the two worlds of home and work, and its attendant separation of 'breadwinners' and dependants', has led to the two components of caring - love and labour - being dismantled and reconstructed in the separate disciplinary domains economics, psychology and social policy. Moreover the marxist and radical feminist critiques of domesticity and gender differentiation have further reinforced this dualism by

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64 Julia Kristeva (1980)
65 Graham (1983)
the separate focus on either the economic exploitation of domestic labour or on the emotional consequences of caring, and not caring, in the constitution of femininity and masculinity.66

Her argument is that the academic segregation reinforces and legitimates the very forms of gendered discrimination that are being analysed. The invisibility, devaluation and privatisation of domestic labour is due to both structural and subjective factors and has both material and emotional aspects. However, the disciplinary separation of the two components narrows the understanding of the way that patriarchal relations are reconstituted at the different stages of the capital relations.

One of the major concerns of this thesis is that there is a further conflation that underpins the marginalisation of domestic work. The distinction made by Graham between the ideological and the material aspects of caring work masks the third dimension of the relations of power in the constitution of domestic life. The material basis of the separation of the family from the public sphere is both political and economic. In this distinction caring is about labouring loving and controlling. the constitution of the carer and of caring work is founded on the economic, cultural and political structures of the social relations of capitalism.

In identifying the abstract form of the separation of the public, the private and the domestic life, the configuration of power, morality and rationality, specific to liberal capitalism, there are the twin dangers of reification and idealism. The purpose of delineating the way that social life is ideologically restructured in this abstract form however, is not to argue for an absolute truth about the relationship between 'men' and 'women' and productive and reproductive life, but to indicate the questions that should be posed about social relationships within specific historical periods.

66 Graham (1983) p.17
Major propositions

Social relationships of class and gender concern questions about the shifting boundaries between public, civil and domestic life, the permeability of these boundaries, the way that the official versions of the separation of the different realms mask the experiences of the people caught up in the actual contradictions and porosities of the legal penal, family and welfare systems.

These broad questions lead to the specific propositions of this thesis.

The main propositions are:

(i) that domesticity is incorporated into the system of punishment and control in
    Australia through the nexus between caring and dependence that characterises
    the relationship between the state and the family in other areas of public policy.

(ii) that this incorporation involves a mutual interdependence yet a mutual
    incompatibility between the penal and the domestic spheres

(iii) that this contradiction is resolved by the marginalisation or the formal invisibility of
    this incorporation of the family into the punishment system

(iv) that these two processes - the incorporation of the family into the penal realm, and
    the marginalisation of that process, place major burdens on those individual
    people who have a family obligation to prisoners and to prisoners' children.

(v) that it is women rather than men who are most at risk of taking on the double burden
    of marginalised care for prisoners.

(vi) that the domestic work of caring that is incorporated into the system of punishment
    in this invisible intersection of the domestic and legal penal realms is three
    dimensional, having economic, emotional and political components: the
    domestic work of caring for people drawn into the penal realm is about
    labouring, loving and controlling.
(vii) that the nexus between caring and dependency that is characteristic of the social
relations of public, private and domestic life in the wider society takes on a
particularly condensed form in the realm of penality.

(viii) that the incorporation of 'the family' into the realm of penality through this nexus
of caring and dependency takes different forms in different periods of the
development of the political economy.

(ix) that the basic contradictions between philosophies, practices and policies between
the public, private and domestic spheres are made more complex and
contradictory with the shifts in philosophies, policies and practices in the
realms both of 'the family' and of 'punishment'. These shifts reflect and modify
the changing social relations of the wider society. Moreover, these changes
are not necessarily sequential but, rather, are layered onto previous sets of
policies and practices.

Outline of chapters two to nine
The thesis is arranged in the following chapters in this way: Chapter two is a review of
the critical literature on the constitution of the two spheres of domesticity and penality.

Chapter three describes the two research methods that are used in the thesis: the
examination of the discourses that construct the complex and contradictory social space in
which the home and the prison intersect, and the analysis of the impact of those
discourses on 38 people who provided the labour of caring for imprisoned men in
N.S.W. in the mid 1980s.

Chapter four reviews the specific literatures, policies and practices that constitute the
population 'families of prisoners' and, in a critique of those literatures, outlines the
four major ways in which the family is incorporated into the penal sphere. The review of
the literature on 'families of prisoners' also includes a discussion of the way that the
social sciences have been incorporated into the realm of punishment either as techno-
reformist techniques of control or as a basis for criticism of the hidden punishment of families of prisoners.

Chapters five to nine cover the set of interviews with people who have experience of the work of caring as families of prisoners in N.S.W.

Chapter five covers the incorporation of the domestic labour of caring in penal policy and details the material and emotional aspects of the hidden labour of caring work that is involved in this incorporation. The false assumption of the self-sustaining nature of the penal realm is questioned through an examination of both the experiences of the people in families with men inside prison and the policies structuring their experience in the N.S.W. prison system in the 1980s. This chapter includes the description of the specific problems of caring work that occur from firstly the masking of the interdependence between the domestic and the penal spheres and secondly, the layered contradictions within the legal-penal sphere.

Chapter six details the complex contradictions of the way in which power, morality and rationality come to be constructed in the work of caring for the children of the prisoners.

Chapter seven outlines the several ways that people with sons or partners in prison are caught up, through their commitment to the labour of loving, in the processes of control and punishment. The work of caring for prisoners involves punishment for the people doing the work of caring but it is also incorporated in a variety of ways, into the punishment and control of the prisoner.

Chapter eight details the three aspects of caring: labouring, loving and controlling when the site of the control is shifted to the domestic sphere. The intense form of the contradiction between caring and controlling when home is the prison, is outlined,
together with an examination of current shifts in penal policy and practice that are likely to further intensify the exploitation of the unpaid work of caring of families of prisoners.

In the conclusion in chapter nine, the argument is made that penalty involves a particularly condensed form of the exploitation of domestic work of caring. The conclusion includes an epilogue in which the major propositions of the thesis provide a perspective for reviewing the changes in penalty and domesticity in the period between 1988 when the data for the thesis was collected and the current time of writing, 1990. This epilogue comprises a review of the impact of the penal policies introduced in the New Right, Liberal state administration in N.S.W., and the 'family policies' introduced by the Labor administration through the Department of Social Security at the Federal level of government.

Finally, the argument is made that the exploitation and punishment of people in the population 'families of prisoners' is likely to be a continuing and probably an increasing aspect of social life in the contemporary structure of the productive and reproductive relations of corporate capitalism.
CHAPTER TWO

REVIEW OF THE LITERATURE: the constitution of domesticity and penality:

Introduction

In the previous chapter the dual separation, of the domestic from the public sphere and the public from the private sphere, was outlined as a reconfiguration of power, morality and rationality that developed with the new relations of productive and reproductive life in liberal capitalism. The segregation of a 'natural' sphere of family life, it was argued, developed within the tensions deriving from the specific constitution of social life of liberal capitalism. Liberalism depended upon the mutually incompatible terms individualism and familism. This contradiction was resolved by the mystification of domesticity through its construction as a 'natural' site. The central proposition of the thesis is that the consequences of this contradiction and its resolution through the masking of the importance of domestic life in liberalism, have particularly heavy symbolic and material consequences for those people, particularly women, who comprise the population 'families of prisoners'.

The specific intersections of the state, the economy and the family as they occur in the sphere of penality do not appear in the current literatures in either the sociology of the family, the feminist analyses of public policies, nor in the mainstream or critical approaches to punishment and control.¹ The intersection of the home and the prison is an area that falls into a kind of literal and metaphorical 'no man's land'. In chapter four the several ways in which the intersection between the home and the prison occurs is

¹ Anne Edwards (1988) text is probably the most comprehensive summary of the feminist, materialist and orthodox literatures in this field.
examined within the framework of questions suggested by Anna Yeatman as constituting the central feminist challenge to sociological theory. These are the questions that focus on: the mutual dependence of the domestic and the public spheres, the false appearance of the self-sustaining nature of the public domain, and the parallel processes of the privileging of the public aspect of social life and the masking or marginalising of the domestic life.

However, prior to the investigation of the interdependence between the home and the prison, the impact of liberal capitalism on the construction of family life and on the constitution of penalty, is considered in this chapter through a review of the two separate literatures.

The development of liberal capitalism, through the mercantilist, industrial laissez faire, corporate welfare, and advanced corporate forms of familial political economy, has been underpinned by the 'new' or 'modern' configuration of power, morality and rationality in productive and reproductive life. However, the central contradictions and tensions that develop within each phase of capitalism result in different forms of intersection between the sphere of production and the two major sites of reproduction, the home and the prison.

In both literatures, on domesticity and on penalty, there are a number of different perspectives through which the changes have been plotted.

Liberal studies of the development of both domesticity and penalty generally chart the changes as a relatively smooth process of improvement from a pre-modern social system characterised by the diffuse interrelationship of family, economy and polity to the 'modern' form of society in which there is an increased specialisation of the major spheres and an increased rationalisation in the ways in which each sphere, and sub systems within each sphere, function. The progressive character of this increased
specialisation of systems is manifested in the greater efficiency and humanity of modern life and of the modern form of penalty. Although the family becomes the repository of the values that are in polar opposition to the specialised rationality of the wider world, its segregation contributes to the smooth functioning of that world. Thus its development is also part of this progressive transition from pre-modern to modern life.

The critical studies of the history of social control in relation to penality and domesticity contest both the progressivism and the unilinearism of the liberal approaches. The critical studies of penality can broadly be summarised as approaches that have a theoretical concern with the link between relations of production and relations of reproduction. However within this broad framework there are several alternative approaches:

(i) analyses that connect specific forms of punishment directly to the state of the labour market.

(ii) studies that focus on the congruence between disciplinary styles of management in the economic and penal realms in which the punishment system is seen as generating, reinforcing or complementing the reproduction of social relations of production through the development of parallel although not necessarily replicate forms of surveillance and control.

(iii) The third focus is on the extension of areas of surveillance and control to realms of social life other than those operating in the purely penal sphere. The works of Foucault on madness, health, and sexuality are central studies in this

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2 Emile Durkheim (1893 translated 1960) Parsons (1962)
4 These categorisations are based on but do not represent the reviews by David Garland (1986) Edwards (1988) and Stephen Garton (1988)
There are however several other major investigations of this more diffuse way in which control is manifested.8

In these two latter sets of writings it is the increasing rationalisation of social life as it is mediated through the sphere of punishment and control that is the central characteristic of the analysis of the development of the penal realm.9

A materialist feminist account of social control however should insist on the interdependence between the 'rational' and the 'arational' spheres of social life. It is through the interdependence of penalty and domesticity that changes in either sphere should be charted. The review of the two literatures in this chapter then outlines the parallel constructions of the two spheres of social control as the two major sites of the reproduction of the social relations of capitalism through its several phases. The underlying themes of the chapter are:

(1) that with the increasing rationalisation of social control in the public sphere there has been a parallel process of the constitution of the domestic sphere in terms of its arationality;

(2) that these two processes are interdependent but mutually incompatible; that this contradiction is resolved by the masking of the significance of the interdependence between the two realms of social life.

As Anne Edwards points out, the concept of social control can incorporate both the proscriptive and the prescriptive aspects of the ways that mechanisms of regulations of individual and social behaviour are brought into play.10 To some extent the family is

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7 Edwards (1988)
9 The work of Steve Spitzer (1979) and Pat O'Malley (1983) in particular develop this convergence of Marxian and Weberian analyses.
10 Anne Edwards (1988) Ch.1
being represented as the site of control that regulates behaviour through the internalisation of 'normal' or conforming behaviour and penalty as the site through which deviant behaviour is proscribed. However, a more detailed review of the various periods of the history of social control as it operates through the two sites, domesticity and penalty, indicates that this is an over simplification. The family is the sphere through which sociality is inscribed but it is also an important platform of contestation and proscription. Penalty incorporates explicitly repressive mechanisms of regulation of proscribed behaviour but the work of Foucault in particular has directed attention to the importance of the penal sphere as an alternative site for the 'positive' prescription of values and behaviour.\textsuperscript{11} Moreover there have been a complex variety of forms of regulation that have worked through the intersection of these two sites of social control: penal and the domestic realms, 'repression, coercion and punishment are variable dimensions rather than discrete attributes of a social control system.\textsuperscript{12}

**Periodisation**

The feminist critique of theories of social change points up the potential biases in adopting the periodisation of non-feminist literature.\textsuperscript{13} The next chapter, which focuses on the interdependence of home and prison, indicates one major realignment in the conventional charting of the key points of transformation of social control. Nevertheless this chapter uses a form of periodisation, adapted, with only minor variations, from the current literatures of the two sites of social control.

The dual separations, of public from private and public from domestic life, that affect both the penal and the family systems, occurred over a period of over four hundred years. There were different implications for the construction of family and penal life in each stage. However, these changes were also differentially experienced by people

\textsuperscript{11} Foucault (1977)
\textsuperscript{12} Edwards (1988) p138
\textsuperscript{13} J. Kelly-Gadol (1987)
according to whether they were members of the ruling, ascending or labouring class families. The changes were a gradual and uneven process, uneven across class and uneven in terms of the specific society and nation state in which the developments occurred. The changes in N.S.W. did not absolutely replicate the forms taken by the reconfiguration in England. The constitution of social life in the colony was contingent on the very particular relationship between a penal colony and its 'mother' country which then had a major effect upon the internal relationship between penalty and domestic life in the new colony, particularly in the period up to the mid nineteenth century. These several factors make the categorisation of specific eras in the separate but interdependent constitutions of the penal and the domestic realms an indeterminate process. It is not possible to draw absolute time boundaries between each phase.

Anne Edwards, in a comprehensive review of the several analyses of social control, collapses the categorisation of the development of social control into three broad periods characterised by whether control is based on defining behaviour as deviant in terms of sin, crime or illness. These periods coincide with feudal and pre-industrial modes of production up to the 16th century, mercantile and early industrial capitalism to 1900 and advanced welfare capitalism up to the present time.14

These three eras coincide with those outlined by Cohen.15 In the first period in his categorisation, control is exerted firstly through the diffuse interconnections between the family, polity and economy. Secondly, the political philosophy of liberal capitalism, set up clearly defined boundaries between these three spheres of civil society. Finally, with the expansion of the political economy into corporate and monopoly capitalism, control operates through a diffuse intersection of the three spheres but in a specifically reworked form.

14 Edwards p.82
15 Cohen (1985) ch. 1
Garland suggests that one way to chart the key points of transformation in the penal realm is to locate them in terms of the various answers to the key question: 'when did modern penal policy begin?' In charting the development of the various forms of the triangulation between the political economic, the penal and the domestic realms the major transformations of the forms that this complex relationship took can be roughly separated out in relation to the periods of change identified by Garland:

1) mercantile capitalism - mid sixteenth to late eighteenth century
2) laissez faire industrial capitalism - late eighteenth to late nineteenth century
3) welfare capitalism - 1880s to 1930s
4) post World War II, consumer and corporate capitalism - 1950s to early 1970s
5) the 'retreat from welfare' - early 1970s to date

This periodisation also incorporates the stages identified by Louise Tilly and Joan Scott in their description of the shifts in the forms of the family economies of labouring families from early to contemporary capitalism:

1) the family labour economy: prior to industrialisation, from 1700 on.
2) the family wage economy: from the late 18th century to the late 19th, early 20th century
3) the family consumer economy: to the second world war
4) the second stage of the family consumer economy: from the 1950s to date.16

The three hundred or so year period prior to industrialisation was the phase of the establishment of the social relations of primitive accumulation. Within this era a new form of domesticity was constituted within the households of the bourgeoisie.

From feudalism to liberal capitalism: the period of mercantilism, from the 16th to the late 18th century.

It was the lives of women in the ascending class of the bourgeoisie which were the most dramatically incorporated into the domestication of social control in the new configuration of power, morality and rationality in the period of the transformation of political economic life from the 16th to the late 18th century. The distinct dichotomies between domestic and public sphere values have been common to most societies.

However, the most complete division of the two spheres occurred amongst the families of the upper and middle classes of the new bourgeois liberal society of Northern Europe and North America in that 200 years.

There were two cultural arenas in which these changes were articulated, reflected and reinforced. Firstly, as the discussion in chapter one indicates, in the political realm there was the impact of the writings of classical liberal theory. These were paralleled by the development of Protestantism in the religious sphere which sanctioned the diffusion of moral power from the authority of the priest in the formal hierarchy of the church to what Melossi calls the secular priesthood of the father in the new social structure of the bourgeois nuclear family. Roberta Hamilton's detailed examination of the changes Protestantism made to family life emphasises that, although the Protestant restructuring of power and morality within the family, (and through the family to wider society) was initially formulated as the transfer of spiritual power from the church to the father with the 'proper wife' acting as an obedient and junior spiritual partner, this spiritual partnership was not long lasting. With the separation of the domestic and the economic aspects of the family, 'the marriage was left with only one spiritual partner, the woman. That was no longer a partnership.'

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18 Rosaldo (1974)
19 Cott (1977) Stone (1979)
20 Melossi (1979) p.93
21 Hamilton (1978) p.102
The separation out of responsibility in the political and economic sphere from responsibility for domestic life did not affect the working class families so completely until the change from the family labour economies of early capitalism to the family wage economies of industrial capitalism.

Tilly and Scott's study of family life in Lancashire and Lille in France indicate that in family labour economies in the pre-industrial period of early capitalism, the family was the unit of both production and consumption, with all the members of the household, mother, father and children involved in working together for the family income. Although there was a division of labour within the household, this was based on the form of productive activity rather than a distinction between productive and non-productive work. In this form of family economy based within the household, married women were able to combine their domestic and productive labour, 'the organisation of production in this period permitted them to integrate their activity, to merge wage work, production for household consumption, and reproduction.'

The lives of the majority of labouring classes were still experienced in the family labour economies of the rural economy. In the urban centres the family life of craftsmen and skilled labourers reflected the family economies of the agricultural labourers with men and women both involved in productive work, but largely within the home and with much of the domestic labour of reproduction the shared responsibility of a number of the members of the family.

Nevertheless with the enclosure movements from the 16th century onwards there was a new and increasingly numerous class - the labourers dispossessed by the appropriation of land in the shift towards an increasingly capitalist form of agricultural production. It

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22 Tilly & Scott ((1978) and Bettina Cass & Heather Radi (1981) for the charting of these three family forms in Europe and Australia respectively
23 Tilly & Scott p. 59
24 ...although the dispossession had been occurring since the Statute of Merton legislated for the first enclosures in the 13th century.
was this class that was most precariously linked to the economy. The 'free' labourers whose labour was only periodically in demand were in the most precarious economic situation in this period. The evidence for whether, even in these families, it was in the interests of both men and women to marry to combine their economic resources is ambiguous. Both Hamilton and Tilly & Scott draw on contemporary sources that indicate an economic interdependence between wives and husbands among the dispossessed peasantry, especially with the expansion of home based manufacturing of commodities in the late seventeenth and eighteenth centuries.\(^{25}\) However, in the initial stages of the alienation of the peasantry from the land, the proletarian man's earnings were barely sufficient to cover his own reproductive costs because wages had been fixed in the era when wage earning was supplementary to, rather than the sole source of their subsistence.\(^{26}\) Women's wages were only half those of men so, without access to income other than their waged labour, marriage became a liability for many men. It was for this reason that the Poor Laws included men's economic responsibility for their families. Men were forced to marry pregnant women by the parish constables, sometimes being brought to the church in chains.\(^{27}\) Roberta Hamilton points up the implications for the continuing relationship between women, the State and family life in a class society:

Proletarian women of the seventeenth century shared with their successors a dominant place on the welfare rolls, more than their fair share of deserting husbands, the dilemma of being caught between a husband and the State haggling over who should pay child support, and the bulk of the most menial and poorly paid jobs.\(^{28}\)

Tilly and Scott however point out that in the pre-industrial economy, manufacturing centred on the putting out system so a wife became an economic asset rather than a liability. Men were likely to remarry quickly on the death of a spouse. However, they

\(^{25}\) Hamilton pp. 31 & 32  
\(^{26}\) Hamilton p. 40  
\(^{27}\) Hamilton p. 40  
\(^{28}\) Hamilton p. 93
also point out that men were reluctant to marry the older women or would marry widows only with the proviso that the children be relinquished to the care of the parish.29

Within this class the widows, women without access even to a husband's occasional earnings, were in the most precarious position of all.30 The only exchange of labour they were able to make was in the most marginal sectors of the economy, in petty trading that needed little or no capital, or in the below subsistence wages of seamstress, lacemaking or cleaning.

The families of labourers whose labour was defined as unskilled and who lacked even the meagre capital necessary for any business other than the forms of petty trading that merged into begging, became the focus of the new concern with social control and the new definitions of behaviour as criminal from the 16th to the late 18th century.31

There were three distinguishing characteristics of penality in the 16th and early 17th century societies of Northern Europe. First was the direction towards control of the dispossessed. Second was the ambivalence about the nature of the punishment for the new crimes of vagrancy and begging that had been created by the dispossessions. In the same decade in England - the 1570s - two Acts were passed in an attempt to control the dispossessed labourers: the Act enforcing the whipping and imprisonment or death for vagabonds and the Act to set up the building of the Houses of Correction.32 In England the first was established in the Bridewell Palace in London. The Bridewell then became the name of all similar institutions as the new penal regime expanded rapidly throughout England. From 1576 to 1590 twenty one were created through a range of English counties.33 Control of dispossessed labour was thus attempted through forms of

29 Tilly & Scott p. 51
30 Tilly & Scott pp. 51 -52
31 Spitzer (1979) Dobash et al. (1986) ch. 1
32 This version of an ambivalence in the state’s approach to punishment conflicts with Rusche & Kirchheimer (1938)
33 Dobash et al p. 23
penalty described by Foucault as significantly separate discourses. Punishment in the Houses of Correction was directed to the reform of labour through systematic control, by incarceration, aimed at reforming the soul through the body. Alternatively there were the public physical punishments of the body. The latter punishment was a major threat to the dispossessed. Well over a hundred thousand were hanged during the Tudor regime.\textsuperscript{34} Russell Dobash, Emerson Dobash and Sue Gutteridge show how labouring class women were subject to the risk of suffering gross theatrical forms of torture if they threatened the 'natural' order of domination. The death of one serving girl in the eighteenth century France, was accomplished only after she had had, whilst sitting on the chair on which she was alleged to have killed her mistress, her hand severed and burned, her chest, then head, cleaved, and, after she was killed by strangulation, her head severed and exhibited on a pole twenty feet high.\textsuperscript{35}

The third characteristic was the intersection of household and state domination over women who breached the rules of patriarchal control within the household. Husbands could call on the local magistrate or jailer to impose the painful public physical punishments of branking, ducking, or bridling, all punishments which, in addition to the pain they inflicted on the women, were heavily symbolic of the husbands power to control her ability to speak out.\textsuperscript{36}

Nevertheless, in parallel with this strand of 'pre modern' punishment were the attempts to impose new forms of control. From Thomas Cromwell and Coornhert in the 16th century to Cesare Beccaria and Bentham in the late 18th century, emphasis was upon the rationality or regularisation of punishment.\textsuperscript{37} The state became increasingly significant both as a regulator of relations between employer and labour with the introduction of laws on wage limits, periods of employment, and as the regulator of property relations

\textsuperscript{34} O'Malley (1983) p.151 citing Rusche and Kirchheimer (1939)
\textsuperscript{35} Russell Dobash, Emerson Dobash & Sue Gutteridge (1986) p. 16.
\textsuperscript{36} Dobash et al. p 19.
\textsuperscript{37} Dobash et al. p 23
in the creation of a range of new forms of crime and of penal laws. Idleness, vagrancy, destitution, failure to support dependents, appropriation of minor items of property, all became punishable by incarceration in the new houses of correction which had specific and systematic rules governing the behaviour of inmates. The major aim was to make use of the labour of the inmates rather than lose it through the irrational and wasteful symbolic punishment of execution and torture. Nevertheless women and men could also be punished by being whipped through the streets for failure to support their children.

The principle of familial economic responsibility was a significant aspect of penalty in this period of the establishment of capital labour relations. As Hamilton indicates the paradox of the centrality of familism and individualism was bound up with penal policies and practices from the very beginning of liberal capitalism.

The control of class relations through punishment in this period, was effected on both the workers at the margins of the political economy, the wandering poor, and on labourers who were more embedded in the rigid structures of social life. The state worked with and through the hierarchical structures of power in allowing husbands, fathers, employers and masters to have wives, children, apprentices and servants confined. The control of the floating population of dispossessed male, female and child labourers however, was not so easily managed through this system of patriarchal community surveillance. There was a central contradiction in the increasing polarity of wealth and poverty in this era of capitalist accumulation. As the dispossessed class grew throughout the 17th and 18th centuries with the increasing alienation of land through the enclosure movements, it created both benefits and problems for the ruling class in the development of labour relations of early capitalism. Bentham, whom John

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38 Dobash et al. p 27
39 Dobash et al. p.22
40 Dobash et al. p. 23
41 cited on p. 41 above
42 Dobash et al. p. 23
Annette describes as having had a 'frightening skill as a social engineer' identified the usefulness of poverty in the creation of wealth. The universalistic character of the labour market in class relations acted as a kind of decentralised panopticon, ensuring that labourers were aware of the lowest limits at which they could bargain. However, the existence of increasing numbers of impoverished but 'free' labourers in the cities also constituted a double sided political threat to the liberal bourgeoisie. They constituted a continual potential for direct political action. Moreover, less directly but equally political, was the threat deriving from the potential for individual criminal behaviour especially those offences against property. The shift towards systematic punishment and control directed towards the behaviour of the offender rather than symbolic punishment effected on the body of the offender was therefore an uneven process of change. Throughout the seventeenth and eighteenth centuries the number of crimes, especially of crimes involving property, for which the punishment was death, increased to 200. It was children and women as well as men who were at risk of receiving these extreme penalties. The familial political economic relations of this era of ascending capitalism meant that young single women from the labouring class were particularly put at risk of the sentence of capital punishment. In the urban forms of the family labour economy in this period between feudal and industrial capitalism, single children were likely to leave home to balance resources and for single women this primarily meant entering an alternative patriarchal household but as domestic servants rather than as daughters: 'in Ealing in 1599 almost three quarters of female children (between the ages of fifteen and nineteen) seem to be living away from their parents, most often as servants.'

This aspect of the familial political economic configuration of mercantilism then had dreadful consequences for those at the bottom of the gender class power structure when

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43 Annette (1979)
44 John Lea (1979) pp.79-80
45 Annette (1979)
46 Dobash et al. p29
47 Scott & Tilly p. 35
in 1713 theft from a dwelling house, a law mainly directed at domestic servants, became a capital offence.\textsuperscript{48} Women who did not hang for petty thefts from households nevertheless were at risk of gross forms of physical punishment. Dobash et al. cite the case of a Dutch woman in the seventeenth century who, on separate occasions, was mock-hung eight times, branded five times, and had both her ears cut off by the hangman for stealing minor articles of clothing.\textsuperscript{49}

But why was there such an explosion of severe penalties for petty thefts in this era? Why did the practices and laws governing the penal sphere shift away from the late sixteenth century concern with the control of the form of labour through systematic reform to such a gross emphasis on property rights that children, women and men could be executed for thefts of small items of linen and clothing? In England, in the seventeenth century, the major political economic conflict was over the establishment of the legal subject as property owner. The abstract principle of legal subjectivity was basic to the secure establishment of the form of circulation, commodity exchange. The legal right of the bourgeois was dependent on the principle of the universalism of the law that secured the rights of the ascending class against monarchical privilege.

The seventeenth century in England was the period of an intense conflict to secure the basic tenets of liberalism that reshaped the configuration of the familial political economy. In the liberal form of commodity production both products and people appear in the process of exchange as abstractions, as objects embodying universalistic legal/rational characteristics free of particularistic traditional/political or emotional/familial components. That is, in the free market men have rights of possession over the property/commodity they exchange including their own labour as a commodity. Picciotto points out that this most basic aspect of the fetishization of social relations under liberal capitalism is this

\textsuperscript{48} Dobash et al op cit p. 29
\textsuperscript{49} Dobash et al. p. 17
separation of the economy from the polity as ‘the capitalist state emerged to establish and guaranteed exchange as the mediation of production and consumption.’

Thus the law comes to be defined as the abstract, universalist protector of the individual rights of the free property owner and the universalism of the law is the sole guarantor of the legal subject as property owner. Attacks then on the property of the legal subject are attacks on the very personhood of the legal subject and on the basic principles of liberalism from which the political economy is constituted. With this universalist signification of property, theft even of minor items attacks the central principle upon which the free capitalist relations of exchange are based, the right of property ownership, and the legal subjectivity of the property owner.

The battle, in England, for the key principle underpinning liberal capitalism, of the constitution of the legal subject as property owner, was fought in this era on two fronts: firstly, through the military and political conflict against the Stuart defenders of monarchical privilege. Secondly, the security of liberalism was continuously defended against ‘the enemy within’ in the urban and rural households and properties of the bourgeoisie where the civil war against King Charles in the 1640s was refought against housemaids, chambermaids, footmen and labourer-poachers over the next two hundred or so years.

Domestic servants posed another kind of threat, particularly towards the end of the eighteenth century, with the increasing sanctification of the role of the bourgeois mother. As love in middle class families became feminised, privatised and central to reproductive relations in the newly sanctified domestic realm, mothers took over from domestic servants the responsibility for the care of their children. Domestic servants were increasingly no longer members of the household incorporated into the family structure.

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50 Picciotto (1979) p.171
51 Stone (1979) Donzelot (1979) ch. 2 Cott (1977)
through their early ties as carers of the children, but a separate class within the household. Their labour becoming increasingly specialised into either the physical work of maintaining the house or the social duty of demonstrating the conspicuous consumption of their employer. The separation of labour and loving in bourgeois households with the woman as loving wife and mother meant that the servants increasingly became the domestic labourers in - but not of - the household, threatening both the legal subjectivity of the father by the theft of his handkerchiefs, clothing or wine\textsuperscript{52} and the potential legal subjectivity of his children by their corrupting influences on the purity and health of this significantly new generation of ruling class children, the inheritors of property defined within the social relations of protestant liberal capitalism.\textsuperscript{53}

This redefinition of domestic labour impinged on the lives of a significant number of working class women. Daughters were more likely than sons to be the young single children who were sent out of the household to work to balance the family's resources in the labouring and small scale craft households.\textsuperscript{54}

As those young women usually went to work as live-in domestic servants, they thus became subject to the potentially criminalising familial political economy of the master servant relationship within the household of their employer.

During the seventeenth and up to the end of the eighteenth century then the central form of punishment shifted from the reforming houses of correction to execution, public floggings and transportation.\textsuperscript{55} The concern was more to confirm bourgeois property rights through a range of newly created forms of criminality and a symbolic system of external public punishment centred on the body than to control labour through the internalisation of quietism and orderliness. This however is to overstate the dichotomy

\textsuperscript{52} Dobash pp. 28-29
\textsuperscript{53} Aries (1965 pp) Donzelot pp. 11-17, Tilly & Scott p. 58
\textsuperscript{54} Tilly & Scott p.33
\textsuperscript{55} Dobash p 28-32
between these two penal discourses: one centreing on the rational symbolism of ordered labour within prison walls aimed at reforming the soul of the labourer through the body and the other on the public display of gross external punishment to the body securing the centrality of the political principle of individual property rights. In 1617 transportation was introduced as a major form of punishment. The liberal concern with both thriftiness and rationality was neatly manifested in this punishment which secured at one stroke, symbolic punishment to the offender, removal of her or his politically threatening and socially corrupting influence, useful employment of their labour, defence of the realm in a period of fierce foreign competition, and a significant supplement to the golden triangle of trade of labour, primary products and manufactured goods between Europe, Africa and the Americas.

There was however a discrepancy between the rationality of this form of punishment within the penal realm and the irrationality of penal methods in the sphere of surveillance. The ascending classes' concern about individual crimes and political control outside of their households with the increasing disparities between poverty and wealth in the cities posed a problem for the liberals. Freedom from the restrictive practices of traditional community life and from the polity was basic to the principle of rational entrepreneurship. This meant that in the relatively disorganised life of the cities in the early 18th century, the state was comparatively weak with little organisational control over the policing of the behaviour of the threatening classes, in contrast to the established hierarchies of control over labour in the fifteenth and sixteenth centuries and prior to the increasing control through the social sphere and direct government policing in the 19th century. The solution to this policing vacuum in the city in the seventeenth century was to enforce state control of criminality through thief-takers, agents who were on both sides of the law. These were the receivers of stolen

56 Transportation as a major system of punishment then is better explained within the Rusche and Kirchheimers labour market thesis, rather than the Foucaultian emphasis on the symbolic importance of public and physical punishment to the body in pre modern penalty. Rusche & Kirchheimer (1966) cited in Garton (1988)pp.311-313
property whose place in the labour structure of property crimes placed them in a strategic position for the surveillance and control of the underclass of the dispossessed. In the country, policing agents were more directly associated with the propertied classes as overseers, gamekeepers and local constables. Steven Spitzer points out the inherent instability of this form of surveillance and control through mercenary intermediaries. It was concerned with external controls over behaviour, mediated through the self interest of agents whose own moral position (in the case of the thief takers) of materialism unconfined by social altruism, was close to that assumed to be that of the people being apprehended. In the case of the thief takers the mercenary aspects of their role reinforced the symbolism of greed and amorality they were employed to control. In the case of overseers and gamekeepers their relatively explicit connection with the agricultural capitalists undermined the principle of the universalism of the law. In neither case was there either an administrative basis for widespread control nor a moral basis for the symbolic superiority of the ruling class. Similarly the sentences which focused on the ghastly corporal or capital punishment of both men and women offenders were increasingly irrelevant to the exponential growth in the problem of control brought about by the social upheaval of the transfer of the relations of production from an agricultural village based society to an industrial urban setting.

Over the final third of the eighteenth century, the increasing levels of capital investment in production meant that there was pressure on the state to deliver a more stable civil population and labour force with a set of moral dispositions centreing on quietism and orderliness. The earlier penal philosophies emphasising the reform of the offender and promising a form of control that would bring about an internalisation of the mores of a respectable citizen and a 'good worker' increasingly dominated the discourses of control towards the end of the eighteenth century.

57 Spitzer (1978) p. 193
58 Dobash et al. p. 27
59 Although the rule of law was evidenced on occasion by the odd infrequent case of the sentencing of a landlord
60 Foucault (1977) and Dobash et al. ch. 2
61 Spitzer (1978) pp. 193-196
62 Dobash et al. p. 36
In summary, in this period of proto-capitalism or mercantilism there were major shifts in the constitution of both the family and the penal sphere as social control took new forms with the contradictions inherent in the shift to the privileging of self interest in economic relations. However, family life for the majority of people was not as deeply affected as it was for those people in the two classes at each end of the relationship between capital and labour: the families of the ascending bourgeoisie and of the dispossessed labouring class. In the former, family life came to be seen as completely separate from both the economic and the political spheres as women took on a new responsibility for moral labour under the superior authority of their husbands with women’s moral work being based upon a culture prescribing selflessness, withdrawal from public life and economic dependence.

For the great majority of families, the family labour economies of agricultural and urban life meant that women’s and men’s worlds were not split neatly into separate productive and reproductive spheres. The material and ideological reproduction of labour in agricultural production and home based manufacturing did not yet require specialised agents for the domestic servicing and socialisation of labour. Children learnt directly through their own routine day-to-day experiences the practicalities of working life. Nevertheless an increasing number of labouring families experienced external social control from the expansion of penal laws introduced to secure the property rights of the bourgeoisie. The dispossession from land and from access to the means of subsistence such as collecting dead wood, harvest gleaning, fishing and trapping small game increased the number of families affected by the widening range of increasingly punitive property laws in the 17th and 18th centuries.63 Children, women and men in the dispossessed class were at risk of punishment by death, flogging, transportation or imprisonment for consuming or using goods which often, in the previous relations of production, had been within their own entitlement. Imprisonment was less likely,

63 Dobash et al. p. 29
towards the end of this period, to take the form of orderly, systematic control of the solitary useful labour of segregated prisoners. The sixteenth century houses of correction had become places where men, women and children were herded together: 'The Bridewells had deteriorated to disease ridden holding places allowing all manner of what reformers saw as contaminating influences.'

The industrialisation of production under capitalism, the shift to factory based labour, marking the next stage in the relationship between domesticity and penalty was accompanied by major changes to this form of imprisonment. However the requirement for a 'good labourer' involved changes in the involvement of the state that were broader than changes in the penal sphere alone. Increasingly throughout the nineteenth century it was the domestic sphere of the labouring class that came to be reconstituted as an important site of social control in the reproduction of the relations of productive life. Spitzer points out the contradiction in this next period of capitalist development. At the formal political economic level it was based on the principles of 'laisser faire' yet in this period there was a tightening rather than a loosening of social regulation over the everyday lives of people in this shift to industrial capitalism. It is in the work of both the materialists and of Foucault that this increased regulation is interpreted as including both external and internal controls with the insertion of a form of disciplinary power into the social body that involved particular modes of organising space, time, activities and environments. The prison, then is seen as one of the multiplicity of sites of control in the markedly different form of power that emerged in this era. The individuality of the bourgeois property owner in the first era of capitalism was reinforced through the penal realm with the increasing criminalisation of the labouring classes. In this next era of industrial capitalism with the almost universal extension of the commoditisation of labour it was the individualisation of the labouring classes that took a central place in the

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64 Dobash et al. p. 34
65 Spitzer (1979) p. 198
66 Stephen Marglin (1976), Foucault (1977), Spitzer (1979)
67 'universal' in terms of male labour in the public sphere
reconstitution of penalty. The objectification of labour was paralleled by an objectification of both crime and the criminal. However, the individuation of labour had a major affect on the structure of both penalty and domesticity in this next stage of the familial political economy.

Laissez-faire and industrial capitalism: 1780s - 1880s

The restructuring of the domestic sphere in working class life was accomplished as a result of several factors. It was in part formed from a practical response by the people themselves to the exigencies of exchanging labour for wages in industrial life. Tilly and Scott identify the emergence of the family wage economy as the dominant response of women and men in the labouring class themselves, in this stage of capitalism. The enclosure movement created waged workers long before industrialisation, but it was with industrialisation that a new form of control of labour, control within factories emerged, physically separating productive labour from reproductive work in the domestic sphere, with the father and children leaving the home to go out to work and earning wages based upon their individual labour.

The differentiation between the family and the individual wage was for several reasons, still not clearly marked. Firstly, because the father acted as a subcontractor, employing and supervising in the factory his own daughters and sons. Patriarchal control was incorporated into the earliest forms of factory control up until the 1820s. Secondly, the wages of the children, especially that of the daughters, were based on the convention that they were dependent upon their fathers: their wage was based on their ascribed status within the family. Thirdly, the income of both fathers and children were defined as belonging to the common fund of the family.

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68 However Garland argues that the key shift from individualism to individualisation occurs with the next transformation at the end of the the nineteenth century. op cit p. His argument is examined on pp below

69 Barry Smart (1985) p 84
70 Tilly & Scott ch. 4
71 Tilly & Scott p.113
72 Tilly & Scott
The division of labour between men and married women in this new family structure, the working class family, that emerged in industrial capitalism, was more clearly differentiated than in the family labour economies of the putting out system in the pre industrial era of manufacturing. In most families for much of the time married women remained within the domestic sphere taking on the role of manager of the household's resources, and the bearing and rearing of children. However, in emergencies this segregation of husband and wife into productive and domestic workers was not so distinct. In economic crises wives of manual workers, although their major defining role was as housewife and mother, did supplement the family's income. For many families of manual workers in insecure employment, economic emergencies were a frequent aspect of their lives. However, the new wage earning capacities of children meant that children were increasingly likely to stay at home until they were married so increasing the importance of the domestic role of the married women. This contrasts with the tendency in the urban forms of the earlier family labour economy in pre industrial society, where single children were likely to leave home to balance resources.

In an economy in which, increasingly, waged labour was located in the public sphere, the dual role of performing both domestic and productive labour was made more difficult for married women. The tension was reduced in part, for many, by bringing their productive work into the domestic sphere, for example by doing outwork, taking in lodgers, or taking washing and ironing. However this resolution created a further major tension for women who were attempting to combine productive and domestic labour. This dual obligation undermined their bargaining power and the income that married women earned in this stage was likely to be much less than that of their daughters in factory work and significantly lower than the male wage.

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73 Tilly and Scott pp123-136
75 see pp. 46 above
The reconstitution of working class domestic life however was not only a consequence of the response of working class wives and husbands. The early 18th century intermediaries of the state, the thief takers, who mediated the state control of the labouring class were replaced in the next era of the change in systems of control of the reproduction of the relations of labour by two new policing agents. Firstly, there was an increased formalisation of policing with the development of a state controlled police force and secondly there was an extension of informal policing with the development of a new sphere of civil life, the social, that linked the two dominant sites of social control of the individual: the state and the family. The increasing rationalisation of production meant that the labourers themselves were treated as instruments of production. The state was increasingly drawn into providing the conditions under which 'human capital' was suited to productive efficiency. There was a dual concern with this personality of the labourer. The desire to control the greater political volatility of labour separated from community structures of surveillance and authority and subject to the now potentially explosive circumstances of collectivised waged work in an uneven economy and secondly, the concern with the regulation of the industrial behaviour of the labourer within the factory. The sixteenth century concern that labourers should internalise a sense of orderliness became particularly important with the shift to factory production and a market economy.

In this era the discourses about how these controls were to be effected revolved around four problems in relation to the control of labour: how to provide for the indigent without discouraging the poor from engaging in waged labour, how to develop a sense of orderliness and regularity, the work ethic suitable for disciplined labour in the factory, how to develop a parallel ethic of political quietism in the face of the explicit political economic forms of exploitation and appropriation in this period and fourthly how to create a social climate in which the familial political economic relations of work become acceptable not only to the workers but in the reflections of the ruling class to
themselves as members of a civil society. Various sectors of the ruling class joined the debates, and intervened in the domestic and the penal sectors of social life in this era of vigorous discourses of control. There were two major consequences of the impact of a full scale market economy on the reconfiguration of power, morality and rationality: the increasing rationalisation of social control with both policing and responsibility for imprisonment being shifted from the private to the public sphere, and secondly, what Donzelot has characterised as the development of the social. The contradiction between the centrality of the principle of laisser faire and the concern with the reconstitution of the individual personality of the labouring classes and control over the political volatility of the working class as a whole was resolved by this development of a sphere between the public and private realms. This was the era in which religious, scientific, philanthropic and political economic elites felt entitled through their superior moral and intellectual qualities, legitimated by the protestant liberal ethic relating prosperity and property ownership to spiritual grace and political entitlement, to decide on the resolution of the great problems (from the perspective of the bourgeoisie) of control of labour and social life: how to make workers work, how to make workers work methodically and how to resolve the imposition of the coercive techniques necessary to effect these controls with the principle of laisser faire. The great problems for the majority, the labourers alienated from the means of production, were how to survive in a familial political economy which, at the same time, proscribed all means of material survival other than waged work yet provided that waged work only unevenly and periodically.

Melossi and Foucault, although from different perspectives, emphasise the key issue in all these grand discourses as the problem of the establishment of order. It is important to emphasise that the disorder derived not only from the rate of change, although the

77 Spitzer & Andrew Scull (1977) pp.276-277
78 Donzelot (1977) pp. 88-89
79 Melossi (1979 ) Foucault (1977)
social disorder inherent in a society that shifted from a predominantly agricultural family labour economy to an urban industrial family waged economy in just fifty years was immense, but also in the privileging of the sphere of public life in which order and 'disorder' were most delicately balanced. The problems with a purely narrow economistic interpretation of this process is that the central principle upon which the familial political economy rested in this era was the principle of the primacy of the natural realm of economic relations, that the hidden hand of the market should be free of the 'unnatural' intervention of the polity. However the social costs to labour of the free play of market relations was associated with social and political conditions that called for strong political intervention. The key contradiction was in the need to enforce order in the period of class relations that both engendered disorder but was the 'most allergic to rioting than any other economic system'\(^{80}\) at the same time as that same system was legitimated by the principle of a minimal regulatory role of the polity.

State intervention in penalty and domesticity coincided with the interests of the rise of two specific powerful lobby groups. Authority in the social sphere was legitimated in the first half of this period by philanthropic religious rationality. Over the nineteenth century this seemingly oxymoronic basis of the configuration of power, morality and rationality was resolved as intervention in the social sphere was increasingly legitimated by the appeal to authority based on scientific rationality. In the first half of this period it was the work of the religious and philanthropic groups whose authority to influence the reconstitution of domesticity and penalty rested on their assumption of their own moral superiority as members of the property owning and employing classes sanctioned by the principles of Protestantism and classical liberal theory. It was women in particular whose intervention was influential in the social sphere in this era.. The same morality which excluded them from the public life of the political and economic spheres in the pre-industrial period of the 18th century was the basis on which their influence in the sphere, between the public and the private realms - the social - was legitimated. Their moral

\(^{80}\) Polyani, 1944:1186 cited in Spitzer & Scull. (1977) p. 277
position in their own family life was the platform from which they launched vigorous campaigns to effect changes amongst the working classes in both domestic and penal spheres.

It was notable that one particular group of ruling class women was especially vigorous in the moral campaigning of the social sphere. The women in the Evangelical sects, especially those in the Quaker movement, engaged in reform movements in the spheres of education, health, slavery, poverty, and penalitv. The Quakers were a struggling sect in the seventeenth century but, by the beginning of this era of transformation, they had become an established though dissenting religion. The principles of Quakerism allowed women a more direct though still lesser religious authority than in most other forms of Protestantism. Hamilton's, Cot's and Pateman's analyses of the impact of liberalism and Protestantism on the separation out of power and morality detailed the way that the women through their association with the increasingly segregated sphere of domesticity lost power in the shift from the familial political economy of feudalism to mercantilism. Morality in the home became associated with a specific form of denial of self interest that distinguished domestic morality from moral authority in the public sphere of the polity: moral authority within the home was sanctioned because it was limited to the home. Women's moral authority stemmed from the particularistic nature of domestic relationships and their deliberate denial of an interest in universalistic forms of authority. However, the moral boundaries between universalist and particularist authority in Quakerism were not so rigid. This increased standing of women in Quakerism, in relation to the authority of women in the dominant forms of Protestantism, was perhaps the reason why this particular sect of ruling class women became the

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81 Dobash et al. p. 41 It is also worth noting that Fry was influenced by the penal reformers of North American Quakerism. So the penal changes in N.S.W. and Tasmania in the early to mid nineteenth century can be linked to the influence of the moral vigour of the particular combination of morality, power and rationality developing in North American industrialism in the early nineteenth century.

82 cited earlier
bridgehead for the establishment of this extension of ruling class women's morality into the social sphere.

Inversely it could be that, by the first decades of the nineteenth century, particularly in England in the period immediately following the Napoleonic Wars, the tensions of the contradictions of the familial political economy specifying rigid boundaries between family life and political economic life were becoming increasingly obvious. The establishment of Evangelicalism in this period was due perhaps, to the wider moral sphere which this sect of ruling class women were permitted and encouraged to claim as their rightful sphere of intervention. The specific form of configuration of power morality and rationality in this period meant that domesticity was extended into the wider areas of civil society specifically through the emphasis on affectivity over rationality:

The Evangelical revival placed morality and the affections above intellect and opened its doors socially to women. Religious sensibility and social pity stood much higher in the minds of women like Hannah More than abstract, frequently arid theology. And if right conduct and moral fervour were thought to be the preserve of women, it would only be natural for Evangelicalism, which put such a premium on manners and morals, to find a refuge in the female breast.83

It was through Evangelicalism that the conditions for the reproduction of productive life were specifically tied to a set of discourses connecting penalty and domesticity as alternative points of a continuum of proscribed to prescribed relationships that was to become the major aspect of the relations of reproduction in the following century. It is possible to see one of the starting points of this process in the influence of American Evangelicalism on Britain. It was in 1813 that Elisabeth Fry's philanthropic energies were directed by a group of visiting American reformers to the conditions of penalty in Newgate prison.

Elizabeth Fry, was one of the most vigorous of all the Quaker women. She played a major role in the development of penal policy in Britain and, through her disciples who included the wife of the governor of the colony, the penal policies of N.S.W.\textsuperscript{84}

Dobash et al. emphasise the tensions deriving from the reconstruction of penalty in this period, the establishment of industrial capitalism. They identify three main themes in the various discourses of penal transformation. The conservative reformers emphasised the punitive, degrading, aspects of prison, the utilitarianism of Bentham focused on the impersonal systematisation of useful labour and the Evangelical movement which was concerned with regularising prison life through the personal relations between reformer, prisoner parents and their children.\textsuperscript{85} Systematic reform was the principle theme uniting the three discourses but the dominance of one or other of these emphases on degradation and less eligibility, economic productivity, or reform through the personal cooperation of the prisoner, varied with the immediate impact of the state of the familial political economy. The fluctuations of supply and demand in the labour market throughout the nineteenth century meant that prison populations increased during periods of high unemployment.\textsuperscript{86}

Melossi points out that, in the period 1840 to 1865, the emphasis of penalty shifted towards the punitive or terrorising corner of the triangle of punishment, reform, and economic productivity within the prison.\textsuperscript{87} In this period the principle of 'less eligibility' dominated the constitution of penalty in laissez faire capitalism. The move away from reform to repression with the establishment of laissez faire industrialism, Melossi and Pavarini argue, was a response to the explicitly class nature of the extreme growth in pauperism and criminality with the accompanying extremely low

\textsuperscript{84} Elizabeth Windschutte (1982) p.12
\textsuperscript{85} Dobash et al. p.36
\textsuperscript{86} Melossi (1979) p. 96
\textsuperscript{87} Melossi & Pavarini (1982) pp. 46-47
standard of living and the immense industrial reserve army. The contradiction between the bourgeoisie and aristocracy that had been a primary influence on the development of the penal legal realm in the period of primitive accumulation became secondary to the contradiction between bourgeoisie and proletariat in this era of established industrial capitalism.

Melossi identifies this shift too as an aspect of the malaise of a prison system that is a consequence of its own internal contradictions:

> Any prison system oscillates between the alternatives of, on the one hand, transformation into a productive institution modelled on the factory and, on the other, of becoming a pure instrument of terror. The former results in loss of ability to terrorize, the latter renders the prison useless for any task of resocialization of the inmates but allows it to function, as Foucault observes, to preserve a social zone labelled as delinquent and as the carrier of a whole series of services (not least that of scapegoat for the dominant class).\(^88\)

Dobash et al. point out that this shift to repression over reform was further complicated by the need to absorb the prisoners previously sent to the penal colonies with the accompanying move away from transportation in the mid-century.\(^89\)

In this period of the 'great confinement' approximately 1,000 per 100,000 people, or in absolute terms nearly 200,000 people, were imprisoned in Britain in one year. In England and Wales a quarter of these were women but in Scotland, in 1849, nearly 40% were women.\(^90\) Both men and women were subject to the terrorising forms of imprisonment. However Dobash et al. argue that in the separate women's' prisons introduced in this period the emphasis was more on the combination of humiliation and degradation combined with useful labour. Terror was important but as the punishment of last resort, allotted to the most recalcitrant prisoners in a vertically organised classificatory system that placed prisoners on a scale from incorrigibility to

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\(^{88}\) Melossi (1979) p.96  
\(^{89}\) Dobash et al. p. 60  
\(^{90}\) Dobash et al p.62
reformability, they all prisons had in common was a commitment to penal regimes that combined punishment, degradation, correction, reformation, education and labour.

The internal and inter-sphere contradictions in the constitution of domesticity and penality were echoed although in very specific forms in N.S.W. throughout the nineteenth century. However, the laissez faire period of capitalist development was preceded by an era closer to the domestic economic and penal relations of the mercantile capitalism that was just coming to an end in Northern Europe.

The period of early settlement of N.S.W. 1788 - mid nineteenth century

It was largely from the dispossessed labouring class that the initial population of families of N.S.W. was drawn. However in the circumstance of the specific configuration of state, family and economy that characterises the period from 1788 to the mid 19th century in the penal colony, there were some significant differences in the constitution of domestic life that differentiate it from experiences of domestic life for the majority of the labouring class in Northern Europe in Tilly and Scott's delineation. The familial political economy of industrial capitalism that marked the change to a family wage economy in Northern Europe took on characteristics in the new penal colony of a singular blend of liberal rational, mercantile and neo-feudal relations of domestic political and economic power.

The key differences between the configuration of domestic economic and political life in Northern Europe and N.S.W. in the period 1780s to the mid nineteenth century were: in the explicit nature of state control of economic conditions of exchange of labour and capital, the fact that the reproduction of labour was based primarily in the penal sphere.

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91 Dobash et al. p. 70
92 Dobash et al. p. 64
in the system of transportation rather than in the domestic sphere, the imbalance of the sexes, and the agricultural rather than the industrial basis of the political economy.

Because the establishment of the colonies of Australia resulted from government policies the ideological discourses of this key period in the development of capitalism are much more explicitly spelled out. The political economy of Australia was much more clearly an 'artificial' creation of 'natural' economic and domestic relations.94

Explicit use of force by the state was the distinctive feature of political economic life in the early settlement of the colony.95 Whilst in this period penal control was shifting in Northern Europe towards systematic forms of control within prison through the rational orderly disposal of the labour of incarcerated offenders, penal control in N.S.W. was based on punitive, violent punishments to the body to ensure the forced labour of the convicts out in the community. The colony was both prison and political economy. The labour force was predominantly based on the conscripted labour of transported convicts which was regularly renewed by continuing fleets of transported prisoners from Britain. The form of penality within the colony was directed to the physical coercion of conscripted and assigned labour rather than the long term internalisation of values of a work ethic of regularity, thrift and orderliness. Punishment was oriented to the control of the immediate labour of the convict classes on the road gangs, building sites or on the pastoralists' estates, not to the generation of a long term orientation to a work ethic suitable for a permanent society of factory workers.

The policing, sentencing and penal administration of political economic relations in the sphere of production were mainly conducted through agents directly representing the interests of the private sphere. Initially the city merchants employed their own constables and the large landholders controlled rural policing through their control of the

94 Karl Marx (1887) ch.xxxi
95 Connell & Irving (1980) ch.2.
magistracy in the major country centres.\textsuperscript{96} In threats to civil order this form of policing was supplemented by the military.\textsuperscript{97} This combination of private and military policing that suited the 'plantation capitalism' of the pastoral landholders was the point of struggle as the balance of political economic power shifted more towards the interests of the mercantile capitalists in the cities towards the middle decades of the nineteenth century.

Policing in the social sphere was the moral realm of ruling class women as well as men. As in Europe in this period the moral sphere of ruling class women extended to include the space between the private and the public realms, the social sphere, in which their domestic and class position, sanctified by religious rationality especially Evangelicalism, gave them the authority to act as the new intermediaries or policing agents of the state, intervening in the construction of domesticity amongst the labouring classes.\textsuperscript{98}

However, the constitution of domesticity in the colony was an especially contradictory process in this era. Marriage and family relations were nominally designated as a significant form of control of social life but the majority of the labouring class, the convicts, were men separated from their families.\textsuperscript{99} Convicts were encouraged by political and religious elites to marry but the major factor encouraging convict marriages, assignment of ticket of leave on marriage, was restricted to marriages contracted with 'free' women (and men).\textsuperscript{100} Convict women the most numerous group of women in the colony were thus excluded from the group of women that convict men were encouraged to marry through this system even though there was much vigorous discourse encouraging convict women to marry and blaming them for their failure to achieve this respectable form of domesticity.\textsuperscript{101}

\textsuperscript{96} O'Malley (1983) pp 52-53
\textsuperscript{97} O'Malley (1983) p.53
\textsuperscript{98} Windschutte (1985) p. 12
\textsuperscript{99} Robinson (1988) ch. 7
\textsuperscript{100} Daniels, Murmane & Picot(1977) p.147  Robinson (1988) p.220  However not all free women were able to have their convict husbands assigned to them see Robinson (1988) pp.224-225
\textsuperscript{101} Alford (1984 ) ch.1 Robinson (1988) ch.3
It seems likely that domesticity was not a major concern of the ruling class in this period in spite of the plethora of moralistic discourses on the immorality of unmarried convict women. The reproduction of the labour force did not primarily depend on domesticity but on penalty. Women were part of the formation of the penal society but they were not transported or encouraged to come as 'free' settlers in large enough numbers to constitute a balance to the masculinity of the colony nor to provide a substantial domestic basis for the reproduction of labour either in terms of a new generation or in the day-to-day regeneration of a domesticated labour force.

Convict women's labour other than their sexual labour was underemployed. Although there was loud moralising about their moral degeneracy, one of the major reasons for their transportation was for the exact reason for which they were castigated, to provide for the maintenance of heterosexuality in the colony at a cheaper cost than that necessary to support a family system of monogamous heterosexuality.

Ambiguity about domesticity in the colony was then not surprisingly, the major characteristic of the discourses surrounding marriage and morality. There was a conflation of morality with formal marriage and of de facto relationships with depravity that enabled the controlling moralists of the colony to distinguish between 'good' and 'bad' women and to define the majority of families that were established as potential sites of pollution.

At the same time it was the political economic conditions of the colony that reinforced the unmarried status of convict women. Alford charts the inverse correlation between convict status and marriage in all the colonies in the first half century of settlement. There was a widespread reluctance of the rural and pastoral sections of the ruling class to bear the costs of the reproduction of labour by employing men with 'encumbrances'.

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102 Alford p.160
Catholic women, who formed a significant proportion of convict women, could not be married according to the rites of their own faith.  

There was major dissonance then between the articulated views of the ruling class, of the construction of domesticity of the lower classes, and the actual experiences of the children, men and women in the convict and working class families in the period of early settlement. The majority of children were brought up in stable, regular families, but these families were not formalised by a marriage contract: two out of three of the children in N.S.W. in 1806 were illegitimate. Cohabitation rather than marriage was at least in part, the result of decisions by the ruling class themselves. Nevertheless the conflation of marriage with morality meant that there were assumptions by the ruling class that all of these children of convict parents were exposed to the 'polluting culture' of their parents. The institutions for the care of destitute children were then run on the central principle of separating the children from their parents even though both children and parents were distressed by this enforced separation. Girls confined in the Female School of Industry were allowed to see their parents only once a year. Attempts by parents to maintain contact with their children were defined as disruptive to good order:

... the committee (of the Female School of Industry) chided parents for 'accosting' children on Sundays in their walk to and from Church and 'presenting them with fruit' ... some children pined for their parent until they were allowed to leave. Others took more direct action and absconded.

One of the key features of the constitution of domesticity in the early period of settlement that distinguished it from the construction of family life in the following era was the social morality that legitimated this institutionalisation of children of convict families.

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105 Alford p 27
106 Robinson (1985) p.76
107 Robinson (1985)
108 Windschuttle (1982 p 17)
109 Windschuttle p 18
110 Daniels Murmane & Picot (1977) p.167
111 Windschuttle p18
Elisabeth Windschuttle sees the development of charity schools as the desire to change the supposedly polluting culture of the lower classes which induced

- idleness, dissipation, drunkenness, debaucheries, seductions, adulteries, blasphemies, disobedience, dissensions, tumults, robberies, murders, execution, - yea, the most dreadful consequences to so many souls immortal for ever and ever.

in the words of the Reverend William Cowper in a discourse on the functions of the Female School of Industry in 1828.\(^{112}\)

Portia Robinson argues that this reflects the ruling class morality of the period rather than the actual family life of convict men and women which was closer to the mores of time than the upper classes conceived.\(^{113}\) Through her reading of the petitions and memorials from convict families, as well as a detailed examination of documents relating to the later working life of the children of convict families, she argues that convict families were just as likely to be characterised by strong attachments to family life, a strong sense of parental responsibility, that 'were at least as stable and permanent as those of the 'free objects'\(^{114}\)

Alford points up too, the contradictory attitudes in the literature of the period, in that crime was blamed both on the absence and on the presence of women. It stemmed, according to the contemporary moralists, both from the sex imbalance in the colony and from the incitement to crime by the morally inferior women.\(^{115}\) Single convict women were caught in a downward spiral created by the signification of femininity and morality. Their initial sentence condemned them to transportation to a labour colony that provided them with little economic support. They were not granted land and they did not have access to the range of work available to the male convicts.\(^{116}\) The allocation system left

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\(^{112}\) cited in E. Windschuttle p. 27
\(^{113}\) Robinson (1985) ch. 3
\(^{114}\) Robinson (1985) p. 159
\(^{115}\) Alford, p. 22
\(^{116}\) Alford ch. 4 Robinson (1988) ch. 9.
them open to sexual exploitation by the settlers. They could not then avoid the moral disapprobation conferred on prostitution and on non-legal cohabitation. Marriage in the early settlement tended to be between free women and convict men but not between free men and convict women.\(^{117}\) Alford points out that this indicates that once women lost the label of morality they were much less able to have it restored to them than were men.\(^{118}\) Morality was so embedded a signifier of femininity that its loss, once detached, was likely to be permanent.

Nevertheless it is important to see the impact of this particular configuration of power morality and rationality in terms of the variation throughout the lives of the women sent as convicts to the colony. Daniels emphasises the importance of deconstructing categories of 'good' and 'bad' in terms of whether women were either prostitutes or family women.\(^{119}\) Robinson's work indicates that the women, castigated and devalued in terms of their supposedly polluting sexuality, were the same women who provided the stable family life with their convict spouses that was the basis of the remarkably non-criminalised first generation of labouring class white native born Australian children.\(^{120}\)

The dynamic of the impact of the familial political economy on the variations in the lives of people is related to a second incongruity between ruling class perceptions of domesticity of labouring class people and the actual experiences of day-to-day life in those families. The dual circumstances of the convict background of most of the families and the high levels of cohabitation and illegitimacy led to expectations and false perceptions of a high crime rate in the colony in the eyes of the ruling class.\(^{121}\) Yet the levels of criminality, measured by official records, in the early settlement period of N.S.W. were lower than those in British society in the same period.\(^{122}\) One specific

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\(^{117}\) Alford ch.2  
\(^{118}\) Alford p.66  
\(^{119}\) Daniels (1984) p.22  
\(^{120}\) Robinson (1985) and (1988) pp.233-241  
\(^{121}\) Windschuttle p. 17  
source of crime that had a greater impact in the 'mother country' than in the penal colony
was directly related to the comparably worse economic conditions of life for labouring
class families in Britain. Young single women born into the early labouring class
families in the colony were much more likely to stay at home prior to marriage, working
in either the urban or rural family labour economies of N.S.W., than were their
contemporaries in the 'mother' country. For the young women, born in the colony,
working in their family labour economies of farms, trade, or business there was no
necessity to go out to balance the resources of the family as there was in British
society. Robinson argues that this meant that they were unfamiliar with poverty and
destitution and were less exposed to the risks of 'having to stray from the paths of virtue'
as had their mothers. It means too that they were less likely to be caught up in the
circle of destitution and criminalisation through the sequence of seasonal factory work,
domestic service, pregnancy, prostitution and petty theft that their mothers had been
exposed to and that continued to circumscribe the lives of their contemporaries in cities
in France and Britain. In the two rare cases where young women born in the colony
who were brought up in stable convict families, were convicted of crime, they were
assigned to their own parents.

Of the young women born in the colony to the convict and free families of the
transported culture, it was usually only those who were defined as orphans who
became domestic servants. Only twelve per cent of native born single non koori
women were in that group. It was children who were separated from family life in
N.S.W. then who were likely to enter the cycle of domestic service and criminalisation.
In 1789 a fourteen year old servant girl was sentenced to thirty lashes for 'insolence' in

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123 Robinson (1985) p.150  Tilly & Scott p. 35
124 Tilly & Scott pp.116-117
125 Robinson(1985) p.150
126 Tilly & Scott pp.116-117 Of the 2.7 million employed women in Britain 2 million were in domestic
127 Robinson(1985) p.151
128 Robinson(1985) p.155  Alford p.172
129 Robinson (1985) p.155
the household of one of the chaplains of the colony.\(^\text{130}\) Although this girl was a convict not a 'born free' servant, it was her particular familial political economic relationship within the household that put her at risk of punishment. Moreover it was the particularly penal intersection of work and domesticity that created the risk that children would enter the cycle of employment and criminalisation. In families in which, due to the assignment, death or desertion of their partner, one parent was left with the care of the children, both fathers or mothers were forced to work with employers who made the conditions of that work such that it was impossible for them to retain custody of a child.\(^\text{131}\) Not even married couples were necessarily allowed to live together and economically support each other if the man's labour was useful to the government or his employer.\(^\text{132}\) In addition it was the particularly gendered constitution of 'free' labour that meant that it was likely to be men who deserted families rather than women as it was they who were able to get work on the ships that took them back to Britain. That option was not open to women who had served their time.\(^\text{133}\)

There seems then to have been a direct inversion of the intention of the ruling class. The upbringing provided by the 'polluting' convict families seems less likely to have placed children at risk of criminality than that provided by the ruling class.

This particular aspect of the constitution of domesticity however had contradictory consequences for women for, whilst the first generation of women born in the settlement were more sheltered from exposure to the risk of criminality by the economic circumstances and the form of domesticity that developed in the early settlement of the colony, they were also not 'free' in terms of economic independence. Women's economic dependence on men was a major aspect of the constitution of domesticity in this period. The political and economic policies of the government formally but not

\(^{130}\) Robinson (1988) p.45
\(^{131}\) Windschutte p.17
\(^{133}\) Alford
substantively\textsuperscript{134} encouraged marriage. Both formally and substantively however, the policies encouraged within marriage, women's economic dependence on their husbands. There was little demand for women's labour other than below subsistence waged work in domestic service or their castigated sexual labour.\textsuperscript{135} Land grants were only in exceptional cases allocated to women. Even propertied women were denied access to this key form of means of production in the developing agricultural political economy of the penal colony.\textsuperscript{136} For convict and free women this meant they were forced to depend on men for support, or after the 1820s, to take refuge in the female factories.

The women who did achieve economic independence usually did so through their initially dependent productive role in the family labour economies. It was widows who constituted the major proportion of women cited as successful in business in N.S.W. in this period.\textsuperscript{137}

In summary, this initial period of white settlement in the colony was characterised by forms of domesticity and penalty closer to those constituted within the familial political economy of mercantile capitalism from the sixteenth to the end of the eighteenth century in Northern Europe. Children were reared within family labour economies in which the productive and reproductive labour of men, women and children was not clearly separated. Penalty was based on public, corporal or capital punishments or else on a system of transportation within transportation. In this specific period of the triangulation of penalty, domesticity and productivity the dominant relationship was between the penal and the political economic spheres. The reproduction of productive relations was tied to penalty more than to domesticity.

\textsuperscript{134} see above
\textsuperscript{135} Alford pp.76 - 77
\textsuperscript{136} Alford pp.75- 76
\textsuperscript{137} Alford p.195-197
Working class family life was interpreted within the contradictory terms of corruption and redemption. For the majority of women arriving as convicted or 'free' labour this meant that they experienced their femininity at various points in their biographies as a contradictory set of significations of sinfulness, maternal pollution, or maternal grace, with their labour being defined alternately as economically unproductive or valuable depending on their access to an acceptable form of domesticity, one centred on their economic dependence. The penal sphere extended into the constitution of domesticity through the establishment of the female factories for women and charity schools for children both of which reinforced the normality of domestic life as a form of familial economic relations characterised by children's and women's economic dependence on men. Destitution was conflated with pollution for women as either sexual partners or as parents.

There were both continuities and discontinuities in this triangulation of domesticity, penalty and productivity in the next era of the familial political economy in N.S.W. - the period of laissez faire mercantile capitalism from the 1840s to the 1880s.

Mid-nineteenth century capitalism in N.S.W.

Although the Australian familial political economy in the mid-nineteenth century was based on mercantile capitalism the social relations of production were closer to those characterising industrial production. The constitution of domesticity and penalty was also more in line with the parallel relations constructed within laissez faire capitalism in Northern Europe. By the 1840s through a series of contestations and negotiations between the pastoralist and the urban bourgeoisie sections of the ruling class, the conscripted labour of convicts was largely replaced by the waged work of 'free labourers'.

This rationalisation of the relations of production fitted laissez faire principles of a social order predicated on a capitalist mode of production and exchange. The 'free' market was
reflected in the 'free’ conditions of civil society. The systems of policing and punishment shifted from the overtly class dominated and paramilitary forms of control to the more independent and democratic form of control involving a change to a system based on a centralised bureaucratically organised civil police force and a sentencing and penal system nominally founded on the formal impersonal rule of law. O’Malley argues that this move to a legal-rational form of control developed in relation to the problems of civil disorder in an urban industrial form of capitalist society.\textsuperscript{138}

Imprisonment as the deprivation of liberty became the major mode of punishment. There was a significant decline in capital punishment between 1835 and 1850.\textsuperscript{139}

This transformation of penality reflected both the centrality of 'free' labour and an 'equality' of punishment in a more systematic technical rational form of penalty, \textsuperscript{140} 'abstract labour time in capitalist production reappears in the existence of a sanction whose unit of measurement - time- is abstractly, universally and equally applicable to all individuals.’\textsuperscript{141}

However the reproduction of the conditions of waged labour was associated too with a shift in the importance of the relationship between domesticity and production. The dominance of waged labour relations of production was closely paralleled by the energetic constitution of a universal domestication of working class life especially through the intervention of ruling class women working through the social sphere. Shiploads of families of convicted and emancipated men, and of single women to create new families, were delivered to the ports of the colony over the decades 1830s to 1850s.\textsuperscript{142} The increased abstraction and rationality of economic and political life was paralleled by a major concern to increase labourers’ access to the affective, personal

\textsuperscript{138} O'Malley p.56
\textsuperscript{139} O"Malley p.153
\textsuperscript{140} O’Malley p.152
\textsuperscript{141} O'Malley p.152
\textsuperscript{142} Alford ch.5.
relations of domestic life. Civil society depended on the conjunction of abstraction and affectivity not the negation of the latter by the former.

The importance of particularistic relations and the 'culture of domesticity' were spelt out by several ideologues of domesticity and liberalism throughout the nineteenth century from John Ruskin 143 to the novellette writers,144 but one of the most interesting versions of the necessary connection between abstraction and affectivity, universalism and particularism, is in the writings, not of a protagonist of liberal capitalism, but of Marx, in this private letter to his wife after 13 years of marriage, in which he bemoans the demasculinisation inherent in abstract rational labour:

I feel a man once more because I feel a great passion. The complexities in which study and modern education involve us, the scepticism we must necessarily bring to bear on all subjective and objective impressions are perfectly designed to make all of us small and weak and petulant and undecided. .... 145

Moreover, against the demasculinising tendencies of rational scepticism even socialism fails, as it is not in the abstract love of the workers that full masculine intellectual vigour is restored. Only the particularistic passion of the woman in the home can perform that labour: ‘... but love, not the love ..of the Proletariat, but the love of the beloved and more particularly of you, make a man a man again ... “buried in her arms, revived by her kisses”. ’146

The romantic reproduction of intellectual socialist labour however was not the concern of the N.S.W. architects of a 'free' labour market. It was rather the reproduction of the social relations of production, the materialist aspects of abstraction, that underpinned the vigour with which universal domesticity was created in the mid nineteenth century.

144 Margaret Allen (1982)
145 Letter from Karl Marx to Jenny von Westphalen. 21st June 1856 (13 years after marriage) in Ernst Fischer (1973) pp. 25-26
146 Fischer (1973)p. 26
The specific relationship between caring, dependence and control was explicitly spelt out in this period of the wholesale construction of domesticity in the colony. Caroline Chisholm one of the main social sphere architects of the political economic relationships of family life argued that

the rate payable for female labour should be proportional on a lower scale than that paid to men. .. high wages tempt many girls to keep single while it encourages indolent and lazy men to depend more and more on their wives' industry than upon their own exertions, thus partly reversing the design of nature.147

Nevertheless the families of convicts were transported to the colonies with the expectation that the convict husband would not be the sole breadwinner especially in the economic downturn of the 1840s. The transported wives were expected to be able to maintain themselves as servants, needlewomen, dairy maids or laundressess at the same time as they provided the moral labour of providing a powerful influence over even the 'worst' of the convict men.148

Summers details the several discursive practices through which in Caroline Chisholm's telling phrase, working class women became 'God's police' as spouses and mothers of labouring men and their families.149 The responsibility for the reproduction of the next generation of labour was transferred from the penal sphere to the family labour of women in the domestic sphere.

The work of Donzelot and Foucault indicate that the labour of caring, controlling and reproduction in urban capitalism was effected not simply through the relations of domesticity and penalty but through the several practical and physical reorderings of space and time through which the two spheres were reconstructed.150 Discourses on

147 cited by Alford p.207
149 Anne Summers (1975)
150 Donzelot pp.16-17 and Foucault (1977) pp. 143-157
sexuality, housing space, hygiene and health effected the systematic ordering of family
life and the relations between husbands and wives and parents and children.

These reordering of space were policed through the continual imposition of 'moral
order' by ruling class women in the social sphere. In N.S.W., they also came under
the direct surveillance of the formal police force. O'Malley points out that the shift
towards hegemonic forms of policing in laissez faire capitalism meant that the police
force had to be seen as representing all sections of society, identified not just as law
enforcers but as agents of the 'community'.\textsuperscript{151} The pattern of change in policing and
surveillance in Australia in this period followed the processes of rationalisation identified
by Spitzer in the earlier period in Northern Europe.\textsuperscript{152} Initial policing in the colony was
the responsibility of a police force explicitly identified with the squattocracy. By the mid-
century policing was organised in a bureaucratic impersonal structure closer to the ideal
of the rule of law of a capitalist state. As part of this broader hegemonic role the police
force in N.S.W., in the late 1850s, had the responsibility to report on the condition of
the working class. These reports reflected the earlier conflation of destitution with
moral pollution, especially in the case of young women and their families.\textsuperscript{153} However
there were also several reports based on the close inspections of working class homes in
terms of hygiene and of the relationship between domestic space and sexuality, in
which family life was defined in a pathological discourse. These concerns with
pathology were articulated in terms combining medical and moral discourses as opposed
to the more religiously based descriptions of parental pollution in the earlier ruling class
condemnations of convict family life.\textsuperscript{154}

\textsuperscript{151} O'Malley, pp. 56-58
\textsuperscript{152} O'Malley pp. 54-56
\textsuperscript{153} Beverley Kingston (1977) p.166-167
\textsuperscript{154} Detective Inspector Harrison (1859) reproduced in Kingston (1977) p.167-173 and Dr. Read (1875)
reproduced in Connell and Irving p.159 & 160
The 1859-60 report into the condition of the working class in Sydney also specifically highlights the concern with the inability of even 'respectable' working class families to contain their sons within the private space of the home.

The number of boys in the vagrant state is variously estimated, and it may be doubted that there are many entirely destitute of home and kindred; but the evidence abundantly shows that a large class exists to whom the possession of parents is of no value in giving direction to their lives, and who are growing up to be an encumbrance and a curse to society. In the language of one witness, they are "floating about the streets and lanes like fish in a pond". 155

One particular form of State intervention in the construction of domesticity was especially effective in narrowing the physical space in which women could operate. From the 1860s there was a major push in both Britain and Australia to police women appearing in the public sphere in the name of hygiene and concerns with the health of the military. The Contagious Diseases Acts enabled police to apprehend any woman in the street to force her to undergo a medical examination. The Australian Acts were modelled on the British Act of 1864 but were more regulatory. Whilst the British Act was confined to garrison towns and naval stations the Queensland Act, for example, applied to the general civil population. 156 The acts were vigorously debated on the grounds of the invasion of the civil liberties of the women, and the fact that they applied only to women not to men, but they stayed in force over the next twenty years. 157

One of the major consequences of these Acts and of the various State commissioned reports on the conditions of working class life was to pathologise and even to potentially criminalise the public behaviour of all working class women. Daniels emphasises however that the Contagious Diseases Act shouldn't be seen in isolation. It was rather one of several pieces of legislation in the last decades of the nineteenth century criminalising aspects of working class public behaviour. 158 If the criminalisation of

155 Report from the Select Committee on the Condition of the Working Classes of the Metropolis, pp. 8-10 cited in Frank Crowley (1980) p. 413
156 Daniels, Murnane & Picot p 21
157 Daniels, Murnane & Picot p.21
158 Daniels (1984) p.75
labouring life in the sixteenth and seventeenth centuries was about securing the property rights of the bourgeois and consequently the new form of class relations of liberal capitalism, the criminalisation of working class life in the latter decades of the nineteenth century were oriented to the imposition of clear boundaries between private and public spheres and confining working class existence out of the arena of the public realm. In this, the legislation was one of the several strands in the constitution of the next form of dominant family - the family consumer economy.

Families were also increasingly privatised or turned in on themselves in terms of the breaks with wider family networks. Robinson shows how the first few generations of family wage and family labour economies in N.S.W. were internally sustained by the extended networks of kinship that developed within the first few generations of family life. Similarly Pat Grimshaw and Grahame Willett describe the importance of extended kin networks for the 'free' labourers in the extensive immigrations of the mid century. Families provided emergency accommodation, material support and occupational contacts for a wide range of relatives in the expansion of the familial political economy of Australian capitalism. The domestic labour of working class women in labouring families provided an intricate web of infrastructural support for the expanding economy as increasingly domestic labour within the family came to be the responsibility of the wife and mother in this period. Family consumer economies however, were characterised more by the internal dynamics of the nuclear family and a refocusing of attention to the 'pure' domestic relationships between wife and husband and mother and child.

The disciplinary orderings of time and space were also a major feature of penalty in this period of N.S.W. mercantile capitalism. Melossi and Pavarini point to the way that in Europe and North America the contradictions between the formal equality of the

159 Robinson (1985)
160 Grimshaw & Willett(1981)
contractual aspect of the labour market and the inequalities of power between employers and workers in the factory were reconstituted in the parallel contradictions of imprisonment. The inequality of subordination 'within work' that is the consequence of the formal equality of the labour contract was reflected in the legal penal sphere in the formal equality of the rule of law which ended in the prisoners 'enslavement' within the prison. Moreover the parallels extended not only in terms of the relational aspects of the economic and the penal spheres but also in the parallel forms of the strategic ordering of space and time within the factory and the prison. In this period of classic capitalist relations, Australian prisons were built on the same principles of panopticon surveillance and control as those in Europe and America. The administrative and disciplinary classificatory processes produced detailed knowledge about the individual prisoner and the prisoner's activities were planned in what O'Malley describes as a careful and refined patterning of space and time.

In summary, although the family labour economy form of domesticity continued in the several small businesses and farms that supported family life for many people throughout the century, families increasingly depended primarily on the waged labour of men and children and the specialised domestic labour of the wife and mother, in the classic period of class relations in N.S.W. which lasted for the relatively short period from the mid nineteenth century to the 1880s. However, Australian women's domestic labour, even in family wage economies was particularly extensive and intensive, and likely to involve the productive work of providing vegetables and poultry, clothes and furniture, in the elaborate domestic economy of an 'urban peasantry' that characterised working class life in nineteenth century Australian cities.

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162 Grabosky(1977)
163 O'Malley (1983) p 154
164 Cass & Radi (1981)
165 P. Grimshaw & G. Willet (1981) p.146 Although it is difficult to extend this image to the significant minority of working class people living in the metropolitan slum areas of Sydney, described in Shirley Fisher (1982)
Nevertheless destitution was a feature of waged relations of production for the people in working class life Australia as it was in Northern Europe. The structured uncertainty of waged labour periodically exposed families to the risk of impoverishment and destitution when wages were the principle source of income. Moreover the separation of women and children from their own access to sources of subsistence put families headed by women especially at risk of impoverishment and institutionalisation through the death or desertion of men, or through spinsterhood if women were unable to secure through marriage their 'natural' unpaid domestic employment as wife.\textsuperscript{166}

The middle years of the nineteenth century were also the period of a rapid shift in the constitution of the legal penal sphere. The form of punishment and control as forced labour in the community combined with irregular public symbolic punishments to the body that suited the plantation capitalist of early settlement gave way to a greater emphasis upon the hegemonic policing and punishment suited to urban capitalism - the legal rational, centrally administered, bureaucratically organised, precise control of convicted people within the prison.

This reconfiguration of power, morality and rationality placed far more emphasis on the hegemonic control of productive relations through a major restructuring of both domesticity and penalty. Both the family and the prison became sites for the reproduction of the conditions for productive life.

On to this classic relationship between political economy, family and the legal penal realm of laissez faire capitalism was layered the next patterning of social control and the reconstitution of domesticity and penalty in the stage of corporate welfare capitalism.

\textsuperscript{166} Alford pp.218-219
Welfare Capitalism of late nineteenth and early twentieth century

Lisa Peattie and Martin Rein distinguish the three spheres of liberalism as the economic, the familial and the political, with the former two representing the 'natural' axis and, initially, in the period from the late eighteenth to the late nineteenth century, the intervention of the polity representing an 'unnatural' control in laissez faire terms. ²⁶⁷

Throughout the 19th century two specific areas of expertise developed deriving from claims to knowledge of the laws of the natural in the economic and the familial realms. The intervention of the state by the end of this era was legitimated by these two sets of scientific knowledges so that by the end of the nineteenth century the state entered into a far more interventionist mode of control. The opposition between the polity and the two natural spheres of the social and the economic was reconstituted from a 'natural/unnatural' to a 'natural/artificial' dichotomy. The more legitimate characterisation of the polity as 'artificial' rather than 'unnatural' underpinned the new era of direct state intervention through scientifically legitimated policy analysts and administrators.

The idea that there is a legitimate realm of the artificial becomes completed when a special class of policy analysts is conceived, and these analysts are then located in a separate institutional arrangement. These analysts, paradoxically, thus derive their legitimacy by conceiving themselves as students of the laws of the natural which must be described, generalised, and applied in the field of the man made initiative of 'policy.'²⁶⁸

Foucault locates the development of the sciences of 'natural' laws of human behaviour in the disciplinary techniques of surveillance, documentation, differentiation and observation that characterised control in the panopticon penitentiaries.²⁶⁹ The earlier individuation of the criminal leads by the end of the nineteenth century, to a much more detailed and prescriptive set of scientifically legitimated state interventions in the family and the individuation of the working class in general.

²⁶⁷ Lisa Peattie & Martin Rein (1983) p.6-8
²⁶⁸ Peattie & Rein p.7
²⁶⁹ Foucault(1977) p.29
The increased interventions in family and economic spheres brought a major expansion in public service employment in the 1880s. However this expansion of state intervention coincided with and was part of the complexity of shifts in other sections of the familial political economy. The early nineteenth century shift to a wage based family economy for working class people led to the 'revolution of rising expectations' of working class families and the development of the third stage of the family economy: the family consumer economy. This was compounded by several factors: the experience of the 'long boom' of the 1860-1890s when men's wages rose enabling wives and some daughters to concentrate on domestic work and give up the arduous double shift of paid and unpaid work, the increase in responsibilities of child care with the emphasis on the importance of childhood and the introduction of universal compulsory education. This latter feature was both part of, and a factor in, the constitution of childhood for working class children that meant that they no longer brought income into the home but became an economic and domestic responsibility until their mid teens.

The family consumer economy, developing towards the end of the nineteenth century, differed from the family wage economy, in terms of the increasing emphasis upon the father's role as the major productive worker in the family, and the much clearer segregation of working class women into their domestic role within the home, caring for their families. Although by this time women had fewer children, paradoxically this demographic change increased the mothers' domestic role, because with the decline of both the birth rate and the infant mortality rate, those children who were born had an increasing amount of time and money spent on them.

In addition the move to control the size of the family was not necessarily an easy transition for working class women. Judith Allen has pointed to the costs to women of the emphasis on smaller families in a period when birth control was not a universal

170 B Cass & H. Radi (1981)
171 W. Sinclair (1981)
aspect of the lives of working class women. She estimates the percentage of women experiencing dangerous back yard abortions was approximately 30% in this period.

By the early decades of the twentieth century the separation out of the two realms of productive and domestic life had become the 'normal' form of family structure for working class men and women. This does not mean that all or even most working class families were able to fit this form throughout their lives. It does mean that in both public policies and in peoples' own conceptions of family life this family structure became defined as the normal style of family relations.

This was not only a consequence of the voluntary withdrawal of working class women into the domestic sphere. There were both proscriptive and prescriptive forms of control over working class women which reinforced the constitution of domesticity in the form of the classic nuclear family. Those working class homes which did not provide a clean and regular family life were in danger of losing their children to the state. The development of the range of experts in the laws of the natural relations of social life meant that the voluntary withdrawal was continually reinforced by processes of 'normalisation' which defined woman's domestic work as her ability to make the home so attractive that it would result in husband and children being drawn away from the public to the domestic 'haven'.

The 'normality' of the family was reinforced by a network of surveillance and control as the family became the central focus of the gaze of a range of 'new professionals' in health, medicine and welfare.

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172 Allen (1990) pp. 96-105
173 In a set of interviews with sixty women, 30 from Adelaide and 30 from the Illawara, married between 1905 and 1929, all interpreted their position as married women, as a commitment to full time unpaid work within the domestic sphere. (Aungles 1980 1983)
174 Margaret Barbalet (1983)
175 Donzelot pp. 82-95
around the turn of the century the states legislated to penalise people who committed infanticide; who failed to provide adequate food, clothing, nursing or medical care to children under the age of 14 in their care; who wilfully neglected or ill treated such children; who failed to have such children vaccinated against infectious diseases.\(^{176}\)

The tension, between the cultural prescriptions and the structural limitations on the separation of productive and domestic life, in a society centred on the insecurity of 'free' waged labour in a political economy characterised by the booms and depressions of capital labour relations, created major costs for working class family life. For several women the exigencies of life in the 1920s and 1930s meant that they were not able to depend on their husbands as 'breadwinners'.\(^{177}\) These costs however, were experienced differently by husbands and wives. For women it meant an extension of their labour as the 'normal' family consumer economy reverted to a family wage economy with women bringing income into the home in the form of wages or food earned on the very margins of the economy, and with the material aspect of their domestic labour extended to the production of a much broader range of home made goods. Nevertheless one of the major characteristics of this extension of the material aspects of domestic labour was the parallel extension of the emotional dimension of caring labour. Women were at great pains to support the men's image of themselves as the primary breadwinner even over periods extending to years when it was women's domestic labour that provided the major material support for the family.\(^{178}\)

The work of both Donzelot and Kereen Reiger\(^{179}\) demonstrates the dual nature of the process committing working class families to a division of labour that replicated the form of family life adopted by the middle classes three hundred years earlier. On one hand it was a form that was regulated externally both through the informal agencies of the social sector and the scientifically 'neutral' formal agencies of the state. On the other hand

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\(^{176}\) Matthews (1984) p.176  
\(^{178}\) Aungles (1982) chs. 5-7  
\(^{179}\) Reiger (1985)
the women in the families did not act as 'mindless idiots' passively accepting a false ideology handed down to them from above.

If today's family were simply an agent for transmitting bourgeois power, and consequently entirely under the control of the 'bourgeois' state, why would individuals, and particularly those who are not members of the ruling classes, invest so much in family life? To assert that this is the result of an ideological impregnation comes down to saying, in less delicate language, that these individuals are imbeciles.180

Both Donzelot's and Reiger's work indicates that women actively worked with doctors, nurses and 'psy' experts in the construction of a family increasingly turned in on itself, excluding servants from domestic relations in the case of the ruling class, excluding lodgers, wives' mothers, and all but the immediate two generation family from the home life of working class families in order to secure the exclusion of working class men and children from the public life of the streets and the pubs.

Moreover the exigencies of working class life meant that the 'family wage' decision by Higgins in 1912 was an achievement for those working class families which conformed to the 'normal' pattern of breadwinning husband and economically dependant wife and children. This decision however was economically punitive for families which did not conform to this pattern. Households in which working class women had to support themselves or where they bore the economic responsibility for their dependents, whether the dependents were children, aged parents, invalid or unemployed husbands, were all penalised for their, usually involuntary, deviance from the normal. Moreover within the 'normal' families the family wage did nothing to guarantee that the resources would be distributed evenly within the household.181 Indeed the constitution of the husband as the sole breadwinner could then be interpreted, by both police and husbands, as condoning the father/husbands greater economic and political power.

180 Donzelot p. 52
within the household with all the risks of domestic violence\textsuperscript{182} and within household impoverishment\textsuperscript{183} that that inequality brings with it.

The appeal to the scientific basis of women's economic dependence was also evident in the several ways that women were explicitly excluded from wage and salary earning. With the expansion of occupations in the public sector with the development of state provision of education, welfare, communication and health services from the 1880s there was a strong campaign to prohibit the employment of women in the newly extensive public bureaucracies and the language in which these campaigns were set was the language of pseudo science about the 'natural' distinction between the biological, domestic role of women and the cultural, public sphere of male life.\textsuperscript{184} In those families where women's productive labour was still important, the continuing family labour economies of farms and small businesses, the wife's productive contribution to the economy was effectively masked by the negation of that work with the disappearance of unpaid labour as a Census category in the 1890s.\textsuperscript{185}

Single women's paid work anticipated their later married dependency, providing employers with below subsistence labour in factories and offices in the period between the 1880s and the second world war.\textsuperscript{186} Even when there was a shortage of labour, in the 1910s economic boom, employers were able to use the values about women's economic dependence on their families to pressure the government to bring out whole families to South Australia and to N.S.W. so that they could continue to employ the daughters at below subsistence wages.\textsuperscript{187}

\textsuperscript{182} Lois Bryson et al. (1989) pp.103-124
\textsuperscript{186} Aungles (1984)
\textsuperscript{187} S.A. Parliamentary Papers (1912) vol 2 (1) ppvii-x & N.S.W. Parliamentary Papers 1912 vol. 2 p.682 these refer to the Royal Commissions into the Shortage of Labour in the two states.
Although Donzelot's and Reiger's studies of the construction of the domestic sphere indicate that women were agents in the construction of their economic dependence on men within the domestic sphere, the construction of gender relations in the public sphere was not an uncontested development. Women vigorously, although unsuccessfully, opposed, through Public Service Association campaigns, their segregation and exclusion from economic independence. 188

It was through the multiplicity of knowledge experts in the reconstitution of domestic relations that the control of the state expanded into social life in this era. This development was paralleled by the changes occurring in the legal penal sphere.

Garland characterises this transformation as a positivist shift in penalty that involved a move away from the centrality of the principle of the individual to the idea of a constituted personality. It was the move 'from a philosophy of freedom to a psychology of human behaviour and its determinants.' 189

Both domesticity and penality then were reconstructed by this move towards a commitment that the social sciences, the sciences of human nature, could be effective in the constitution and the reconstitution of the human personality.

O'Malley's description of this shift in relation to penal policies and practices points to the differences between the forms of legitimation in the two eras. 190 In entrepreneurial capitalism in the competitive laissez faire era the structures of punishment and control were based on the principles of conflict over disputable facts decided on by juridical authority. The penal realm reflected the oppositional relationships of the market place, with the competition between capital and labour presided over by the State. With the shift to corporate capitalism control was based on consensus rather than the more

188 Deacon (1982.b)
189 Garland (1985) p.91
190 O'Malley ch.9
destabilising conflict basis of market relationships. The moral authority of legal rationality was replaced or rather substantially reinforced by the authority of scientific rationality in both the economic and the penal spheres in a more organic relationship between actors in the two realms with an emphasis on neutrality and facilitation rather than on the more distant juridical means of solving disputes. Indeed there is a direct link between the economic and the legal spheres as in Australia the shift towards the more interventionist and corporatist procedures in the sentencing structure of the legal realm were initiated in the industrial courts in the economic and social upheavals of the 1890s.191

O’Malley traces the shift to scientific authority not only in the sentencing procedures but also in the policies and practices of punishment and policing.192

This was the era of the drastic reshaping of the penal realm. Garton outlines the developments in N.S.W. which paralleled the changes in punishment and control delineated by Garland, Donzelot and Rothman in Europe.193 He summarises the key aspects of the changes in the penal realm as: the decline of the prison in terms of numbers of people imprisoned, the increase in different forms of punishment with the increase in fines and probation, the removal from prison of people other than ‘hardened criminals’, the growth of other areas of penalty, the multiplicity of sites of regulation, the shift in the legitimations for regulation from rational-legal to a more positivistic scientific knowledge and, finally, the shift from a repressive regulatory system to one that incorporated both repressive and coercive or voluntary elements.

Raymond Evans describes the situation in Queensland in the period prior to the 1880s when all people pauperised by their marginality to the wage relationship between capital and labour were, in the opinion of both capital and labour, in the same category.

191 O’Malley p.125
192 O’Malley ch. 4
Lunatics, vagrants, beggars, thieves, were all pariahs, “to call a man a pauper was tantamount to calling him a pariah - a sinful failure .. mateship was confined to those who could reciprocate.”\(^{194}\) and all of these social outcasts were treated in a common fashion.\(^{195}\)

Garland one of the major analysts of this period of change in penalty argues that it was predominantly, too, a shift from a system of control based on a vertically organised form of classification within one major site, the prison, to one in which the differentiation between those under control was ordered along a horizontal axis in several sites. In his influential work on the importance of this era for the construction of 'modern' penalty, *Punishment and Welfare*, he points out that there is now a social-penal complex in which there is a general mechanism of promotion and demotion. The three sectors in this complex are those directed towards 'normalising' 'corrective' and finally to 'segregative' procedures.\(^{196}\) So domesticity becomes connected to penalty along this line of possible transfers. In this era there is a decline in the numbers of people in prison in Australia\(^{197}\) but, paradoxically, in this remodelling of the functions of confinement, prison as a last resort enters into the lives of a much wider section of the general population. Family relationships in the home, especially mother-child relationships, became the starting point of a network of control and surveillance that, through a system of filtering agencies, ends at the 'coercive state-run terminus'.\(^{198}\)

Garton details the major changes from the 1880s, when the imprisonment rate in N.S.W. was 1,400 per hundred thousand, to the 1930s when the rate was down to approximately 50 per hundred thousand. The numbers of people under some form of social regulation however, increased in this period.\(^{199}\) The changes in penalty were many sided.

\(^{194}\) Evans (1976) p. 88  
\(^{195}\) Evans pp.87-79  
\(^{196}\) Garland (1986) pp.234  
\(^{197}\) Garton, (1988) p.320  
\(^{198}\) S. Mukherjee (1981) p.98  
\(^{199}\) Garton (1988) p.230
Imprisonment became more systematic. By the 1930s only 'genuine criminals' were in gaol. All other categories: women, children, the inebriate, the 'lunatics', the vagrant, petty and first time offenders, were in the control of a multiplicity of other regulatory institutions. Prison became exclusively the site of control of adult, sane, males.

This process of masculinisation of crime and imprisonment took place over a remarkably short period. In the 1870s the male:female ratio of imprisonment was roughly 3:1 and by the 1920s it was 40:1.\(^\text{200}\)

Garton does not make the theoretical point here that one of the key processes, in this increasing differentiation of deviance, is that prisons came to be the space in which only those, whose criminality could be defined in terms of their rational choice of criminal behaviour, were confined. The experts in the hidden laws of the arational came to dominate the regulation and control of the other categories of social behaviour that had to be controlled: psychiatry, probation and social workers, child care experts but predominantly medical expertise became the new legitimating force underpinning penalty.

Regulation increasingly incorporated the voluntary action of either the person under surveillance, especially in the case of women mental patients, but also the voluntary appeals from neighbours or family. People sought out treatment for themselves or their families or actively sought the intervention of the state.\(^\text{201}\) Several of the studies of control highlight the importance of the development of 'confession' from the repressive to the coercive techniques for incorporating the will of the controlled into their own oppression.\(^\text{202}\) Of the three themes of liberal reform of penalty through regularisation of control at the end of the eighteenth century, it was the Evangelical platform that most

\(^{200}\) Braithwaite.(1980) pp.202-204  
\(^{201}\) Garton (1988) p.234  
clearly emphasised the co-operation between the prisoner and the controller. With the shift away from competitive towards consensus relations in both the economic and the penal spheres, this inheritance from the Evangelical penal architects became a keystone of the new structures of penal control.

There is a key difference here between Garton and Matthews. Garton attributes the voluntary aspect of regulation to the shift to a more therapeutic culture. Matthews' analysis indicates a much more complex pattern involved in this alliance between expert regulators and client deviants. She points up the difference between peoples' expectations of the forms of help they would get from the regulators and their eventual embroilment. Matthews also emphasises the imbalance of power in the alliances, 'by and large, medicine took the credit for whatever was deemed progressive and successful. Women took the blame for individual failure.'

Moreover, Matthews' work indicates the structural rather than the purely cultural reason why people, particularly women, formed alliances with the regulators. She shows how being a 'good woman' was potentially an impossible experience for many women caught up in the conflicting demands of being housewife, mother, migrant, daughter. For women, experiencing the contradictory impossibility of being a 'good woman', there was little chance of escape other than through this alliance. Men could more easily escape the contradiction inherent in the impossible situation of being a 'good provider', when there was no employment, by 'deserting the family. As Hamilton's work indicates, historically this has been an option for men since the 16th century.

For a complexity of reasons, women could not escape the contradictions of femininity so easily: they did not have so much experience of the public world, they had few public labour market counters of exchange, the ties of caring were much more embedded in the

203 Dobash et al. pp.54-56
204 Garton(1988) p.324
205 Matthews p.176
206 Hamilton p.93
constitution of the feminine personality, and the public world was, and is, a much more physically dangerous place for women with no economic resources. Therefore the only escape from being a 'good woman' in the prison of the home for some of the women in Matthews' account was to become a 'good patient' in the mental hospital.\(^{207}\)

There are other major parallels between Garton's description of the constitution of penality and the work of Jill Matthews and Kereen Reiger on the reconstitution of domesticity in this era. Matthews points to the multiplicity of experts of family relations and the conflicts between them that meant that to be a 'good woman' was an impossibility in 'a gender order that was “ever changing and inconsistent “ ... the path was a maze.'\(^{208}\)

Similarly Garton argues that the penal sphere was a disputed site in this period. The psychiatrists were never able to establish their power knowledge base in the sphere as firmly as they would have liked.\(^{209}\) Weatherburn's characterisation of the contemporary N.S.W. penal system as Byzantine\(^{210}\) has its roots partly in this pre-world war two period. with the disputes between the 'soft' concerns of the 'psy' experts and the 'hard' regulatory emphases of prison administrators whose legitimacy lay in their practical experience as career bureaucrats within the prison system. Underlying these disputes between the two sets of penal 'experts' are the contradictions stemming from tensions in the political economy. In periods of high unemployment imprisonment rates increase.\(^{211}\) The economic exigencies of administering prison populations in periods of economic recession and depression have consistently underpinned the more hegemonic reconstructions of penality. From the late eighteenth century,\(^{212}\) to the present penal

\(^{207}\) Matthews Part III
\(^{208}\) Matthews pp.27-28
\(^{209}\) Garton (1982) p.144
\(^{210}\) Weatherburn (1986) p.137
\(^{212}\) Dobash et al p.34
crisis of the 1980s, prison overcrowding and the concomitant brutalising of prison life has been a marked feature of the history of penality in Western societies.

Matthews argument is that the 1890s political crisis which resulted from the combination of an economic depression and a politically cohesive and articulate labour force, meant that the internal family dynamics came under increasing scrutiny. Her description of the increasing regulation of family life of both working and middle class families parallels Donzelot's in that Australian women became defined in terms of their ability to keep husband and children 'off the streets'.

In summary this period can be seen as a key era in the establishment of the home and the prison as the two dominant symbolic and material sites of social control. There were significant changes, firstly in the separate constitution of each of the two sites and, secondly, in the relationship between them.

Francesca Cancian locates the feminisation of wifely, then maternal, love in eighteenth century Puritanism, then Victorianism. However it was in the era between 1880 and the second world war that domestic love, in both forms, became feminised across all classes. The family became located, in physical, social and psychological space, as the domain of the woman. At the other end of the continuum of social control, prison became fully masculinised but this masculinity of the prison, by its very singularity, became masked. Both semantically and epistemologically, and across all classes, 'man' became conflated with 'human' and 'male prisoners' became 'prisoners'. At the beginning of the period the academic discourses of crime, criminality and imprisonment differentiated between the male and female aspects of their subject. By the end of the

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213 Julie Vernon (ed.) (1987)
214 Matthews. From 1900 to 1930 the gaze of the regulatory experts of family relations shifts its focus from the relationship between the working man and his family to husband and wife relations then onto the reconstitution of the woman as the 'good mother'
215 Cancian (1986) p.702
216 Heidensohn (1985) ch. 6
period, as Frances Heidensohn's review indicates, criminological discourses including the functional, interactionist and the critical sociological analyses of crime and penalty were all conducted within the false universalism that masked the most significant aspect of the subject under analysis, its masculinity.\textsuperscript{217}

These two sites of social control, the home and the prison were clearly demarcated by the rigid epistemological boundaries of gender. Nevertheless, they were also connected by the continuum of 'normalising', 'corrective' and 'segregative' procedures that now constituted the much broader penal sphere. This penetration of the penal sphere into social life, connecting the family and the prison through a process of transfers from 'hard' to 'soft' controls, was established in this era particularly through the constitution of the child as a potentially delinquent subject.\textsuperscript{218} It was the mother-child relationship that was central to the reconstruction of penality as a penal welfare complex. It was in the next transformation after the second world war that this pattern of the feminised home linked to a masculinised prison through a series of normalising, corrective and segregating agencies came to be applied on a larger scale to adult deviance. There were however also major shifts in the gender class relations of the labour market in this next period of consumer capitalism against which the relationship between the home and the prison need to be set.

\textbf{From consumer capitalism to the retreat from welfare: 1950s to 1980s}

Tilly and Scott differentiate between two forms of family consumer economies: the first form lasting from the turn of the twentieth century to the beginning of the second world war, characterised as the classic nuclear family - two generational, a small number of children and with the father as sole or primary breadwinner and the mother's labour characterised by her withdrawal from productive work even in the home. With the

\textsuperscript{217} Heidensohn ch. 7
primacy of the woman's purely domestic labour of the constitution of the individual personality of her children and husband, domestic labour becomes unequivocally, the labour of 'care'.

The several contradictions between this ideal for working class women, and for many middle class women, in periods of economic downturn, do not so much repudiate the validity of this characterisation as demonstrate how powerful an ideology it was especially in compounding the severity of the various economic crises for several families during this period up to the second world war. Nevertheless Matthews identifies factors in this era that were to become the basis for a widespread questioning of this ideology of gender. The basic contradiction of the artificial construction of supposedly natural familial relations made explicit the plasticity of the constitution of gendered personalities and domesticity. This questioning however was associated with a range of other changes in the construction of family life that Tilly & Scott describe as the development of a second form of a family consumer economy.

The second form of family consumer economy is a modification of the classic form of the first few decades of the twentieth century. By the 1950s, the central economic problems shifted from the sphere of production to the crisis of consumption and realisation. Subsequently there were increasing pressures on families to consume more material goods. The priority over concerns with consumption and distribution was associated with the development of a complex set of changes in the public sphere including the expansion of the tertiary sector, especially of routine white collar work, the shift in the labour market from full time and long term to part time and casual employment, the decrease in the length of the male working day, and the increasing costs to individual families of the lengthening of the period of children's economic dependence as the school leaving age rose to 16. These changes together with the

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219 Tilly & Scott ch. 8
220 Matthews ch.5
221 Tilly & Scott ch.9
continuing effects of the expansion of occupations in the social sphere had major effects on domesticity. The single most important effect of these changes was that increasingly mothers went out to paid work to increase the material well being of their families. Young single women were much more likely both to want and to be able to get work that was more than a stop gap measure between leaving school and withdrawing back into the home on marriage. These changes were not uncontested. Some, the opening up of jobs and careers to women and the 35 hour working week for full time workers, resulted from severe class and gender based battles. Nor are these changes necessarily to be interpreted as successes for either the working class in general nor for women as a group. Heidi Hartmann calculates that the number of hours people spend in work, including male and female, paid and unpaid labour in the domestic and the public spheres, now totals substantially more than did those in the period of the dominance of the classic nuclear family. She argues that this restructuring of the relationship between domestic and political economic spheres means that there has been an effective shift of surplus value to capital.

The dynamic effect of this shift of surplus value to capital means that there is increasing pressure for people to have to exchange their labour for wages as the value of waged labour decreases in relation to profits. The uneven development of productivity particularly in terms of one of the most significant costs for families, housing, means that working class families are forced to rely on two wages rather than one to have access to minimal material subsistence in relation to current definitions of a normal family life.

Matthews identifies the major ideological discourse pervading this period of the restructuring of domesticity as the shift to permissive consumerism. There are three ways in which this ideological change alters the relationships of control between the family and the political economy.

222 Hartmann (1981)
223 Matthews pp.89-91
The first concerns the continuing redefinitions in the way individual family members interpret their own personality and the culture of domesticity. The inherent political economic pressures to sustain economic growth through increased levels of consumption lead to a specific form of commodification. New markets are created and sustained by massive advertising projects centred on anxieties about personal and family relations that can only be resolved through the purchase of specific and ever changing commodities. Sociality, familism and personality are all at risk of becoming commodified through the regular unpeelings of deeper levels of guilt and inadequacy. The market becomes one of the major shapers of the way family members construct their self images in relation to domestic life.

Secondly, the impact of an economy centreing around the problems of consumption are linked to a shift away from a value system extolling thrift to one legitimating credit. Economic and financial institutions are created which lock family life into engulfing credit systems. The shift in the nature of social control between political economy and domesticity is profound. In family labour and family wage economies the material resources of the wider kin have traditionally supplemented the narrowed economic resources of the family during the periods of crisis. When 'normal' family life revolves around high levels of commodity consumption based on credit the familial political economy is turned in on itself. The immediate economic problems become the payment of loans and mortgages through credit institutions. The sharing of produce from vegetable gardens and chook yards and the handing down and mending of coats and shoes that typified family support in the earlier eras of 'getting by' cannot sustain families in this more abstract rational relationship between domesticity and political economy. Economically families are likely to be at risk of facing the loss of waged income on their own. The impact of the interlock between domesticity and credit on

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class confrontations in the labour market seems likely to place labour at a greater political economic disadvantage. Credit becomes a form of diffuse political economic control.

The discourses of permissiveness however extend further than the market. The wider diffusion of the permissive ethic sustaining consumerism made a major impact in terms of the liberalising of attitudes, laws and policies in the sphere of family life, in the 1960s and early 1970s. Homosexuality was decriminalised, unmarried mothers became eligible for supporting parents benefits, divorce became more accessible, abortion was made legal.

Matthews argues that there are contradictory consequences of these shifts in the definition of sexuality.225 Whilst these changes conferred greater degrees of freedom for specific people they were located in the general discourses relating female sexuality to ideological manipulation. Similarly, there are major contradictions for women, especially working class women, when the ethic of permissive sexuality is located in a political economy sustaining both familism and a continuing structured inequality of access to the labour market in terms of both class and gender. Single parenthood has become the most significant factor associated with the risk of impoverishment in Australia because the familial work of caring is still constructed in terms of economic dependence.226

In addition to the tensions inherent in the familial construction of single parenthood, there are several other particular tensions in the present period between the extension of women's labour into waged work in the public sphere and the continuing demands for caring work constructed as unpaid labour in the domestic sphere. Moreover, there are several aspects of the contemporary form of familial political economy that exacerbate the contradictions between the two spheres. These include: the retreat since the early

225 Matthews p. 89
226 Cass (1988)
1970s, of the state from its earlier commitment to welfare, the related but separate question of deinstitutionalisation, the increased significance of education and the prolonged economic dependence of children, the development of sets of professional/semi professional hierarchies in various welfare and medical spheres, the impact of improved health and medical techniques in terms of the extended dependence of several groups of people whose access to resources lies outside of the wage capital relationship, the displacement of increasing sectors of the population from waged labour with the expansion of capitalism.

The neo right versions of liberal capitalism reduce state intervention on two fronts, shifting costly state supports for the reproduction of non-productive life to the community and the family at the same time as they shift the profit making sectors of state intervention to the private entrepreneurial sphere.

There are several ways in which these two processes result in a regressive redistribution of surplus value. The relations of the production, consumption and distribution of the use values of caring work in the several specific forms of this retreat from welfare have been the focus of several socialist feminist analyses. The most recent emphases have been on the dual concern with why domestic labour is different from productive labour, and what are the material costs and benefits of the domestic labour of caring work. The former concern promotes questions about how domesticity is constituted and how women are constituted as feminine personalities, the latter about the costs to women carers of foregoing paid work and careers in the formal labour market, and of making visible the hidden value of caring work to the state.

227 Graycar (1983)
228 Scull (1977)
229 Jeff Hearn (1985)
There has been an extensive documentation of the centrality of the nexus between caring and dependence in the construction of contemporary social life. Nevertheless the unpaid work of caring in the domestic sphere is not calculated in the annual estimate of the gross domestic product. One estimate of the value of unpaid work in the home including the caring for others, housework and productive activities, is that it would add an extra 34 per cent to the G.D.P. if included in the economic calculations of the public sphere. Ann Oakley made one of the most detailed investigations of the materiality of housework. She pointed up the impact of the idealisation of the orthodox social sciences on the actual day-to-day lives of women doing housework. These material consequences stem from the contradiction between the expressiveness of domesticity and the instrumentalism of public life in Functionalism and in the hidden Functionalism that runs through the orthodox 'sociology of the family'. This construction of the two spheres in such dichotomous terms means that the actual materialism of housework, its own instrumental character in such tasks as cleaning, transporting, organising, cooking and laundering, is rendered invisible. The contradictions that women actually face between the two opposing constraints - to be expressive, 'warm', conciliatory and person-oriented whilst they are doing the tasks that demand a more instrumental approach - cleaning, budgeting, laundering, transporting, then are rendered invisible in the orthodox sociology of the family emphasis on the expressive aspects of the work of socialisation. Graham endorses Oakley's argument but also points up the inverse process in the Marxist versions of the domestic labour debate. These also avoid that central contradiction, but by a focus on the material aspects of domestic labour that drains the emotional component of domesticity of its political significance.

234 detailed in chapter five
235 A. Crowe (1987) pp. 5-8
236 Oakley (1974)
237 Graham (1983) p.28
A second key feature of the socialist feminist analyses of the construction of domesticity in the 'retreat from welfare' era is the deconstruction of the term 'community'. The combined ideological appeal of 'deinstitutionalisation' and 'community care' have legitimated several policy changes that have effectively shifted the material responsibility for people marginal to productive relations - the invalid, the aged and the mentally unstable - to the unpaid labour of women in the home. This interdependence between the reproductive and the productive spheres is masked by the processes of conflation indicated by Yeatman in her critique of sociological theory and social policy (outlined in the previous chapter): the family in the discursive practices of the social sphere becomes lost in the abstract sociality of the term 'community', 'In practice community care equals care by the family, and in practice care by the family equals care by women.'

It has been argued that the increased participation of women in the waged labour market may serve to reconstruct the gendered nature of unpaid caring work. Ungerson argues that this is likely to make little impact on women's greater propensity to take on unpaid caring work as first, women's labour force behaviour is dominated by their perception of the family's needs and second, women's subordinate position in the labour market means that men are still less likely than women to forego their capacity for wage earning to become the unpaid carers of dependent kin.

The constitution of domesticity in this period then is overshadowed by the demographic and political economic shifts involving an ideology of community based care that potentially puts women at risk of a lifetime obligation to unpaid caring work. The central contradiction of the current shifts in the relationship between the two spheres lies in the paradox that it is the economic rationalism of the neo liberal capitalist political

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238 Finch J & Groves D (1980) p.494
240 Ungerson cites the several attitudinal and labour market economic surveys that support this argument (1987) p.13
administrations that is the most likely to be dependent upon the hidden contracts between men and women and between employers and workers, that commit women to unpaid caring labour.242

The shift to an ideology of community based care is paralleled in the penal sphere by the 'take off' in community forms of penal control in the 1960s and 1970s. Garland pinpoints the establishment of community based penality in the early twentieth century,243 but it was not until sixty years later that community based punishments such as probation, parole and community service orders dominated, in numerical terms, the range of penal options for adults. In N.S.W. the proportion of all people under some sort of control who were held in prison dropped from 45% to 28% in just nine years (from 1969 to 1978).244 Whereas the prison population grew by 4% in that period, the numbers on probation increased by 114% and the numbers on parole increased by 163%.245

If the shift to community based forms of control is charted over a slightly longer period in the fourteen years from 1960 to 1974 the explosive nature of the changes in the penal sphere is even more notable. The ratio of prisoners to those on probation and parole dropped from 3:1 to 3:7 over that period,246 By 1986, if the data for the new form of control, Community Services Orders is included, the ratio of imprisoned to community controlled offenders had fallen to approximately 3:10.5.247

There are conflicting explanations in the critical analyses of the massive shift in the form of penalty. The introduction of community controls was effected through the introduction of what Garland calls a new set of signifiers in official policy statements and

242 Dan Gowler & Karen Legge (1978)
243 Garland (1985) and Garland & Young (1983) p. 60
244 O'Malley p.157.
245 O'Malley p.157
246 Peter Sinclair(1974)
247 this ratio extrapolated from the data in Ivan Potas (1986)pp. 18/19
practices in the 1950s and 1960s. Garland sees these signifiers of 'treatment', rehabilitation' and 'welfare' as being linked to the broader chains of reference and ideologies of the welfare state. However by the 1970s there was a combination of factors that had a major effect on penalty. These were: a major disenchantment with 'treatment' and 'professionalism' that amounted to a collapse in the belief in rehabilitation, the growth of prisoner organisations and conflict within prisons and the fiscal crisis resulting from the transnational restructuring of the political economies.

"Nothing works", the two words summarising the comprehensive review of penal practices by Martinson in 1974, became the significant phrase in penal discourses in this period of disillusionment with 'treatment'. Nevertheless, this combination of factors resulted in a reinforcement rather than the dissolution of community-based controls. Numbers under some form of community control kept increasing whilst the numbers imprisoned behind institutional walls fluctuated sufficiently for prison administrators to occasionally point to 'successful' attempts to keep offenders out of prison. However by the mid 1980s prison overcrowding was the major concern of penal administrators in the U.S.A., northern Europe and Australia.

Scull, one of the main critical commentators on decarceration, associated the proportional shift away from expensive institutional forms of containment of people under sentence, with the fiscal crisis of capitalism. He drew explicit parallels between the processes of decarceration in the penal realm with those occurring in health and welfare fields. This narrowly economistic analysis has been contested primarily from a radical critique which develops a more hegemonic form of explanation.

\[\text{Garland (1983) p.60}
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\[\text{R. Martinson (1974)}
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\[\text{N.S.W. Department of Corrective Services Annual Reports 1975 - 1986.}
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\[\text{the several papers presented at the Australian Institute of Criminology seminar on prison overcrowding in 1987 indicate that the Australian pattern conforms to this international shift. Vernon (1987)}
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First, the similarity between deinstitutionalisation in the two fields is contested. There has not been any major closure of existing prison structures. The rate of imprisonment, especially in maximum security prisons has increased in absolute terms even if there has been a relative decline in terms of the proportion of the population who come under some form of control. Imprisonment rates in N.S.W., were reaching by 1986 the high levels of 4,000 plus that characterised the levels prior to the explosion of community based controls.\textsuperscript{253} Prison still operates as a punishment of the last resort, picking up responsibility for the punishment of the severest forms of crime and for people who 'fail' to be contained by the lesser forms of imprisonment in the community. In this symbolic form then, prison remains as the central point of the penal sphere. The addition of lesser community controls increases rather than decreases the importance of prison in the penal sphere.\textsuperscript{254} The Chairman of the N.S.W. Corrective Services indicated that this is a more accurate image of the relationship between prison and community control than the 'alternatives' model. The 12,600 out of 15,000 people who were contained under some form of conditional liberty in N.S.W. in 1984 were controlled in the end, he argued, because: '(there are) powerful sanctions under existing legislation for people who are on conditional liberty to be easily returned to gaol.'\textsuperscript{255}

The introduction of community controls then, as Barbara Hudson says, serves to extend, diffuse and strengthen the principle of incarceration.\textsuperscript{256} Prison became the site of control of the offenders who have become defined as the 'hard cases'.\textsuperscript{257} In this reconstitution of imprisonment, the practices and strategies for control within prison become more militaristic. N.S.W. has introduced riot squads, tactical response groups and dog detection units in this era of the 'retreat from welfare'.\textsuperscript{258}

\begin{thebibliography}{9}
\bibitem{253} Weatherburn (1986) p. 119
\bibitem{254} This point is also made in the comprehensive review of changes in penalty in Australia by Chan and Zdenowski (1986)
\bibitem{255} Vem Dalton (1984) p.30
\bibitem{256} Hudson (1984) p.58
\end{thebibliography}
However as O'Malley points out, although the fiscal argument is not a sufficient one, the explosion of community based controls does have an important economic aspect: a much wider range of the population can be controlled for fewer resources than would be necessary if imprisonment was the sole form of punishment.259

The second part of the critical contestation of the purely economistic explanation is that the partnership between the 'hard' prison and the 'soft' community styles of punishment parallels the hard/soft style of control and surveillance in policing and O'Malley points to the similar blurring of boundaries between criminal and civil law.260 This extensive pattern of hard/soft procedures seems to indicate then that there is something more penetrating occurring in the realm of control than just a concern to limit state expenditures.

Cohen's comprehensive review of community controls in the U.S.A., and academic and administrative discourses about the spread of control into the community, has been the most influential analysis.261 Using a fishing analogy he argues that there are four processes occurring that profoundly change the nature of penality in this era. First, community controls involve an expansion of state intervention as more people are being caught up in the net of State control and surveillance. Second, the filtering processes become narrower catching not only more but a wider range of people for smaller offences. So state intervention becomes more penetrating. Third, the incorporation of formerly non-penal community institutions means that these formerly familial or social groups are transformed, taking on the characteristics of controlling organisations. Finally, he argues that these transformations serve to mask the extent of the widening, and the increased penetration, of state control and surveillance.262

259 O'Malley p.160
260 O'Malley pp.164-166
261 Cohen (1985)
262 Cohen (1985) ch 2
Both O'Malley and Spitzer argue that the increasingly intensive levels of investment in
capitalist production are associated with more organic forms of control of social life.
State intervention is increasingly about pacification rather than adjudication. It moves
away from the narrow regulation of market contracts to the more proscriptive
interventions of promoting smooth social relations and defusing social conflicts.

O'Malley however rejects the left functionalist analysis that this delineation of increased
state intervention seems to imply. He argues like Garton that there is a contradictory
character to state intervention and the blurring of boundaries between State, social and
family life. State intervention can be both liberating and repressive. 'For many
purposes, the state emerges as the only readily available, potentially effective
countervailing force to a large array of repressive interests and arrangements.'\textsuperscript{263}

Secondly, he points to the contradictions within capitalism in this period of the
restructuring of the familial political economy.

The debate initiated by Scull, on decarceration in the penal sphere, indicates that the
current reconstitution of penal hurry has very specific differences as well as similarities to
deinstitutionalisation in other areas of social life. The current shift in the relationship
between family, the economy and the state is manifested through several aspects of a
retreat from welfare. This is because there is a variety of forms of marginalisation from
the 'normal' domesticity characterised by the relationship between caring and dependence
in which caring labour reproduces breadwinning productive labour. Domestic labour
can be about the care of children, the aged, the invalid or the destitute. These various
dependencies are all marginal to, but derived from, their relationship to productive life.
Caring labour then is related to productive life through a variety of specific relationships
of dependence. The domestic work of caring in the penal realm is constituted however,
by a unique filtering process. It is the one sphere in which, in the case of

\textsuperscript{263} O'Malley p 177.
imprisonment, dependency and caring result from the explicit restriction imposed by the state on the exchange of the labour of fit adult males in the 'free' market. Penal institutionalism creates an 'artificial' impoverishment through imposing dependence on the State on the family outside, as part of the punishment imposed on the man inside. Deinstitutionalisation practices in the penal sphere, if they reinforce and even increase rates of imprisonment, are likely to increase this 'artificial' dependence at the same time as they increase the exploitation of caring work through the range of 'community' based additions to imprisonment. At the same time the spread of community controls seems likely to increasingly incorporate women's caring work into the networks of control and surveillance through the return to a specific form of a diffusion of domesticity and penalty in the era of advanced corporate capitalism.

Conclusion

In conclusion, Garland argues for penalty to be seen as the specific institutional site through which political, ideological, economic, legal and gender, social relations operate. Penality he argues is 'the over determined site' in which the social relations of the wider familial political economy are both reflected and mediated. Both the penal and the domestic spheres are constituted as the sites in which the relations of capitalism are reproduced. However the specific forms of gender class relations within penalty and domesticity vary with the particular crises that characterise each phase of the historical development of capitalist relations.

In the earliest era of class relations, the phase of primitive accumulation from the 16th to the late 18th century, the principle crisis was in the sphere of exchange. It was the establishment of the constitution of the individual liberal bourgeois capitalist in terms of his legal subjectivity as property owner that was the major point of tension in the familial political economy. The 'invention' of crime, the punishment of segregation particularly

264 Garland (1983) p.21
by transportation in the field of penality and the segregation of the domestic sphere in the families of the bourgeoisie were the major consequences of the tensions arising from this phase in the establishment of the gender class relations of liberal capitalism.

The 19th century crisis, in the next phase of the familial political economy, was located in the sphere of production and the focus shifted from the individuality of the bourgeoisie to the individualisation of the labourer and the control of the dispossessed labouring class. The constitution of the family life of the labouring classes as a key site of control, reinforcing the 'dull economic compulsion' upon the breadwinning father, paralleled the development of the centrality of imprisonment as the major form of punishment depriving the labourer of his freedom to exchange his labour at the same time as his labour became the primary resource for the labouring class family. Both the home and the prison became 'sites of moral order' but with morality in the former stemming from the irrational relations of family life and in the latter from the rationality of the regulated and systematic patterns of punishment and control.

The third and most recent crisis of capitalism, in the latter half of the 20th century, developing out of the tensions in the sphere of the realisation of value, concerns not the constitution of the personality of the bourgeois nor the personality of the labourer, but the personality of the consumer and the management of the relations of consumption. Both domesticity and penality are reconstituted within the complex sets of tensions that characterise this latest phase of the gender class relations of the familial political economy but the two sites are also much more manifestly connected through the various dimensions of repression and coercion that characterise the complexities of social control in this era in which the earlier tensions of the relations of exchange and production are not so much replaced by as mingled with those of consumption.
The configurations of power, morality and rationality take complex and contradictory forms in the several reshapings of the intersections between the family, the state and the economy as the tensions of each era are layered onto those of the earlier period.

A key element in this hegemonic interpretation of the way that the penal and the domestic spheres are constituted and reconstituted in relation to the social relations of the wider society, is the way that both the home and the prison become the sites of the resolution of the tensions arising from two major processes of dispossession: the dispossession of the peasantry from the land in the establishment of the bourgeoisie as property owner and the second and recurring process of dispossession of the labourer from waged labour. Whilst this latter process occurs periodically in the recurring cycles of capitalist production and the concomitant swings in the labour market there is also a more general push towards unemployment and underemployment in 'first world' familial political economies with the internationalisation of the labour market in the transnational corporate phase of capitalism and the various fiscal crises of the nation states of 'the first world'.

Although this summary has focused on the primacy of political economic relations in charting the changes in domestic and penal life in terms of the tensions of class relations, the home and the prison are the sites of a multiplicity of power relations in contemporary society. This review has been based on the position that these other bases of power are, nevertheless, understood only within the terms of a feminist materialist analysis: that the several, and often competing authorities, which operate prescriptively and proscriptively on the individual's experience of social life, primarily mediate the familial, political economic relations of liberal capitalism and its successive forms. Garton, who takes a more post structuralist position, has recently argued that there needs to be a reconceptualisation of penalty and incarceration that will incorporate explanations of structural shifts in forms of penal intervention as processes of intra-

\[265\] Garton (1988) p.309
class and gender conflict in addition to the conflicts between classes. In his own work Garton has particularly emphasised the importance of the development, in the period between the 1880s and the second world war, of psychiatrically based sites of control and the differentiation of the working class, adult, masculine population of the prison from the intra class but increasingly feminised populations controlled in mental hospitals. This perspective provides valuable information about the intricacy and complexity of control as well as indicating the extent to which the State can be, or can be appealed to as, the ally as well as the controller of the people who come under its 'care'. However this perspective tends to underestimate the contradiction that the people with least power and authority experience in their relations with the state. This point is highlighted by the central theme of the remaining chapters of this thesis. Garton points up the significance of the masculinisation of prison and its consequences for women in terms of their increased risk of becoming the subjects of psychiatrically based care and control. However, there is another population of women that is constituted by this masculinisation of prison populations. This other population has a singular characteristic - its invisibility. The marginalisation of this specific population of women is a particularly condensed form of what Anna Yeatman calls 'the false assumption of the self-sustaining nature of public life' and 'the masking of the dependence of the public on the domestic sphere'.

In chapter four, the processes of interdependence, incompatibility, masking, privileging and marginalisation that mark the tensions of the relationship between patriarchy and capitalism in the wider sphere are examined as they occur in the 'over-determined' realm of penalty.

The summary of the separate literatures of the development of domesticity and penality indicates that the family has been incorporated into the penal sphere in a variety of ways.

266 Garton (1988) pp.330-331
267 Yeatman (1986) pp.158-159
However the current patterns of that relationship are not constituted as some finally evolved form. The present interdependence between the prison and the home is constructed as a complex layering of discursive practices, constantly negotiated in terms of the tensions within each sphere and more particularly of the tensions between the two spheres and the wider political economic realm. The specific forms of this complex and contradictory incorporation of the family into the penal sphere is spelt out in greater detail in chapter four.

From chapter four on, the thesis is drawing on original research to investigate the propositions outlined in chapter one. Therefore before detailing the results of this analysis, the next chapter outlines the two major research approaches that are incorporated into the investigation of the complex social space: the intersection of 'the home and 'the prison'. 
CHAPTER THREE
RESEARCH DESIGN

A. Introduction.
The research design is based on two broad approaches: an analysis of penal policies and discourses with a particular focus on the way those discourses have constituted the population 'families of prisoners', and a review of the impact of those policies and practices as they operated in N.S.W. in 1987-1988. This latter part of the research draws, on

(i) the specific penal policies, practices and debates that operated in N.S.W. in the period 1960-1988, and

(ii) the accounts of 38 people who were in the population 'families of prisoners' in the eighteen month period, May 1987 to November 1988.

B. Methodological theory and discussion
The feminist challenge to the social sciences intersects with the question of whether there is a unique feminist method of inquiry. The epistemological questions of the impact of feminist inquiry on sociological theory have generated vigorous discussion within feminism about the appropriate methods or techniques for gathering material as well as the broader issues about theories of how research should proceed.¹ These three levels of debate, of knowledge, method, and of methodology have been infused with the ontological question of what it is to be a woman: whether forms of being and forms of knowing are so intertwined as to be inseparable issues, and what the implications of this conflation might be for research design and choice of research technique in feminist inquiry.²

² Yeatman (1990)
It has been argued that the feminist research approach is, in several ways, markedly different from that of conventional social science. Because in liberal capitalism, women's lives are constructed and defined by the primacy of their commitment to the domestic sphere, their experiences are diffused, comprising multiplicities of roles that not only fragment, but make inherently contradictory, what it is to be a woman. The ties with the domestic sphere then, render issues that are important to women, invisible to a masculinist sociology that is preoccupied with the more clearly defined specificities of public life. Thus there is no conventional sociological problematic that can confront the issues immediately pertinent to women's lives. Neither then it is argued, can conventional social science methodologies be drawn on to investigate the broader question of the interdependence and incompatibility between the public and the domestic spheres. Moreover the ways in which conventional masculinist social science constructs social life is not only a problem in terms of the way that relationships between the domestic and the public spheres have been ignored. The language, the problematics, the explanations derived from mainstream social science have also served to mask that relationship, either by denigration, by assumptions about the naturalness of domestic life or by an acceptance rather than a questioning of the conventional field definitions that separate rationality and affectivity. Masculinism then not only does not see, it operates either intentionally or more likely by custom, to make seeing more difficult. Masculinism, it should be emphasised, is not the prerogative of men. The 'collective delusions' have been part of a general agendered social science consciousness. Moreover, feminists, both men and women, have had to work through their own earlier taken for granted assumptions and linguistic distortions that have marginalised, or made invisible, the significance of the domestic sphere for social life.

3 Matthews (1984) Nancy Hartsock (1987) p.177 One of the most elegant counteractions to this contradiction was made by the women factory workers who, on strike in New York in the 1910s, demanded both 'bread and roses'.
4 Dorothy Smith (1987)
There are several consequences for research design and technique of this feminist restructuring of social analysis. The arguments include the claims that: the conventional field definitions in which the problematic is posed have to be redefined,\(^5\) researcher objectivity undermines rather than clarifies the analysis,\(^6\) the focus of the research makes central what is either ignored or marginalised in conventional, that is masculine, social science.\(^7\) The debate over whether, and how, a feminist sociological research is possible then raises issues about: the viability of disciplinary boundaries, the way that taken for granted aspects of social life can be made problematic, what questions can be asked, the concepts and language in which those questions can be formulated, the methods of collecting data, the relationship between research and women as the subjects or objects of knowledge. In short what Sandra Harding has summarised as ‘who can be the knower? what test beliefs must pass to be claimed as knowledge?, and what kinds of things can be known?’\(^8\)

These methodological, political and epistemological issues however, are not unique to feminist research. All of these aspects of sociological investigation have been raised by recurring Marxist and phenomenological challenges to the mainstream social sciences, notably in the 'value free debates' of the 1960s.\(^9\) It is rather in the feminist use of the techniques developed by the earlier challenges to orthodox social science that feminist research can make claims to uniqueness. There is a particular resonance between the epistemology of feminism and the methodologies appropriate to ‘the central project of making known the voice of silence, ... ... the centrality of marginality and exclusion, the public nature of privacy and the presence of absence.’\(^10\)

\(^5\) Harding p.31  
\(^7\) Dorothy Smith (1987)  
\(^8\) Harding p.1  
\(^10\) MacKinnon (1987)
This point is reinforced by the project that Elizabeth Gross outlines as Irigaray's challenge to prevailing models of power and knowledge:

'...to speak to evoke rather than designate, to signify rather than refer, to overburden oppositional dichotomous categories by refusing their boundaries or borders is to occupy the impossible 'middle ground' excluded by logic and reason in their present forms. This is not to create a discourse without meaning but rather to proliferate many meanings none of which could hierarchically unify the others.'

This however raises an issue about the very possibility of a feminist sociological research project: the question of whether 'modern social science' is inherently patriarchal.

**Masculinism and sociology**

One of the main aims of this thesis is to contribute to what Yeatman has described as the dual promise that sociology has to offer feminist theory and that feminism offers to sociology. This comprises the task of making problematic the modern differentiation of social life by asking about the

(i) the mutual interdependence of domestic and public life

(ii) the masking of that interdependence

(iii) the privileging of the public and the marginalisation of the domestic.

In a later paper however, Yeatman jettisons the belief that feminism will 'strengthen the general theoretical enterprise that characterises sociology'. In its place she builds an argument that the two are inherently incompatible theoretical enterprises. Even though sociology, with its core promise in 'the idea of the social' seems open to a feminist reworking, it nevertheless has been far more resistant, she argues, than would have been expected given the claims to a disinterested and impersonal universalism from which it draws its own authority as a discipline.

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11 Elizabeth Gross (1986) p.138
12 Yeatman (1990)
13 Yeatman (1986)
14 Yeatman (1986)
Yeatman argues that this intransigence is due to two factors. Firstly, she draws the Kuhnian conclusion that individuals' personal and professional careers are threatened by such a paradigm change. Making domesticity problematic would undermine the dualistic structure upon which sociology is built, the social/nature distinction.\(^{15}\)

If that were the only problem then the paradigm, although it might take an academic life time to change, would nevertheless not be intrinsically immutable. Yeatman identifies a second more structural factor. As it is sociology, along with economics, psychology and political philosophy, that has been especially resistant to the feminist challenge, in contrast to the apparently more welcoming disciplines of anthropology, literature and history,\(^{16}\) its obduracy, Yeatman argues, seems to be due to its gatekeeping function in maintaining the 'dualistic ordering of reality'. She neatly employs the analytic tools of modernist sociology here in further arguing that there is a division of labour in the specific roles that sociology, economics, psychology and political philosophy separately play in maintaining modern social life.

(they) each have been assigned specific roles in a division of such gatekeeping labour, where their specific version of the modernist dualisms supplies a necessary variant of this logical structure such that taken together they constituted a universe rather than parts of one.\(^{17}\)

In contrast, history, literature and anthropology are 'discursively rather than strategically related to the modernist conventions'.\(^{18}\)

Yeatman argues that sociology in particular defends 'possessive individualism' by continuing to legitimate the differentiation of spheres on which modern authority relations depend. Even though in contemporary social life, women and children are accorded civil status in their own right, the dualisms of public/private,

\(^{15}\) Yeatman (1990) p.15  
\(^{17}\) Yeatman (1990) p.14  
\(^{18}\) Yeatman (1990) p.14
individual/society, reason/nature secure reality as a 'series of alibis' enabling individuals to 'slip from one term to another', but that fluidity is bought at the cost of having the power to constitute others as the 'quasi individual' others in whose inverted reflection the alternate and seemingly contradictory claims to 'rationality' or 'rugged freedom' can be made. That is, domesticated rationality is the lesser term which endows superiority to the glamour of the powerful convention breaking individual of 'free enterprise' in the private sphere. However, domesticated arationality is the lesser term when counterposed against the reasonable and impartial power of the state. 19

The first argument, grounded in the particularistic interests of current individual power brokers within the discipline, is easy to dismiss. The social construction of knowledge, as Yeatman herself indicates, means that the charge of epistemological heresy that is based on an appeal to the authority of existing (traditional) paradigms is a difficult basis for prosecution for sociologists however well entrenched they may be in the securely tenured hierarchies of academia.

The second, that sociology is especially deeply involved in the dualistic orderings of reality suited to the particular current and ongoing social relationships of subjugation, is valid only if sociology is defined in the narrowest of terms, in which as a discipline it excludes any dialogue with political philosophy, economics and psychology.

However the argument that the problem of closed boundaries between the disciplines should then be a reason to jettison sociology, paradoxically rests on the dualistic proposition that the only choice is between the dichotomous terms of closed boundaries/no boundaries. There seems to be little value in travelling from an authoritarian to an anarchic epistemological position. Yeatman's own argument, that what sociology has to offer is the 'idea of the social', makes it too valuable to jettison.

19 Yeatman (1990) pp.18-19
The alternative claim is for a sociology that has more permeable boundaries and that admits economic, political and psychological concepts and questions, but always from the central standpoint of making problematic the social and, especially, of making problematic the differentiation of the social. Indeed the idea of an interdisciplinary approach is predicated on the continuing existence of disciplines as distinctive ways of interpreting the world.

Although there continue to be political and economic reasons, both on an individual and a structural level, for a masculinist sociology to maintain the paradigm in which 'the social' is defined against the 'natural', there are also political reasons for maintaining a feminist critique within sociology. A sociological challenge to the masculinism of sociology is likely to have greater rhetorical power than a feminist challenge from outside the discipline. Indeed there is greater argument for rejecting the label 'feminist sociology' and insisting on the qualifying adjective (in this case the qualifier masculinist) to be applied to those sociologists who maintain the pseudo universalism that underpins the refusal (i) to problematise the domestic and (ii) to make that problematic central to the task of deconstructing the 'social'.

This thesis then is centred on the sociological task of questioning the differentiation of social life. However that questioning involves the further project of bringing together material from two clearly differentiated disciplines: criminology and social policy analysis. The way that this is done has been influenced by what Sandra Harding has described as one of the basic features of a feminist methodology - studying up.

**Studying up**

This approach rests on the argument that the diffuse, contradictory and invisible nature of domesticity and of women's experiences within the domestic sphere means that women should not be the objects but the subjects of research. Because the collective basis of domestic life is so alien to the 'agency-oriented' construction of human experience
inherent in quantitative social investigations of the public sphere, the project of making visible the intersections between public and domestic life has to be organised around the principle of 'studying up'.

This has two major consequences for research design. First, any understanding of the detailed complexity of the contradictory interdependence between domestic and public spheres has to rely on the less interventionist, phenomenological methods of unstructured or semi-structured interviews, in which women control their own narratives and impose their own definitions on what is to be told. Second 'studying up' also means that it is the discourses of the powerful that need to be treated as 'bizarre' and as appropriate objects of critical examination. Paradoxically then this means that the research design should incorporate both phenomenological and positivist strands.

The specific intersection of state and economy in the public sphere, whether in the field of mental health, social services, child care provision, women's paid employment, or in any one of the several sites of exploitation, should be analysed as a case study of potentially self-interested discourses. The critical perspective of feminist research then constructs the policies and practices of the powerful as perpetually likely to be conveying half truths, masking poorly understood ideologies, and to be transferring the stresses brought about by the contradictions created by their own interpretations of social life to the least powerful. 'Studying up' also means that because women especially working class women are the often literal, embodiment of the condensed contradictions of the policies and practices, it is through their experiences that the investigations of the powerful are most effectively analysed. The focus of these feminist investigations is on both those who have control over material and cultural power - the political, scientific, academic, administrative and economic groups - as well as the debates between and within these groups.

20 Harding (1987)
21 Graham Smith (1984)
22 Harding (1987)
Nevertheless there are major ethical problems in adopting a methodology that focuses on the insights of the powerless to investigate the discourses of the powerful.

**Trust and exploitation in the research process**

Although unstructured interviews can, in some part, redefine the power relationships between researchers and the women whose experiences are providing the body of the analysis, they are also potentially exploitative. Janet Finch reflecting on her own experience as a researcher, argues that just 'being a woman' has been a sufficient basis for establishing relations of trust in the relative intimacy of unstructured interviewing. She points out that social isolation which characterises women's experience of domesticity and which is part of the experience being recounted, can mean that women in powerless situations are often generous in giving extensive information about their lives. The standard attempt to allay the possibilities of betrayal in this relationship are those of orthodox social science research: strategies to guarantee anonymity and confidentiality. However, Finch argues that verbal guarantees of confidentiality although often sufficient to establish a relationship of trust in the interview, are not really a sufficient safeguard for the women who provide that information. The very intimacy of qualitative research undermines the possibility for absolute anonymity.

Finch also highlights the potential for the other more general form of betrayal inherent in this form of research. The detail and the complexity of material gathered in the 'collaborative' atmosphere of the unstructured interview means that selective use of that material could be used to undermine the interests of women in general, reinforcing, for example, naturalistic or voluntaristic paradigms of gender inequality. Her resolution of this 'moral dilemma' is to draw on what has by now become the major alternative to the

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24 Finch (1984) *Elisabetii Watson & Jane Mears* rework these ideas in their discussion of research in the area of 'care' in Australia (1988 b)
orthodox tradition in the social sciences. That is, to make quite clear 'whose side we are on' both in the collection, analysis and reporting of the research. This argument then, whilst acknowledging the importance of transferring some control over the research process from the researcher to the people whose knowledge is being incorporated into the analysis, is also much more realistic about the practicalities of that position. The way that research can be done, given the pressures to individualism that are inherent in the way that knowledge and power are currently constituted, places major limits on the possibilities for women who are more powerless than the researcher being able to have any effective control over the data. Finch's work shows that the issue of trust remains as a dilemma that has constantly to be addressed rather than an area of research design that can be easily resolved by reference to a clearly designed set of rules for an alternative sociology.

In summary, the research design comprises an investigation of the penal discourses that impinged on the lives of people in the population 'families of prisoners' in N.S.W. in the period 1986-1989. This specific analysis is set within an investigation of the broader criminological and penal debates within which the N.S.W. policies, practices and debates operated. The greater part of the analysis of the intersection of penality and domesticity as it operated in N.S.W. in the late 1980s is made through the insights provided by the 38 people who had family obligations to care for men imprisoned in the state, during that period.

C. The research: Interviews with 38 carers

Contacting the people in the population 'families of prisoners'

Before constructing the research design I had done some volunteer work with the Children of Prisoners Support Group and with the Civil Rehabilitation Committee, two

26 The 'committed' approach could, by the late 1980s, be called the alternative orthodoxy. The false universalism of apolitical sociological research was exposed in the value free debates of the late 1960s.
community groups providing services and support for prisoners and for families of prisoners in N.S.W. One of the members of the executive of the C.R.C. suggested I make contact with partners and parents of prisoners through the Family Support Centre at the Long Bay complex of prisons and the C.R.C. bus that provided transport for families visiting men in country prisons. I made two bus journeys and visited the Centre over a period of eighteen months. The visits covered each day of the week including weekends. Four women, who had moved to Bathurst to be able to visit their husbands in prison there, agreed to talk with me at the women's centre. These interviews were arranged for me by the women organisers of the Bathurst women's centre. Cheryl Matthews who was then working with people released from prison at Glebe House, a halfway house in Sydney, gave me a great deal of her time both in narrating her own experiences of being a partner of an imprisoned man and in contacting three other women whose partners were imprisoned or on parole.

There was a gap of about six months during this period when I made a preliminary analysis and skeleton paper centred on the first six interviews. During this time I restructured the general organisation of the thesis in light of the broader and more detailed picture that those six people had provided. In this time I was able to return the transcripts to three of these six women for their review and comments. The transcripts did accord with their general interpretation of their experiences although in this second visit the women also gave me more information as the account in transcript form revived further memories.

Nearly all other published accounts of research with families of prisoners have involved contacting husbands in prison and asking his permission to interview the wives. I made a deliberate decision to avoid this method because I wanted to emphasise the centrality of the women's own situation and their interpretation of the work they were doing, rather than approach them as women controlled through their partner's decision. The disadvantages of this approach were:
(i) that the men in prison whom the women were caring for, were a heterogeneous group of prisoners. Their sentences ranged from a few months to life and the prisons they were in varied from minimum to maximum security.

(ii) the women were those who had sufficient knowledge of C.R.C. to be using the Centre or the coach. Information about services was one of the aspects of the work of caring that was under investigation. In this then there was a significant bias in the set of answers about the difficulties of visiting.

In summary, four women agreed to talk to me in their own homes or work places. The first person of the four contacted was Cheryl Matthews working at Glebe House she put me in touch with other three. Eight women were interviewed in groups of two or three at the Family Support Centre at the Long Bay complex. Fifteen women and one man were interviewed singly at the Family Support Centre at the Long Bay complex. Four women came to the Women's Centre in Bathurst to describe their experiences as wives of prisoners. Six women spoke to me during the coach journeys to Goulburn and Cessnock on the C.R.C. bus:

Summary: place of interview with people who spoke about their experiences as 'outside carers of imprisoned men'

- 4 in their own home or work place
- 8 in group interview at F.S.C.
- 16 in individual interviews at F.S.C.
- 4 at Bathurst women's centre
- 6 on C.R.C. bus to Goulburn/Cessnock

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38 total
Recoding the interviews.

After the first two or three approaches when I had described the paper as a thesis, I told all the women that I was preparing a paper for a university course. About six of the 38 women were interested in the research and those six interviews included a more detailed exchange of information about the research and my own political and instrumental interest in the topic. In several other interviews the accounts were also interspersed with exchanges of practical information or of some minor form of practical help such as giving lifts in cars or looking after babies or young children whilst the mother visited the man in prison. This came about as an obviously sensible practical response to the exigencies of the situation rather than as a planned philosophical attempt at 'reciprocity' that had been manifestly incorporated into the research design. The idea that there could be 'reciprocity' in research for a Ph.D. thesis into the experiences of families of prisoners is manifestly hypocritical. I was obviously asking and receiving far more from the women than I could give back to them.  

Finch's warning about trust and betrayal has particular relevance for research based on talks with women whose sons or partners are in prison. There was no attempt to find out the names of either the women or the prisoner, nor the offence for which the man had been imprisoned. This was to ensure both that the anonymity of the answers was protected and to reassure the women that that anonymity was secure. There was one exception to this. One woman, Cheryl Matthews, has made a central part of her political position as a prisoner's wife, the stance that stigma can be better fought openly rather than through anonymity. Her account was one of the most detailed and insightful as was her review of the transcript of her narrative.

Moreover, in the case of the interviews at the Bathurst women's centre and in the four interviews in the individual homes, both the women who spoke to me and the centre organisers were generous in their hospitality.
All interviews, except four, were recorded with the women's permission, on a tape recorder. Two exceptions were because the women preferred to talk without being recorded on tape, one because I forgot to switch the recorder on and the fourth because the two year old son kept banging the microphone and the eventual recording was too painful to transcribe.

The interview schedule

The interview was based on a conversation centreing around a set of topics presented as open ended questions, the form of interview described by Margaret Stacey as a 'focused interview'. The interview sheet (included as Appendix B) began with a few easy to answer closed ended questions about some impersonal and unthreatening aspects of the woman's situation. After these questions had established the direction of the topics I was interested in, the interviews were closer to open ended conversations with the women about their experiences. Because even basic questions often provoked women's memories about specific aspects of their experiences with the legal penal bureaucracies the interviews rarely followed a set pattern. The interview sheet was used then as a list to check that any topic was not omitted rather than a guide imposed on the women. The interviews lasted from between 20 minutes to two hours with the transcripts covering from two to thirty pages of A4 paper. Most of the interviews however, excluding extraneous informal material, interruptions, and times when I was the person giving out information, lasted for about three quarters of an hour.

The list of topics was initially constructed from the hypotheses developed from the literature review. An element of 'grounded theory' informed the thesis in that some areas of questioning were introduced after the review of the preliminary set of interviews. There were many aspects of the contradictoriness of being a partner or parent of a prisoner that were significant but which I had not realised from the preliminary reading.

28 Margaret Stacey (1969) pp.75-76
The experiences of the six women who first spoke to me structured the list of topics that was eventually used in the interviews.

The recorded interviews were transcribed by hand on the day of the interview or the following day. The transcriptions were then typed onto a Macintosh Word 3.1 programme which has a SORT mechanism which separated out the several aspects of women's experiences into the areas covered in chapters five to seven after the comments had been catalogued. The cataloguing was based on the issues that developed out of the theoretical model of 'care and dependence' and out of the revisions to that framework that were made after the initial six interviews.

**Basic information about the 38 carers**

- Ten of the women were supporting prisoners in their first experience of imprisonment. Twenty three were supporting men who had been imprisoned before. (In five interviews this information was not available)
- Four women had experienced being sentenced and/or imprisoned themselves
- Twenty three women had had the experience of living with the prisoner when he had been on some form of conditional liberty.
- Five had partners or sons who were in the remand prison. All others had been in a number of gaols.
- Thirteen of the women were the outside carers of the prisoner's child/children
- The carers' were predominantly either partners or parents of the men inside prison:

  - Female partner - 29
  - Mother - 9
  - Friend - 2
  - Aunt - 1
  - Male partner - 1

  total 42
. four women were regularly visiting more than one prisoner

In none of these characteristics are the group of women who gave me the material representative of the men and women who support men in gaol in N.S.W. or in other similar societies. The basic arithmetic information that is given throughout the thesis then can not be the basis for any generalisations. It is used rather to indicate the basis on which the qualitative evidence can be interpreted and to give some clarity to the thesis rather than to provide quantitative evidence.

Reliability

One of the major aspects of focused interviews that depend on individuals' memories of events and attitudes is the potential unreliability of the information. There are two criticisms of the validity of research based on conversational interviews. Firstly, recollections can get distorted over time and secondly, people can prefer to deliberately construct their narratives in a way that falsely represents their various experiences.

There are two responses to these criticisms. Firstly the reliability of the answers based on several individual case studies can be assessed:

(i) in terms of the internal logic of the answers in relation to the total interview;
(ii) the consistency across interviews of common responses and common experiences' and
(iii) the external consistency of the information when the answers accord with evidence apart from the interviews themselves.

Other interviews with prisoners and prisoners families are often checked against information in the prison files. It was a deliberate decision that the thesis design would not incorporate this form of 'triangulation' test that is based on the 'untrustworthiness' of

29 see appendix A
the people doing the work of providing material for analysis. The external checks in this thesis are made against the broader and more general forms of evidence that are based on the penal policies and discourses that coincide with the women's experiences in N.S.W. in 1986-1988. None of these assessments can give absolute assurance of reliability.

Secondly, this thesis is based on the presumption that it is just as false for women's experiences not to be represented at all as it is to risk including some answers that might be deliberately distorted. Graham has argued that the possibilities for fabrication or 'telling tales' should not be regarded as a major problem in using narratives as a basis of understanding, as it is inherent in all forms of interviews however structured or unstructured. Moreover she argues, the opportunity for avoiding or elaborating on the truth provides the teller with a way of controlling the release of information about herself because 'in a situation of inequality both honest stories and fabricated tales are resources by which informants can redress the balance of power'. Graham's argument rests in part on her belief that the 'extravagant tale' is easily distinguished from personal testimony. However, in the condensed experiences of exploitation and oppression that occur in the legal penal sphere, many of the personal testimonies are 'extravagant tales' when matched against the everyday experiences of the majority of people. Nevertheless, that does not mean that those accounts should be negated. The invisibility, for example, of the costs to women of the illegal way that police, on occasion, enforce the law, should be a part of the debate about the caring work of women. It is not possible to check the reliability of that information apart from a full scale court case. The relative economic and legal powerlessness of women prevents this. It is the powerlessness of women that is the major basis of the thesis. Not to include this material would reinforce that powerlessness.

30 Graham (1984) p.20
The reliability of the penal discourses of the more powerful players in the legal penal sphere is the subject of the thesis. The discussions covered in chapters five to eight indicate the extent to which these accounts should be accepted or interpreted as 'bizarre'.

D. The research: Penal discourses

The material was collected from several sources:

(i) seminars on penal policies at the Australian Institute of Criminology, the Sydney Institute of Criminology and other criminological and legal penal conferences and the formal and the informal material presented there.

(ii) N.S.W. Department of Corrective Services annual reports and research reports

(iii) Review of literature based on criminological data bank searches and following through the footnote references from that literature

(iv) Newspaper and journal articles on prison policies and ministerial responses

(v) Basic texts on penality especially on the prison experience in N.S.W.

(vi) Royal Commissions and Inquiries into aspects of the N.S.W. penal system in the period 1960-1988

(vii) visits to families of prisoner centres in London and Amsterdam and personal contact through letters with individual researchers investigating aspects of penal policy that affect families of prisoners, in London, Edinburgh, Sweden and the United States.

(viii) Informal interviews with N.S.W. welfare officers, parole and probation officers, policemen, Department of Corrective Services Research Branch researchers, and with people working in the semi autonomous field of community service provision at Glebe House and Station House in Sydney.

No material was taken directly from any of these interviews with the people in the population of paid workers in the penal sphere in N.S.W. They provided background information for checking several of the points that are raised in the thesis and were used particularly to map out the contrasts between the visible official discourses on what should, and of what does happen, in the state's prisons, as well as the less visible and more contradictory results of those policies and statements.
CHAPTER FOUR

THE HOME AND THE PRISON: Four modes of incorporation

We must go back in time to trace the sources of the contradictions and forward in time to see the policy arena as a site in which these contradictions work themselves out.¹

In chapter two the question, from Garton, was posed: 'what populations are constructed by the discourse of power and control as it occurs in the realm of penality'?² The feminist materialist perspective however, indicates that the tensions between patriarchal and capitalist forms of domination lead to a further set of questions: what populations are masked or marginalised in these discourses? what are the economic, social and personal costs of the contradictions of the interdependences yet incompatibilities between the domestic and penal spheres? which sectors of the population are most at risk of bearing those costs?

This perspective focuses on the constitution of domesticity and the interdependence of this sphere with all other spheres of social life. To summarise the key aspects of the literature review on the construction of 'the family', domesticity was constituted by the early twentieth century around motherhood as the essential domestic relation in the 'modern' nuclear family. Motherhood became the embodiment of the culture of domesticity, or the set of pattern variables in Parsonian terms, that was at the same time essential to, but incompatible with, the cultural values of the public sphere. The values of universalism, impersonality and rationality, the culture of rationality in the public world of modern life, it was argued, did not develop out of a rejection of their opposite - particularism, affectivity, arationality - but out of an increasing separation from them as

¹ S. Cohen. (1985) p.100
² Garton (1988) p.322
the boundaries between the two spheres became increasingly clearly delineated. The tensions inherent in the development of interdependent yet incompatible spheres of social life are resolved by the privileging of the public sphere, the marginalising of the domestic sphere and the masking of the interdependence between the domestic and the public realms.

It is argued that this resolution of the contradiction is mediated through a particular form of conceptualisation that mystifies the interdependence of the public and the domestic domains, the two sets of conflationary processes that subsume women's experiences. Firstly, in the classic liberal philosophy of laissez faire capitalism, there is a conflation of 'the family' with 'the individual'. Secondly, in the techno-reformism of the welfare capitalism 'the family' is conflated with an abstract sociality in the positivist social sciences and in the various forms of social policies and welfare practices centred on them. In these two completely opposing processes, the labour and experiences of the individual women themselves are masked or marginalised, as, in both cases, there is a common underlying conflation: the term 'woman' is subsumed within the term "family".

Different sub-spheres within the public sphere vary in terms of the way they conform to this 'ideal' segregation of the two sets of interdependent yet incompatible cultures. The legal penal realm, as the public sphere in which the legitimation of class relations of 'free' exchange based on rational choice is most explicitly and manifestly spelt out, is the realm where the boundaries between the two sets of values could be expected to be most rigidly maintained. From this then it could be expected that, with the development of liberal capitalism and its subsequent forms, the interdependence of the public and the domestic, or the productive and reproductive spheres, would be most masked in the realm of penalty.
It was argued in the summary in chapter two of the history of the familial political economy, from mercantilism through laissez faire, corporate welfare, to the corporate consumer form of capitalist relations, that the separate constitution of domesticity and penalty did develop in terms of the privileging of the public legal-penal sphere and the marginalising of family life.

In this chapter it will be argued that there is an interdependence between the domestic and the legal-penal realms but that there are several mechanisms which mask the ways in which this interdependence is experienced. These parallel processes of interdependence, privileging, masking and marginalisation vary as the several tensions between and within the spheres of state, family and economy are reconstituted in each phase in the development of the familial political economy from the sixteenth to the late twentieth century.

The focus in current socialist feminist analysis is on uncovering the false dualities of public/private, public/domestic, nature/culture, emotion/rationality, emotion/materialism. However, there is a further false dualism specific to penal policy and practices. Russell Hogg points to the false dichotomy in the legal penal sphere in classic liberalism: the distinction between freedom and punishment, where freedom is conceived as the absence of external coercion. Punishment, in this distinction, becomes the restriction of an otherwise free and responsible individual. Hogg questions this bipolarity in the classic liberal perception of penalty. From the evidence from two recent ethnographic studies of prisoners, he argues that imprisonment is not necessarily subjectively experienced by the prisoners themselves as a contrast between freedom outside and coercion inside prison. Civil life, experienced through the relations of class, ethnicity and race can be as coercive, in some cases more coercive, than the

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4 Hogg (1988) p.9
5 Hogg (1988) pp. 9-11
experience of 'unfreedom' within prison. Hogg is not arguing here that imprisonment is not a punishing condition but that for some prisoners 'their conditions of 'freedom' are no less terrible' 6

Hogg's questioning of the distinction between freedom and imprisonment has significance for this thesis. The masking of the interdependence of the public and the domestic spheres in the specific experiences of women bound by 'care' as wives or mothers, to their imprisoned partners or adult children, is also a masking of the unfreedom of people who are nominally 'free' citizens in civil society.

The review of the feminist analyses of social policy indicated that they focus on the concept of 'caring' in their interpretations of the interdependence between productive and reproductive life. In summary, that review indicated too that the language of 'caring' is a key term in both the constitution of the interdependence of the productive and reproductive spheres but also in the masking and marginalisation of the importance of domesticity for public life. 'Caring' came to be the definitive aspect of domestic labour by the early twentieth century. Domesticity was constituted across all classes within the terms of the caring relationship between mother and child that then permeated all other relations and all forms of labour within the home. Caring, especially in terms of its personal, emotional dimension, became the vital function supposedly basic to the constitution of the individual personality of the growing child and the daily reconstitution of the personality of the adult labourer. The ethic of 'care' locked women into the unpaid, work of domestic labour that had significant material components in that it secured life but also because it exploited a wide and diffuse range of physical and intellectual skills. The major contradictions between state, family and economy meant that this ideal of the home as the perpetual site of 'pure' caring labour was not congruent with the actual experiences of life for working class people especially in

6 Hogg (1988) p.11
periods of economic depression. Nevertheless the idea was powerful enough to influence both social policies about the family and people's own ideas about how family life 'ought' to be.

The feminist analyses of caring work in relation to a range of forms of dependence in the family show that although caring is not only about emotional relationships but also has important material dimensions, the privileging of the emotional aspects of domesticity serves to mask the material importance of caring work in the dominant discourses of the public sphere. The feminist materialist thesis is that the specific aspects of the actual relationship between the material and the emotional components of domesticity have to be delineated for a full understanding of social life, 'caring is about both labouring and loving.'

In the examination of the intersection between the domestic and legal penal spheres it is argued here that caring includes a third component, it is about loving, labouring and controlling. Domesticity is comprised of emotional, economic and political relations of inequality.

In this chapter, the specific caring work of women who comprise the population 'families of prisoners', is examined in an outline of four major phases of the interdependence between the domestic and the penal spheres at the various stages of the development of the familial political economy. Both spheres are interpreted here as both physical places and as sets of values about relationships. The charting of the changes in the intersections of the two spheres is both a topology of spaces and a typology of discourses.

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7 Graham (1985) p. 15-16
In one of the most comprehensive reviews of the meta theories and practices of penatity, Cohen uses the Foucaultian criteria of exclusion/inclusion to summarise the major stages in the changing styles of punishment policies and practices: from punishment out in the 'open' community, to punishment as invisible incarceration 'inside' the walls of the prison, and in the final transformation, to punishment as both confinement in the closed institution and out in the community. However in this third phase, punishment in the community is not so publicly visible. The blurring of the boundaries between punishment and welfare diffuses and masks the extent of the penetration of the legal-penal sphere into the wider society.

These criteria of exclusion and inclusion are used here to specify four ways in which the family is incorporated into penal strategies. The feminist critique of theories of social change points up the potential biases in adopting the periodisation of non feminist literature. This chapter, which focuses on the interdependence of home and prison, indicates one major realignment in the conventional charting of the key points of transformation of social control. In brief the four major modes of the incorporation of the family into the penal sphere are: the home within the prison; the home outside the prison; the home outside but allowed into the prison; and finally the prison within the home.

In addition to the spatial metaphor adapted from Cohen's categorisation, the differences in the four modes of incorporation are also about changes in the relations of production and reproduction. They are shifts in the ways that the nexus between care and dependence is constituted in the various phases.

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9 S. Cohen (1985) p. 19
10 J. Kelly-Gadol (1987)
Thus the changes are also shifts in the relationship between 'punishment' and 'providence'. This modification of Cohen's chart then introduces a significant change in the periodisation of social control. The focus on the interdependence between home and prison marks the mid 1980s as a period of significant transformation in the discourses of surveillance and punishment.

Figure I, on the following page, charts these changes, in the topology of spaces and in the typology of discourses, that have been constructed around the relationship between 'the home' and 'the prison' in the period up to and including this latest transformation.
FIGURE I

FOUR MODES OF INTERSECTION BETWEEN HOME AND PRISON

1. The home in the prison
   Home site of 'Family labour economy' within prison

2. The home and the prison separated by clear boundaries.
   Home 'invisible' in penal discourses

3. More permeable boundaries between prison and home.
   Home 'Prime treatment agency' in penal discourses.

4. The prison in the home.
   Home 'Naturally related community resource' in penal discourses
These forms of incorporation are not mutually exclusive. Punishment practices in Cohen's words are formed of 'deposits' of various ideologies and styles.\textsuperscript{11} The site of punishment has been described by Weatherburn, in his description of the Corrective Services Department in N.S.W., as having become a place characterised as a Byzantine maze of policies and practices difficult for controllers and controlled alike to negotiate.\textsuperscript{12} When the interdependence between the family and the legal penal sphere is delineated however, the maze is shown to be even more complex than Weatherburn indicates. The evidence of women who have to negotiate the triple complexities of the legal-penal, the family-welfare spheres, and the intersections between those two social domains, is outlined in chapters five to eight.\textsuperscript{13} The various forms in which the domestic labour of caring is embedded into the various systems of punishment are outlined here:

I. The family in the prison:

There are two styles of incorporation of family life into prison life that comprise this first mode:

(i) The household model of power relations within prison

As the literature review in chapter two indicated, prior to the nineteenth century regularisation of prison life from the 1820s on, prisoners were generally either people awaiting sentence of transportation or physical punishment or they were debtors.\textsuperscript{14} They were, therefore, not subject to coercive routines but ran the internal procedures within the prison themselves, 'according to an oral and common law tradition of rights,

\textsuperscript{11} S. Cohen (1985) ch. 3
\textsuperscript{12} Weatherburn (1986) p. 137
\textsuperscript{13} and is included too in several of the texts on families of prisoners detailed in the bibliography
\textsuperscript{14} Ignatief (1983) p.81
privileges and immunities' that reflected a household pattern of authority and control within the prison.\(^{15}\) Prisoners were called a 'family' and the gaoler and his actual family all resided in the prison.

In the era prior to the establishment of explicitly drawn distinctions between domestic political and economic spheres, the fusion between the family and the prison was also manifested in the way that the father-master outside of the prison had the authority to use imprisonment to exert control over the members of his household.\(^{16}\) The familial political economic power of the home then merged into the penal sphere through this patriarchal authority to have servants, wife, children or apprentices confined. The prison was an element in the constitution of the domestic sphere but the authority pattern of the household in turn permeated prison life.

In the transformation of prison life at the turn of the eighteenth century, Elisabeth Fry's reforms were an extension of this earlier relationship between domesticity and imprisonment. She worked through family relations within the prison. Initially, the major focus of her reforming zeal was on the education of children of prisoners in Newgate. Domesticising the penal sphere was precisely (i) the reconstitution of the domestic relations between prisoner mothers and their children and (ii) the reconstitution of penality as the systematic ordering of prisoners' lives through their domestic responsibilities redefined as the specific form of care that they were encouraged to impose on their children.\(^ {17}\) In 1813, Newgate was reproducing the unsystematic dangerous masses, the alternative and amoral publics constituted by the dispossessions of industrialisation and urbanisation. Bentham's reformist plans were to individualise through impersonal controls. Elisabeth Fry's penal reforms were, like Bentham's, focused on the regularisation of behaviour but through the reformativ

\(^{15}\) Ignatieff (1983, p.81
\(^ {16}\) Dobash et al. (1986) p.23
\(^ {17}\) Dobash et al. p.43
personal relations between the moral ruling class woman reformer, the amoral working class and destitute prisoner mother and her child. The prison became the site where power, morality and rationality were dramatically merged in a graphic legitimation of capitalism as a humane political economy, the reclamation of the amoral women being mediated through their domestic role of mother. Those prisoners who previously had been 'begging, swearing, gaming, fighting, singing, dancing, dressing up in men's clothing; scenes too bad to be described' changed 'from drunkenness to sobriety, from riot to order, from clamour to quietness, from obscenity to decency."

Morality was specifically defined in terms of rational regular behaviour. However in this pre-Victorian period of early industrialisation, when the family labour economy still characterised domestic life, the initial focus on reform through the mother child relationship expanded into the direct reformation of the women through a programme of systematic work. The transformation of women prisoners through productive work paralleled their transformation into domestic carers of their children.

(ii) the family manifestly sharing the punishment of the prisoner out in the community but segregated from the parent population

The family within the prison is also a feature of penalty when punishment is enforced labour and transportation and the site of control becomes the labour colony. In this form of incorporation of the family into the penal system the punishment of the individual is manifestly shared by the family. Where the political economy is based on family labour and the demand for labour is high, punishment can be incarceration in a labour camp or labour colony where the family work together either in agriculture or in small scale craft industries. The shared isolation is not a universal condition of punishment but is offered as a privilege.

18 Dobash et al. p.44
20 Dobash et al. p.45
The settlement of N.S.W. has some of the characteristics of this pattern. Lieutenant Shapcote of the Neptune, a ship in the second fleet taking convicts to the penal colony of N.S.W. received these instruction from W.H. Grenville, who replaced Lord Sydney at the Home Department

as it is probable that some of the male convicts put on board the ships ... may be desirous that their wives should accompany them, it has been thought advisable that so many of them shall be allowed to emboard, as can be conveniently accommodated. If the number of convicts who may apply to you ... should not be sufficient ... you will in such case acquaint the rest of the convicts that women who may have cohabited with them will also be received on board. 21

The labour of women in a penal labour colony was incorporated into the system of control in a very direct form in the earliest days of the establishment of N.S.W. In the review of literature in chapter two it was indicated that there was considerable ambivalence in the ruling class about the sexuality, domesticity and morality of the convicts in this period. The greatest emphasis on the usefulness of the labour of convict women was on their sexual labour even though this then condemned them in the eyes of the moral and political controllers as unredeemable whores. However, the family as a domestic site of control, paralleling or supplementing the control by the state, meant that convicts were able to apply either for their families to accompany them or to have their families sent out. The convict's wife (or husband) was able to ask on their arrival that their spouse be assigned to them on payment to the government of three shilling and sixpence. 22 She had to be ready to submit to surveillance of her own character by providing references. She also had herself to be a free woman.

This policy did not mean that all families of prisoners sentenced to transportation were able to avoid the risks of destitution by being allowed to accompany the prisoner to the penal colony. The convict spouse had to be able to demonstrate his ability to support the

21 copy of the warrant to Lieutenant Shapcot from the Navy Board, December 1789. cited in Portia Robinson (1985) p.33
22 Kay Daniels et al.(1977 ) p.145
family. The woman convict was not expected to make the same commitment. The construction of gender relationships within marriage as that of the controlling wife whose morality rested on her economic dependence, even on her convict husband, was clearly reinforced in this initial constitution of domesticity in the colony.

The construction of domesticity of the penal classes, however, did not necessarily incorporate the obligations of parenthood. Children were not so welcome in the penal colony. Both men and women convicts had difficulties obtaining official permission for their children to accompany them, even if this meant that the children were to be left destitute. Whilst the relationship between children and their mother was increasingly becoming the central pivot of the families of the bourgeoisie the importance of family ties for the children of the penal class was not so central to public policies.

The attitude of the state about the importance of the relationship between the child and the family was ambivalent. The conflicting values about family ties and childhood for convict children are well illustrated by the example of Sussanah Holmes and Henry Cabell convicts on the first fleet

Henry Cabell, 19, from Suffolk and Susannah Homes, also 19, from neighbouring Norfolk, were sentenced at Thetford Assizes in 1783 and met in the county jail in Norwich, where a son was born to them. Their petition to marry was refused and the couple faced separation when the order came for the women prisoners to be sent to Portsmouth involuntarily to join Captain Arthur Philip’s fleet. At Portsmouth, Susannah’s son was taken from her, and so horrified was the turnkey who escorted the women to the port, that he took the infant to London to petition the Home Secretary, Lord Sydney, to allow him and his father to travel to Botany Bay with Susannah. Lord Sydney agreed and the family sailed on May 13, 1787. They were among the first couples to marry on arrival in Australia.

In this example, the official discourses on the nature of the importance of parent-child relationships are contradictory. The ambiguities continued throughout the period of early settlement. Nineteen of the arrivals in the first year of settlement were children of

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23 Daniels et al (1977) p.149
24 Robinson (1985) p.32
25 Yvonne Preston ‘A marriage made in jail’ in S.M.H. 16/5/87 citing Peter Bellamy. (1973) *The Transports*
convicts. However, the disinterest of the State in the children of prisoners in the early settlement of the penal colony is reflected, as it is today, in the absence of clear records of how many of the children who arrived in the subsequent years up to 1823 were children of free or convicted women:

throughout the first twenty-five years of settlement, there is no consistent or reliable record of how many children arrived with a convicted parent or joined a convicted father in New South Wales... ... records are also too incomplete to establish how many children traveled to New South Wales with a free parent to join one already serving sentence in the colony.

It is recorded however that almost half of the free migrants, 310 out of 730, who arrived between 1810 and 1821 were wives and children of convicts already in Australia.

Although this form of incorporation of the family into the prison as labour colony ended with the shift in laissez faire capitalist societies in the middle period of the nineteenth century in North America, northern Europe and Australia, there are currently family labour prison settlements in Guatemala, Mexico and the Philippines, Jordan, three Indian states - Maharashtra, Rajasthan, and Uttar Pradesh and in the Soviet Union.

In the Soviet Union the labor colony settlements are minimum security prisons in a prison system comprising three levels: prisons for the most serious offenders, corrective labor colonies for the medium and labor colonies for the least serious offenders and for prisoners transferred from the other penal institution towards the end of their sentence. Like the Mexican system outlined below the labor colony settlements are prisons of reward, the conditions are those to which prisoners can hope to work toward. Family life within the prison is one of the rewards offered in the overall

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26 Robinson (1985) p.29
28 Robinson (1985) p.33
29 Anne Summers (1973) p.279
30 Anne Goetting (1982,a)
system of control throughout the three levels of imprisonment. Women's caring work of sexual and emotional labour is incorporated as an aspect of direct political control. Soviet labour colony settlements are set up around lumbering and agricultural work and families are either allowed in on a conjugal visiting system or are allowed to live with their prisoner partner and parent in the colony.\(^{31}\)

These examples of family based imprisonment are not some leftover cultural and institutional remnants from a pre-industrial penal system. The system of transferring inmates from the 'hard' prison to the 'softer' labour colonies was introduced in the Soviet penal system in 1963.\(^{32}\) Similarly, the largest of the family penal colonies was established in Mexico on the Isles des Marias only in 1971. It was introduced on the basis of being a humane alternative to the pre 1970s use of the prison island as a terrorising 'last resort' of a prison within a prison. By 1981 the island held 1,500 prisoners and 2,000 family members.\(^{33}\) Moreover, the Mexican Federal Department of Co-ordinated Services for Crime Prevention and Social Rehabilitation opened two other family penal colonies in the early 1980s.\(^{34}\) In the 1970s penal crisis in North America 'correctional' professionals in both the U.S.A. and Canada were casting a variety of nets in their search for a solution to the tensions inherent in prison control in an era of post authoritarianism.\(^{35}\) These included calls for a return to the labour penal colony. Specifically, in 1984 there was an argument from the social sciences for the establishment of penal labour colonies within the U.S.\(^{36}\) The argument in this case centred principally on economic rationality. Domestic penal labour colonies, it was argued, would be a cost effective punishment making use of the labour of prisoners and providing them with training in labour skills whilst ensuring that the cost of the support for their dependents was not borne by the State.

\(^{31}\) Goetting (1982a) p.415  
\(^{32}\) Goetting (1982a)p 415  
\(^{34}\) Worral p.75  
\(^{35}\) Ignatieff (1983) p 78  
\(^{36}\) T. Murton (1984)
.. prisoners could be transferred to one or more domestic penal colonies to be built by the convicts. Such facilities could be modeled after the Civilian Conservation Corporations camps created during the depression. Such labor colonies are cheap to construct, idleness is eliminated, and prisoners would be compensated and pay taxes, support their dependents, make restitution, and learn skills. The prisoner could thus be 'banished' and society would have its 'pound of flesh' while reducing violence, escapes, and recidivism.\(^{37}\)

It is not clear here whether the family would be a part of the penal community. However, the American Correctional Association specifically lauded the system of family imprisonment represented by the Isles des Marias family labour colony.

The Isles des Marias Penal Colony - the largest and most unique penal colony in the world - is a community that provides a less expensive, more civilized alternative to traditional incarceration while preserving and promoting mental health and the family unit. The results of this study may point to new opportunities for facility design, policies, and procedures for correction in the United States and Canada.\(^{38}\)

The family labour colony was presented by the nine member team of A.C.A. professionals as a penal reform that would serve several uses. It was seen as being more effective in terms of containment and prison management,

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\text{Despite the large population of inmates and their dependents, the large proportion of offenders convicted of violent crimes, and the relatively small number of staff, there is apparently very little violence or behavioral infractions.}\(^{39}\)
\]

more effective as a 'normalising' experience thus reforming the prisoner through his daily contact with fellow workers and neighbouring families (that) encourages prisoner to adopt a socially viable pattern of life - a lesson in socialization ... it is expected that ex-convicts will have adopted normal standards of behaviour, having acquired a taste for a 'better life'.\(^{40}\)

but this normalising process is specifically located within the prisoner's assumption of authority within the family 'the system ... allows the criminal to acquire an element of self-respect as well as an opportunity to assume the responsibilities customarily associated with household heads'.\(^{41}\)

\(^{37}\) Murton, p. 23
\(^{38}\) Worrall p. 74
\(^{39}\) Worrall p. 75
\(^{40}\) Worrall p. 75
\(^{41}\) Worrall p. 75
The family labour prison would thus provide the most rational mixture of segregation, punishment, reform and useful labour.

To date however there is no example of the family labour colony appearing as a reforming alternative within the systems of penalty in the advanced corporate consumer capitalist societies of the 'first world'. However, these appeals to transforming punishment by a system of containment that combines domesticity and penalty and thus effects a cheap and effective system of control with a promise of reform through 'normalisation' re-emerge in a number of different forms of incorporation of the family into the penal sphere. However before the description of this re-emergence of diffused control through the manifest insertion of domesticity into the penal sphere, it is important to outline the classic form of relationship between domesticity and penalty - the family outside prison.

II. Imprisonment and the family outside: 'the invisible family'

(i) The prison as a model for control within the family

The prison and the home became two of the key sites of social control but in a very specific form in the era of the great upheaval from 1780s to 1840s. Ignatieff argues that prison discipline (was about) the establishment of the moral boundaries of social authority in a society undergoing capitalist transformation ... it (imprisonment) had appeal ... as a response not merely to crime but to the whole social crisis of a period, as part of a larger strategy of political, social and legal reform designed to re-establish order on a new foundation.

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42 in addition to health, education and child welfare
43 Ignatieff (1978) p.xiii and p 210
Bentham's description of the panopticon prison and its effect on the people incarcerated within it and on social morality evidences his concern with this ideological nature of penalty. He advocated the continuous inspection of the prison by members of the public:

and what would they see? ... a set of person deprived of liberty which they had misused - compelled to engage in labour, which was formerly their aversion - and restrained from riot and intemperance, in which they formerly delighted ... What scene could be more instructive to the great proportion of spectators? what a source of conversation, of allusion, of domestic, of instruction!^4^4^4^4

The misuse of liberty is directly related here to idleness, political threat and personal and social hedonism. Prison takes on the function of control of all four forms of crime: political, property, disorderliness, and idleness which in the earlier era had been controlled through a variety of modes of punishment and control.

The systematic reordering of prison life is directly related in Bentham's principles with the implications for domesticity. The home of the working class labourers was to be reconstituted, through the example of prison life, as that site where the rationally ordered material and social relations of productive life were to be reproduced.

Domestic relationships between labouring class husbands, wives and children were recreated as the construction of a set of new moral boundaries between labour and capital and between men and women. Women's economic dependence on men and the confinement of their labour to the material and social reproduction of the labour of their husband and children added extra moral weight to the 'dull compulsion' of economic

^4^4 my emphasis
^4^5 Bentham "Panopticon Penitentiary' p 501 cited in Dobash et al p 40
responsibility that Marx described as the major form of control of labour under conditions of pure class relationships of capitalism.

However the major mode of incorporation of the family into the penal sphere is not so much in this model of the family as it is influenced by the regularity of prison life in Bentham's model as in this next form:

(ii) Imprisonment and the family outside: neglect as control

In the classical model of imprisonment centreing on the specificity of punishment there is a clear separation between the individual offender shut away in prison and the family 'free' outside - the central paradigm of punishment in liberal capitalism. The offender's punishment is to lose his 'freedom' to exchange his labour for a family wage. In an economy that centres on the man as the primary or sole breadwinner, the family's incorporation into the punishment system is manifested in their impoverishment outside prison.

Bentham the dominant figure of the early nineteenth century classical liberal transformation of penalty argued that prisoners should be allowed to marry but as a privilege not a right because the incentive 'would operate as a powerful spur to those aimed at attaining this reward'.

Marriage is defined here as an amelioration of the prisoners life inside prison, a reward to be achieved. However in a familial political economy characterised by limited state intervention, and especially during periods of economic depression when 'freedom' to sell one's labour meant 'freedom' to starve, the implications of this policy for the actual flesh and blood family outside the prison walls were particularly punitive. In the 1840s

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46 his' is used deliberately here. Criminality becomes masculinised with the advent of mature industrial capitalism with a decline in sentenced female offenders from 40% in some parts of the United Kingdom to less than 5% of offenders from the early 1800s to the late 19th century. (see chapter two pp. 54 & 80)

47 Bentham p.501 cited in Dobash et al. p.40
economic depression in N.S.W., one of the groups of unemployed who were specifically denied relief were women whose husbands were imprisoned.\textsuperscript{48}

The policy of control by neglect then put the family experiencing the shadow punishment at risk of imprisonment themselves. In 1867 the three children of Mrs W. whose husband was in gaol, were arrested by the police for begging and being neglected children and sent to an industrial school.\textsuperscript{49}

Chapter two describes the dual pushes away from large scale institutionalisation of children towards the last decades of the nineteenth century: the retreat from costly State interventions as a consequence of the 1890s economic depression and secondly, the reconstitution of family life of labouring classes as the site of the control of husbands and children. By the end of the century then the shift towards emphasizing families' economic responsibilities for destitute or neglected children meant that children of prisoners were less likely to be taken away from mothers. Although there was still some degree of institutionalisation prisoners families were likely to be able to have the same access to the meagre resources dispensed by charities as other groups of destitute people. Of the twenty five families on the visiting list of Mrs Hughes, a Victorian dispenser of charity aid, were three women with large families with husbands imprisoned.\textsuperscript{50}

However these families in common with the other groups on her list were subject to strict controls over their moral behaviour. Moreover, the definition of being a dependent child was very narrow: when the eldest child in the family reached 13 years of age the whole family was struck off the list of permitted recipients as the child was expected to be the economic provider for the family.\textsuperscript{51}

\textsuperscript{48} Alford p.218
\textsuperscript{49} Daniels et al. p 42 Item 766 It seems likely that this father's 'desertion' of his family was involuntary and due to his imprisonment as his concern for the children was evident in a later note on the files sent from prison saying that he wanted his children to continue to be brought up as Roman Catholics.
\textsuperscript{50} Swain (1985) pp.129-130
\textsuperscript{51} Swain p. 130
This policy of control by neglect stands in marked contrast to the point made by both Alford\(^{52}\) and Robinson that it was marriage to convicted men that gave women in the labouring classes their access to land ownership in the early years of settlement:

The fourteen native born women who were landholders in their own right were mainly the wives of ticket-of-leave men who were ineligible to become landholders until their sentences were served, or they were widows, or in one case, waiting for a husband to be released from imprisonment.\(^{53}\)

Thus penal policy reconstructed the family as a dependant relationship between men and women through the principle of deterrence. This mode of incorporation through imprisonment continues to be the dominant symbolic form of punishment. Financial distress is the major problem cited by families of prisoners in the several reports from 1926 to date.\(^{54}\) Even those studies dominated by a psychological therapeutic framework point to economic problems as the major problem experienced by families outside.\(^{55}\)

This parallel punishment of the family outside is effective in adding to the punishment of the prisoner. Two of the family crisis studies found that the men inside were 'fraught with guilt' over the women's financial hardship.\(^{56}\) With the shift to welfare capitalism the loss of the primary bread winner does not push the family into absolute destitution as it did in the mid nineteenth century but the relative loss of accumulated goods, mortgaged homes, cars partly paid, and the continuing impact of the break in credit payments is likely to mean that imprisonment imposes a severe economic penalty on the whole family both during imprisonment and for years after the prisoner leaves gaol.\(^{57}\) In addition the families of prisoners are the unique category of single parent families in that they are the one group whose loss of a primary breadwinner is enforced by the State

\(^{52}\) Alford p.193
\(^{53}\) Robinson (1985)p. 157
\(^{54}\) These reports are listed separately in the bibliography
\(^{55}\) although there are too many to cite here, the major Australian report in this vein by Nancy Anderson (1965), exemplifies this point
\(^{56}\) P. Morris(1965) and N. Anderson(1965) cited by Judy Jones (1983) p 330
\(^{57}\) Jones ch.5
There is a central contradiction in the imposition of imprisonment as the classical punishment of liberal capitalism. Sue Smith has pointed up the significance of this contradiction by citing the classic liberal penal philosopher Beccaria on the necessity for the separation of the family from the punishment of the individual:

confiscations put a price on the head of the weak, cause the innocent to suffer the punishments of the guilty ... what spectacle can be sadder than that of a family dragged into infamy and misery by the crimes of its head which the submission ordained by the law would hinder the family from preventing even if it had the means to do so.

Smith then contrasts this argument for specificity with the actual punishments experienced by English families of prisoners in the 1980s. Both Smith and Hounslow et al., in a survey of families of prisoners in N.S.W., have pointed out that the contradiction between the philosophy of specificity and the shared but invisible punishment of the family outside prison is not the result of an unfortunate, unconsidered oversight in penal policy. Smith argues that the shared punishment of the family and the invisibility of that punishment are rather the direct result of penal legal practices:

their persistent omission from penal and welfare policy is informative and indicative of a process too concerted to be accidental indifference. ... the neglect of prisoners' families forms a particularly punitive element in a wider network of social control policies, both of women and of men through women, and further, that it is a deliberate strategy aimed also at reinforcing the principle of deterrence.

Hounslow et al in a similar argument say that the invisibility of information about children of prisoners which adds to the punishment of those children

... is not accidental. It is both convenient and necessary, because those who uphold the prevailing legal and penal ideology simply cannot afford to consider what happens to prisoners' kids. Any recognition of their plight strikes at the very notions of 'justice', 'innocent' and 'guilt' upon which this ideology is founded.

58 Cass & O'Loughlin (1984)
60 Smith (1986) pp.2-6
61 Smith (1986) p.7
Smith also makes the point that the recent new right emphasis on law and order reinforces the invisibility of families outside. If prison issues incorporate policies about the welfare of the prisoner as a family man this undermines the central image of the prisoner as a dangerous offender isolated from and threatening to society.63

"It would be political suicide to build up one picture of crime and criminals to the voting public, instilling fear and prejudice, and presenting a law and order platform, and then contravene it by aiding prisoners' families."64

In this way then the specific case of families of prisoners reflects and reinforces in a particularly condensed form, the social relations of the wider society.

The three key aspects of the relationship between public and domestic spheres in general social life are reproduced but in a condensed form in the specific case of the relationship between domesticity and penalty in its classic liberal form. The interdependence between the public sphere and the domestic spheres is exemplified in the central punishment in classic legal rational liberalism by the restriction on the individual's freedom to exchange his labour for wages which is not just a punishment on the individual but on his family. As a punishment it developed at just that moment in the constitution of domesticity when the family's dependence on the waged work of the father became the primary source of income. The punishment to the family was part of the punishment to the individual. The families dependence on the male breadwinner was an important feature of the 'dull economic compulsion' to sell his labour that was essential to the reproduction of the social relations of liberal capitalism. The punishment of destitution to the family when there was no male breadwinner then was and remains a key element in the interdependence between the public and the domestic spheres.

63 Smith (1986)
64 Smith (1986)p.9
The second element in the constitution of domesticity in the legal rationality of liberalism is the privileging of the individual over the family and the public sphere over the domestic. It is the punishment and control of the individual criminal that dominates the penal discourses of legal rational liberalism. The destitution of the family outside prison becomes merged with the several impoverishments experienced by other categories of female headed families. In the classic legal rational era of penality there was almost no literature in the penal realm on the shared punishment of families of prisoners. It was not until the positivistic therapeutic gaze fell upon families of prisoners in the late 1950s that the punishment of the family outside became even marginally visible. Most reviews of literature of families of prisoners start with the 1959 study by Norman Fenton. Even in this literature the punishment of the families was a contingent rather than a central feature of the discourse. Moreover as G. de Connick points out, in an overview of the literature on families of prisoners up to 1982, although various ameliorations to the situation of families were suggested what is most noticeable about the studies is the fact that hardly any of their recommendations were ever implemented. Similarly of the several recommendations concerning families of prisoners in the N.S.W. reports that include a discussion of their situation, the Nagle Report, the Children of Imprisoned Parents Report, the Department of Corrective Services Report on the effects of marital separation and the Women in Prison Task Force Report, only eight have been implemented. Valerie Bauhofer makes the same point about her attempts to make the hidden punishment of children visible to the Department of Corrective Services in New York in 1987

.. there is .. a very real, not so subtle resistance to 'outsiders' to bring about change (in the penal system). For years I have been trying, without success, to forge institutional connections between the Department of Correctional Services and child advocacy organizations. My most recent effort, negotiated at the state and regional level, to introduce Head Start's very successful 'Exploring Parenting' curriculum to inmate fathers at state prisons with the help of Head Start personnel was dismissed by the DOCS Commissioner.
Thus the third aspect of the constitution of domesticity in liberal familial political economies, the masking of the interdependence of the public and the domestic spheres, follows on from the privileging of the public over the domestic and the individual over the family.

Since the late 1970s there have been a number of critical reports based on feminist and class analyses of the shared and marginalised punishments of the family outside. Nevertheless these stand as isolated studies. They have not been incorporated into any of the three potentially relevant critical literatures: the socialist feminist critiques of the relationship between the state, the family and the economy, the Marxist or radical critiques of penality nor the feminist critiques of penality and criminology. Nor has there been any collection of the various studies in an anthology that indicates the commonalities as well as the specific variations across several societies of the hidden labour, hidden costs and hidden punishment of families outside of prison. This isolated nature of the criticisms of the hidden punishment of families of prisoners both from each other and from other more mainstream criticisms of the relations of patriarchal capitalism means that the second stage of critical analysis, the stage of public systematisation is not reached. The only publics the studies reach are those with a specific interest in families of prisoners or else the spasmodic and thus apolitical attention of a wider public. The condensed invisibility of families of prisoners then is maintained in spite of these embryonic criticisms. The dominant form of the relationship between domesticity and penalty is still that of classic liberalism - the individual prisoner inside prison manifestly punished by his restricted access to waged labour and the destitution of the family outside prison whose shadow punishment is marginalised and largely invisible to the public gaze.

69 listed separately in Appendix 1
The invisibility of the relationship between the domestic and the penal spheres is described here as condensed because it remains marginal to so many discourses: the official and the radical and materialist literatures and practices in the penal sphere, the official and the socialist feminist critiques of welfare practices and the feminist concern with women and the state and with women and crime. Of the current literatures in these areas it is only in the two texts on social control by Stan Cohen and Anne Edwards that the issue of the family in relation to sentencing and punishment is incorporated into any wider discussions of the social relationships in the broader familial political economy, and in these two only marginally.

The work of Smith, Hounslow et al, Jones and the evidence in chapters five to eight of this thesis indicates that the masked punishment of the family outside of prison remains the major form of the incorporation of the family into the penal sphere. However there are other ideological deposits layered onto this basic form. The next layer of policy that makes the experiences of families of prisoners complex, contradictory and ambiguous is associated with the positivist shift from the 1880s to prison as a place for rehabilitation and treatment by experts. In this era of imprisonment as treatment, the family outside is allowed to enter prison although the extent to which the boundaries between home and prison become permeable varies with the specific balance between treatment, segregation or terror that constitutes punishment in any one state.

III. The family outside but allowed into the prison - the family as 'prime treatment agency'

The third and fourth modes are a consequence of the transformation in penal ideology and practice, located by Garland in the late nineteenth century. With the shift from a philosophy of 'freedom' to a psychology of 'personality' and the idea of the reformability of the offender, the ground is laid for the family to be brought into the

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71 Garland (1985)
penal sphere as part of therapeutic-rehabilitative programmes. This can take a variety of forms. Before delineating these various forms it is important to indicate the underlying factors that influence them. It was argued in chapter one that the left wing functionalist version of the symbiosis between state and economy did not account for the range of ways in which various states within capitalist political economies resolved the complex contradictions within and between the familial, political and economic realms. In brief there are four major areas of contradiction that allow for flexibility of state action: the conflict of interests between the different fractions of capital, the conflicting demands of short term economic and long term hegemonic policies, the inherent contradictions of the philosophy or ideology which authorise the social practices of a 'free market' familial political economy, for example the contradiction between universalism and specificity in the legal penal sphere and fourthly, the conflict between the economic and the scientific claims to 'rationality'.

Chapter two outlined the historical shifts in policy as a general refiguration of the penal sphere towards the rationalisation of punishment but within each of the five major eras in this transformation there were cyclical swings from the reforming to the terrorising ends of the spectrum of penal policy and practice. In these historical changes the contradictions and tensions of the familial political economy made room for flexibility in the range of choices that states could make in the sphere of legal-penal practice. These variations from the end of the nineteenth century have been mediated through the heterogeneity of positivism. The social sciences have provided several, and these often competing, theories of criminality.

The swings in penal administration are mediated then in part through the various academic legitimations or theories with the various specific social scientific discourses within positivism tending to 'fit' more or less closely with any one of a number of different political and bureaucratic discourses.
Underpinning the various theories, or social science approaches, to criminality and 'the criminal personality' are assumptions, sometimes manifest, sometimes obscure, about the family of the offender. The way that the family becomes incorporated into the various programmes of therapy, rehabilitation, terror or surveillance thus changes with the different degrees of importance that any one state places on the competing discourses within which punishment is being addressed. In chapter two it was noted that, in general, the major transformation since the development of positivism has been the change in the mid twentieth century, away from the unquestioned professional dominance of positivism and the centrality of the closed institution as the site of control and surveillance, to the contradictory combination of a rhetoric of deinstitutionalisation and deprofessionalisation with punishments that retained and extended both institutional control and professional expertise but with a parallel range of controls developing that increasingly extended, widened, dispersed and made more intensive surveillance and control within the community. As Cohen points out, this has led to the paradoxical situation that the era of deprofessionalisation and suspicion of the theorising of social science experts has led to an intensification rather than a decline in the influence of theories of criminality.72

One of the major questions posed by Foucault about the emergence of positivism and the analysis of the 'present moment' of rationality as the spirit of modern culture was of the emergence of humans as both objects and subjects of knowledge. Foucault's question was not only about how this duality emerged but at what cost: 'This is my question: at what price can subjects speak the truth about themselves?'73

The cost however is not borne only by the individual who is both object and subject of power as knowledge. In the dual conflation in which women's experiences of social life

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72 S. Cohen (1985) p.17
73 cited in Merquior (1985) p.17
are subsumed firstly into those of the individual and secondly into the abstract sociality of the community, the costs of knowing oneself as a sentenced offender are borne too by those people particularly women who are obligated through their family relationship to care for the individual who is constructed as an 'offender'. Through this family obligation as the mother, the spouse, the 'moll' or the mother of the child of the individual prisoner women are pulled into the several scientific discourses. They, too, become both objects and subjects of the rationality of the social sciences in the several often competing theories of criminality.

There are broadly six major theories of criminality that are part of the various discourses that underpin the third and fourth modes of the incorporation of the family into the prison. The ways that families of prisoners are conceptualised and acted upon is filtered through the symbolisations of family and criminality within each of these theories. They are broadly the:

- Bio-anthropological and the bio psychological
- Psycho-dynamic
- Sub cultural
- Structural,
- Radical, and the
- Neo-classical

social science literatures on criminality.

**Bio-Anthropological Theories**

The dominant paradigm in the earliest period of positivist criminology was the criminal-anthropology school founded by Lombroso. The early formulation of this theory in the 1870s, at the beginning of the era of scientism defined criminality in terms of the atavistic degeneracy of the individual criminal. This earliest form of positivistic criminology opposed the major discourse of punishment of the classical laissez faire
era, the discourse of rational free choice. Criminality was not the rational choice of a free and calculating intellect but the result of predetermined, inherited, organically based characteristics of the offender. Criminals came from a sub culture within the main society that was characterised by its genetic inferiority. It was the work of criminal anthropologists then to measure, classify and segregate the individuals in that sub culture. The balance in penal policy between universalism and specificity swings to the latter end of the spectrum with the pressure from this earliest positivist school to individualising punishment to fit the offender into the offence.

Although Lombroso's work has been the subject of derisive criticism since 1913,\(^7^4\) the genetic basis of moral inferiority has never been completely absent as an explanatory model in criminology. It was part of the influential eugenics movement that dominated discourses about both the family and punishment in the U.S.A., Northern Europe and Australia well into the 1950s.\(^7^5\) Karier points to the staying power of the myths of the Jukes and the Kallikaks, two 18th century American families each supposedly responsible by their profligate breeding, and the uncontrolled breeding of their later generations, for 'hundreds of the lowest types of human beings' that are supposedly the pool for criminality in America.\(^7^6\) As late as 1955, Henry Garrett published General Psychology which reprinted the graphic diagrammatic image (see Figure II below) of the results of Martin Kallakak's interbreeding with a 'feeble minded tavern girl' to support the genetic theory of social behaviour.

\(^7^4\) A. Cohen (1966) p.50  Heidensohn (1985)
\(^7^5\) Clarence Karier (1976)
\(^7^6\) see for example Dugdale R. (1910)  Goddard H. (1912)  Garrett (1955)  Darlington C. (1978) for the way this myth has been perpetuated
FIGURE II

MARTIN KALLIKAK

'Please see print copy for image'

77 copied from Karier (1976) p. 132
There are three aspects of the paradigm of genetic inferiority that add to the mythical power of the Martin Kallikak story: the sexuality of the criminal's mother or partner, her intellectual inferiority and her moral inferiority, are all interwoven strands in this paradigm of the genetic/social production of a criminal underclass. Although, the genetic argument has been used to segregate the domestic and the penal spheres, to set up definite boundaries between the home and the prison, these themes also re-emerge in the positivistic discourses which bring the family into the prison.

Paul Rock has argued that to examine the work of the early positivists is like resurrecting corpses.\(^{78}\) However, although the crude Lombrosian thesis of genetically based criminality lost plausibility by the 1920s, the general thesis of inherited criminogenic characteristics has been periodically revived in increasingly sophisticated forms. The influence of body types upon criminality was the central focus in Sheldon's work and was a feature of the Glueck's investigation into delinquency in the 1950s.\(^{79}\)

Chromosomal imbalances, glandular dysfunctions and left hemisphere dysfunctions have been the most recent variations of Lombrosian positivism.\(^{80}\) In 1978 the geneticist Darlington was arguing against prison programmes that include weekend leave or conjugal visits because one of the major purposes of imprisonment should be the reduction of the numbers of prisoners' descendants:

> The recent progressive or liberal practice of releasing juvenile gangsters from custody at weekends is intended to allow them to accustom themselves to freedom and responsibility. But in practice it means that they breed. This is not the best way, .. to curb the gang trouble in Glasgow.\(^{81}\)

From the point of view of genetic theory, conjugal visiting is also unwise as it too is likely to increase criminality:

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78 Rock (1977)'A Review of Carol Smart's" Women Crime and Criminology "in British Journal of Criminology vol. 17 cited in Heidensohn (p.122)
79 A. Cohen p 52.
80 Alberta Nassi A. & Stephen Abramowitz S. (1976),
81 C.D. Darlington (1978) p. 119
(the) proposal to allow wives into prisons is designed for another worthy purpose, to reduce the present incidence of homosexuality. But, in contrast to homosexual relations, it will increase the prison population when the children so begotten come of age.\textsuperscript{82}

**Consequences for the family.**

The most manifest and dramatic consequences for families of criminals were the sterilisation programmes that resulted from these discourses. 21 states in the U.S.A. practiced eugenic steritization. About 10 per cent of the population were identified as carrying 'the bad seed' of feeble mindedness. Between 1907 and 1928 in the U.S.A. sterilisation laws were passed and over 8,500 people were 'eugenically controlled', 6,200 of them in California.\textsuperscript{83} The crimes which qualified offenders for sterilisation were murder, prostitution, car theft and chicken stealing.\textsuperscript{84} In some cases imprisonment was offered as the alternative to sterilisation, both of these penal policies then are incorporating a strongly eugenic function: prison serves as a place of segregation preventing the prisoner from creating his own family and passing on his 'bad seed'.

However there are more indirect consequences for families of prisoners. It was feeble mindedness that was associated with the atavistic degeneracy of the criminal. Terman argued that as the feebleminded were incapable of moral judgement they could therefore be viewed as potential criminals.\textsuperscript{85} This association between intellect and criminality is part of the current socio biological explanation in Wilson's and Herrnstein's work.\textsuperscript{86} However, if feeble mindedness leads to criminality, criminality is the indicator of inherited feeblemindedness. Both the parents and siblings and the wife and children of criminals then are categorised as socially inferior and potentially socially polluting. Families of prisoners come to be defined as part of a socially, intellectually, and morally inferior sub culture, a class separated from normal society and sharing the criminogenic characteristics of the prisoner. The implicit conceptualisation of women with family

\textsuperscript{82} Darlington p. 119
\textsuperscript{83} Karier p. 152
\textsuperscript{84} Karier p. 131
\textsuperscript{85} as cited in Karier p. 132
\textsuperscript{86} J Wilson & R Herrnstein (1988)
obligations to prisoners within this perspective then is that they are both the causes and the potential accessories in further deviance within and outside of the prison.

Although bio-anthropological theory has been overlaid by several alternative and opposing theories of criminality, there are two reasons for insisting on its significance for interpreting the symbiosis between the home and the prison. Firstly, from a Foucaultian perspective it is useful to hypothesise that this conceptualisation is embedded in several of the discursive practices within the penal sphere. The architectural layout of visiting areas, the bureaucratic procedures associated with visiting and letter writing, the routine day to day relationships between mothers and children visiting prison and the reactions of police and prison officers - the flesh and blood representatives of the legal penal sphere who are the mediators of penal practices and policies for most of the women who are caught up as families of prisoners into the penal realm. Chapters five to eight indicate the extent to which these conceptualisations of woman and children as members of an inferior class remain part of the complex and contradictory discursive practices of penalty.

Secondly, as Cohen pointed out in 1966, criminal anthropology, 'lingers on and occasionally flickers up brightly enough to create a brief sensation'.

Nassi & Abramowitz point to the way that domestic violence, drunkenness and persistent and serious traffic crimes have been associated with 'episodic dyscontrol'. They cite the work of Mark and Ervin as being especially influential in constituting this behaviour in the marginalising terms of pathological brain behaviour. Both materialist and feminist concerns then are mystified in the definition of these contemporary crimes as functions of individual, biologically based pathologies.

87 A. Cohen (1966) p 50
With the rise of neo-classical economic policy and 'the retreat from welfare' in Australia, the U.S. and northern Europe since the 1970s, the particular attraction of a biological explanation of criminal behaviour that relocates the focus of law and order back to the inherent constitutional characteristics of the offender, fits well with the hegemony of the New Right. The biological or constitutional model, although now overlaid by, is not replaced by the successive models of criminality. It remains as one of the several competing discourses within which penal policy and practices are administered. The genetic theory of criminality is part of the wider discourse of the genetic theory of personality and intelligence. It has great political power or persuasion particularly for policies of the New Right as it fits the Darwinian, functional stratification thesis justifying class, gender and racial inequalities and domination on the basis of a scientifically legitimated biological inequality. Genetic explanations linking criminality with low intelligence are currently entering into the general discourse of criminality in the recent texts of Mednick, Gabrielli and Hutchings, J.Q. Wilson and R. Herrnstein and the bio-psychology of H. Eysenck.

**Subcultural Theory**

Criminality in this model still resides in the personality of the offender but it is a cultural rather than a genetically determined base that creates the potential for delinquency. The two theoretical strands are not completely distinguishable. Lombroso extended the constitutional theory of criminality to include a discussion of the influences of a criminogenic sub culture.

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90 Nassi and Abramowitz point to the funding that Mark and Ervin have been awarded by various federal agencies in the United States p. 602.
94 Hans Eysenck (1988)
95 Heidensohn pp. 112-113
Criminality stems from the different sub cultural values of the population defined as being 'hard core lower-class' in sub-cultural theory, variously estimated in literature as being in the range from 10 to 60 per cent. Gwyn Nettler summarises Miller's and Banfield's 'class oriented theses' in which the values of hasty hedonism, cunning and toughness of the criminogenic lower class are contrasted with the middle class values described as those that emphasize ambition, the ability to postpone gratification, control of aggression, and respect for property. In this paradigm the family is manifestly at fault in producing criminality. It is specifically the households headed by women without economic support from their spouses in which these criminogenic values are fostered. The greater propensity to crime is a result of the lesser 'ego strength' of the criminal. The failure of the family to adequately socialise the child then, is one of the key factors in producing crime. Inconsistent and inadequate family control that fails to pass on adequate moral lessons results in an absence of shame in the children of lower class families. The inadequate family, in terms of its nonconformity to the classic, nuclear family model of bread-winning father and dependent and caring-controlling mother, is essentially the amoral family, the cause of criminality.

Just as the biological theories of the first layer of criminological positivism were spun into a more complex skein of discourses in which criminality, intelligence and demographic policies were all pulled together into a broader thesis which legitimated the political economic status quo in the first decades of the century, these subcultural theories are woven into a wider web of discourses linking criminality, mother headed households, a 'culture of poverty' and welfare policies, in the immediate post W.W.II societies of western industrialism. The fears which are being tapped in these successive stages shift

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97 Nettler (1974) p 144
98 Nettler p. 143
from the threat of atavism to the threat inherent in a welfare economy which enables women to maintain households without men.

**Differential association theory**

In Sutherland's influential theory of differential association, the prime cause of criminal behaviour is the learning of a set of subcultural values which provides both attitudes to, and the skills for, criminal behaviour. In this variation of subcultural theory however, it is the delinquent peers who are the significant socialisers. Nevertheless, it is the family's failure to attach the delinquent to conventional family life that is the predisposing factor: 'these two processes (isolation and socialization failure) are important because they increase the probability that a child will come into intimate contact with delinquents and will be attracted by delinquent behaviour'.

**Psycho-dynamic and Social psychology models**

Very close to the sociological subcultural theories of the 1950s and 1960s, although without attempting to resort to the latter's functional structural explanations, is the much more individualistic paradigm in social psychology that defines violence and aggression as natural. The 1970s work of Eron is cited by Nettler as being a major influence in this school. Criminality in this model is the result of the failure to provide adequate nurturing to control this natural propensity to criminogenic behaviour. The domestic labour of caring is clearly linked in this theoretical stance to the function of control. Moral conformity is integrally tied to 'the familial skills of adequate nurturing that includes both appreciating the child and training him to acknowledge the rights of others'.

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100 E. Sutherland and D. Cressey (1966)
101 Sutherland and Cressey (1966) p. 227
102 Nettler p. 172
103 Nettler p. 172
104 Nettler (1974) p. 172
When partners of prisoners are explicitly included in the psychiatric model of criminality they have been described as having 'the same psychopathology as the felons'\textsuperscript{105}

It is worth noting that this conclusion comes from a study with the title: 'A Psychiatric Study of Wives of Convicted Felons, An Example of Assortative Mating' and that one of its conclusion was that the psychopathology of the family was likely to be an enduring characteristic. There is not a clear divide then between the constitutional and the psychopathological models of criminality.

These 1970s theories of criminal behaviour are also clearly linked to the earlier psychodynamic control theories that identify the issue of criminality primarily as a defect in the control structure of the psyche of the individual offender. The family is again manifestly the cause of criminality in this model as it is the infantile and childhood experiences that fail to provide a proper balance between harshness and nurture thus exposing the child to the eventual risk of becoming deviant.

In this 'psy' discourse, in which in Donzelot's words the family becomes the site of both centrifugal and centripetal forces,\textsuperscript{106} the family is pathogenic if it fails either to contain or to free the individual. The family, to be successful, has to maintain the delicate balance between being inadequately socialising or over restrictive. Failure to maintain this balance then lead to risks of the child succumbing to one of three kinds of deviance according to the particular form of imbalanced socialisation he receives: deviance as neurotism through 'over socialisation', deviance as aggression through inadequate socialisation, or deviance as a form of socialized criminality. This latter offender does internalise the appropriate balance of freedom and inhibition but his early socialisation leads to his inability to extend this balanced sociality to a group larger than his

\textsuperscript{105} Samuel Guss et al. (1970)
\textsuperscript{106} Donzelot (1979) p.228
The 'amoral familism' of the domestic sphere is the value that limits the boundaries of the deviant's responsibility to the extended criminogenic family of the peer group. The urban anthropology of this approach parallels the cultural and political anthropology of the 1950s school of development theory particularly in the work of Edward Banfield on the 'moral basis of (the) backward society' of South Italy. Banfield spelt out the possible dangers of the spread of 'amoral familism' with its inherent anti-sociality through the mechanism of immigration and the spread of this polluting South Italian culture within Italy. Whilst Banfield argued that 'Southern Italians are, I feel, much less critical of northerners than vice versa and... this attitude bodes well for the assimilation of southerners to northern Italy if... the northerners are not amoralized in the process'.

The theory of an ethnically based criminogenic sub culture dominates much of the current media presentation of organised crime in both the U.S and in Australia. One of the several academic articles that specifically links deviance, ethnicity, class and subculture/family style is notably entitled 'Black Gangs as Family Extensions'. This image of an ethnically based sub cultural group, within but not part of society, and inherently threatening to the mainstream of social life through its intrinsically criminogenic culture has a particular mythic strength. Myths, in Levi Strauss terms, are sustained because they solve the contradictions of the way that binary oppositions are used to categorise experience in any specific society. One of the central current contradictions to be explained away is crime in a just and universalistic society. Like the genetic and the individualist psychology of deviance, explanations incorporating the sub cultural theories, particularly those locating the basis for differences in cultural values in ethnicity, place the responsibility for criminality outside of normal social life. Criminals

108 Banfield (1958)
109 Banfield p.156
110 Banfield p.157
111 Wain Brown (1978)
112 Claude Levi Strauss (1964)
are 'enemies within' who can be identified by scientifically rational experts because of the essentially arational characteristics of the criminal. They are either feeble-minded, part of an earlier pre-universalistic therefore pre-rational culture, or they have not been exposed to the proper balance between freedom and nurture and so are not socialised sufficiently to give up their arational pattern of ego-centric behaviour. In each case criminality is mediated through the family and in each case the problem of criminality is defined as the family's failure to socialise the deviant out of a primitive amorality and arationality. To become a moral citizen is the process of becoming a rational citizen capable of understanding, and willing to be part of, the universalistic principles of liberal rational society.

The unspoken image that hovers over all three accounts of criminality - sub cultural, psycho dynamic and differential association - is of a threatening amoral public space in which young, working class men congregate unfettered by chains of conformity forged in conventional i.e. middle class family relationships.

However, the family has a dual and contradictory part in these discourses. It becomes the site of both the blame for, but also the possible reformation of, the resocialised morally upright reformed prisoner. Although the family is to blame it also becomes the 'prime treatment agency' in these master stories of deviance and control.

(i) Family as 'bridge' and 'prime treatment agency'

There are broadly two forms of this style of incorporation. Those in which the families' visits act to maintain the prisoners' contact with the world outside so that family contact is encouraged to preserve the family as the prisoners' 'bridge' back to normal life. The family in this case provides both social and material resources. It is defined as the agent of the prisoners resocialisation back into the citizen skills of 'scheduling time .. paying

\[113\] Perry (1974)
bills ... (and) meeting social obligations\textsuperscript{114}, and also of being the most frequently used material buffer, supplying home, money and job contacts in the crucial early post release period.\textsuperscript{115}

Women’s key economic role is neatly mystified in the standard social science conflation of woman and family in the mainstream of the families of prisoners literature on maintaining family contact. However, in one study of the early post release period, Jeffrey Liker, highlights the way that class, race and gender inequalities are exacerbated by imprisonment policies.\textsuperscript{116} Although he doesn’t question the assumption of familism underlying imprisonment policies, Liker found that it was women, particularly mothers of male prisoners who bore the high economic and emotional costs of the immediate post release period. The majority of the freed men in his study of black prison releasees went home to their families, 60% to mothers or mother surrogates, 20% to wives or partners. These women were already bearing the financial burdens of their class and gender in having sole responsibility for children whilst having access only to low status, low income insecure jobs. 57% of the mothers nevertheless received no contributions from the men towards housekeeping nor did 38% of the wives.\textsuperscript{117} Even those men who did pay were likely to borrow more than they contributed.

Liker’s work makes explicit the economic exploitation of women that is involved in this particular mode of the incorporation of the family into the penal sphere. In the mainstream families of prisoners literature however, home is unproblematically constituted as that place ‘where, .when you have to go there, they have to take you in.’\textsuperscript{118}

Barret and McIntosh in their critical analysis of family life in the wider society, point up the life long implications for parents, particularly mothers, of this sense of

\textsuperscript{114} John Irwin (1970) p.178
\textsuperscript{115} Irwin (1985) p. 46
\textsuperscript{116} Liker (1981)
\textsuperscript{117} Liker p.16
\textsuperscript{118} Ogden Nash cited by Michelle Barrett & Mary Macintosh(1982) p.22
security that kinship relations provides: 'It is almost as if children may choose to reject the parental home but the parents are expected to continue to provide it as a minimal security for the adult child.'

The positivistic literature on recidivism and the family unreflexively reinforces this construction of the domestic realm as involving this long term obligation of women.

Nevertheless, in much of the mainstream families of prisoners literature surrounding these programmes, women on their own are not defined as being sufficiently skilful to do the work of rehabilitation.

The echo of the model of criminality that associates delinquency with the social inadequacy of the family of the prisoner is evident in discourses that are explicitly directed to families of prisoners. In Pauline Morris's classic study of families of prisoners, in 1965, the wives of civil prisoners were characterised as '(living in) poverty, squalor, inadequacy and general social incompetence.'

In a 1988 paper by Ray Kidney the Director of 'Offenders Aid and Rehabilitation Services of South Australia', the major agency overlooking the interests of families of prisoners in South Australia, describes the work of the agency as work with families (who) have to adjust to live on much less, others are socially inadequate and they need the help of community volunteers to be taught budgeting and survival skills. Recipes for nourishing, cheaper meals, altering good used clothing, readily available from thrift shops are just two more practical areas where help is needed....groups are being held to teach parenting, cooking and sewing skills with encouraging results as well as attempting to deal with the other problems of reintegration into the community.

References:
119 Barrett & McIntosh p.22
121 Pauline Morris (1965) p.253
122 Ray Kidney (1988) p.3
However it is in the mainstream positivistic therapeutic writings that the family is most definitively categorised in 'scientific' terms, as a necessary but inadequate moral adjunct of the penal system. In this literature, family visits are no help in reducing recidivism unless the social science experts intervenes. Norman Holt and Donald Miller’s influential paper argues that 'unless supplemented by family counseling these visits may be of no help to any necessary family readjustments after the inmates release'.

This assumption of the necessity for the family to be reconstituted by the help of social science experts is the basis for the second and 'stronger' version of the family as 'prime treatment agency'. In the most fully worked out versions of this therapeutic model of domesticity and incarceration, the family spends time in prison with the prisoner and the counsellors, towards the end of the sentence, working through family therapy or family counseling programmes.

One programme in Philadelphia in the United States brings the prisoner's partner into the prison once a week in the three months before his release to work with the prisoner in a psychodynamically oriented programme of counseling. The aims are to restore the family relationships through a knowledge of the psychosexual development, personality, structures, ego and superego functioning, impulse control, object relations, level of anger, and frustration areas of unmet needs, nature of support system and dreams and goals and in general by 'tapping into the patient's ego strengths, optimism and desire for a better life to make the therapy productive."

123 Holt & Miller p 40
124 Florence Kaslow (1978)
125 Kaslow p.58
This is achieved in part by reinforcing the 'normal' family relationships between the prisoners' spouse and the prisoner by exploring feelings of all members about the imprisonment and the reason for it. Guilt, recrimination, desire to escape from the relationship should be handled. Is there space in the family for the ex-offender and, if so, how does the role he now will be expected to play differ from that he lived before imprisonment? 126

The control through counseling extends into the after prison period with the recommendation that the prisoner's partner and prisoner be transferred to a mental health, family service or other agency in their home community for a continuation of the therapy begun in prison. 127

The legitimation for the programmes are that the caring work of the woman in the home prevents further criminality.

It is hypothesised that when someone feels needed, loved and respected by his/her important others he/she is less likely to commit the kinds of antisocial acts which bring him/her to the attention of the criminal justice system. 128

It is specifically the domestic emotional labour and relational skill of the women which is defined as being crucial to the prisoners' reform in these discourses, 'a major determinant of the accord which a married releasee achieves when he resumed life with his wife was her avoidance of behaviour which could impair his sense of independence.' 129

Glaser cites the parolee's own phrases about how the 'normal' wife should behave on the man's release:

by being encouraging and not nagging - not mentioning anything about it (his record) and not feeling sorry for me.

126 Kaslow p. 58
127 Kaslow p. 58
128 Kaslow p. 59
'she don't say nothing about the past or nothing like that... ... she makes me feel like I've never been away from home'

'Love, faith, by never nagging me ... doesn't question where I'm going when I leave in the morning'.

In 1964 a group of clinical psychiatrists initiated a families counseling programme in San Quentin prison. This was an extension of the I.C.E., the Increased Correctional Effectiveness programme, in which prisoners lived on a 'ranch' just outside the main prison walls and worked during the day in prison industries. The group counseling programme that was part of this scheme for 'increased correctional effectiveness' included three forms of groups: groups of prisoners and counsellors meeting every other day, weekly meetings of husband-wife groups, and monthly meetings when the wives had the additional work of bringing their children to the group counseling sessions. The finely detailed control over time allotted to these specific programmes extended to the way the psychiatrists ordered the style of family interaction

originally, the children met first as a group separate from the parents, and then in a total family group. this proved unwise ... ... (then) we had the total family group meet first for 30 to 40 minutes, followed by meetings of three separate small groups, husbands and wives, children over nine, and children under nine. The children's groups were divided at their own request. These small groups met simultaneously for 30 to 40 minutes, and this was followed by a visiting period during which all the families met together, with the correctional officer present.

Although the psychiatrists acknowledged the several economic and social burdens that the women faced, these were not factors that were addressed in the sessions described in the literature. The women were defined very much more in terms of their deficiencies as wives of the prisoners and as ineffective mothers of the potentially delinquent children. The women were described as both morally, sexually and socially inadequate. The myth of the Kallikaks can be seen as a clear bridge between the biological positivism of genetic inadequacy and this later psychiatric constitution of wives of prisoners as socially and

130 Glaser pp. 253-255
131 Harry Wilmer, Irving Marks, Edwin Pogue,(1965)
132 Wilmer et al. pp. 380-381
133 Wilmer et al. p. 382
psychologically deficient. In their relationships with the husband the wives' sexuality fitted what called be called the psychiatric version of 'the three bears syndrome'. Their sexuality was a problem in need of therapeutic counseling, either because it was insufficient 'some whose husbands are in prison for sexual offences, recognize their own frigidity and ambivalence ...'.
or because it was over abundant '... some are promiscuous, unstable women with histories of delinquency'\textsuperscript{134}

The duality of this sexual inferiority was associated with the women's parallel intellectual inability to balance the fine line between an overabundance or an insufficiency of love for their children

many fear being hurt by their children, whom they unconsciously wish to hurt or reject. This often results in extraordinary moralistic, rigid, punitive and domineering behaviour on the mothers' part. Some love their children so much they cannot bear to hurt them or disillusion them.

The women were also not conforming to the familial ideal of powerless morality by conducting their family relationships in terms of subsuming their own interests in the interests of the developing personality of their child 'sometimes the mother uses the child's dependent needs to assuage her own deprivation of affection. This tends to create a 'pawn-child' closely tied to the mother and isolated from peers.'\textsuperscript{135}

This construction of the behaviour as the deviant selfishness of the mother then is interpreted as likely to produce a deviant personality in the prisoner's child 'like the mother the child becomes preoccupied with himself, driven to selfishness, and afraid of close relationships with other people'\textsuperscript{136}

\textsuperscript{134} This 'flanking attack on women as the cause of men's immorality, either in terms of the women's over abundance or lack of sexuality, reechoes the late 18th scapegoating and denigration of women in relation to the problems of social control in the early days of the N.S.W. colony (see ch.2 p.50 citing Alford p.21)

\textsuperscript{135} Wilmer et al. p. 382

\textsuperscript{136} Wilmer et al. p.382
However, with the aid of the superior rational morality of the psychiatrists, the family problems, the penal problem of recidivism and the women's problems, all potentially were solved as:

the family counseling program... helped to strengthen family ties and work out many difficulties and misunderstandings prior to the husband's parole. Such programmes might help prevent recidivism of prisoners and improve the lot of the prisoner's wife.

The women who were reluctant to do the work of bringing their children to the prison for these sessions were subjected to some pressure 'those who were frightened or suspicious were soon convinced by other couples that 'family counseling' required that children be present.'

This project was explicitly tied to the shift in the sphere of penalty towards extending punishment and control out into the community through work furlough and parole programmes. The family was manifestly being brought into the prison to extend the control over the prisoner's behaviour within the prison but more importantly to extend the moral grip of the scientific rationalists over the family outside to constitute it as the 'natural' site of the moral reform of the prisoner in the community. 'The total family group both inside and outside prison is the natural therapeutic step in the resocialisation of the total family.'

Nevertheless, within his paradigm, although the family is constituted as the 'natural' site of moral control, the complexities of prison life and the potentially deviant psychopathology of the prisoner's family makes essential the continuing intervention by a hierarchically ordered set of scientific experts because of the complexity of family groups in prison treatment programmes we believe it imperative that such programmes be undertaken only by experienced group therapists, with the consultation of a participating psychiatrist.

137 Wilmer et al. p 385  
138 Wilmer et al. p. 389  
139 Wilmer et al 397  
140 Wilmer et al p. 388  
141 Wilmer et al p. 389
In both cases of control, within and outside of the prison the 'natural' family alone is not a sufficient guarantee of commitment to moral values. Moreover this control through the powerful rational morality of the behavioural scientists was explicitly defined as constituting control over the prisoner and the wife and children in the 'outside' world.

We feel that family group treatment in the prison should, ideally, be supplemented by group treatment of the entire family after the prisoner is released on parole. This would make possible further observation, understanding, and assistance of the 'real life family' for which the prison programme is preparation.

The constitution of penality as an intersection of physical, epistemological and moral control in these social science discourses is illustrated in the recommendation that 'in subsequent studies there should be long term follow up as well as concurrent observations and information from schools and social agencies'.

Ten years later, William Sacks, Jack Seidler and Susan Thomas were making the same argument for greater behavioural science intervention in the lives of families of prisoners. Although their focus was on reducing the potentially delinquent behaviour of prisoners' children they also constituted the family as the moral site of the prisoner's redemption.

Our findings suggest that the prisoner's failure to live up to society's laws often follows his failure to fulfill his family role. Yet the stated desire of the imprisoned fathers in our study to be better parents could prove a strong motivating factor in their rehabilitation.

The most far reaching current example of family therapy programmes is the one run by the Swedish Prison and Probations Service at Gruvberget Village in the north of Sweden. In this programme both the partners and children of prisoners live in the prison village at Gruvberget for two or three weeks towards the end of the prison sentence. The programme is oriented, as is the programme in Philadelphia, to restructuring and reinforcing family relations through a series of psychologically oriented group

142 William Sack, Jack Seidler & Susan Thomas (1976)
counseling sessions. However, the focus in the Swedish programme is closer to the San Quentin programme in being oriented much more towards the parent child relationship. Between the beginning of the course in 1978, to 1986, 115 families of prisoners had been through the course including 152 children and 203 adults. In six of the families both parents were prisoners visiting Gruverbet with their children. 143

Although there have also been family counseling sessions involving parenthood in Canada, Denmark144 in San Quentin, and in prisons in Kansas and Idaho in the United States,145 male prisoners as parents are generally an almost invisible population in mainstream penal discourses.146 The scientific rationality of the medicalised control conflicts with the economic rationality which privileges the control of prison budgets and judicial rationality which continues to constitute the prisoner, as it did in the liberal individualism of competitive capitalism, as individuals free of all ascriptive social attributes. However parenthood is the major issue in the political technology of the penal discourses when the social science gaze falls upon women prisoners. The generally agendered nature of the reformist school which conflates the terms 'prisoner' and 'male' is inverted once children become the key concern. Male prisoners disappear and the term 'prisoner' is conflated with 'woman' 147 The official discourses too reflect this bias. There are no official records in Australia detailing the numbers of children of male prisoners.148 The series of articles, about bonding and absence of prisoner parents, detailed discussions about the age at which children can remain in prison with their parent after their birth, and the comparative benefits of parent and babies units or release on

143 B Altahr-Cederberg (1986)
144 Robert Marsh (1983) p.162 Sari Schiff (undated)
145 Marsh (1983)
146 and the courses that do run are not usually part of any long term programme
148 Hounslow et al (1982 p.1) and personal communication with N.S.W. Department of Corrective Services Research Department (1988)
license schemes for prisoner parents of young children, are almost exclusively about women prisoners.\textsuperscript{149}

There are two invisible populations in this process of distortion comprising the male prisoners as parents and the women carers of the prisoner's children. The invisibility of the first population is highlighted by the title of an American text, \textit{Mothers in Prison}.\textsuperscript{150}

Whilst there are some journal articles and a few prison programmes incorporating children of male prisoners, the male prisoner constituted as a parent is not the focus of these discourses as is the woman prisoner, in the majority of the writings on children of imprisoned mothers. \textit{Fathers in Prison} is a non-title in the orthodox criminological, the social work and the critical, literature on the effects of imprisonment, because the prisoners' fatherhood is virtually never a civil status that is at issue.\textsuperscript{151} The relative absence of a parallel discourse about children of male parents is predicated on the invisible domestic labour of the mother or mother substitute of his child.

The masculinity of the prison is a denial of the man's parenthood but that deprivation can only operate because of the extensive domestic labour of the women carers of prisoners' children. In the reformist phase of penality the man's civil status as parent is denied as part of his punishment yet it is also encouraged as part of his reformation, as the bridge back to normality. The tension between these contradictory aspects of men's imprisonment is resolved through the exploitation of women's domestic labour of maintaining contact between prisoner and child but also through the denial of the importance of that labour. Without the network of women's labour that underpins penal policies the balance between punishment and reform in terms of the prisoner's loss and

\textsuperscript{149} the work in the United States by Sacks (1976) and Sacks et al. (1976) on the impact of imprisonment on children of both men and women prisoners, is the notable exception here. (discussed in greater detail in chapter six.)

\textsuperscript{150} Baunach (1985)

\textsuperscript{151} One exception to this is the case in the early 1980s of a prisoner in Victoria who made a claim to the Equal Rights Commission that he should have the same right as an imprisoned mother in that state to be able to care for his baby in prison. Although he won his case, the prison administration was able to deny his claim on the grounds of their inadequate facilities for safeguarding the safety of the child.
retrieval of parenthood would not be maintained. The balance would shift towards the
terrorising end of the scale in terms of the absolute deprivation of the prisoner's right to
maintain contact with his children and the image of imprisonment as a humane and just
punishment would be more difficult to maintain. The seemingly 'natural' work of
women in enabling men prisoners to maintain their civil status as parents is only made
visible by being reflected in the mirror of the severe loss of parenthood experienced by
women prisoners who do not have a parallel network of domestic labour to support them.
In one of the few articles that addresses the issue of men in prison as absent parents,
Linda Koban compared the different effect of incarceration on the families of men and
women. She found that men have the advantage of an established support system for
the child they leave outside; men's children are more often living with the other parent;
more men than women have frequent contact with their children; fewer men have
problems getting through to their children; men can depend on the child's mother to bring
the children for a visit; men's children are less often separated from their siblings; and
men are not usually incarcerated as far from their home communities. 152 Similarly,
Sacks et al. found that, whether it was the mother or father who was the prisoner, it was
the mother who was most often called upon to perform the difficult task of explaining
the imprisonment to the children. 153

When prison programmes do address the issue of parenthood the concern is usually
manifested only towards the end of the period of imprisonment, not in the traumatic
periods of arrest, early sentencing and classification, and the long term period covering
the main body of the sentence. Moreover, the programmes are oriented towards
evaluating the 'normality/abnormality' of the mother. In the small scale pilot
programme on parental counseling in Idaho, the wives of the prisoners in the
programme, after doing the extensive domestic labour of caring for the prisoners'
children throughout the several earlier traumatic phases of arrest and punishment, had to

152 Koban (1983)
153 Sacks et al. (1976)
allow an observer into their home to record their 'parenting skills', prior to an eight week training programme in the prison attended by both the prisoner and the mother and children. The period of 'at home' observation involved the prisoners' wife in being intensively measured and scored according to a 'Behavioural Observation' form on which was recorded the number of times the children complied with the mothers' commands and the types of control behaviour she exhibited. The observer scored a wide range of behaviors including such positive responses as approval, attention and positive physical responses and such negative responses of children and parents as crying, disapproval, destructiveness, humiliation, yelling and hitting.\textsuperscript{154}

The women also were involved in...

... writing self-reports, completion of an 'Adjectives Check list' on each of the children, measurement of interpersonal communication skills of parents by means of a pre-test/post-test in the parent training class... \textsuperscript{155}

The political technology of the social sciences in the constitution of the family as 'the cause' and 'the bridge': the techno-reformist literature on families of prisoners

It is in this mode of incorporation of the family into the legal penal sphere that the mainstream positivist literature on families of prisoners developed. Of the several texts or journal articles on the experiences of families of prisoners the dominant theme has been one of techno -reformism. In this approach the family of the prisoner is defined as a 'family in crisis' or as a 'disorganised family' but it is 'the family's' response or adjustment rather than imprisonment as the source of the crisis that is defined as problematic.\textsuperscript{156} Moreover 'the family' in these studies is conflated with 'the wife'. As the various authors of the techno-reformist studies develop their thesis it becomes the response of the wife to her prisoner husband or more rarely their children, that is under

\textsuperscript{154} Marsh (1981) pp.160-11
\textsuperscript{155} Marsh (1981) p.157
\textsuperscript{156} This bias in the family crisis approach has also been pointed out by de Connick (1982) and Judy Jones (1983)
scutiny, and it is her domestic labour of responding appropriately that has to be judged and managed.

The techno-reformist literature extends from the 1930s\textsuperscript{157} to the 1980s: in a 1981 report on the problems faced by prisoners' wives, Daniels continues to use the model of the family "... as a major untapped resource in a rehabilitative correctional system"\textsuperscript{158}

and in 1983 Robert Marsh was basing his argument for greater resources for group counseling in prison on the claim that the family "... provides a stable environment for the released offender and ultimately reduces recidivism"\textsuperscript{159}

However it was in the period from the 1950s to the late 1970s that this approach dominated the literature on families of prisoners. The first of the major texts in the field was the work by Norman Fenton in 1959.

Fenton specifically directed attention to the family as 'the therapeutic agent'. In Fenton's work most of the key elements of the approach in the later texts are laid out: the family is designated as the social unit most likely to prevent recidivism. But the family on its own is unlikely to achieve the right balance in the post imprisonment relationship. It is necessary therefore to intervene scientifically in the relationship between the prisoner and his family and reconstruct it in terms of the appropriate balance in the relationship. He advocated a course on family counseling for custodial staff in the Californian Department of Corrections and a programme of group psychotherapy for family members of prisoners due for parole.

\textsuperscript{157} Ernst Mowrer (1932) \textit{The Family} University of Chicago Press cited in Struckhoff (1977)
\textsuperscript{158} Daniels & Burnett (1981) p. 310
\textsuperscript{159} Marsh (1983) p. 162
One important refinement added in the literature following on from Fenton's work, and one that eventually became the focus of this approach, was the importance of diagnosis. The writers very quickly took on the role of scientific researcher into the domestic relationship prior to and necessary for the counseling. The literature thus shifted towards a 'blaming' discourse, defining several forms of domestic relationships, indicating the appropriate and normal form and, by definition, categorising all others as 'family disorganisation'.

One description, summarised in chapter two, of the development of the modern form of penalty was that it comprised three sub spheres: the normalising, the correctional and the segregative. Scientific rationality in the social space of the overlapping spheres of domesticity and penalty combines all three forms: families of prisoners experience the imposition of the normalising procedures of the social sciences specifically in terms of their domestic function of correcting the damages to the self esteem of prisoners that are the result, in turn, of the State imposed punishment-by-segregation of the man from his family. In Kaslow's words counseling works -

by exploring feelings of all members about the imprisonment and the reason for it. Guilt, recrimination, desire to escape from the relationship should be handled ... is there space in the family for the ex-offender and, if so how does the role he now will be expected to play differ from that he lived before imprisonment?

With this shift, Reuben's Hill's work on the 'family in crisis' became the basic paradigm within which the literature developed. One of the most marked features of the 'family crisis' literature is the increasingly positivistic character of the literature. 'Families in crisis' are constituted in terms of highly schematic patterns of family relationships. Variables are constructed from these models and are calculated in increasingly statistically sophisticated terms. The path from nominal to more sophisticated forms of categorisation and analysis can be charted by marking the changes.

161 Kaslow (1978) p.58
162 Hill (1949)

Pauline Morris's work on 588 women who were married to prisoners in British prisons in the 1960s - *Prisoners and their Families* is one of the most influential texts in the literature. Morris's work was comprehensive both in terms of the numbers of women who were interviewed and the forms of research that she employed. The detailed information on impoverishment, social isolation, problems of information and the amount of work involved in maintaining the family outside of prison gives vivid and graphic evidence of the hidden punishment and hidden labour involved for women who are partners of imprisoned men. Most of this evidence comes from the detailed informal responses she records in which the women speak for themselves about their experiences. However it is on the quantitative and analytic measurements of family disorganisation and family adjustment that Morris centred her findings. She used a variety of statistical techniques to estimate factors associated with the levels of family adjustment.

She also developed a categorisation of prisoners families according to the various patterns of dominance/submissive or nurturant/receptive relations between the two partners. From these patterns six possible kinds of family relations were described: 'dependant wife-dominant husband, mothering wife-dependent husband, dominant wife-passive husband, immature wife-immature husband, mature wife-dominant husband.'

Morris, after categorising the women into one of these nominal types, used a case study approach to analyse the 'families adjustment to the crisis'. Her work nicely exemplified Foucault's description of the rational management procedures of analytic discourse and

163 Morris (1965) pp. 144-206
the ways that social science can become a technology of control through confession. However it was in the American studies that the proliferation of the schema for deciphering and interpreting this confessed material blossomed.

Nine years after the publication of Morris's work, Perry used the same categories but called the family forms - 'Daddies and Dolls, Mothers and Sons, Bitches and Nice Guys, Masters and Servants, both dominant - hawks or both nurturant - doves. This naming more explicitly placed the blame for 'inadequate' family relations on the women: dolls, mothers, bitches and servants having different connotations to the terms used for the men - daddies, sons, nice guys and masters. Moreover the family crisis paradigm here clearly incorporates the 'psy' assumptions that the responsibility for the adjustment to the crisis is a natural part of the domestic labour of the women. Perry's judgements of the women in his sample is that few of them measured up to the ideal of an assertive purposeful wife but were too passive and intimidated by their husbands to be able to perform the expected labour of influencing or modifying the husband's social behaviour. Perry, himself a professional Classification and Parole Programme Administrator, argues that these (abnormal) women then needed the professional skills of a better resourced team of parole agents to achieve the normal and natural skills necessary for a properly rhythmic relationship with their paroled husbands.

The three major texts, following Morris's work in this literature, used increasingly sophisticated, more intensive and more statistically based analytic techniques to decipher the confessions. Foucault's thesis that knowledge insidiously objectifies those on whom it is applied and that surveillance, classification ordering and coding are not simply aids to control and discipline but are themselves woven into the very form of

164 Foucault (1978) pp. 66-67
165 Perry (1974)
166 Perry pp. 88-93
167 Perry p. 98
power itself, is strongly echoed in Stanley Brodsky's description of his methodological approach and his analysis: 'the study called for photocopying mail written and received, tape recording visits of the prisoner, and personal interviews'\(^{168}\) such close surveillance of the prisoner and his family created 'a distressing and persistent feeling of being an unwanted eavesdropper'\(^{169}\) and then became the subject of intensive scrutiny

\[ \text{... the measure of personal pronoun frequency used (p.p.r.) was personal pronouns per 100 words ... means and standard deviations for IP were calculated ... the last two time segments sampled for letters to siblings produced very high IP rates of 10.3 and 11.0\% respectively ... and intercorrelations were performed between IP frequency and length of confinement ... none were significant at the 0.5 level}^{170} \]

David Struckhoff applied even more sophisticated forms of analysis to measure prisoners' wives' attitudes. He carefully distanced his work from the less sophisticated scientific analyses of the preceding studies none of which, he argued, had a 'cohesive schema of the variables'\(^{171}\)

The Foucaultian thesis that the normalizing power of political technologies succeed when they are only partially successful because when there is failure this is construed as further proof to reinforce and extend the power of experts\(^{172}\) is clearly manifested in the reformist families of prisoners literature. Pauline Morris, after testing 13 factors, that is aspects of the women's lives, for their relevance to 'adjustment' found that 'unfortunately none of these factors was related to the adjustment score with the exception of family size ... ...' and she concludes her analysis of what factors are associated with the prisoners' wives' ability to adjust by suggesting

\[ \text{by testing separately two areas of adjustment we have been able to isolate certain factors which are relevant to this process, and we feel that this points to the desirability of testing each area individually had the resources of the research been available. Furthermore it confirms the view that our method of constructing an overall index of adjustment was not satisfactory and greater refinement is necessary.}^{173} \]

\(^{168}\) Brodsky (1971) p.119
\(^{169}\) Brodsky p.126
\(^{170}\) Brodsky p. 178
\(^{171}\) Struckhoff (1977) p.6
\(^{172}\) Foucault (1977) p. 268-272
\(^{173}\) Morris p. 227
Nine years later Struckhoff emphasizes the importance of scientific rationality in the problem of reconstructing prisoners' families as sites of moral redemption. Although he clearly contrasts his own more sophisticated research techniques with the earlier literature in the field and argues that his work exemplifies clarity in its definitions of 'adjustment', 'family' and in the more scientifically sophisticated eight variable schema that he uses as a model to test for disorganisation and adjustment, he nevertheless continues the success-through-failure technique in his conclusion by arguing that

the failure of the data to support six hypotheses derived from the literature indicates that the conceptualisation of adjustment to separation has not been sufficiently concise and that greater clarity in the future will be achieved through either more reconceptualization or additional identification of specific problems of adjustment.\textsuperscript{174}

Even though his questioning was so invasive of the women's lives that '...three wives broke down and cried, (and) others seemed upset but didn't cry', he argues for future researchers to include more specific and concise questions about the problems of 'adjustment'.\textsuperscript{175}

So the reformist technicist studies became ends in themselves, seeking to catch the most private and delicate aspects of prisoner family relationships in sophisticated networks of analysis. The family, that is the woman, properly controlled to behave normally by a network of well resourced professional experts, is constructed as a basic resource for reform. Reform is predicated upon intensive surveillance, personal confessions and

\textsuperscript{174} Struckhoff pp. 6-7
\textsuperscript{175} Struckhoff p. 103
intricate analysis. In the majority of the studies there is no questioning of penalty and none of familism.

More recently however the potential for a feminist analysis in Morris’s approach has been realised in Judith Jones study of 35 women, married to long term male prisoners in Melbourne. Whilst Jones is critical of the masculinist biases in the mainstream family crisis studies she argues that to understand the position of women caught up in the hidden punishment of being wives of prisoners, it is appropriate to develop a typology of prisoners’ families based on a questionnaire covering details of the personal relations of the wife and the prisoner prior to sentencing. The form of family relationship prior to imprisonment she argues, mediates the form of hidden punishment experienced by the women outside. Jones uses a taxonomy of family forms as an indicator of the power relationships between husband and wife. This categorisation is then used to estimate the level of independence women are likely to achieve whilst their husbands are imprisoned and the extent to which their family relationship with the prisoner becomes a source of his ability to manipulate and control the wife outside. Her work is one of the few recent critical studies that set the position of women who have a family obligation to care for prisoners in a broader structural framework that incorporates a class and/or a gender analysis of the women’s hidden punishment and labour.

A third approach, politically positioned between the psychologically oriented techno-reformist and the critical class and/or feminist discourses, has re-emerged in the literature, from the 1930s to the present. This is the social administrative reformist literature. This school advocates funding for practical advice and material help

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176 Jones (1983)  
177 Jones ch. 4  
179 The first major study in Australia, of 55 families in the early 1960s in Victoria, reported in Nancy Anderson (1965), is a good example of this approach. In her conclusion, Anderson, herself, points to the problems with this perspective: ‘It seems useful but lacking when it deals with the .. multi-problem and lower class families.’ (p. 39)
to 'families of prisoners' in order that the family relationship with the prisoner is maintained, both to enable the prisoner to survive prison, and primarily to help the family's role in the prisoner's rehabilitation after his release. This approach does not constitute the woman in the home as psychologically deficient. It rather focuses on the immediate, and long term, effects of imprisonment as causing the problems faced by 'the family' outside. However, those problems are not defined in the literature as being politically unacceptable. The women is constituted as the unwitting victim of a series of unfortunate but necessary events. Although the problem of the contradictory position of families of prisoners is made explicit in these discussions, the solutions that this school offers is a mixture of

(i) limited changes in penal programmes with an emphasis upon greater practical and material support for the family during the imprisonment and the after-care phase, and

(ii) professional intervention, based on the skills of 'family crisis management', to enable the woman to 'cope' with the emotional, financial and child management problems that she faces at each stage of the punishment, from arrest, through the chronic period of incarceration to the stage of pre-release and release.

*Intervention should focus on continuing to help the family to understand the prison program and the inmates' reactive behaviours.* .. the family unit should be assisted to become stable and self-sufficient. the (professional) worker can provide support in times of personal crisis, encourage family members to talk to each other when they experience frustrations and loneliness, assess and encourage areas of mutual satisfaction and to do things together; teach them to utilize community resources, to help them develop and pursue outside interests and hobbies. Emotions must be understood, but *adaptive behaviours should be encouraged and emphasized.*

The woman's labour becomes a more manifestly recognized aspect of penalty in these social administrative reformist discourses, and in some cases professional intervention includes encouraging self-help groups of '(families) in association with others in similar situations'. Nevertheless both 'the family' and 'imprisonment' are constituted as unproblematic. The self help groups function within the overall 'family in crisis'

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180 Susan Cobean & Paul Power (1978) p.38 my emphasis
programmes that are based on the belief that the families '... ... are strengthened to become a major source of support in furthering the rehabilitation of the offender ...'.\textsuperscript{181}

(ii) Conjugal visiting: the family as a 'mitigating counter-force'\textsuperscript{182}

Frances Heidensohn has made the point that in the process of change from the earliest to the latest of the social scientific theories of criminality, the theorists of deviant behaviour over this century have shifted from defining criminals as pathological and abnormal to seeing criminality as normal and even admirable.\textsuperscript{183} The ways that families of prisoners are seen and acted upon however does not parallel this path from disapprobation to hero-worship. When criminality is defined as pathological women, through their family relationships with men, become an explicit part of the problem of criminality. When deviance is defined in more positive terms as defiant and heroic, women disappear or are depicted only in terms of their sexuality. Heidensohn cites W.H. Whyte, author of *Street Corner Society*, on his own methodological bias:

> I had done no systematic work upon the family. On the one hand, it seemed inconceivable that one could write a study of Cornerville without discussing the family; yet at the same time, I was at a loss as to how to proceed in tying family studies into .. the book. I must confess also that for quite unscientific reason I have always found politics, rackets and gangs more interesting than the basic unit of human society (Whyte, 1955, p 324)\textsuperscript{184}

The strongly individualistic character of the Chicago School 'heroic' paradigms of criminality then reflects the biases of the way punishment is constituted in liberal rationalism in the maskings of the interdependence between domesticity and penalty. Unsurprisingly then the heroic individualism of the Chicago School also fits the neo-liberal programmes of conjugal visiting. If women are visible only in terms of men's sexuality then it would follow that the penal policies deriving from the neo-liberal version of the 'back to a just deserts' philosophy of incarceration brings the family into the prison through this narrow focus on the sexuality of the prisoner and his partner.

\textsuperscript{181} Susan Hoffman Fishman & Albert S. Alissi (1979) p.21
\textsuperscript{183} Heidensohn (1985) p. 127
\textsuperscript{184} Heidensohn p. 131
In the neo-liberalism of the era of permissive consumerism, conjugal visiting programmes reflected in a condensed form the several tensions inherent in the restructuring of the domestic sphere in the narrow terms of the reconstitution of women as sexual objects and subjects. Matthews argues that domesticity was reconstituted in this phase of capitalism through the commoditisation of personal life. She points out that this was a process inducing guilt and anxiety for women as advertisements provoked their feelings of inadequacy in terms of their femininity-as-sexuality. The narrow form of liberalism within a commodity culture served to define women as 'other' and to increase rather than reduce their marginality as people.

In this period the sexuality of women partners of imprisoned men became a key feature of the families of prisoners literature. In Donald Schneller's reworking of the families in crisis perspective three of the fifteen questions in the 'family change scale' that he administered to wives of prisoners intruded into their personal lives in terms of their subjective sexuality and desire. His 15 question scale covered the:

13. Sexual satisfaction of wife (as reflected in desire for husband)

14. Sexual satisfaction of wife (as reflected in desire for other men

15. Sexual satisfaction of wife (as reflected in desired frequency of conjugal visits - hypothetical question)

In Schneller's work the conjugal visits programme is defined as the answer to the women's problems of frustrated sexuality. However the conjugal visits programme was also used as an attempt to reclaim power back to the prison administration away from prisoner control. Women here are being used to domesticise sexuality in prisons to

185 Matthews (1984) p.90
186 Schneller (1975) (1978)
187 Schneller (1975) p.406
combat not simply homosexuality, but the prisoner power structures built up on homosexual violence. The masculinity of prison, although its most obvious aspect from the 1880s on, was largely masked by the privileging of 'the individual' in legal rational discourses. The semantic and political economic conflation of 'man' with 'human' allowed the masculinity of prison populations to be obfuscated by its very obviousness.

The explosion of prison violence especially when it was manifested in the collective actions against prison administrations in the international prison crises in the 1970s redirected penal discourses to the volatility of all male imprisonment. There was a series of academic papers, neo-liberal reformist arguments and some penal policy changes centering on the restitution of conjugal rights of prisoners both in the United States and in Northern Europe, throughout the 1970s.\textsuperscript{188}

In Lockwood's study (supported by the New York State Department of Correctional Services) of sexual aggression in an all male prison,\textsuperscript{189} he specifically drew parallels between the continuum of force in the range of forms of sexual harassment in the 'free world', in which men ogle, make remarks and proposition women as well as forcibly rape them, to the forms of sexual aggression within prison. He pointed up the way that domesticity, in terms of power, is reconstituted within the prison when women are not present 'in this sense male prisons, where sexual aggressors look upon targets as being feminine, mirror a condition prevalent throughout many subcultures within our society.'

Lockwood's proposed reform was in terms of a vague liberal feminist argument to eliminate the values permitting men to sexually harass women. However restoring 'normal' sexual relations inside prison by bringing women into prisons for conjugal visits was one of solutions introduced in New York as well as in several other prisons.


\textsuperscript{189} D Lockwood (1982)
Goetting estimated that in 1982 seven states in the U.S.A. allowed conjugal visits, five of the states implementing the programmes in the fifteen years between 1967 and 1982. In Dickinson's survey of 68 adult male prisons in the U.S.A. in 1981, 18% included conjugal visits as part of their penal programmes, an increase from 6% in 1971.

The Budget cuts of the Reagan 'retreat from welfare' period were associated with the end of this penal policy innovation. By 1983 the defence of existing conjugal visiting schemes was more likely to be in terms of prison control rather than prisoner reform or prisoner rights. The Family Reunion Programme in the New York State Department of Correctional Services was described in 1983 as being effective because

(th) program services can have a positive impact on inmate discipline, especially in those cases where good disciplinary records are directly related to participation in programs that are meaningful to the offenders ...this finding may be seen to be especially noteworthy since nearly all of the (36) cases had prior histories of numerous, as well as serious, disciplinary infractions.

In a comprehensive overview of conjugal visiting in 1982, Anne Goetting summarised the world wide situation of which penal administrations permitted or encouraged conjugal visits. She found that conjugal visits were part of the penal policies of none of 8 Asian countries, 1 of 7 Middle East countries (Iran), 10 of 23 European countries, 5 of 7 Central American, and 7 of 12 South American. Goetting also reported that of all the states in Australasia in 1982 only Victoria reported that conjugal visits were allowed. This was in the maximum security prison of Jike Jia at Pentridge and the private family visits arrangement at Ararat, a medium security prison. The Ararat scheme emphasizes

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191 G. Dickinson (1984)
192 Dickinson p 416
the priority of the maintenance of family ties over the sexual aspect of the Ararat scheme.  

Most of the conjugal visiting policies incorporate the home into the prison through a regulated pattern of punishment, control or reward. However, the penal policies of Costa Rica have the most systematic version of this policy of progressivism. The relationship between the prison and the home is plotted through a programme associating punishment and reward with a minutely detailed balance between control in the institution or the home.

(i) Maximum Security Closed inmates are allowed no conjugal visit
(ii) Maximum Security Open prisoners are allowed one two hour conjugal visit every three weeks
(iii) Medium Security Closed inmates are allowed one two hour conjugal visit every fifteen days
(iv) Medium Security Open inmates are allowed a three hour visit every fifteen days
(v) Minimum Security prisoners are allowed one conjugal visit from 5.30 p.m. to 7.00 a.m. every fifteen days
(vi) Limited Confidence inmates live at home every week from Saturday at 1.00 p.m. until Sunday at 6.00 p.m.
(vii) Widened and Complete Confidence categories ... sleep at home every night of the week except Saturday.

These specifically allocated rewards, of carefully plotted increases of time with the family, incorporate the domestic into the penal sphere with Benthamite precision and zeal. With this programme blending the diffuse care of the family with the precise

194 Goetting (1982) p.414
196 adapted from Goetting (1984) p.160
control of the stopwatch Costa Rica has attracted the reputation of being 'known as one of the most penologically advanced countries in the Western Hemisphere. '197

What is obscured in this description is the interdependence between the penal and the domestic realms in terms of the masked expectations of the extraordinary malleability of the women outside of prison and their willingness to use their resources of time and emotional skill in fitting in to the demands of these precise schedules of prison control. The prison extends into the lives of the families outside imposing major areas of unfreedom over the woman's time and control over her own material resources, yet the 'naturalness' of the woman's family obligation to support the prisoner masks this domestic labour so effectively it becomes invisible in most of the articles that advocate conjugal visiting programmes and that define the 'progressiveness' of the Costa Rican penal system. It is women's work as sexual labourers, securing the sexual rights of the prisoner as well as the civilization of the prison, that is the masked exploitation in these liberal discourses of the late 1960s and 1970s. Moreover what is even more marginalised in these approaches is the range of other practical domestic labours that are taken for granted in the policies of conjugal visiting. There is little acknowledgement in any of the texts cited above, of the infrastructure of housework that is necessary for conjugal visits - negotiating time away from paid work, organizing contraception, rescheduling the household budget to be able to afford the work of visiting over a two or three day period, arranging for children to be cared for, or if the children are included in the visit, all the practical preparation that is the inevitable corollary of taking children away on a 'holiday', as well as the emotional work of preparing them for the visit and working through the after effects of a stay behind prison walls.

(iii) **co-ed prisons**

There is an alternative version of this mode of incorporation of the family into punishment systems through the domestication of sexuality and the civilizing of masculinity. In co-ed experiments the family is reconstituted within the prison, not by bringing the family into the prison but by using women prisoners to feminise the latter stages of imprisonment. These experiments in mixing the sexes in prison, the practice which the penal reformers specifically and vigorously opposed one hundred and thirty years earlier were explicitly introduced in Denmark and in U.S.A. prisons as programmes to relate to three issues: normalisation, inmate sexuality and inmate violence ... †

Bud Grossman, in his paper to a Wardens Summary of co corrections, cited: 'quality medical care for women, reduction of homosexuality, housing alternative for weak males, placing women closer to their homes, improved self esteem (and) normalisation,' as the reason for the introduction and continuation of the co ed programme for which he was responsible.

Elizabeth Flynn in her introduction to Smykla's overview of the various co-ed programmes in the U.S.A. lists four reasons for their introduction:

1) the dehumanizing effects of masculine prisons;
2) the failure in gendered socialisation of young male offenders if they spend their youth primarily in all male prisons (i.e. the paradox of the demasculinisation of young men in an all male prison);
3) the wider implications of this failure in gender socialisation for young male offenders' future productive contribution to social life;

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198 Dobash et al. p.38
199 Helen Cavior (1978)
200 Grossman (1978)
201 Elizabeth Flynn (1980) pp.12-14
4) the subversion of programmes of reform/rehabilitation in the all male culture of orthodox imprisonment.

The early evaluations of these schemes indicate that co-education prisons in the all male culture of orthodox imprisonment. Domesticity, as it is manifestly drawn into the 'overdetermined site' of penalishment through co-correctional programmes, unsurprisingly reflects and reconstructs the unequal gender relations of the wider familial political economy.

There are both emotional and material ways in which the reconstituted familial relationships within the prison replicated the gendered division of domestic labour in the outside world. Ten States in the U.S.A. had introduced co-ed prisons by 1980. In each State the imprisonment in a co-ed prison was the 'reward' achieved by male prisoners only at the end of their progress through the prison system.

In the Pleasanton prison in California it was women who were responsible for the maintenance of the personal or expressive dynamics of the relationships. The men controlled the way in which women prisoners relate to them '... through labelling, verbal harassment, violation of women's physical space, and initiation of relations.

Co-ed prisons have been reported as reinforcing women's dependency on men, undermining their self-reliance and increasing their insecurity. There is greater pressure on women to define themselves in terms of their physical attractiveness and sexuality. In addition, with the shift to co-correctional programmes men take over the few 'best jobs' or dominate the sporting, educational or training programmes.

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202 John Smykla (1980)
203 However for women prisoners in some states the co-ed prison was the only option
204 Joellen Lambiotte (1980) p. 243
205 Lambiotte p.244
206 Jacqueline Crawford (1980) pp.265
207 Lambiotte p.227
208 Lambiotte p.229
In the morally contradictory situation of introducing co-ed prisons in order to normalize sexuality, whilst formally disallowing sexual relations within the prison, it is the women who are informally allocated the moral responsibility of balancing these conflicting demands. Falling pregnant, as one of the most manifest significations of a sexuality that has been constituted in the contradictory terms of both redemption and illegality within co-ed prisons, then becomes the basis for further punishment. Although both men and women involved in the pregnancy can both be 'shipped to other prisons' for this explicit signification of sexuality, it is only the woman who bears the obvious culpability. Moreover, that it is her responsibility to avoid pregnancy is manifested in the protestations of some women prisoners that they were forced to take birth control pills.

One major feature of the reconstitution of the home within the prison through co-ed programmes is the narrow construction of family life. The family is constituted only in terms of adult male-female relations with sexuality as the most visible of the several discourses surrounding the introduction and the evaluation of the programmes. Although male prisoners have a choice whether or not to enter a coed prison, in some instances co-correctional imprisonment is the only option for women prisoners. Crawford has argued that the programmes can then severely disadvantage women firstly, by reconstructing social life within the prison in terms of gendered relations which reinforce women's insecurity and dependence on men. Secondly, the coed prisons do not address the key problem for women in prison - their responsibility for their children outside. She argues that as the majority of women in prison have children who are solely dependent on them, the co-ed programmes pre-empt alternative family

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209 Lambiotte pp. 237-8
210 Barry Ruback (1980) p.46
211 Ruback p.47
212 Crawford (1980) pp.262-270
213 Crawford p.265
programmes which address these issues of parenting that are more significant for women. 214

In summary co-ed prisons were introduced to:

(i) increase institutional control within the prison
(ii) increase institutional control throughout the prison system
(iii) improve therapy and treatment programmes
(iv) develop a 'bridge' back into the 'normal' community

Flynn specifically sets this attempt at reform through domesticising the sexuality of prison life, against the tensions between the continuing commitment to liberal values of reform and the rise, from the mid 1970s on, of the new orthodoxy which contests that principle. This new orthodoxy is manifested in the development of the 'back to law and order' programmes that lead to an increase in imprisonment rates and the reconstitution of penalty as the sphere of harsh punishment rather than reform.215 The tensions between these two 'liberalisms' - one centreing on the thesis that the individual is constituted in terms of his free rational choice, and the other on his potential psychological and social reformability - draws domesticity more manifestly into the penal sphere. It is specifically the 'normal' nuclear family reconstituted within the prison through which the male prisoner is expected to regain or achieve the proper balance between the masculinity of desire (in Elshtain's terms) and the masculinity of moral responsibility. The seemingly supra-rational sphere of the all masculine prison, that characterised prison life from the 1880s to the 1950s, is explicitly recognized as leading to an uncontrollable amorality that threatens to shift the power away from the legally constituted authority of the state. The partnership between the powerful morality of the state and the powerless morality of the domestic sphere is explicitly made manifest in this microcosm of the contradiction of

214 Crawford p.266
215 Flynn pp.11 & 12
social life as it is played out in the over determined site of the prison through both conjugal visits programmes and the co-ed experiments.

It is notable that one group of women in the co-ed experiments are defined as not so likely to be contributing to the smooth running of the programmes. These women are the black women prisoners in the coed programmes. The black women prisoners were much less likely to adopt the normal domesticised couple relationships of co-ed prison life.\textsuperscript{216} Whereas white women prisoners generally focused their energies on their coed relationship with 'their man' and maintained their 'pairing' friendship with one other woman, black women were defined as more deviant because they were more assertive and more organised.\textsuperscript{217} Although they had friendships with the men they were much less likely to pair off with men in terms of allowing them to break up their wider links with each other. They were much more likely to belong to a cohesive feminine 'black power group' in opposition to the staff and to the other prisoners, men and women, in the coed programmes.\textsuperscript{218}

It is not some essential femininity then that is the basis for the configuration and reconfigurations of power, morality and rationality in the various phases of the familial political economy, but the specific form of femininity as it is constituted within the domestic relations of care and dependence of the classic nuclear family of liberal and corporate welfare capitalism. Family patterns in which interdependence between women constitute the significant relationship of family life are much more likely to be defined as deviant in relation to the 'normal' constitution of masculinity.

\textsuperscript{216} Lambiotte pp 241-244
\textsuperscript{217} Lambiotte pp. 242-243
\textsuperscript{218} Lambiotte p 243
This specifically defined 'familism' is also a significant feature of the most manifest incorporation of domesticity into penal life in the fourth intersection of the home and the prison - the family as the site of imprisonment.

IV The family as the site of imprisonment.: The prison in the home - the family as a 'naturally related community resource'

Whilst, in this era of positivism, the boundaries between home and prison became more permeable with the several programmes that drew the domestic sphere into the prison, the ground was also set for the fourth mode of the incorporation of the domestic sphere into the realm of penalty the form in which the family domain becomes the site of the containment for a variety of sanctions: probation, community service orders, after-care and parole and in its most invasive form - home detention.

This form of punishment and control has had a major impact on the discourses of punishment in the current era in which the specific tensions in the intersection of productive and reproductive life are played out in what Garland and Young have called the 'profound crisis' of imprisonment in the 1970s comprising

(i) the collapse of the rehabilitation ideal
(ii) the acute fiscal and administrative problems of prison administration
(iii) the manifestation of (i) and (ii) in the prisoner struggles of the 1970s and
(iv) ... in prison overcrowding.

In an almost classic case of what Yeatman calls the submerging of the family into the 'abstract sociality' of public life, the family becomes defined as a 'naturally related community resource'.

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219 D. Garland & P. Young (1983) p. 21
220 of the several literatures on prison overcrowding since the late 1970s, the report of the 1987 seminar at the Australian Institute of Criminology provides the widest overview of the issue in Australia. Julia Vernon (ed.) (1987)
221 Yeatman (1986) p. 171
community resource', within this form of the incorporation of the family into the penal sphere.  

Cohen, in his comprehensive review of the spread of community based controls as punishments and 'master stories' uses Foucault's image of the disciplinary society. The disciplinary society is the one that involves particular modes of organizing space, time, activities and environment. Cohen argues that it is in the era of community based control, that the Foucaultian description of modern penality as comprising a series of sites of the micro physics of power, with the punitive city becoming the place of 'hundreds of tiny theatres of punishment', is most fully realised.

In his overview of the exponential increase in community based controls from the 1970s on, Cohen shows how several areas of social life are reconstituted as sites of social control. He includes examples of family based community controls along with those based in schools, work places and a range of other formal and informal organizations.

However in defining the family as merely one of the several sites of control in the punitive city, Cohen's description underestimates the way that the quest for community in penal policies falls back upon the same classic conflation that comprise what Finch and Groves have called the 'double equation' of community care 'in practice community care equals care by the family, and in practice care by the family equals care by women'.

It is this dual conflation that masks the way that the range of social policies in the 'retreat from welfare' era, exploit women's domestic labour. It is important to re-

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222 Cohen (1985) p.273-281 This is one of the several examples of the 'controllalk' cited by Cohen, in his description of the way 'technobabble' becomes part of the hidden politics of the social science technologies
223 Cohen (1985) p. 26
224 Finch & Groves (1980) p.224
emphasize here that the feminist materialist analyses of public policies begin by questioning the 'taken for granted' nature of the 'caring' that sustains public life. This central question then is the starting point for a reassessment of the complex processes involved in the interdependence of production and reproduction. In Margaret Stacey's words, it:

connect(s) the division of labour at home to the division of labour in the public world, (enables an) understanding of social policy developments in terms which incorporate both, and which analyse the changing boundaries between state and family in caring for people.226

In this era of the 1970s retreat from welfare, the intersections between the State, the Economy and Family are most clearly and manifestly reconstructed in the penal sphere. Whilst Scull and Cohen identify a new fusion of the public and the private in terms of the increasing commodification of social control in this expansion of punishment throughout 'the hundreds of tiny theatres of punishment' in the punitive city, the feminist insistence on decoding the conflation of the private with the domestic points to the tripartite nature of this new fusion: community controls reconstitute the boundaries between the private, the public and the domestic.

The commodification of control is intertwined with the domestication of control. Although Cohen points up the way that the several forms of privatisation have included the exploitation of the unpaid labour of volunteers227 it is 'familism' that is being used to legitimate the dual and intersecting processes of privatisation and deinstitutionalisation in the most 'attractive' form of deinstitutionalisation of prisons - home detention.

The debate, following on from Scull's initial analysis of community controls that drew an unproblematic comparison between the shift to deinstitutionalisation in the care and control of mental patients and of prisoners,228 indicates that the incorporation of

227 Cohen p.66
domestic labour into the penal sphere does not have exact parallels with the other examples of the exploitation of women's domestic labour in the 'retreat from welfare' era.\textsuperscript{229} Cohen, for example has argued that overall ... privatization is a much more complicated business for crime control than for mental illness. ... with the important exception of the private security industry ... there is not much room for this form of privatization in the crime control system. The recipients of the 'service' are, to say the least, somewhat unwilling customers.\textsuperscript{230}

Nevertheless in the several minor forms of deinstitutionalisation - probation, parole, weekend detention or community service orders, as well as in the major form - home detention, the shift to community based control in penal policy makes transparent what is usually opaque and mystified in the realm of punishment - the incorporation of the family in policies and practices of punishment through the twin processes of caring and dependency.

The debate initiated by Scull focused attention on the significant aspect of deinstitutionalisation in the penal sphere that, whatever the initial intention of the penal administrators, these strategies of control have not developed as alternatives to institutionalised imprisonment but have worked in parallel with them. Deinstitutionalisation and institutionalisation are the twin contradictory processes that characterise this latest era of punishment and control. The prison remains the central site of punishment but not in terms of the numbers of offenders punished by imprisonment. Rather, the prison is central in a symbolic sense as the punishment of last resort amongst a range of other community based alternatives. The threat of imprisonment is the symbolic control embedded in all other community based punishments. Prison enters the home, as the home becomes the site for punishment. In its most fully worked out version prison enters the home because the home literally

\textsuperscript{229} summarised in Ch. 2 pp. 87-91
\textsuperscript{230} S. Cohen p. 64
becomes the prison. However, symbolically prison enters the home even in the several minor forms of home based control.

Moreover, these forms of punishment introduce new layers of potential criminality: the new crimes of breaking the conditions of the home based containment. The normal social behaviours of driving a car, having a drink or being late for appointments are redefined as criminal for offenders living at home and imprisonment is the potential end punishment. Home then is not only the site of the prison but it becomes criminogenic as the site of a set of potential new crimes which can only be committed as a result of the introduction of home based containment.

In addition these criminogenic aspects of community based controls then contribute through various professional 'feedback loops' to a potential increase, rather than a decrease, in the numbers of people sentenced to institutional imprisonment.  

It is within these processes of the strengthening of the processes of punishment and surveillance through the increased pervasiveness, diffuseness, elaboration and dispersal of forms of control that the reconstitution of domesticity in this era is played out. The major theme underpinning the thesis: that there is an interdependence between public and domestic life, a privileging of public aspects of social life and a masking of the mutual dependence of the domestic and the public spheres that creates a subsequent false assumption of the self-sustaining nature of public life, is most explicitly exemplified in this fourth mode of the incorporation of the home into the prison.

The actual ways in which the minor forms of home containment, bail, parole and probation incorporate women’s domestic labour of caring into the penal sphere are explored through the examples of 23 people in N.S.W. in chapter eight of the thesis.

231 S. Cohen ch. 5
232 taken from Yeatman (1986) p. 159
However, it is in the recent and exponential introduction of Home Imprisonment as an alternative penal sanction that the penal sphere is likely most thoroughly and manifestly to draw on the caring work of families of prisoners.

In summary, the shift to community-based controls reconstitutes the interdependence between penalty, economy, and domestic life in several ways: the commodification of control, the domestication of control, the strengthening of institutional imprisonment, the blurring of the boundaries between penal and domestic life, and the expansion, penetration, and diffusion of control outside of the institutional prison.

In order to illustrate the impact of these several features of decarceration on the reconstitution of the boundaries between domesticity, penalty, and the productive sphere, the introduction of Home Imprisonment is described in some detail in the following section.

**Home Imprisonment**

Home detention is imprisonment within the home. The prisoner has to remain in the home, under intensive surveillance. The surveillance is usually by random telephone contact, and by visits of the supervising officer. The telephone contacts can be made at any time of the day or night. The random nature of the telephone calls replicates in modern technological form the panopticon surveillance introduced by Bentham in the classical prison: if the prisoners do not know when the calls will be, they are potentially under surveillance at any time during the 24 hours, so have to act as though they were under perpetual surveillance.

There can be flexibility in the programme of detention, allowing the prisoner to go to work, to do essential shopping, and/or to visit the supervising officer and attend

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counseling sessions. The prisoner may be allowed to use her/his own garden but only within a specified distance from the telephone.

There are three recurring themes in the examples of the introduction of intensive surveillance through home detention: the technological fix, privatisation, and the appeal to 'family' and 'community' control as an humane alternative to institutionalisation.

Not all home detention schemes use electronic surveillance and in those that do the 'technological handcuffs are not necessarily used on all home prisoners. Nevertheless electronic surveillance has been a major component of home imprisonment programmes in terms of the way the programme is presented and sold. Electronic monitoring systems were initially developed in the U.S.A. in 1964, although they only became part of home imprisonment programmes with the now almost mythical meeting between Judge Love and Mike Goss in 1982234 and have been increasingly improved technologically since then to the point where, in the early 1980s, several States in the USA have created various programmes of home detention based on electronically monitored surveillance.

Electronic monitoring now usually comprises three pieces of equipment: a miniaturised transmitter strapped to the prisoner's wrist or leg; a receiver-dialler in the prisoners home; a central computer in the supervising officers office. The officer usually supervises about 35 home prisoners. The central computer makes print-outs for the prisoner's file and for the supervisor to check each morning.

Electronic monitoring can transmit information about: where a person is - their geographical location, how a person is, their physiological condition and who a person is (by analysis of voice patterns)

Electronic monitoring is either active or passive. In the active system, the transmitter relays information back to the supervisor, i.e., it is a tracking device. In the passive system, the prisoner has to respond to telephone calls made by the supervisor. In this case, the prisoner fits the transmitter device into the receiver dialler, which transmits electronic information back to the supervisor's computer whilst the call is being made. In both cases, the supervisor can schedule his computer to make random calls anytime in a 24-hour day.

In some programmes, especially those run by private firms, the prisoner and his family bear the cost of either the telephone calls, in the case of home detention without electronic monitoring or, of both phone calls and the rent of the surveillance equipment when electronic monitoring is part of the programme.

Electronically monitored surveillance is imposed either as a condition of bail, as a form of probation or as a prison sentence. It has been used as a form of control for specific groups: drunken driving offenders, women prisoners with AIDS, the 'mentally ill', men who have failed to pay child support, burglars, fine defaulters, and chronically sick hospitalised prisoners. In addition, there have been programmes for selected lists of already imprisoned offenders whose imprisonment is transferred outside into the home or into privately run profit-making half-way hostels.

Several private enterprise firms are involved in the manufacture of some form of electronic monitoring equipment. Their confidence in the future profitability of their investment indicates their belief in the likely increase in the spread of electronic monitoring as a form of community-based control in the USA. Electronic equipment
salesmen were very much in evidence at the Australian Institute of Criminology conference on Prison Overcrowding in 1987 and at the International Criminology Conference in Sydney in January, 1988. Both conferences took on the aspect of market places for the sale of electronic equipment, with market stalls set up at the Sydney conference and with paper presentation time given to market salesmen to present their spells for their equipment at both.

Almost a quarter of the monitoring programmes in the U.S. are run by private firms.235 Some of the major firms are also part of the more general privatisation of punishment and control in the U.S. Behavioral Systems Southwest, one of the firms advertising equipment in the Australian criminological market place, runs profit making half way houses in conjunction with the electronic monitoring service. Ted Nissen, the president, an ex San Quentin guard, spoke of his *prisons for profit* number plate on his Porsche at the January conference.

Behavioural Systems Southwest is lobbying for an increase in the commoditisation of control and for access to maximum security prisons in the U.S. Larger numbers mean greater cost effectiveness. There is political resistance to the extension of privatisation of social control to maximum security in U.S. However Behavioural Systems Southwest is more hopeful of the 1,000 bed facility in Brazil and a 300 bed facility in Tahiti.236 The salesman for the ONGUARD system at the Developments in Correctional Policy seminar in 1987 in Canberra reported that Spain, France, U.K. and Holland were adopting electronic surveillance programmes.

In Australia home imprisonment programmes have been introduced in Queensland, South Australia, the Northern Territory, and in Victoria. The A.C.T. government, whose prisoners are at present serving their time in N.S.W. prisons, are considering a

235 Annemely Schmidt (1987) p.30
236 Ted Nissen President of Behavioural Systems SouthWest - in private conversation (1988)
full scale programme of electronically monitored surveillance in which the homes of 80% of its prisoners would be reconstituted as prisons. South Australia and the N.T. have introduced electronic surveillance. In N.S.W., the schemes devised, but not so far implemented, by both the Labor and the Liberal administrations have included plans for electronic surveillance.

Home imprisonment has been imposed as a bail option, a 'front end' or a 'back end' programme within the spectrum of penal schemes now being enforced in advanced consumer capitalist societies. In the front end programme the punishment is a sentencing option of the judiciary. In the back end programmes the punishment comes at the end of a conventional prison sentence. The N.T. schemes are a front end systems. S.A., Queensland and Victoria use back end systems. N.S.W. has been considering a programme incorporating both front end and back end forms of home detention.

Although these N.S.W. programmes have been postponed, some magistrates in N.S.W. are independently using home detention as a bail option.

The selling of the programmes by both private enterprise and penal administrators makes use of the combined appeal of economy, deinstitutionalisation, 'community' and 'the family'. Advocates of home imprisonment promise that home based control is cheaper than institutionalisation costs, whether these institutional costs are estimated at approximately $30,000 per prisoner or less, depending on whether capital costs are included. Costs to the state of maintaining the family can be shifted back to the offender as prime breadwinner. In the Michigan and the New Jersey schemes unless the prisoner finds a job within a specified period he goes back inside prison. The family, reconstituted as the site in which the man is the provident individual and the women and children become his economic dependants, is sold as a less contaminating environment

237 J. Morris(1990)
238 the recent history of the N.S.W. schemes are detailed on pages 425-426 in chapter nine.
239 The significance of this difference is spelled out on pp. 213.
241 Harvey Cooper (1988) p.26
than the institution. The family is explicitly sold, providing the electronic monitoring is also bought, as a reforming institution with the individual being socialised into the role of provident individual by the constant 'conscience' embodied in the electronic wristwatch. It is specifically familism that is being sold here with the promise of an offender reformed into the role of husband as provident individual. Domesticity is reconstituted in these discourses as the site of the relationships of caring and dependence.

The Kentucky programme's objective is: 'that offenders should accept responsibility for themselves, their family and their community'. The visual imagery matches this provident individual/familism promise, with the marketing images including pictures of the U.K. Marconi salesman trying out his wares at home with his daughter at his knee, and the B.I. Incorporated handout showing the prisoner downcast and idle in his cell in one picture and busily and confidently at work in an engineer's hat in the other.

Mike Goss, a former policeman, now sales manager of BI Incorporated, marketeers of the Home Escort System, is the man credited with inventing the first electronic monitoring device. In his sales talk at the International Criminology Conference in January 1988 he said:

> We don't talk about rehabilitation because some of these men have never been habilitated in the first place. . . we are creating middle class values here from nothing. We make a citizen function in this society more effectively - he stays off the streets, stays in his home. One of our men said to us that he got talking to his wife for the first time and really liked her. He started fixing up the place, "you know," he said "I really like this place" That man had been reached.'

It is apt that this statement is expressed through cadences that are so reminiscent of fundamental Christianity. The central process of signification in this example of the marketing of electronic surveillance focuses on images of rebirth and renewal. The prisoner is presented here as somebody who has never achieved an appropriate, and very

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242 Keith Waldgrave (1988) p.15
243 B.I. Inc. (1988)
244 Mike Goss, in his talk at the International Criminology Conference. Sydney. 1988
specifically defined, manhood. However through the 'technological fix' of home imprisonment he is reborn into mature citizenhood. Moreover this mature citizenhood is defined very specifically through this particular 'provident individual' version of possessive individualism as it operates in the current familial political economy, that is, in the advanced corporate consumer capitalism of the late twentieth century. The prisoner is being reborn into what Yeatman has described as the mediation of a pre-industrial patriarchal household economy mediated under the new conditions where

\[\text{to be an individual, one has to both command a unit of domestic economy (a consumption-oriented family) and command effective market capacity as a private proprietor, even if the property concerned in this context is one's own capacity to labour.}\]

There are two elements of the 'technological fix' that are being promised here. Firstly, there is the hardware of electronic surveillance. Secondly, there has been a resurrection of the techno-reformism of social science professionalism that legitimizes its authority through the promise to assist the 'normalisation' of the offender through family life. In the arguments of its proponents, home imprisonment, incorporating as it does the 'electronic panopticon gaze', then becomes a paradigmatic form of modern punishment in Foucaultian terms. 'Modern punishment' is comprised of neither violence, nor of segregation, nor programmes of reform complete in themselves. It is rather punishment as a programme of self monitoring, and it is the concrete exposure of the offender to the incessant gaze of the other that makes possible the corresponding self-surveillance, that constitutes modern punishment. According to the arguments of both the marketeers of electronic equipment and the purveyors of reform professionalism, it is under the conditions of intensive surveillance within the home that the most effective form of internalization of morality occurs. Moreover the very serendipitous nature of this discovery adds legitimacy to its findings. At the end of the decade in which the promise of reform lost its rhetorical power, it is this newly constructed intersection of home and prison that has become the site of the resurrection of techno-reformist rationality. The

\[245\text{ Yeatman (1990) p.17}\]
early programmes were initiated, post Martinson, only on promises of efficiency, cost effectiveness and humaneness. It was only in the early evaluations of the programmes that the potential for reform through electronic panoptic power entered into the discourses of home imprisonment.246

The concreteness of the experience of being the subject of the incessant gaze within the home, which is shared by both the prisoner and their partner or parent, is conveyed in Challenger's review of the Northern Territories' programme of home detention. In the Northern Territories, the surveillance officers are encouraged to make a proportion of their visits between midnight and dawn.247 Up to six visits in one 24 hours period have been made in that scheme. However a more typical programme of visits in the N.T programme is illustrated in the chart in Figure III below which illustrates both the randomness and the intensity of the surveillance. 248

248 Challenger pp. 18-20
Figure III: Typical pattern of visits in a 35 day programme of surveillance in the Northern Territories Scheme (adapted from Challenger, 1989)
What is occurring here in this transformation of punishment and control is a renewal of the classical liberal model of a hierarchy of morality with the prisoner being defined as having reached only the first elementary stages of moral development, the morality of authority in Rawl's terms or the moral stage of concreteness in the social psychological models of moral development outlined in chapter one. However the successful journey through this stage depends on the 'hidden contract' between the symbolic mother, the partner or parent in the home, the symbolic father, the penal-legal institution in both its abstract form in terms of the imposition of the conditions of the punishment as well as the person of the prison officer as agent of the law.

This renewal of 'modern punishment', is itself under attack. The visible concerns that have been made about home imprisonment come from a variety of directions: concern for the civil liberty problems for the offender subject to 24 hour surveillance in his own home; anxieties about potential danger to the community; arguments that the undue stress of the demand for internalised control means that offenders are being set up to fail; that the option of magistrate sentencing will lead to net widening and a possible increase rather than a decrease in numbers in conventional prisons; and that the prison based back end option is socially unjust, discriminating against prisoners with less chance of making it on the outside.

Cohen makes the broader sociological argument, that the destructuring rhetoric leads inevitably to a *restructuring* of the penal sphere because the underlying systemic
processes producing candidates for social control - inadmissibility to the world of work - are not addressed by the discourses of community control.256

Current public discussions about the introduction of home imprisonment in Australia have been greatly influenced by Cohen's thesis. 'Net widening' is major concern, and buzz word, amongst Australian penologists.257 However, there are basic underlying structural processes that indicate that, even by focusing on back end rather than the sentencing-based home imprisonment, net widening is a potential risk. Home imprisonment will release more prison places so, if all homes can be a prison, there is no logistical reason why increasing numbers of offenders would not be processed through institutional prisons into home imprisonment. The supply side thesis, the capacity-driven argument, about imprisonment rates, that the imprisonment rate increases according to the number of prison places available, has not yet been seriously considered in relation to home imprisonment.258 The Victorian programme of increasing community based alternatives to imprisonment has recently stemmed and even reduced the imprisonment rate in that state.259 Nevertheless, the Queensland Comptroller General of Prisons has pointed out that governments are passing more laws that have imprisonment as a breach penalty, increasing sentence penalties for many breaches and that magistrates and judges are increasing sentence lengths.260 There are other processes at work too. The 1988 N.S.W. election was notable for the exploitation, by both Labour and Liberal parties, of a hard line law and order platform, encouraging the electorate into an uninformed prison expansionist mood.

256 S. Cohen (1985 )p 124 -125
258 although George (1988) refers to a comment about it from the Victorian Office of Corrections.
259 Bill Kidson (1987)
The issues of domesticity and power when home is the prison are rarely addressed in detail. Amanda George has pointed to the problems that continual surveillance constrains the family as well as the prisoner and that family or friends who share the house will be both co-prisoners and warders.\(^{261}\)

Malcolm Feiner argues that families who fear violence from a prisoner are put into an untenable position. If they object to a prisoner being released into the home they may experience subsequent vengeful behaviour.\(^{262}\)

By combining the critical frameworks of the radical critiques of penalty and the feminist materialist critiques of public policy however, it becomes clear that there are several other issues that need to be raised about the exponential increase of this major new mode of incorporation of the family into the realm of punishment and control.

The question is raised, in chapter five, about the inversion of family roles in the care of adult dependents, and the state's exploitation of the image of caring as 'normal' that then masks the problems of the tensions that stem from this extension of the usual forms of domestic labour. The South Australian scheme initially asked the home 'resident' to sign a contract agreeing to accommodate the prisoner, to assist and encourage the prisoner to be of good behaviour, to abide by the conditions of the Home Detention order and to contact the Supervisor without delay on any matters of concern involving the prisoner's Home Detention conditions.\(^{264}\) Domestic labour here is being extended far beyond the 'normal' forms of care. Moreover the feminist critique also indicates that caring labour is especially open to exploitation because it comprises the elements of 'coping'. In chapters five to eight the four components of coping delineated by Graham, are outlined, but

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261 George. 1988
263 New only in terms of punishment strategies in liberal-industrial-capitalism. The BI Home Escort Sales publicity pamphlets point out that home imprisonment dates back to forms of control enforced in biblical times
264 This form is included as Appendix III
briefly here the characteristics of a willingness to adapt to and internalise responsibility for crises created by others can clearly be seen to be an especially useful and 'taken for granted' component of adapting to the use of own's own home as a prison for a son or a husband. The complex skills that comprise caring labour, that in public life are accorded professional status, and that can bring an entitlement to a semi-professional, or even a professional salary, can become a very useful and free infrastructural support in the conversion of the home into a prison.

The contradictions of supporting and controlling that are obvious problems of home imprisonment for women, have been a contentious part of probation and parole work since its inception. There has been a suggestion from the probation service that this could be solved for N.S.W. workers in a home imprisonment programme by using a private security guard to do the controlling work of random surveillance, freeing the probation workers to take on the 'soft' aspects of support and advocacy. What is noticeably missing from this suggestion is an understanding of the extra stresses imposed on the other carer/controller whose services are being drawn on unpaid - the wife or parent in the home.

The surveillance of the prisoner in the home must inevitably be control and punishment shared by both the prisoner and his wife or parent. In the schemes such as those illustrated in Figure 3 above, the random calls can be programmed to take place at any time in the twenty four hours. Ted Nissen described the tense atmosphere experienced in the prisoners home when no call had been made for one or two days. The stress of waiting for a call that determines whether the prisoner is returned to an institutional prison becomes a minute by minute experience of anxiety. It is difficult to imagine that this form of control would not exacerbate the several tensions already inherent in home imprisonment.

265 Robertson (1986)
266 in personal conversation Sydney. 1988.
The intersection between domestic, penal and productive life is reworked in some home imprisonment schemes through the requirement that the prisoner in the home acquire waged employment within a specified period of time otherwise he has to return to institutionalised imprisonment. The New Jersey scheme that a N.S.W. judge is advocating has this employment clause.267

Thirdly, Graham's work on the shift to deinstitutionalisation in other areas of social policy indicates that mediating and negotiating with bureaucratic representatives, from a position of powerlessness, is a component of the domestic labour of caring for aged or invalid dependents. The several ways in which normal aspects of family life becomes criminogenic with the insertion of the prison into the home: the failure to get a job, going out even into the back yard without supervision, driving a car, having a drink, indicate that the mediating and negotiating skills of the domestic labour of caring are likely to become an increasingly important feature of the interdependence of family, prison and productive life.

Underlying these controlling and emotional aspects of the caring work of women in Home Imprisonment programmes is the major material factor of costs of imprisonment. This considerable caring work could save the state up to $20,000 in every household for healthy prisoners, considerably more for prisoners at present in prison hospitals. The recommendations made by the Attorney General of the A.C.T. that eight out of ten of A.C.T. offenders should be transferred from N.S.W. prisons to electronically monitored imprisonment in their own homes, have been made in order to save approximately $600,000 in payments to N.S.W. over three years.268 In this proposition the A.C.T. seem to be at risk of implementing the situation envisaged by Terry Dorsey

267 Cooper (1988) p.10
If the sole motive for programs such as Home Detention is the reduction of numbers and costs, drastic surgery to original designs will be inevitable. ... we could ... be accused, with some justification, of creating a myriad of 'three bedroomed' prisons spread throughout suburbia.\textsuperscript{269}

In a combined argument from the legal and the positivist spheres within the legal penal realm, Robert Hayes of the Australian Law Reform Commission and Susan Hayes Head of Department of Behavioural Sciences in Medicine, at the University of Sydney, argue that home imprisonment be one of the directions for reform to solve the problem of A.I.D.s in prison\textsuperscript{270} The current contradictions faced by political and administrative decision makers by the issue of prison overcrowding and prisoners health, then are currently making Home Imprisonment, in Fox's words, 'a wonderfully attractive package'. \textsuperscript{271}

Home detention potentially brings the feminist materialist issues that are usually submerged in punishment and control policies closer to the surface of both public and academic awareness. The examination of the discourses, policies and operations surrounding this shift of punishment into the domestic domain promises to make visible some of the so far masked and marginalised aspects of complex ways in which domesticity constituted as the site of powerlessness, morality and arationality, are incorporated into the penal realm. To disentangle some of the various and specific forms of this multiplicity of power relations in contemporary penalty means recognising the central significance of the nexus between caring and dependency, that
caring is not something on the periphery of our social order; it marks the point at which the relations of capital and gender intersect. It should be the place we begin, and not end our analysis of modern society\textsuperscript{272}

\begin{itemize}
  \item \textsuperscript{269} Dorsey (1988) p.1.
  \item \textsuperscript{270} Hayes & Hayes (1987)
  \item \textsuperscript{271} Fox (1987) in comments at the Developments in Correctional Policy Seminar, Australian Institute of Criminology, Canberra
  \item \textsuperscript{272} Graham (1983) p. 30
\end{itemize}
This thesis does not include empirical material about the impact of home imprisonment upon the domestic labour of women. However, chapter eight outlines the complex ways in which women’s domestic labour of caring is exploited in other less intensive forms of conditional release, on parole or bail or on weekend detention. The evidence in that chapter indicates that the introduction and proliferation of home imprisonment programmes are likely to be heavily dependent upon the domestic labour of caring. In addition, this new intensive form of intersection of domesticity and penalty has the potential to impose parallel forms of control and punishment on families of prisoners.

The introduction of home imprisonment however is likely to affect the intersection of domesticity and penalty in a more general form. The evidence from recent feminist analyses of sentencing decisions indicates that the introduction of home imprisonment as part of the wider increase in community-based forms of control links the home to the prison through the processes of normalisation as they are played out in the sentencing decisions and the defence pleas of the courts.

**Sentencing decisions and the incorporation of the family into the penal sphere**

The extent to which the sentencing decision of the magistrate has a direct relationship with the incorporation of the family into the penal sphere in relation to home imprisonment will vary with the form of home imprisonment that is introduced in any State. The 'back end' form of home imprisonment places the decision in the hands of the executive, the prison administration. With home imprisonment as a 'front end' option that power goes to the judiciary. It becomes the sentencing decision of the magistrate or judge. Which one of these choices is made depends upon the political character of the legislative. The therapeutic or reformative aspect of penal policy is associated with the shift to indeterminacy and penal decision making within the administration of the prison. Universality of punishment is interpreted in terms of the specific personal characteristics of the offender.
In liberalism, universality is manifested in the uniformity of the sentence in relation to the specificity of the offence. With the current new right emphasis on 'law and order' surfacing in several of the advanced corporate consumer economies, power over sentencing is, in part, being shifted from the rationality of the positivistic expert in the prison back to the judicial rationality of the bench. This then makes it more likely that the 'front end' form of home imprisonment, that is the form that comes under the control of the judiciary, is likely to play an increasingly significant part in the way that the boundaries between home and prison are reconstituted.

Magistrates as sentencing controllers then are becoming increasingly significant gatekeepers of the incorporation of the domestic sphere into the legal penal realm in this major shift in the mode of interdependence between home and prison.

In addition to the political decision to shift the power away from positivistic experts within the prison, to the rational legal power of the bench, magistrates can use their autonomous judicial power to introduce home imprisonment as a pre sentence bail option.

These two possibilities, of home imprisonment as a front end option and as a condition of bail, raise key questions about the relationship between sentencing and gender.273

Feminist analyses of prison and parole decisions in England, the U.S. and in Australia, indicate that in the penal realm the conventional nuclear family is reinforced and exploited as the major alternative site for the social control of offenders.274 The family is

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273 Although the theoretical emphasis of the thesis is upon the social construction of domesticity rather than of gender, the two processes are so connected in the differentiation of social life in all forms of familial political economies, that the feminist critique of sentencing decisions is outlined here.

constructed through decisions and discourses in the sentencing section of the legal penal sphere as a form of junior partner supplementing the regulating, coercive and disciplinary functions of the formal institutions of punishment. However it is the family constituted within the classical nuclear family relations of caring and dependence that is the key form in these decisions.

There have been two broad areas of research into the relationship between sentencing and gender that reflect the different conceptual approaches of liberal feminism and socialist feminism. The former approach has generated research into the 'chivalry thesis': whether women as individuals receive preferential treatment in sentencing. In the latter, the interpretations of sentencing are more likely to focus on the structural relationship between the two spheres, the domestic and the penal, in terms of the way that sentencing decisions reinforce and exploit particular forms of family structures. Although the latter are more relevant to this thesis, there is not a distinct boundary between the two approaches. The analysis of the penal-family nexus has drawn on the work of the earlier examinations of the chivalry thesis.

Edwards, in a comprehensive review of the two approaches, points out that in much of the research into the 'chivalry factor', the evidence is clouded by the difficulties of controlling for the several relevant variables such as previous criminal record or level of offence. Nevertheless, it was from this range of studies that it was possible to indicate a broad pattern: that gender emerges as a much more important status for women than for men. It is conformity to a particular form of femininity, rather than gender in itself, that is the key factor that is associated with more lenient sentencing decisions.

Kruttschnitt, in her study of probation officers reports in the U.S.A., found that family based control is an acceptable substitute for formal state control but only within specific,

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275 Edwards, p.133
276 Edwards, p.137
conventional forms of family. State control was less likely to be recommended for women in a position of economic dependency than for women with economic independence.

Farrington and Morris's work too, indicates that it is not so much the sex of the defendant that influences severity of sentence as the woman's specific gender role within the family. Marital status, and having children, were factors affecting imprisonment for women but not for men. This finding is open to different interpretations however. Farrington and Morris argue that the differential sentencing results from magistrates' disapproval of women offenders whose backgrounds do not fit the conventional family model. Eaton argues, drawing on examples from her own work and from Kruttschnitt's findings, that the magistrates are assuming that the gender role of economic dependence imposes sufficient informal control for the offender to be safely regulated within the family.

What could also be drawn from this interpretation of Farrington and Morris's findings is that men's economic dependence is not seen in the same light in terms of social control. In this U.S.A. study, sentencing was differentiated by marital status and parenthood only in decisions affecting women before the court, not for men. If a woman as a wife and mother is economically dependant on a man she is more likely to be given a sentence that is based on the assumption that that dependence will be an effective control. If a man is economically dependant that assumption is not made. Indeed Eaton's examination of magistrates decisions and mitigation pleas indicates that having a job can

277 cited in Eaton pp.26-27
278 cited in Eaton pp.28-29
279 Eaton p. 29
280 Eaton p.29
281 Eaton p.29
282 Eaton p.28
be a very effective argument keeping men out of institutional prisons, especially if their employment supports the economic dependence of women and children.\textsuperscript{283}

Eaton's work indicates that conformity to gender role within the family affects sentencing decisions in the case of both men and women. Her analysis of mitigation pleas and decisions made in a magistrates court in England shows how sentencing judgements enforce the social control partnership between the family and the penal realms.\textsuperscript{284}

Family status plays a major part in magistrates decisions about the site of imprisonment for both men and women offenders. She shows how in these decisions, it is the dominant model of the family that is reinforced, as a family characterised by the conventional gendered division of labour with women responsible for the child care and expressive work and men for the instrumental role of economic responsibility.\textsuperscript{285}

Families other than the conventional man-woman unit were not acceptable as alternative sites for control.\textsuperscript{286}

However, it is in the delineation of firstly, the various bases for mitigation and secondly, the social inquiry reports of the probation officers, that the way in which the family and the penal realms intersect is indicated in more detail.

Firstly, Eaton's work indicates that the way the discourse operates in the relationship between the two spheres is not one sided. In anticipating the response from the magistrate the defence lawyers draw more heavily on the family circumstance of the defendant than on any other argument.\textsuperscript{287}

\textsuperscript{283} Eaton p.49
\textsuperscript{284} Eaton p.56
\textsuperscript{285} Eaton p.94
\textsuperscript{286} Eaton p.54
\textsuperscript{287} Eaton p.44
Eaton classifies the form of these arguments into six categories and although she points up the similarity of the arguments for both men and women, her detailed table indicates some interesting differences. She distinguishes between arguments based on the family as the site of social responsibility and those that argue that the family will be an effective site of social control. Both arguments are based on the general notion of control through commitment to the family but the latter relies more on evidence of the direct control by a relative over the offender.

The emphasis in Eaton's analysis here is that all of these 'family arguments' rest on the definition of a specific family form. It is the 'normal' family that is the basis for the promise of redemption of the offender. Her summary of the way this operates in the negotiations between defendant, defending lawyers and magistrates is that 'Defendants offend because their circumstances are abnormal. Defendants will reform because their circumstances will in future be normal'.

Eaton's work give support to her argument from Kruttschnitt that the condition of being a conventional, that is an economically dependant, female member of a nuclear family is likely to be a sufficient promise of control for both, herself if she is the defendant, or for her partner if he is the one under some form of control. The expectations of the probation officer were that it is women, specifically in their position in the domestic sphere, who have the responsibility 'to account for their menfolk' and it also through their position in the domestic sphere that women are expected to 'account for themselves'. It is women in both cases who are expected to do the work of mediating and negotiating with the representatives of the penal bureaucracies. A conventional family man is also the man whose 'self' is constructed, and defended, by the woman for whom he is expected to provide. The judgement's being made about the women on probation were

288 Eaton p.45
289 Eaton p. 54
290 Eaton p.54
based on their competence in maintaining a home. The evaluations of the men, however, were an opportunity for meeting the woman who was significant in (his) life.

The relevance for this thesis of these different anticipations about the effectiveness of the family as the site of control and the different forms of control necessary within the family for women and men respectively are the implications for the women who are the parents or partners of men who serve part of their sentence at home. It is worth restating Graham's point here about the way that the nexus between caring work and dependence operates differentially for men and women within the family:

the dependent status of women is not absolute, but is conditional upon their being simultaneously depended upon by others. Thus, for many women, being a dependant is synonymous not with receiving care, but with giving it ... for men, economic dependency and poverty is the cost of being cared for: for women, economic dependency and poverty is the cost of caring.

Eaton's work indicates that in penal policy as in other forms of social policy that draw on the unpaid domestic work of caring, dependency has different consequences for men and women. The relationship between poverty, caring and dependence however, operates at different levels in the penal sphere varying with decisions about the site of control, whether the punishment occurs within the institutional prison or within the family. From the various discourses in the introduction of home imprisonment as well as from the work of Krutschnitt and Eaton, it seems likely that economically dependent men will be more at risk of committal to institutionalised imprisonment and that it will be those men who will fit the role of provident breadwinner who will become the subject and the object of the unpaid caring and controlling work of their spouses or parents in the home-as-prison. This reconfiguration of caring and dependence then comes full circle. The reconstruction of domesticity and penality almost exactly parallels the constitution of domestic life in the penal settlement of N.S.W. in the period of transportation. The major difference lies in the family's dispossession from the means of production. Caring

291 Eaton p. 69
292 Graham (1983) p.25
and dependence take different forms in the relationships between state, the economy and the family labour economies of the households of the late 18th century settlement, and the irregularities of attachment and disattachment to waged labour in the family consumer economies of the late twentieth century.

**Conclusion**

The moral sphere of the home has been incorporated into the wider moral public sphere of penalty in a number of complex forms. There is however a fundamental tension in the intersection of the two spheres that stems from their separate bases of morality: the particularistic relationships of family life in the former stand in direct contradiction to the universalistic principles of legal rationality or scientific rationality in the latter. This contradiction, of the interdependence yet incompatibility of the two spheres of moral reproduction, is most simply resolved in the classic form of the interdependence between home and prison - the segregation of the *supra-rational* masculine prison and the *supra-arational* emotional world of the family. The essential *irrationality* of the extension of punishment to families of prisoners in a legal judicial system that is based on the specificity of punishment is neatly masked by the elegant solution of the neglect of the parallel punishment to the family. Even in the penal era in which the home is connected to the prison along a continuum of segregation, correction, and normalisation, the shadowyness of the punishment of the prisoners' families is maintained by the tactic of focusing the spotlight of social scientific interest upon the personality and relational skills, or lack of them, of the women outside.

However the resolution of segregation and neglect and redirected attention produces new contradictions. The very masculinity of prison life produces tensions that sends some reformers back into the 'pre-rational' era to examine proto-capitalist forms of punishment that more manifestly incorporate the family into the prison.
The expense of bringing family life into prison, whether through conjugal visits schemes, co-correctional programmes or family counseling courses however, makes this mode economically unattractive in the retreat from welfare era of corporate consumer capitalism. The family inside the prison is only cost effective in political economies in which family labour economies are still viable.

The more technologically advanced resolution, and one that particularly suits the era of consumerism and fiscal crisis, is the inversion of the spatial relationship, the new topology of penal life that brings the prison into the home, the 'wonderfully attractive' programme of home imprisonment.

Nevertheless the several contradictions within the legal-penal system itself means that there is no cohesive, coherent, penal policy. The processes of sentencing and punishment in most western industrialised societies are characterised by their Byzantine confusion of layered policies and practices with the co-existence of various forms of incorporation of the home into the prison.

The specific forms which circumscribe the lives of women in N.S.W. who are caught between the interdependent yet incompatible domains of domesticity and penalty through their family obligation to care for men sentenced to imprisonment are outlined in the next four chapters.
CHAPTER FIVE

LABOURING LOVING AND CONTROLLING: material and emotional dimensions of the incorporation of domesticity into penal policy in N.S.W.

...to overburden oppositional dichotomous categories by refusing their boundaries or borders is to occupy the impossible 'middle ground' excluded by logic and reason in their present forms.1

The next four chapters investigate the complexities of the work of 38 women in N.S.W. who, through their family obligation to care, provide an extensive infrastructure of support to men in prison and to the legal penal system. This chapter details the material and emotional aspects of this caring work.

The central concept around which the investigation of the intersection between domestic and public life revolves is that of 'the nexus between dependency and caring'. The major thrust of this thesis is that the insights developed out of the feminist critique of the welfare state should be applied to the caring work of this symbolically important group of people, those women and men who comprise the population 'families of prisoners'.

The review of literature in chapter two on the constitution of penality and domesticity as the two sites of social control in liberal capitalist familial political economies indicates the way that the feminist materialist perspective analyses the constitution of caring work as a specific kind of labour in our society. The first section of this chapter reviews this approach in greater detail.2 This is followed by an outline of the specific conditions through which the caring work of people in the population 'families of prisoners' operates in N.S.W., in a summary of the policies and practices of penalty as they have developed in the state over the past two decades.

1 Elizabeth Gross(1986) p.138. (on Irigaray's challenge to philosophy)
2 Because the feminist analysis of caring work in other areas of social policy forms the framework of the way that domesticity comes to be drawn into the penal sphere, this first section repeats but also elaborates on, the material from chapters two and four.
Review of literature of caring as domestic labour

In the feminist materialist literature on 'caring' that developed particularly in Britain in the late 1970s and early 1980s, domestic labour came to be defined as having several major features:

(i) Materialism. Sustaining life and physical well being  The domestic labour debate in the 1970s drew attention to the economic aspects of housework. The several analyses of housework and the evidence from the several studies of the work of caring for adult dependents drew on this materialist interpretation of caring. Graham describes caring work as having major material dimensions. 'Caring about' someone involves 'caring for' them. It is something women do for others, to keep them alive. 'It is a labour that ensures life as much as an emotion which expresses love.'

(ii) Materialism: the paradox of care and its costs  This material aspect of caring work then becomes three fold: the caring work of ensuring the life and physical well-being of the dependent also involves the unpaid carers in extensive and physically demanding labour and in broader political economic terms the feminist materialist analysis also emphasises the way that the costs to women carers of their unpaid work relieves the state of major economic responsibilities. Underpinning this infrastructure of material support, that women through their family obligation to care provide for the political economy, is the paradox pointed up by Graham:

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3 Ellen Malos (1980)
5 among others: Betsy Wearing (1984)
6 Graham (1983) p.25
... for women, the experience of dependency is more contradictory. Their dependent status - as housewives, mothers, dutiful daughters - is not absolute, but is conditional upon their being simultaneously depended upon by others. Thus, for many women, being a dependant is synonymous not with receiving care, but with giving it. For children, and for men, economic dependency and poverty is the cost of being cared for; for women, economic dependency and poverty is the cost of caring.

(iii) Responsiveness to political economic changes  Thirdly, but interrelated with this materialist dimension is the characteristic that the demands upon carers are determined not only by the specific needs of the dependents but by the external economic, political and ideological climates in which the needs are defined. Sheila Kemerman and Alfred Kahn's comparative study of six countries, and their varying policies on child care, shows how specific national concerns with population, equality or economic efficiency (as it is defined in neo classical economic terms) can make major differences in the extent to which the costs of caring are distributed from state to family.

Similarly Cass' historical analysis of child endowment and family allowance payments indicates that way that costs of child care in Australia have undergone complicated shifts from capital to state to family. The 'retreat from welfare' era from the 1970s onwards has specifically been characterised by the transfer of responsibilities from state to family for the care for various sectors of the working class who have become defined as unproductive.

(iv) Diffuseness and unspecifiability  The diffuse unbounded nature of the responsibility for caring for children, or ill or aged adult dependents that is derived both from the immediate nature of the dependency and from the way it comes to be defined in the external political economic climate, means that caring is experienced as an unspecifiable kind of labour. Graham points out that this then places major demands on the carer who has to make cohesive what is essentially fragmentary.

(v) Skill  This diffuseness indicates that there is major craft element in the labour of caring. The worker, although confined by multiple and diffuse constraints is nevertheless creating the contours of her own responses to the chronic crises of adult dependency. Ungerson, in interviews with carers of aged dependents, found that the

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8 Graham (1983) p.24 (my emphasis)
9 Kemerman & Kahn (eds.) (1978)
10 Cass (1983. a)
four men who were carers were much more likely to use occupational language to describe their experience. They understood, Ungerson argues, that they had acquired transferable skills.\textsuperscript{13}

In an article that parallels Ungerson's emphasis upon the skills of caring, Sara Ruddick delineates the several aspects of the particular intellectual discipline of mothering as 'attentive love'.\textsuperscript{14} Her argument is that the practice of mothering involves the development of a specific set of intellectual skills, capacities for judgement, ways of asking questions about, naming, categorising and interpreting the world, that amount to a 'discipline of mothering' that is comparable (although differentiated in many significant ways) to the disciplines of history, mathematics or any of the other publicly recognised academic sciences. Although Ruddick focuses on child-rearing she argues that it is mothering that becomes the paradigm for the various other forms of caring that defines the domestic work of women.

The discipline of mothering from which the other aspects of caring work develop, she argues, involves the acquisition of specific skills as a response to the particular demands of the actual day to day practices involved in child-rearing. These demands are shaped by the particular interests that characterise what it is to become and to be human. The three major interests: preservation of life, creating the conditions for growth, and the development of social acceptability, shape the development of the intellectual skills and cognitive abilities of 'attentive love': humility, resilient good humor, realism, respect for persons, responsiveness to change, tolerance for ambiguity. Moreover, the inherent contradictions between the different aspects of child rearing - the preservation of life and the development of growth and individuality in the child - means that maternal practice involves a high level of self reflection and internal monitoring in order to

\textsuperscript{13} Ungerson (1987)
\textsuperscript{14} Sara Ruddick (1980)
achieve a balance between control and permissiveness, between the processes of attachment and detachment.

Ruddick argues that there is a unity of reflection, judgement and emotion in any discipline. However, it has been misdescribed, sentimentalized, and devalued through the dualistic misinterpretation, the false distinction between the emotional and the intellectual in the case of mothering. Mothering as 'attentive love' involves the specific fusion of intellectual capacity and love. 'Attention' is a special 'knowledge of the individual' that is nevertheless permissive of the subjectivity of the individual.

Ruddick's delineation of the skills of mothering is class neutral. However, a similar analysis of the skills this time of those involved in the emotional labour of caring for patients and their families in hospices, argues that these specialist skills are developed within particular forms of political economies, especially within the productive relations of capitalism. Emotional labour, James argues, is about social regulation, the regulation of others' emotions that becomes the specialist work of women when rationality and emotionality become, not only segregated, but contrasted and defined as incompatible, in the development of the separate spheres of production and reproduction in industrial, bureaucratic capitalism. However James shares with Ruddick the interpretation of mothering as central to the way that emotional labour is learnt. She sees it as forming the basis of all the other forms of emotional labour, in work, or when it is produced as a commodity in service work. She isolates the skill of 'being available' as central and sees it as comprising the several abilities: of being flexible, able to understand the needs of people in distress, able to respond at an intimate level to often unspoken demands, able to balance the contradictory aspects of support and control, and to juggle the competing demands of the several members of the family involved in the crisis of dying.

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15 James (1990)
16 James pp. 26-28
Negation, political quietism and political ambiguity  In contrast to craft based forms of labour in the public sphere, the diffuse skills of caring for family dependents are likely to be devalued. James' and Ruddick's description of the intellectual skills involved in this task, this 'miracle of the capacity for attention' is close to Graham's description of the specific skills of coping involved in the work of caring. Graham, citing Adams, points out that in 'making cohesive what is often fragmentary and disintegrating', caring work is only visible when it is not done. Graham uses 'coping' as a central analytic term both to make visible the masked and devalued political economic significance of the work of 'caring' and to indicate the way it becomes devalued. In answering the question 'how are mothers seen and not heard?', Graham argues that a basic aspect of caring work is 'coping'. Coping as responsiveness to crises or problems created beyond the control of the worker has four characteristics: it involves responsibility accepting the obligations and duties which go with the job of being a mother, culpability or willingness to take the responsibility for righting crises caused by others, flexibility or malleability, the ability to be adaptable to the diffuse and complex demands of the chronic crises of dependency; and negation or self effacement, the denial that these skills are causing any problems for the carer herself. These aspects of coping coalesce into its fourth characteristic, political quiescence. In denying oneself a voice in responding competently and invisibly to the chronic and the acute, diffuse demands of dependency, coping provides a form of metaphorical shock absorber for the various crises created by the contradictions of the external social relations of productive life. For example, the central contradiction of productive life lies in the inability of the political economy of the public sphere to provide adequate support for those who fall outside of the wage relationship - children, the aged and the invalid - in a society based upon the professedly civil and humane values of

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17 Ruddick is citing Simone Weil's description here, from 'Human Personality' in Collected Essays, chosen and translated by Richard Rees (London: Oxford University Press, 1962)
18 Graham (1982)
19 Graham (1982) p 26
liberal capitalism. Domesticity, as the coping work of caring or mothering, then can be seen as absorbing the inherent stresses and tensions of a wage based economy. The elasticity of domestic work means that women do provide a reserve army of labour, not so much in providing extra hands for the paid labour market but in forming a responsive and quiescent force of unpaid carers for the cycle of workers made unproductive and dependent by the varying demands and exigencies of the insecurities and reshapings of the labour market of a capitalist economy.

In addition to this aspect of elasticity, the way that domestic sphere relations are structured through the gendered nexus of caring and dependency means that family life provides a buffer against economic crises because of the uneven distribution of economic resources within the family. In both the nineteenth and the twentieth centuries women have 'absorbed the blows of an insecure existence' and defended family life in economic crises by reducing their own standard of living. This elasticity in the wife's access to material resources then served as a buffer for the larger economic system as well.

Lynch argues that this emotional component of caring work should be termed solidary labour in that it is work that creates symbolic bonds between men and women and children and adults, so reproducing the caring relationships between people that are essential to human development. Nevertheless, like Graham, she distances herself from the economistic Marxist argument and interprets this work as being both essential to, but more than a by product of, the structural forces of capitalism. Solidary labour or love labour is the work that is 'an eternal necessity' in the production of humans as species beings.

There is, then, an ambiguity about the relationship between domesticity and political order. As Rebecca Albury points out, family life provides the basis for both control

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21 C. Lynch (1989) p. 2
and contestation. It is ‘the site of both the protection and the oppression of individuals.’

The obligation to care can lead to political action to defend the interests of family dependents, as well as political quiescence. Women were politically active in the conflicts around consumption, the ‘bread riots’ of the early nineteenth century. Janey Stone shows how in several of the public demonstrations in the 1930s Depression it was women who led public protests against the invasions into family life and the loss of material support for family existence. In South Australia at the same time it was women who ran the anti-eviction scheme, ‘Rally when the Gong Goes’, organising concerted attacks on bailiffs to prevent the split up of families being put out into the street, and specifically using the symbolism of familism to encourage mass opposition to the evictions. Tim Anderson refers to the political activities of families of prisoners directly confronting the Minister for Corrective Services to make public the damaging effects on prisoners of the prison officers strike at Paramatta in 1983.

(vii) Materialism: as costs to carer There is a further aspect of the diffusenes of caring work that ties back into the material aspects of caring outlined above - the material costs to the carer. What is also unspecifiable about the demands made on some forms of caring work is just how long the care is going to be needed. The familial obligation to aged or chronically physically or mentally ill adult dependents can involve the worker in a commitment to an unspecified period of responsibility. The undefinability then imposes other material demands on the unpaid carer. The unspecifiability of any time limit to caring interferes with the career plans that the unpaid carer can make for her own future

22 Albury (1987)
23 Albury p.25
24 Sheila Rowbotham (1973) pp.24-28
26 Margaret Allen et al. (1989) pp.218-220
after the unpaid caring work comes to an end. The material consequences of caring, in
terms of lost opportunities, can then last beyond the demands of the caring work itself.28

(viii) Social isolation  Citing evidence from several studies of the familial work of
care, Graham emphasises its socially isolating nature. Caring is privatised work that,
‘tightens the bonds that tie (the carer) to the lonely and narrow sphere of ‘home’”.29

Graham argues that the dilemma for women who perform this isolating work is that, for
political and ideological reasons, this familial responsibility to care is the way that carers
as women are accepted into and feel as though they belong to the social world.30 The
commitment to caring work then both isolates yet connects women with the wider social
world. It is in part, social isolation that tips caring work towards political quiescence
rather that contestation. In analysing the way that gender and privacy intersect Graham
refers to the ultimate sense of responsibility that mothers feel for the health, development
and happiness of their children, ‘that she is the person beyond whom there is no
recourse or appeal and who is answerable for what happens.’31

The basic step towards redefining inequality as a public problem rather than a private
difficulty, the recognition of the commonality of the exploitation is made more difficult
when the physical space and the emotional discourses within which the work of caring
operates is the confined particularistic life of the home.

(ix) Loving: emotional, material and ideological aspects  Graham’s
argument here indicates the central dimension of care, that it links the material and the
ideological. The feminist materialist analysis of caring emphasises that it is comprised of

(1983) p.26
30 Graham (1983) pp. 18-22
cited in Graham (1985) p.36
more than the material work of tending. Just as Ruddick refutes the dualism of the separation between intellect and emotion, Graham refutes the dualism of the separation of the emotional and the material aspects of caring. Caring is about both labouring and loving. It has both material and emotional dimensions. Ungerson points to the political economic consequences of this duality of the term caring.\(^{32}\) Not only can it have two totally different meanings as 'caring for' and caring about, but there is an elision of the two terms. The material contributions and costs involved in the tending aspect of 'caring for' then become taken for granted and marginalised aspects of the political economy as these material dimensions of caring work become interpreted as 'natural' aspects of family life.\(^{33}\) The policies of the New Right as they are manifested in the policies and practices, for example, of Britain in the recession of the 1980s, explicitly draw on the ideology of unpaid care as the 'natural' form of care for people displaced from the labour force. In the words of Margaret Thatcher:

...the only effective way to reach all those individuals who need help is through the voluntary service of millions of individuals who do what they can because they want to. And however much money we have and however rich Britain becomes, services to meet the needs which as volunteers you now satisfy and in the end, real neighbourliness and understanding care comes most naturally from those who choose to give it, and it comes most effectively from those who are neighbours and friends of those they help.\(^{34}\)

The ideological construction of caring as women's natural familial obligation then has further implications. Ungerson's argues that the state's use of caring for adult dependents draws on an image of caring as unproblematic, that caring is 'normal'. but that the reversal of roles involved in caring for adults can make that caring work a difficult social process. Nevertheless, the premise that caring is 'normal' then makes the carers feel guilty about the extra problems they are facing.\(^{35}\)

(x) Control The final aspect of caring work is indicated in the definition of terms in chapter one. The argument in this thesis is that the materialist aspect of caring has both

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32 Ungerson (1983) p.31
33 Ungerson (1983) p.48
34 Margaret Thatcher (1981)
political and economic dimensions and that these two strands should be separated. Caring work has key controlling aspects. Several writers in the feminist materialist approaches to social policy and the welfare state, point to the aspect of control in the construction of the familial obligation to care.\textsuperscript{36} In the Australian analyses, Bettina Cass' detailed delineation of the family allowance, child endowment and population policies shows how these various 'family polices' have been used to control both class and gender relations by successive governments of various political hues since Federation.\textsuperscript{37}

Heidensohn points to the duality of control as it operates through domesticity. She argues that women are socially controlled to be the controllers.\textsuperscript{38} The review of literature on the constitution of domesticity in chapter two indicates the several ways in which this moral relationship between family, state and economy became the central feature of the intersection between productive and reproductive life with the development of capitalism. This more complex approach to the relationship between domesticity and control then indicates that caring comprises three rather two dimensions: it is about labouring, loving \textit{and controlling}. At the same time, women's obligation to care is continually reconstituted through external political and ideological controls as the boundaries between the state, economy and family life shift with changes in the political economy.

The work of Jane Lewis and Barbara Meredith, Finch and Ungerson demonstrates the complexity of the relationship between care and control indicated by Heidensohn.\textsuperscript{39} Control is exerted on carers not only through the broad external structures but within the close relationships of family. In their several analyses of the day-to-day care of aged dependents, they show how the carers are controlled by the dependents through forms of

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{37} Cass (1983 a) (1983 b)
\item \textsuperscript{38} Heidensohn (1985) ch.9
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\end{footnotesize}
what they call 'emotional blackmail'. The only power that many dependent people can draw on is their control through love. Finch points out that each of these separate studies indicate that, although some men do do this caring work, it is women who are the more susceptible to being controlled within the intimate relationships of the family.\textsuperscript{40}

The way that the nexus between caring and dependence for women who are parents or partners of prisoners, becomes part of the system of control was indicated in general terms in chapter four. The experiences of this form of incorporation into penalty as it affected the women in N.S.W. in the period 1986 to 1988 comprise the next chapter. However, as Graham argues, it is the fusion between the dimensions of care that characterises domestic labour. So control as part of the work that women do and as it intersects with the material and emotional aspects of their caring work is included too in this chapter.

Before detailing the accounts of the 38 people who worked in the complex social space between home and prison in N.S.W. in the late 1980s, the specific policies and practices that circumscribed their work is outlined here.

**Imprisonment in N.S.W. in the 1980s**

(we should be) directing our gaze to the brightly lit official stage where decisions are made before proceeding gradually to the semi-darkness of the places where these decisions are carried out.\textsuperscript{41}

In chapters two and four, the 1970s was described an an era in which, in Garlands description, penalty in Western societies is characterised by three major features: the profound crisis of the 1970s manifested in prisoner struggles and organisation; the collapse in the belief of rehabilitation, and the acute fiscal and discipline problems of prison administration. Not only was this the case in the overtly violent penal

\textsuperscript{40} Finch (1989) p.209
\textsuperscript{41} Donzelot p.150
administrations in the United States and Britain, but even in the much vaunted reformist prison systems of Scandinavia and the Netherlands, political and sometimes violent, confrontations between prisoners and prison officers were public aspects of penalty in this era, with the development of the Krum, Krim, and Krom associations in Sweden, Norway and Denmark and the battle between prisoners and Dutch marines in Scheveningen in 1974.  

The N.S.W. experience reflects this general picture although with its own specific features. There were a series of prisoner rebellions in N.S.W. prisons in the 1970s. The formation of several prisoner groups and the high level of prisoner action drawing attention to a range of destructive and inhumane conditions that had been a sustained feature of N.S.W. jails including a lengthy era of institutionalised violence by prison officers against prisoners. These struggles eventually led to the Royal Commission into N.S.W. Prisons in 1976 which handed down over 200 recommendations for prison reform. The next few years were characterised by struggles between liberal and conservative factions within the prison administration over the extent to which these proposed reforms should be implemented.

The problems of prison discipline following on from the Nagle Report included an extensive programme of strikes by prison officers over the attempts at prison reform by the newly appointed Chairman of Corrective Services Commission, Dr. Tony Vinson, who resigned after two and half years. Most of the prison officers involved in the systematic violence against prisoners were allowed to continue in the service. Some were promoted to senior positions.

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43 Zdenkowski and Brown p.65
45 Vinson pp. 22-24
The complex ways in which penality and domesticity intersected in this era of restructuring, extended to the family lives of prison officers which became caught up in the jostlings for power between liberal and conservative elements. It was in this period that prison officers reported that one of the stressful aspects of their position lay in reconciling the authority of their work life with their family life.\textsuperscript{46} The report on prison officer stress did not however, indicate the way in which that conflict was manifested in the power relationships within the family. In a more revealing account one group of reactionary prison officers, the 'Maggots', were recorded as having pursued their attack on reform policies by harassing and physically assaulting newly trained officers who were more sympathetic to the reformist policies. The harassment included threatening night time phone calls to the wives of the reformist officers.\textsuperscript{47}

During the late 1970s and the early 1980s N.S.W. prisons were the sites of both softer and harder penal practices and policies. Some of the recommendations of the Nagle Report were implemented. Katingal, the heavily criticised high security unit, described as 'an electronic zoo', and the older 'Victorian zoo' - the Observation Unit of the Malabar complex - were closed down. Greater emphasis was placed on day release, work release and early release programmes and communication with families outside was made more open. A therapeutically oriented Special Care Unit, organised around shared decision making, was established.\textsuperscript{48} Transsexual prisoners were accorded official recognition of their right to maintain their identities as women.\textsuperscript{49} Women prison staff including welfare workers, education officers as well as prison officers were appointed to positions in men's prisons.

These moves were specifically moves away from the constitution of prison as the site of a clearly segregated masculinity. The establishment of the Special Care Unit was a

\textsuperscript{46} N.S.W. D.C.S.(1983)p. 22. Willett (1979) also indicates the significance of this particular aspect of the intersection between home and prison in his work on Canadian prison staff
\textsuperscript{47} Vinson (1982) p.187
\textsuperscript{48} Vinson (1982) p. 217
\textsuperscript{49} Vinson (1982) pp.65-66
move to reconstitute violent prisoners as men who would be participants in the management of their own penal status but at the same time it has been described as a move to 'domesticise' control within prison. 'The facilities of the wing are designed to give the impression of communal domesticity, rather than the spartan sense of security in a traditional Long Bay wing.'

To add to this move to a more consensual basis of control through the domestication of this section of prison life, prison officers were also included in the democratisation of decision-making. Their job was no longer the purely custodial one of 'opening and closing' gates but was extended to include helping to plan the therapeutic programmes and assist in their implementation. Notably one of the new innovations for the unit was the introduction of female prison officers because

in order to 'normalize' the milieu, it was seen to be desirable to introduce female officers in this environment...it is generally assumed that the presence of females 'cleans-up' the gaol jargon, that inmates care more about their appearances and hygiene, and that women have a calming influence on the dynamics...women's presence in gaol is restoring some basis(sic) social 'niceties' in this relatively cold and barren world.'

In addition one of the other main innovations was to be the provision of private visiting facilities allowing the prisoners access to family life within the prison.

The purpose of this new more democratic and more domesticised unit within the prison was to treat prisoners who had been psychologically damaged by traumas caused 'from both outside and within the prison walls.'

The domesticised Special Care Unit then performs various functions: Its manifest goal is the reconstitution of personalities whose destruction was caused by the penal system itself. It also contains its own inherent soft forms of control as prisoners who reject the
conditions of their 'rebirth' into the adolescent stage of contained 'freedom with responsibility' are rejected and pushed out of the domesticised democracy of the unit back into the exclusively masculine 'infantilising; power relations of normal prison discipline. This special group of prisoners are reconstituted too as subjects who participate in the conditions of their own subjection in therapeutic programmes of group discussion. There are close parallels here with the reconstitution of workers as subjects in the schemes of participative management in the 1980s era of a consensus based political economy. Interestingly however, at the same time as this small minority of prisoners was becoming involved in domesticised participatory management which has been described 'as getting 'as close to democracy' as can be produced within the confines of a prison.'54, the alternative forms of democratic organisations, membership of the committees of other prisoner organisations in other jails was regarded as 'a ticket to Goulburn in the shanghai van.'55

So the same conflicts that were being played out in the political economic relations of the wider society in the 1960s and 1970s, of the constitution of workers' democracy as either worker based unionism or participative management,56 were being reworked in a condensed form within the gaols of N.S.W. in the early 1980s.

Tony Vinson who oversaw the introduction of the unit describes too, the other explicit function of the Special Care Unit. It was to become the training ground for the new humane managers of men in prison. 'A quite explicit aim was to gradually staff through the various roles in the unit so that they could acquire the skills in handling human problems.'57

54 Findlay p.77
55 T. Anderson (1989) p.73. However it was in Tony Vinson's brief era as Director that the prisoner organisations were given their fullest official standing
56 H. Blumberg (1968)
It is unsurprising then that part of Tony Vinson’s vision of the way that N.S.W. prison management would operate also included the restructuring of prisons as sites which would more nearly replicate the competitive structure of the labour market with prisoners competing for jobs advertised in gaol, the services and amenities within prison being paid for out of prison wages, a minimum level of service provision for all, but so minimal as to ‘induce effort’ and the building of new factories within prison walls.58

Here Tony Vinson was enthusiastically supporting ideas initially proposed by Gerry Hay, a senior prisoner executive at Bathurst. The domestication of penal life was also proceeding at this prison. The large impersonal cell blocks of the maximum security section of Bathurst Gaol which had been destroyed by prisoner actions in 1974 was replaced by ‘unit management houses’ in 1982. In this new architectural design prisoners lived in smaller units where both the physical space and the penal relationships were based on a ‘family’ form of control with eight to twelve prisoners cooking and eating in ‘their’ unit under the supervision of two Prison Officers. The appointment of a woman as Deputy Supervisor of the gaol reinforced the familism of this ‘normalising’ of penal life.59 Both prisoners and prison staff were initially enthusiastic about this change. However by 1986, the evaluations of the Bathurst Management Plan were less positive.60

This liberal constitution of prison life, with control managed through more horizontal, humanely oriented, dually gendered, structures, with prison officers working closely in consensual agreement with fully participating prisoner-workers, willingly exchanging their labour for unequal rewards for their supposedly voluntarily unequal ‘efforts’, manifestly reintroduces domesticity into penal control. It constitutes prison life as a paternalistic family structure perpetually reconstituting a stream of willing adolescents,

58 Vinson (1982) p.221. Here Tony Vinson was enthusiastically supporting ideas initially proposed by Gerry Hay, a senior prisoner executive at Bathurst.
59 N.S.W. D.C.S. Annual Report (1983) p. 15
60 N.S.W. D.C.S Annual Report (1986) p. 33
forever achieving the balance between freedom and responsibility that will allow them eventually to be mature enough to enter the wider world as co-operative workers freely participating in a competitive and unequal labour market. Even the lads' sexual partners are allowed into the family home on occasion to enable them to achieve the correct balance between freedom and responsibility. Penalty, productivity and domesticity are interwoven here in a schema that echoes the sentiments underlying the Quaker reforms of the beginning of the nineteenth century.\textsuperscript{61}

The actual economy of N.S.W. prisons however, in common with that of most other gaols in the Western world, was increasingly revolving not around productivity but the other political economic moments of distribution and consumption. It was specifically the prison leisure activity of drug consumption that was becoming the focal point of the discourses constituting penality in N.S.W. in the mid 1980s. In a political economic culture constituting 'freedom' as consumption and leisure, it was not surprising that drugs became endemic to the economies of N.S.W. prisons when prisoners can't go to the beach, have a beer, got to the bush, swim, go shopping or do much of anything that isn't heavily restricted and all under the shadow of a prison officer in a tower with a rifle. ... the result is that drugs appear a far more attractive form of recreation pleasure or escape, than they might outside. There are simply not many alternatives.\textsuperscript{62}

Drugs entered into both the soft and the hard discourses of prison life in the 1980s. In the soft control of the technologies of the self used in the group therapy sessions of the Special Care Unit, confessions about self will and control over drug taking became part of the soul searching for self identification

Daily group sessions are an essential part of the therapy at the Special Care Unit, for it is here that inmates get an opportunity to see themselves as other see them during sessions, members of the group help each other to face and recognise reasons for the inability to cope in gaol or the community. For instance, one prisoner say "I want to give up drugs", to which another responds "Then how come you asked me yesterday where you could get hold of drugs?"\textsuperscript{63}

\textsuperscript{61} Dobash etal. pp.41-56
\textsuperscript{62} T. Anderson (1989) p.36
\textsuperscript{63} N.S.W. D.C.S. Annual Report (1983) p. 27
In prison life outside of the domesticated democracy of the Unit, the 1980s was also the period when in the N.S.W. gaols, militaristically oriented emergency units were established with responsibilities for the control of prisoner disturbances.\(^\text{64}\) In 1981-2 there were seventeen occasions when the units was called out\(^\text{65}\) and in that year the Malabar emergency unit was amalgamated with a drug detector dog unit.\(^\text{66}\) Drug detector dogs are used in the routine searches for drugs in prison that the Department proudly describes as being ‘... like a commando raid, (that) combines surprise with thoroughness. The dogs can detect drugs and alcohol even when these are ingeniously hidden.’\(^\text{67}\)

For prisoners managing to live day to day in the gaols this drug legitimated shift to an increased militarism involving investigations of 'ingenious hiding places' means that power can be manifested in gross exploitations of control through invasions of the private possessions, spaces and even the bodies of prisoners.\(^\text{68}\)

Drug taking complements sexuality in the late twentieth century discourses that constitute this particular form of consumption as pathological through the powerful language of 'addiction'. It is this construction of drug taking as the current manifestation of a lack of will over the body that legitimates the extensive State intervention over the body of the individual, even during the liberalising era of consumerism. As with sexuality in the Victorian and the Freudian discourses, drug taking not only legitimates this State intervention as the physical and emotional coercion of prisoners, it also also becomes the basis for a detailed network of information collection agencies compiling dossiers on the physiological and social condition and the rehabilitative potential of prisoners. The Drug and Alcohol Court Assessment Programme (DACAP) is a post conviction, pre sentencing programme which assessed 496 prisoners in 1986/7. Its aims were to

\(^{64}\) N.S.W. D.C.S. Annual Report (1978/9) p.18  
\(^{65}\) N.S.W. D.C.S. Annual Report (1981/2) p.81  
\(^{66}\) N.S.W. D.C.S. Annual Report (1981/2) p.30  
\(^{67}\) N.S.W. D.C.S. Annual Report (1983) p. 20  
\(^{68}\) T. Anderson (1989)
* provide sentencing authorities with accurate assessments of the nature and dependency of referred clients;
* recommend appropriate intervention;
* provide an indication where possible of the likelihood of the offender co-operating with such intervention;
* educate substance abusers as to their behaviour and encourage them to take appropriate action.

Sexuality and drug taking in prison have been separately, and in combination, the focus of powerful discourses legitimating coercive and epistemological forms of control within prison. The A.I.D.s issue provided a basis for a particularly powerful rhetoric of pathology and containment. It drew on both discourses, drugs and sexuality, to either condemn the failure of will in the control of the body, and/or to make the body the focus of an extensive network of tests, information collection and segregation procedures.

Although the shift to a more drug dominated prison life legitimated the shift to militaristic forms of control in N.S.W. prisons the introduction of tactical response groups was closely associated with the control of the earlier political prisoner organisations. In this, the N.S.W. prison administration was closely following the North American experience of the mid 1970s in which the crisis of increased prisoner politicisation was described by one American penal academic:

> It is a relatively simple matter to control the predatory conduct of a small gang, which, in its thievery and intimidation, manages to make a lot of enemies among other inmates. It is quite another thing to deal with violence that is directed at the staff by men who can represent their cause as one that is carried out on behalf of all inmates and at the same time engages revolutionary support outside the walls. The apparatus required for the control of semiliterate thugs concerned with sex, cigarettes, and candybars is not adequate for the control of guerrilla operations aimed at the disruption of the entire criminal justice system.

Here prison life is being constituted as a constant struggle against a well organised 'enemy within' that then justifies an increasing militarisation of control.

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69 N.S.W. D.C.S. Annual Report (1986/7) p.13
71 J. Conrad (1966) p.25
An alternative view of the problem of control within the N.S.W. prison system was that
given in a submission from the Corrective Services Teachers Association to the Muir
Inquiry into the Central Industrial Prison.72 This analysis of the problem of prison
violence indicated that prisoner violence was encouraged within the C.I.P. and
incorporated into the system of control.

All too often violent but 'on side' prisoners are used by the system to keep order by heavying
their fellow prisoners. Regrettably this method has greater favour than making improvements
to management practices.73

The militarisation of prison life then can be interpreted as becoming self perpetuating.
The militaristic use of prisoners as 'foot soldiers' engendering a system of prisoner to
prisoner violence that can then be used to legitimate even further militarised tactics of
control. In the N.S.W. prisons in January 1988 a further militarised group within the
already formed Special Response Unit group was formed. This was the Immediate
Action Group (I.A.T.) that was to 'provide a well co-ordinated team of highly trained
Prison Officers to respond to incidents of prisoner disturbances occurring within prison
establishments'.74

The Labour administration of prisons then was characterised by its use of a 'soft/hard'
strategy of social control with militarisation and domestication occurring in parallel. The
domestication of prison life in the early 1980s also included the two studies into the
impact of imprisonment on family life, one published by the Department of Corrective
Services and the other by the Ministry of Youth and Community Services.

The Department of Corrective Services report on the family life of long term prisoners
was framed within the 'family crisis' model of the earlier U.K. and U.S.A. researches of

72 This inquiry was set up following the severe physical assault by a long time prisoner upon a man
imprisoned for a few days for a fine default. The Corrective Services Teachers Association report was given legitimacy in the Muir Report by being printed in full and being described by Muir as 'a most helpful submission'.
73 A.G. Muir (1988) p.437
74 Department of Corrective Services (1987/8) p. 19
the 1960s and 1970s. The research was explicitly introduced as an examination of the way that domesticity could be used to reduce the level of recidivism.

... can be the devastating effects on the prisoner and his family relationships ... can be the experience which locks the person into a criminal career. Maintaining close contact with the family during incarceration and re-entering a satisfactory role in the family on release appears to prevent many of these effects. 75

The factors identified as contributing to the maintenance of family relationships and 'neutralising the institutionalisation process' of prison life included the extent to which wives adopted a 'functional or a dysfunctional' method of 'coping' with the stresses of the impact of imprisonment. The study drew on the psychological classificatory schemes of McCubbin's Family Coping Inventory focusing on women's personal and social relationship behaviours. The women's behaviour was judged as dysfunctional if smoking and drinking alcohol were included as 'coping strategies'.

The research categorised women into whether they were 'distant' or 'close' in their relationship with the prisoner and one of the six recommendations in the preliminary report reinforces the reformist technology of the 'family crisis' model: 'there should be an extension of Departmental counseling services to prisoner's wives'.

The preliminary report which was based on the review of literature of the family crisis studies of separation included the recommendation that the Marriage Guidance Council should be requested to introduce counseling services into at least one major gaol in New South Wales, and to assist in training departmental officers in appropriate skills. 76

One strand of policy making then was manifestly attempting to insert domesticity into penal life through reconstituting prison officers as workers skilled in the 'psy' work of

75 Barbara Kemp, Marie-Claire Cheron, Mary McClelland and G Cooney, G. (1982) However Kemp's preliminary paper, reviewing the literature on prisoner's families, indicates that this perspective was deliberately and pragmatically chosen as the one most likely to persuade the Department to fund the recommended services for prisoners wives. In the earlier publication she gives priority to the social equity claim. (Barbara Kemp (1980) p.1.)

76 Kemp et al. p.17
policing family life, using the techniques of drawing the family into the prison towards the normalising end of the punishment in programmes of family counseling similar to those, described in chapter three, in the U.S.A. and Sweden.

In addition the scientific rationality of the reformist technicist school especially in terms of the scientific bureaucratic emphasis on reconstituting itself through emphasizing the necessity for future research is reflected in the final two recommendations of the report.

8. Conduct further research on the marriage of prisoners serving six months to three years
9. Any innovations introduced should be systematically evaluated.

However although the reformist technology of the family crisis model dominated the research methodology and most of the recommendations were oriented to opening up the prison by making it economically and practically easier for families to visit, one of the recommendations was to increase cooperation between women in the

6. Encouragement for formation of self-help groups among prisoners' wives

The focus of the second report prepared by Hounslow et al. for the Ministry of Youth and Community Services was directed more towards the political powerlessness of the outside carers of prisoners children. This report emphasized the extent of the work involved in the responsibility for the care of children of prisoners, and the hidden punishment and economic distress of the women who did that work. Like the Kemp and Cheron report, the report by Hounslow et al. recommended the funding for a self-help group of outside carers. However they explicitly tied this recommendation to the lack of a political voice of the outside carers. The emphasis was very much more on the empowerment of families rather than on the domestication of prison life.

Kemp et al. (conclusion)
These reports had a minor effect. In 1983 a Children of Prisoners Support Group was funded by both the Corrective Services and the Family and Community Services Departments. However it was funded on the basis of co-ordinating the work of volunteers in line with the Corrective Services report's recommendations. The marriage counseling recommendations were not taken up. A Youth and Community Worker was allocated full time responsibility to foster understanding amongst Welfare Workers of the plight of, and the resources available for, children of prisoners. The funding for a permanent Community Worker to coordinate the more political aspect of the group, the self support group of outside carers of prisoners children was channelled through the C.E.P. scheme. The conditions for this funding down graded the importance of this aspect of the groups' work. The conditions of C.E.P. funding were for the employment of a relatively inexperienced worker and the funding was specifically limited to the provision of a salary for only one year. By the late 1980s the work of the group was eventually narrowed down to supplementing the work of the outside carers by providing a child escort service for prisoner parents with limited outside family support, and the staging of gala days in prisons when children could spend the day with their prisoner parents in a more normal setting than the usual restrictive conditions of maximum security visiting. However this latter work depended on the goodwill of individual prison superintendents. Few of the superintendents of maximum security prisons were willing to open up their gaols for this limited domestication of prison life. Notably it was around the parenthood of women prisoners that the group's work eventually predominantly revolved.

The ad hoc and limited nature of the 'family-oriented' reforms was also demonstrated in the provision of Family Support Centres. Just prior to the publication of the two family of prisoner reports, the Civil Rehabilitation Committee had been successful in persuading the Department to provide a Family Support Centre for visitors to the prisons in the Long Bay complex. The Centre provided basic practical support for visitors: free child care

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78 this position was lost in the 1988-1990 period of economic rationalisation.
for partners when they wanted to visit the prisoner alone, shelter during the break in visits, clean toilets, a changing room, cups of tea and coffee, an information base and most importantly a place where women could get together to exchange information and support between themselves. The recommendation of the Children of Imprisoned Parents Report that all other prisons should provide this elementary support for visitors was not taken up.

The tensions between the reformist and the punitive aspects of control in the NSW penal system were further complicated in this period by the introduction of the Early Release scheme. This undermined the domestication of prison life by putting to an end the Day Release II (Home Release) scheme and limiting the numbers released on the Day Release I programme.79 The resignation, arrest and imprisonment of the Minister for Corrective Services for taking bribes for early releases was also accompanied by the end of the Early Release programme, but by the mid eighties the climate of penal life N.S.W. had swung so far back to the punitive end of the scale that the home release programme was not reintroduced.

In the 1986 to 1988 period then the penal system was characterised by major tensions between hard line punitive controlling, and softer reformative, policies and practices. The latter were also controlling but less manifestly so. The prisons were being run by a range of state officials whose attitudes similarly reflected the complexities of the contradictory philosophies of penality as they were being worked out in the day to day constitution of prison life. A 1987 report into the opinions of N.S.W. prisoners, specialist staff and prison officers about the definitions of prisoners in general as being either 'mad', 'bad' or 'normal', found that whilst most prisoners chose the description 'normal', prison officers chose the 'bad' definition with the choice of specialist staff falling somewhere between the other two.80 Whilst this study depended on responses

79 N.S.W. D.C.S. Annual Report (1983) p.38 These programmes are described in greater detail in chapter 7.
gathered at only one particular time, Vinson’s reflections on his two years in the
Commission clearly evidence the contradictory sets of ideas about criminality that
N.S.W. prison officers held: prisoners were alternatively defined as genetically or
naturally criminal, a potentially threatening group of violent men needing to be brutally
contained, deviants in need of therapeutic reform or as essentially ordinary people
whom the prison officers job it is to contain as humanely as possible. This depiction
of prison staff in N.S.W. parallels the picture of prison guards and their culture
portrayed in Robert Johnson’s account of prison life in America. About a quarter of
the guards in Johnson’s depiction fitted the stereotype of ‘mindless and brutal custodians’
although he also argued that their stance of toughness had wider influence in the prison
subculture and was adopted by most officers, even though a sizeable minority of the
guards went out of their way to promote a humane environment. However, this is to
present too static a picture of the prison officers attitudes. Terence Willet argues that
guards are at the ‘synaptic point’ of power in the hierarchy of prison authority. They are
at the last point in the chain of power where policy has to be converted into action. The
social dynamics of prison life then mean that they, as well as the prisoners, experience
in a condensed form, the contradictions that derive from the multiple discourses of
containment, punishment, rehabilitation or humane control. Similarly Kelsey
Kauffman found that, during the period 1971 to 1980, prison officers in the
Massachusetts prison system experienced the contradictions, between the official goals
of the system and the futility of achieving those aims in their work in that system, as
devastating. That study indicated that it was the prison officer sub-culture that was a
major dynamic of prison life. As in Johnson’s research, this account shows that
although the majority of prison officers had a positive attitude towards prisoners at the
beginning of their careers, the majority of these recruits left in defeat and ‘the officers
who remained were socialised into the (bratal) officer subculture.’ The frustrations

82 Johnson (1986)
84 Kauffman p. 209. cited in Sandery p. 279
and experiences of the inherent hypocrisies of penal life, which form the context within which prison officers work, has led to an increasingly militant yet conservative unionism in Britain and in North American prisons.

Surmounting all the evidence is an impression of frustration with their inability to 'change things' in a system that seemed to them beyond anyone's control, and the most appropriate concept that comes to mind to describe this is inertia: a condition in which there is an in-built resistance to change.85

Thomas Mathiesen also demonstrated the similarity of reactions of prisoners and prison guards and their common vulnerability in the face of the contradictions of prison constituted as the site of punishment, containment and therapy.86 Both Mathiesen and Willet argue that the incongruity of these expectations as it is experienced by staff at the bottom of the hierarchy of power leads prison guards to a constant need to defend their status. David Grant's overview of the changes in prison life in N.S.W. from the 1960s to the 1980s defines the issue of prison security primarily from this perspective. He describes it as a downward spiral of mistrust and disaffection on the part of the prison officers as a consequence of the shift beginning in 1968, from constituting prisoners as bodies to be controlled, to individuals able to be rehabilitated, then to 'near citizens' with rights to be defended.87 At the same time, he points out, prison officers did not experience a parallel redefinition of their role, 'Little was done to develop a model of prisoner management which recognised the needs and rights of prisoners and therefore required and provided additional skills to Prison Officers.'88

Grant's account sets this dynamic up as result of an internal problem of poor prison management rather than as a more deep seated contradiction of a layering of incompatible expectations that reflected and reinforced the contradictions of the familial political economy of the outside world. Nevertheless this dynamic of prison life, of increasing expectations of prisoners and of the relative neglect of the impact of the liberalising

85 Willett (1983) p. 110
86 Mathiesen (1962)
87 Grant (1988)
88 Grant (1988) p. 4
changes on prison officers, meant that for prison officers concessions to prisoners were almost inevitably interpreted as excessive. The hierarchical authority structure of prison combined with the contradictoriness of the several discourses underpinning penality then created a powerful dynamic constantly reconstituting prison custodial staff as reactionary, resisting especially those changes that increase prisoners' control.

The papers presented in 1975 to the seminar on 'the conflict of security and rehabilitation in the 1970s' on the ambiguities of prison life indicate that the same resentments were being felt in other Australian prisons

the prison officer felt he was excluded from the treatments programme. There have been indications that he resents the intrusion of specialist, and is critical of the introduction of additional programmes of treatment. The feeling was strong that some treatment programmes interfered with discipline and the otherwise smooth operation of the prison.89

This tension continued into the 1980s. The depictions of prison struggles in both Vinson's and Anderson's accounts of the years following the Nagle Report demonstrate that the N.S.W. experience follows closely the dynamics of imprisonment in Europe and America.

There are other structures within which prison life is experienced that reinforce the constitution of relations within prison towards the brutalising end of the range of controlling techniques. The social psychological studies of controlling relationships indicate the brutalising effects of those relationships on the controllers, especially within the condensed relationships of power as they operate within prison.90 The several prisoner autobiographies attest to the brutalising and infantilising affects of prison on both prisoners and controllers.91 David Greenberg's summary of the critical sociology of imprisonment studies indicates that the prison officers' socially shared, 'common sense' categorisations of prison life effectively constitute prison as a 'lawless agency'.92

90 Walter Nord (1976) pp.437-450
92 David Greenberg (1977) p.9
In addition, the political critique of penatity by George Zdenkowski and David Brown pinpoints three dimensions of prison life central to the maintenance of unequal brutalising relations: secrecy, suppression of alternative prisoner based organisation and arbitrary authority. Their descriptions of prison life the 1980s and Tim Anderson’s account of his imprisonment from 1978 to 1985 indicate that these three were endemic in the N.S.W. prison system.

Although the period following the publication of the Nagle report in 1976, did see the introduction of a number of prison practices that were both more humane and that served to open up prisons to the wider society, some of these reforms were beginning to be wound back in the early 1980s and by the late 1980s the political economic climate meant that both political parties were shifting towards a more 'law and order' stance in relation to policing and penal policies. Imprisonment rates rose until by 1987 the N.S.W. prison levels were at 110% capacity. The concern with prisoners’ rights or with humanising prison life, evident in the penal discourses of the early eighties, was translated into the more immediate and pragmatic concerns rising out of the issue of prison overcrowding, ‘increased stress and management problems, boredom and frustration stemming from the lack of useful activities, sexual and other assault, violence and intimidation, and dramatically increased drug use.

In summary in the period of the early to mid 1980s there were three major discourses through which prison life was constantly being negotiated and renegotiated:

(i) **conservativism** The prisoner was constituted as a threatening 'enemy within' and a legitimate target for the violence of the state.

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95 Brown (1989 a)  
96 David Grant (1987) p.85  
97 Brown (1989 b) p.147
(ii) **therapeutic liberalism** The prisoner was constituted as a pathological member of society who was nevertheless capable of being reformed and reattached to social life through exposure to a judicious balance of the two major spheres of control - the universalistic impersonal patriarchal control of penalty and the particularistic emotional attachments of domestic life.

(iii) **radical liberalism** The prisoner was constituted as a member of civil society whose human rights should be protected through opening up the prison to 'the community'.

These three discourses impinged on the actual day to day life of the individual prisoner differently at different moments of his prison experience. The penal sphere is constituted as a site of transformation, with prisoners undergoing a metamorphosis from threatening enemy to fully restored citizen. In the late 1980s there were 23 prisons in New South Wales, 7 maximum security, 9 medium and 7 minimum security. The conditions, including visiting conditions, were either more punitive or more orientated towards 'normalisation' at either end of this range. (Although the rehabilitative practices can also be used as forms of punitive control.) In the earliest stages of imprisonment, especially in the experiences of containment in police cells prior to being charged, but also in the earlier post sentencing period prior to being classified, the prisoner is much more likely to be exposed the punitive segregating practices of penalty. After this early stage penalty shifts towards to the reformist corrective practices of medium security imprisonment and finally in the pre-release normalising period prison operates manifestly in conjunction with the family to reconstitute the prisoner as an unthreatening mature citizen capable of being released back into public life. At the back end of the prison programme there are a variety of semi imprisonment practices that connect the home and the prison. Parole was introduced in 1951 and by 1986 the ratio of prisoners and parolees was approximately 2:1.98 There are also after

care probation orders, as well as the programmes in which imprisoned men are given periodic releases into the community through work release, weekend and day release programmes and periodic detention.99

However, layered onto this 'career' version of imprisonment as different moments in the process of the re-emergence of the prisoner as 'a useful member of society', are the variations caused by the shifts in the wider political economy and in the political balances within the penal sphere. After the brief reformist post Nagle era, both Labour and Liberal parties responded to pressures from within the prison system, and from the wider sphere of political economic life, to move to a more punitive position in the areas of both policing and imprisonment.100 As the rate of imprisonment increased, prisons became overcrowded and, at the segregating moment of imprisonment, the maximum security gaols increasingly came to house prisoners who were classified as B or C prisoners, that is as prisoners who should have been experiencing the more corrective or normalising stages of imprisonment.101

It is within these complex and contradictory conditions that women outside continued the work of caring, principally by maintaining contact with prisoners inside. This specific form of caring work is described here as comprising five aspects. 102

1. Material aspects of caring work: economic contribution to the state and to the physical well being of prisoners
2. Material aspects of caring work: economic costs to women
3. Material aspects of caring work: economic costs to women, in providing money to the prisoner
4. Material aspect of caring work: costs to women, their time

99 N.S.W. D.C.S. Annual Reports 1984 to 1988
101 Martin (1987)
102 this delineation draws on the several studies of the unpaid care of children, the handicapped and the aged detailed earlier in the chapter.
5. Caring as mediating and negotiating work

1. Material aspects of the labour of caring for imprisoned men: economic contribution to the state and the physical well being of the prisoner

There are clear parallels in the material dimension of the work of caring, between the care of other adult dependents and the work of caring for adults made dependent by imprisonment.

Domesticity as the sphere of social life centred around the constitution of the personality, imposes significant demands on the caring labour of outside carers of imprisoned men. If the experience of his imprisonment is defined as so threatening that the personality, health or life of the man inside is endangered, the responsibility for providing caring labour is a manifestly important domestic task.

The importance for the health and well being of prisoners of maintaining contact with the family outside is both an evident yet an invisible part of the several discourses surrounding the policies and practices of imprisonment. Prison is the paradigmatic form of total institution that operates through a series of rituals designed to dehumanise its inmates.\textsuperscript{103} Even in a well run maximum security prison that conforms to legal requirements for the care of its inmates, the personality of the prisoner is under threat: life is lived totally within enclosed walls designed to exclude the wider society, prisoners are stripped of the symbols that represent and reflect their 'selves' in the outside world, the physical needs of prisoners are provided for by bureaucratic forms of organisation designed to handle large blocks of people. However the history of prison administration in N.S.W. indicates that even minimum standards of custodial care are not continually maintained.\textsuperscript{104} In the decade immediately preceding the years covered

\textsuperscript{103} Erving Goffman (1961)
by the interviews prisoners in N.S.W. had been subjected to brutalising forms of ritualistic degradation. Even after the Nagle Commission and the appointment of a liberal Chairman to oversee the reforms of the prison system, Tony Vinson, at that time the Chairman of the Corrective Services Commission, describes this example of a routine used at meal times during prison officer strikes: 'the cell doors were opened one at a time, but not before a burly police officer asked me to step aside so that he could 'get a good swing action' with his baseball bat. ...'105

Prison visiting then exemplifies the duality of caring work, its combination of emotional and the material dimensions. The importance of visiting in relieving the tensions inherent in imprisonment has major material consequences in terms of economic costs and savings to the state. This is evidenced in the costs to the state when visiting becomes too marginal an aspect of prison life. One of the most graphic illustrations of the materiality of the domestic labour of visiting is the burning down of Bathurst Prison in 1974. The grossly inadequate visiting conditions were one of the major factors precipitating the riots in both 1970 and 1974 resulting in the extensive material costs of the refurbishing of the gaol.106 Insufficient visits have continued to be one of the basic reasons for political activity by prisoners in N.S.W. well into the late 1980s.107 The materiality of visiting is also evidenced in the the Department of Corrective Services research into the reasons for prison escapes.108 Worries and inadequate information about the family particularly in periods of family crisis are major factors precipitating prison escapes and their consequent costs in police and prison administration and in the eventual extensions of the prisoner's punishment. One example from 1987 serves particularly well as an illustration of this material aspect of the significance of the caring work of visiting and maintaining family contact.

At about 5 p.m. on March 3rd in Parramatta jail, a prisoner tied a piece of wire around a fellow inmate's neck and threatened to connect this to a power outlet and electrocute him. He produced a knife and threatened to cut the man's throat unless authorities agree to meet his

105 Vinson p. 42
107 D. Brown (1989 b) p. 146
demands. The prisoner told negotiators he wanted all prisoners in the jail's Number Three wing to be released from their cells and he demanded his mother be brought to the prison. The situation was diffused when the man's mother came to the jail. 109

Visiting and maintaining family contact is incorporated into the punishment system to relieve the tensions and stresses of the masculinity of total institutionalisation and to reduce the costs that those stresses incur. This is formally recognised within the Department of Corrective Services in N.S.W. in its response to the Nagle Report's recommendations about improving the frequency and the conditions of visits. 110 Moreover, the state operates both prescriptively and proscriptively to ensure that the work of maintaining family contact is performed. Women who fail to do this unpaid, costly and laborious work have been formally and publicly upbraided by representatives of the legal penal sphere. In his judgement on the causes of death of a prisoner, one coroner indicted the refusal of the man's wife to do that work:

For Beverley Smith 111 not to take or arrange for the children to be taken to visit their father, was both insensitive and cruel, despite her motives. 112

This publicly pronounced criticism has particular significance as it was a judgement on one of the most publicised of the deaths in custody in Western Australia. The suicide had been the basis of a major Aboriginal protest and had occurred just at the beginning of the hearings of the Royal Commission into Black Deaths in Custody. 113 The coroner's judgement was a major feature in the media at a national level.

There are two other principles of penal life underpinning this prescription to families outside to do the work of maintaining contact. Justice Nagle argued that maximising visits to prisoners would guard against the conditions of secrecy and isolation that enabled the prisoner officer brutalities in Grafton and Bathurst to continue for so

109 Caroline Peterson (1987) (my emphasis)
110 Vinson (1982) p. 33
111 Pseudonym used for this thesis
112 Mr. P. Heaney, Coroner reported in P. Terry (1990)
113 Terry (1990)
Caring work is incorporated then as a control upon the prison guards in a defence of the liberal principle of prison as punishment not for punishment. The review of literature in chapter two indicated that punishment as bodily violence was nominally replaced by administratively based forms of 'punishment by surveillance and control' with the expansion of the administrative power of capitalism. However there is a constant tension between this liberal rationalism and the actual day to day control and continual confinement of young able bodied men in a political economic culture that privileges masculinity expressed as physical power. Sometimes the tension is resolved by encouraging brutality but maintaining secrecy. In the more liberal periods there is an attempt to contain brutality by opening up the boundaries between prison and public life. These occasional swings back to openness then serve to legitimate the continued use of imprisonment even during the more frequent periods of secretive brutality. These tensions arising out of the contradictions of the wider society then lead to frequent reworkings (and an increasing complexity) of the rules and regulations constraining visitors. For people with the family obligation to care for prisoners, the discourse of imprisonment is comprised of a variety of contradictory sets of rules. This complexity is derived not only from differences in administrative rules between gaols but also from the frequent minor shifts about times and conditions of visiting as they apply in any one prison.

Secondly, both the Nagle Report and the 1982 Department of Corrective Services Research Publication on the effects of separation on prisoners and their families are state recognitions of the reformist thesis that the work of maintaining contact with the prisoner contributes to the professed goal of rehabilitation.

...total separation from family and close friends evokes in a prisoner tension, resentment and a sense of complete alienation from the community. These are all contrary to rehabilitation gaols (sic)

114 Findlay (1982) p. 91
115 Nagle (1978) p.468 cited in Findlay p. 91
...continued family contact is important in neutralising the institutionalisation process for prisoners. Furthermore, pre-release anxiety may also decrease with the certain knowledge that a supporting family will be waiting.116

'Rehabilitation' in some current prison discourses is modified now so that it is concerned more with redressing the deterioration that occurs as a result of imprisonment rather than with the restructuring of a deviant personality supposedly damaged by genetic or subcultural defects.

The fears about the effects of imprisonment on the physical and emotional health and on the life of the partner or son inside prison was a major concern for the outside carers and one of the key reasons for their visits. For some women it was the effects of prisonisation that was upmost in their concern about the prisoner. In this case the work of maintaining contact is clearly related to what Yeatman describes as the defining aspect of domesticity - the constitution of the personality:

Olive: Son in C.I.P.
If I miss one Wednesday, he phones up. He's real family. If he didn't get a visit I think he would die. He'd give up. He really would give up. ...When he came out last time he came out as 18 in his mind. He blanked his mind out. He'd stayed 18 all the time he'd been inside. He went around all the time with 18 year olds. (He was 21 at that time) It did worry me at the time. We talked all the time I think it's important for them I think what they need, I think if you keep in contact with them and you let them know what everyone's doing and what's going on, because they don't know what's going on, I think then they know what to expect when they get out.

For several women their concern was for the way that prison life threatened the physical health even the lives of their partners or sons:

Janet: Partner has been in Goulburn and Malabar. Now in C.I.P.
He was an epileptic. I was terrified for fear that something would happen. I have had sleepless nights. It's affecting me now.

Beth: Partner has been in country and metropolitan prisons. Served 'years' of sentence. Now in Long Bay
I think it's (visiting) totally important to them. I think they couldn't cope without it. I think that's the only thing that keeps them ...

Esther: Partner has been in Cessnock, Silverwater. Now in C.I.P. Has served 6 months of this sentence.
I don't like seeing him only once a week. He's sick, he's depressed and he needs me more than I need him and they're only allowing us one visit a week. He's in hospital at the moment and I think it's unfair that I didn't get a visit a week.
Tricia: Partner has been in country and metropolitan prison. Has served 5 years. Now in C.I.P. After this last time (attempted suicide) I have to be strong for him now. I have to be there as often as I can. . . . I'm his source of strength, I'm the strong one now. I have to be. They all say, the welfare worker and everyone, that I'm his strength now. I'm the only one that visits him now. His dad has given him up. . . . because he's tried it (suicide) once. It's really important to me to make it (visit) as often as I can. It's really worrying the fear he might try it again.

Julie: partner in C.I.P.
Q. What do you think your visits do? Hold him up morally. Because he feels he shouldn't be here. He's not the type of man that could be in a flat. He just can't stand close spaces - I knew we had to deal with that as well.

Hilary: Partner in C.I.P.
I bring them (the children) in on a weekend ... I know if I didn't visit my husband he'd be here longer because it just tears him apart ... He'd do something silly and he'd get himself in more trouble.

Jane: Partner in the protection unit in C.I.P.
Q. Why visit? he thrives on them (the visits) they are really important to him. What would happen if you didn't visit? He'd kill me when he gets out (laughing) No, I think he'd go into a pretty deep depression, because he's a heroin addict. He's trying to get on the methadone programme. there 14 people apparently before him waiting to get to Silverwater.

Women's fears for the health of men inside are rational. Men in prison are at risk. Prison death rates are higher than community death rates especially for prisoners in the 20-34 age groups. Death by suicide is five times more likely to occur in prison and the rate for death by homicide is three times higher than in the outside community.117 Moreover despite popular myth, suicides are more likely to occur amongst prisoners who have made previous suicide attempts or have a history of self inflicted injury.118 Although the early weeks of imprisonment is the period when prisoners are most at risk of death by suicide, several years into a sentence is also an at risk time for death to occur in prison.

The examples of riots and revolt, and the prisoner organisations, in the N.S.W. prisons in the 1970s and early 1980s demonstrate the occasionally high levels of solidarity that can develop in gaol. On several occasions in spite of heavy physical penalties prisoners have continued to work together to improve from the inside, the general conditions of prison life. However Judy Jones, in a review of the 'prison culture' literature, and

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118 Hatty & Walker. p. 28.
from her own interviews with prisoners about their relationships within prison and with their families, argues that the routine experience of prison culture does not provide sufficient informal support for emotional life. The prison culture of mateship, she argues, provides insufficient alternative support because other prisoners are disliked, because there are few shared interests, and because there is manipulation by the prison administration to inhibit cohesiveness between groups of prisoners.

Anderson's account of his own prison experience in N.S.W. between 1978-85, shows how prison administrators undermine prisoner organisations in several ways, by shanghaiing members, placing prisoners in segregation, and on occasion by instigating attacks on 'trouble makers' by other prisoners.

Anderson's descriptions of prison life do not understate the level of dissension between prisoners. He describes the hierarchies of power and violence that structure prisoner populations especially as they operate through the drug trade run by both prisoners and prison officers. However his account clearly outlines the same contradictions of prison life evidenced in Boyle's descriptions of imprisonment in Britain. The institutionalised violence of the State as it experienced directly in the day to day life of gaol foments both violence and solidarity between prisoners.

Nevertheless both accounts also highlight Jones argument about the importance of the family outside in sustaining identity. Prison as the site of institutionalised violence can engender solidarity but also violence, hostility or a guarded indifference between inmates. The pervasiveness of the threat of violence and the conflictual nature of prison relationships means that self preservation inside prison involves not engaging in self disclosure with others inside. This essentially familial aspect of the constitution and

119 Jones (1983) p.82-83
120 T. Anderson (1989) chs. 8 & 9
121 T. Anderson (1989) ch. 5
122 Boyle (1984)
123 Jones (1983) pp. 82-83. Albert Cohen's paper on the sociology of prison violence makes the same point about the structural sources of impersonality A.Cohen (1975) p.15
preservation of self then is in contradiction to the experience of day to day life in prison. Although in the N.S.W. system the Special Care Unit was specifically introduced to provide this more domesticised form of containment, the general structure of imprisonment denies prisoners access to relationships basic to sustaining a sense of self. Ernie Hinton was a prisoner in the N.S.W. gaols during the 1980s. His description of the dehumanising effects of the routines of imprisonment and being cut off from the particularistic relationships of family life confirms Jones' point:

Can you imagine what it's like ...you sit in your cell after seven hours of freedom ... of frustrations and anger accumulated during the day. There's no one to love, no woman to share your sexual needs with, no kids to hug and say goodnight to .. and in your mind you know that the next day and the next day will merely be carbon copies of the same days, unless of course it is broken by the drama of a hanging or a fight, or waiting for a visit or a letter, or even your name called over the intercom - at least in this sense you know you still exist. ... that system which is YOUR system reduces we, the prisoner, a human being, to the status of an animal, who thus reverts to animal instinct in its crudest manifestation ... REVENGE.

Forty three years earlier a prisoner in England talked about the crucial importance of the domestic labour of visiting in constituting the personality of the man confined in gaol:

'To go without visits for long periods is to experience an agony of mind that is remembered for years.'

Prison then increases men's emotional dependence upon families outside. However as Jones emphasises, this dependence has inherent contradictions. Imprisonment increases the importance of such masculine values as emotional toughness and power at the same time as prisoners become increasingly emotionally dependent upon the women outside.

Jones argues that the experience of imprisonment leads prisoners in their relationship with their families outside, to define their own comfort as being central not only to themselves but to others and that this 'selfishness' is translated into an obsession with

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125 W. Macartney (1936) p.186
126 Jones (1983) pp.68-74
their relationship with their wife or girlfriend. Wives and girlfriend are not only the focus of an intense need for attachment they are are seen as the people whose duty it is to provide emotional nurturance. In prison life then there is a condensation of the unequal family relationships of the outside world, which are predicated upon the unconditional love of the selfless woman for the husband, or of the mother for the son. The emotional blackmail identified in the relationships between carers and dependents in other forms of caring work is a feature too of the caring work of women with family obligation to imprisoned men. This has been the experience, on occasion, of women visiting men in N.S.W. prisons

Claire Partner in C.I.P.
about the second month it's 'me, me, me' until I pointed out .. and Len would be one of the most unselfish person on earth - at two months I felt 'everythings going out, nothing's coming back' especially if the man doesn't use letters or phone calls. Prison really does bring out the chauvinistic in them.

Gwen: Partner has served four years in country and metropolitan prisons, at present in C.I.P.
When he was in Goulburn I couldn't get up to visit him because Nicol wasn't at school yet and he shaved all his hair off, I said 'why did you do that?' and he said 'because you didn't come to visit me' If I don't visit him, you know, he's in a big panic, like once he sent the Salvation Army round to my mother's house to find me once. I know he really loves me and I know that's why we're together. If I had any doubt I don't think we would be together because it's a lot to keep doing this all the time you know and I try to point that out to him but he really doesn't understand. He's selfish like that.

Dulcie
You've got to keep your front up. It's so bloody hard. I never cry. My husband said 'If you're going to cry, get out'

Teresa
I have to contain myself. Sometimes he just glares .. I can't understand. I can't do anything. I don't understand what the system does to him. He doesn't tell me. He's just ashamed of being stripped I guess .. and that's a responsibility for me in itself - to learn to accept his mood. I don't really want to. It's very .. at first every time I used to go to see him I used to cry.

This self centredness of men inside in relation to women outside is extended too to one of the central forms of work that women do, maintaining their femininity through their appearance as good looking partners. One ex prisoner joined in one of the interviews at Glebe House when we were talking about why visits were important.

127 Jones (1983) p.72
Alec. Ex-prisoner, living at Glebe House a half way home

You get status in prison if you have visitors and the more good looking the visitor is the higher your status inside.

'Looking good' as it is interpreted through the very narrow definition of femininity centred on youthfulness and sexuality, involves, for most women, extensive labour and expenditure. For women visiting prisons however, there are major obstacles to achieving and maintaining the appropriate image. Long journeys on public transport, inadequate shelter between bus stops and the prison, and limited toilet facilities can make this work of continually reconstituting the man's sexuality through one's own desirability a point of tension between the prisoner and his partner:

Bettina

You have to look good. It's important. You have to look good. If you go out there looking drab, they start on you. I've sat there and he's picked and picked on me. I'd got soaking wet coming out here. He'd say 'I rang last night and you weren't there' I thought 'this is it'. I walked out of that place Of course, I got a foul letter - yet if we didn't turn up it would break them in pieces'

This example of the importance of visiting also emphasises the other material aspect of the work of visiting. It involves women in providing extensive labour. The usual connotations of 'visiting' are that it is a marginal, usually pleasurable, part of social life. this image has to be reprocessed in the case of the work of prison visiting. It involves women in extensive time and labour and, even though the visit might only be for an hour, the work involved in preparing for, travelling to, then waiting for the visit dominates the day to day life of women outside.

2. Material aspects of caring: economic costs to women

The 1982 Department of Corrective Services report into the effects of family separation showed that visiting imposed major costs on women outside. The majority of wives experienced physical or financial difficulties in travelling to gaols. The 1982 report

made recommendations about allaying these costs. However the thrust of those recommendations was to transfer the costs from the family not to the state but to volunteer workers who should provide child care, help with transport and increase the wives' access to information about the gaol system. In the same year the separate research report was issued by the Family and Children's Service Agency. This used the different perspective, emphasizing the right of prisoners to maintain contact with their children as an end in itself rather than to use family contact as a means to supplement the smooth running of the gaols and the rehabilitation of prisoners. Nevertheless this report also showed that being the outside carer of prisoners' children involved major costs and that the expense of maintaining contact with the prisoner was the greatest additional cost imposed on the family outside. The recommendations of this report also pin-pointed the role that non-government groups could play in providing material assistance. However in this case the recommendations were that community groups autonomous to the Department should be funded by both Corrective Services and the then Youth and Community Services Departments to provide transport, information and accommodation and social and political support for the families outside.

Some of the recommendations of these reports were put into effect. A free bus service - weekly to the Long Bay complex and once a fortnight to Cessnock, Silverwater and Goulburn prisons - was introduced funded partly by the Department of Corrective Services and partly by the unpaid labour of volunteer bus drivers organised through the semi-autonomous Civil Rehabilitation Service. In addition by 1987, the N.S.W. Corrective Services was providing some direct financial and practical help for visiting, but this was not extensive. With a prison population of over 4,000 on any one day, or of more than 14,000 over the whole year, only seventeen families were recorded as having been given financial assistance for accommodation and supplementary costs of

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129 Kemp et al. p. 17.
130 Hounslow (1984) p.27
131 Hounslow et al. p.142.
132 Hounslow et al. p.150
133 By late 1989 this transport service was no longer being provided.
visiting country prisons, whilst only 45 families were recorded as having received economic assistance for travel to country prisons.\textsuperscript{134}

Unsurprisingly then the interviews with women visiting prison between 1986 and 1988 indicated that the costs in terms of their time, labour and direct financial expenses, were still major aspects of the work of visiting. Some of the visits especially to Cessnock, Silverwater and Goulburn were made cheaper by the provision of the bus or the pensioner concessions on public transport. Nevertheless, visits to other country gaols or to the metropolitan gaols by families living other than in Sydney or in the Western suburbs of Sydney were still major costs to women visiting prisons.

\textbf{Agnes:} Son in Cessnock prison

Q. Have you ever worked out how much it costs you? No I daren’t I put all my dollar pieces to one side, collect them up, then use that. I’ve got $50 now to put aside for him for his things

\textbf{Fay:}

My fiancee and my son are in prison (two different prisons) How many visits do you make a week? Once to each jail, all by public transport. I travel 400 miles every week I get one pass, the rest comes from my pension...it costs about $42 a week...because I have to take my child who has epileptic fits

\textbf{Beth:}

I’ve been up to Cessnock, stayed overnight, took Tracy up with me. It cost us $100 just to stay overnight, with food and everything else.

\textbf{Hilary:} Husband in Long Bay

Just coming and going from here I’ve added it up, all the time I come by train - its over $40 that I’ve spent

\textbf{Esther:} Husband in Long Bay has been in a number of country and metropolitan prisons

At first in Cessnock I was in a caravan paying out $5 a week for a cabin a 2 bedroom cabin...I’ve had to move from Cessnock to Goulburn to Bathurst because its just too expensive for me to travel from Sydney to those jails...it cost me a fair bit but in the country areas the houses are quite cheap. Cessnock its $55 a week and that was for a four bedroom house and I shared with two other wives and it worked out quite cheaply

Although as single parents travel costs can be reduced by the concessions allowed to pensioners these concessions are lost for women who have long journeys.

\textbf{Barbara:}

I get up at 4 (a.m.) then I catch the train to Penrith. Then I catch the train in from there. I get in about quarter to seven to Central then I hang around there than I catch the bus about 25 past seven. I come out here ... because I’m catching the early bus I don’t get the concession, so I’m paying full fares

\textbf{Fay:}

I wrote to the jail and I asked them instead of visiting once a week for the one hour, if the prisoner could put in a request that I could visit once a fortnight for two hours to save the

\textsuperscript{134} N.S.W. D.C.S. \textit{Annual Report} (1987) p. 23
money in travelling but the answer was 'no', 'no you can't do that' and I would have saved $56 if they did that.

The F.A.C.S.A. report pointed out that taxi fares from train stations to gaols sited in remote parts of towns were major liabilities for visitors and this is still a cost for women. But this added complication to visiting is only part of the complex expenses of visiting. Visiting a man in gaol takes up the whole day for families without their own transport, so the cost of meals or cups of coffee or tea are extra expenses.

In addition the policy of having a continuum of punishment with some prisons being more lenient in the conditions of imprisonment and visiting than others means that parents or partners of prisoners can be involved in the expense of paying for the privileges extended to the rewarded prisoners -

3. Material aspects of caring: economic costs to women of providing money for the prisoner

In chapter two it was argued that the major shift in the constitution of the personality of the individual citizen in the post world war II era of corporate consumer capitalism was towards the seemingly liberalising readjustment away from thriftiness as a central core value towards consumerism. The liberal encouragement to define oneself through one's ability to be free to buy and to consume worked through into penal policies and practices and in 1964 N.S.W. prisoners were first allowed to use private cash as well as prison earnings to buy goods. The range of goods available for purchase within prisons increased and by 1976 prisoners were allowed to buy television sets. This paralleled the rehabilitative policies of encouraging interests in hobbies and crafts so that in addition prisoners were allowed to buy hobby equipment that in some cases involved the purchase of expensive equipment for example of fish tanks and exotic fish.

135 Vinson p.155
Having cash to buy goods with then becomes an important part of living in prison. The obvious contradiction between this seemingly liberal policy and fact that prisoners have very restricted access to cash by the very conditions of their imprisonment is resolved often only by the increased impoverishment of the family outside.

**Tricia:** Partner has been in a variety of prisons. Now in Goulburn (its expensive) bus fares, buying a lunch and taking him some money in, he has to be able to buy tobacco. I think it cost me about $15 to $20 a week. The bus fare only cost me 60c. but its all the extras every week.

In some cases families outside are both bringing money in for the prisoner to buy goods and having the responsibility to buy goods outside that are going to be acceptable in terms of the precise although mysterious rules of prison.

**Julie**
Buying all underwear and socks and things like that. he's got piles of clothing back home but he had to have all new. Its regulation. I couldn't touch any of that. all brand new. What my husband was doing before I realised that they didn't supply (underwear) was taking them off at night and washing them through in the shower, wringing them out and putting them straight back on.

**Margery:** son in remand prison
He's asked for sunglasses, I had to get him the cheapest. I bought him two tee-shirts $3.99 each, because he was hot, another pair of shorts. Tiger brand, green. they were about $10 and I got a pair of stubbies for him, green stubbies. They were on special about $3,99 .. I shopped around to get the cheapest..

**Jane**
Jock now wants me to get a T.V. in but you can't sign them in you have to buy them. Then there's money for magazines, shorts, t-shirts and under wear

**Beth**
Its common practice (taking money in for prisoners) And they want the money for a variety of reasons. It makes life more comfortable inside. because they must buy their television, their shoes. They're not allowed to be given much in personal effects, so any personal effects they need, they have to buy inside. like typewriters, and if they're not working they don't get anything. They get $9 a week for buy up which is coffee and biscuits and smokes but if you've got no more money to buy smokes if you run out of money, well ... so you have to give them money

**Dulcie**
My husband wanted underwear and sneakers. He can buy sneakers in there for $50, a colour T.V. for $450

**Fay**
Underwear, socks, envelopes, money, writing paper, stamps it all mounts up

**June**
I don't mind giving it to him. He looked after me if I've got it I'll give it to him. I bought his underpants his track suit pants, When I came in Wayne asked me to get underpants, track suit pants, shorts and everything has to be green.

**Katherine**
train fares from Sydney to Bathurst, taxi fares (from Bathurst station to the prison) we used to be able to take dinner and that up there. ... chicken, salads sometimes Kentucky fried chicken ... He'd put in his order, what he'd want I'd take it up ... after you'd paid the rent and brought the groceries for yourself then I bought whatever he'd wanted like for the weekend you know, well, it would leave me just enough for the taxi costs for that day.

Ray
I worked it out last night. Over the past year and a half its cost me $4,500. About $20 a visit with food, transport, bringing them in a picnic, and the occasional things he asks for: $250 for a Stereo, $200 for a fish-tank, because he keeps fish in there, that's including the fish and food, $100 for a T.V.

In some prisons goods can be bought outside and then brought into prison.

Esther
Silverwater, they let you take cigarettes in to them, aftershave, underclothes, it cost me a fortune. He needed Shampoo and soap. He needed towels, he needed cigarettes

Betina
I've worked it out. It cost me $40 a week for me to see him for 6 hours. By the time I buy him a steak, magazines and newspapers

Hilary
He gets paid $12 a week .. so I have to put money in his property as well ...

The complex regulations about taking goods in can result in some prohibitive expenditures for women whose sons or partners move from prison to prison or for those who have been returned to prison after an escape or second offence:

Gwen
When Terry was in here last time, I bought him a brand new one (T.V.) Like, I put the money in his property and he bought one. He brought it home and now he's back in there again. I've got to buy another one. I said 'Why can't he bring it back here again, why have I got to buy another on? Where am I going to get $99 to buy another one? Stereos, cassettes, $99 for television, little shitty cassette player cost something like $80. They won't let you bring it in. You can buy it a lot cheaper from outside but you're not allowed to.. It cost me about $200 altogether for things like that last time he was in.

The expansion of the drug market in gaols has the potential for placing major pressures on women concerned about the well being of men inside prison. The enforcement of debt-collection in this market that operates outside of the usual legal constraints means that the buyers are at grave risk of gross physical coercion:

On a number of occasions I've been a bystander to this sort of thing. On one occasion I came out of a shower at Parramatta to see a young boy getting stood over and bashed for his watch, by a couple of junkies. On another, while in the gym, I wondered for a couple of seconds
why two people well known to me were taking a pulley bar outside until I realised it was to collect a debt.\textsuperscript{136}

There was no attempt during the interviews to question women on this issue which is obviously potentially incriminating for them and for the man inside. Nevertheless three women spoke about the pressures that the prison drug market had imposed on either them or their friends:

Margery: Son in remand prison in Long Bay complex
I’ve given him $5 today he said for soap and shampoo. I’m frightened he might be saving up and getting marijuana smoke ... I don’t know. He asks me money for ... I said ‘I can’t afford it, today.’ "how do you feel about that? with this child, that’s what he is, I feel the guilt I feel such a guilt. ‘ I feel a lot of responsibility, I find it very hard and he knows this (laughing) He’s a manipulator He knows how I feel ... but I’m really trying to be tough

Lauren
When he was looking for money (for drugs in prison) I wouldn’t put money in his pocket for that. I felt terrible. I felt like I wasn’t trusting him but I thought it better not trusting … I just didn’t want the temptation for him.

Cheryl: Partner has been in several gaols. She has worked for some years at Glebe House - a halfway house for men coming out of gaol.
I’ve seen it (pressure on women to supply prisoners with drugs or money for drugs inside prison) He’ll expect her to bring whatever he’s spent (on buying drugs) that week. He expects, it’s only natural, for his wife to supply, because there’s no one else. Whereas if the methadone programme was there for them, and not introduced then after six months its cut off, which IS totally ridiculous. It’s a big thing for me because I’ve seen wives go out there and then not be able to get back home because they can’t afford the taxi.

In addition to travelling costs and the expense of providing the commodities that enable the penal service to present itself as a liberal and humane system, the greater openness of the post Nagle prison system involves women in the sometimes prohibitive expense of telephone calls:

Pauline. Son in Cessnock
We take reverse charge calls (from Cessnock to Sydney) two days a week

Gwen
He rings me up now and again, that’s good but I couldn’t handle that last time. (he was in prison). Like he went to Cooma and that’s a long way to go, every fortnight. I’d wait then I’d get the cheque and go and visit him. And in between there’d be phone calls. Well the phone bill ended up being $380 and I just had to put an end to it. I didn’t know it was going to be that high, because half the time I thought he was paying for it and in actual fact he wasn’t, so they cut the phone off and I’m still paying that. so I said to him if you go anywhere but in the city you just can’t ring me because I just can’t afford it. I really can’t

\textsuperscript{136} T. Anderson p. 37.
It is evident from these experiences that there is a duality of pressures upon women to provide this costly subsidy to the legal penal sphere. The pressures derive, firstly, from the penal sphere, especially from the post Nagle shift to greater openness between prison and community to safeguard prisoner's rights.

The second set of pressures come from the immediate family obligation to care. The 'naturalness' of family provision of basic necessities like meals, underwear or socks, and telephone calls, enables men in prison, and through them the prison administration, to expect that the transfer of the costs to their parents or partners will be borne uncomplainingly by the people in those families. However family gift giving, particularly as it operates in the family clothing economy, is not a reciprocal process. In the gift relationships of the wider society, women give husbands and sons a much wider variety of clothes as presents than vice versa. Moreover women are more likely to buy men's clothes on an everyday basis so that this transfer of resources becomes defined as a 'much more mundane event' than gift-giving from men to women. Significantly, it is in the mother-to-son relationship that gift-giving is so notably asymmetric, that the finding is' ... ...to put it bluntly, mothers give, sons receive.

It is from these taken-for-granted expectations about the mundanity of the transfer of resources through the family gift economy, that prisoners are able to exert pressures on the women outside. This then means that the state is able to maintain the liberal humane face of providing conditions in which men are reasonably comfortably clothed and have access to some of the standard accessories of modern life. Tim Anderson's account of the impact of T.V. on prison life also shows how prisoners' possessions can become a potential leverage in the control of prisoners. When prisoners are accused of a breach of rules the privilege of watching his own T.V. is one of the amenities that is taken away.

137 Peter Corrigan (1989)
138 Corrigan p.516
139 Corrigan p.517
from him. In addition when there are more political or collective confrontations between prisoners and prison officers one very effective revenge tactic is the official rampage, the violent search of prisoners cells, in which colour televisions are smashed.\textsuperscript{140} It is the increasing openness of prison to the consumerism of the wider society that then exposes women to the risks that are inherent in the contradictory moralities of home and prison. The denial of access to family life means that a major escape or 'haven' from the pressures of the singularly 'heartless' world of the prison is through the consumption of the major leisure commodities of marihuana or heroin.

4. Material aspects of caring: women's time

In addition to the financial costs visiting imposes major constraints on women's time. A one hour visit can involve women in a complete day's expenditure of time and labour. Even with access to the C.R.C. bus the journeys are extraordinarily costly in terms of women's time and labour. Many of the women come from the Western suburbs a journey that takes two hours by bus. However twelve of the forty women spoke of journeys that were much more time consuming:

\begin{quote}
\textbf{Elizabeth}
I do 170 miles down and 170 miles back in one day and its just for twice a week, and I have another 13 months to go .. I get up at 4 o'clock in the morning and I leave home at quarter to six. I get a bus to Lithgow then I get the train to Sydney the bus from Sydney out here (to Long Bay). Then I repeat the process coming home. I get home at 11.30 at night.
\end{quote}

\begin{quote}
\textbf{Olive}
Coming by train and bus is an all day job from Casula. Caught the train at quarter to eight getting home not until 6 o'clock - its a whole day gone
\end{quote}

Moreover visiting also involves spending frustrating periods of time waiting for the prisoner to be called to the visit.

\begin{quote}
\textbf{Brenda: Partner in M.T.C. Sons in primary and secondary schools}
the visiting hours are very short. Visiting starts at half past eight. I have to put the kids off the school then catch the train and then I might miss the bus so I might not get there until half past ten. Visiting finishes at half past eleven (but) they're very slow in the visiting part like
\end{quote}

\textsuperscript{140} T. Anderson p.42
when they call the prisoners out. It takes them about an hour or half an hour. Once I sat there for a whole two hours. He was round the other section. They kept phoning every time. I kept asking where was my husband. They said ‘you’ll just have to wait’. The third time I asked them they found out on the computer after I’d been waiting there for two hours. They could have checked up straight away. Some of the guards treat you like nothing.

Agnes:
It makes me cross that we’re having to wait whilst all the paper work gets done - half an hour of a three hour visit just waste when it takes us 14 hours altogether to get there and back for a visit, surely they could arrange it better than that

Hilda
Look what happened today. I left home at 6.30 this morning to get there and I won’t get home until 8.30 this evening - 14 hours and we’re supposed to have a 3 hour visit. We have to get there at 11.30 but it always takes them half and hour to do the paper work. Why don’t they do it before we come? Why do we have to wait that half hour. Then today, after all that journey up, 6.30 to 11.30 we had to wait an hour. I said to them ‘have you murdered my son and buried him somewhere or something?’

Gwen
I waited once down there for an hour or even more, and I said ‘I’m going home, I’m not sitting here all day’ and they hadn’t even called him .. nothing was connecting up .. half the time they can’t even find them

Sally
I said where is he? I said, ‘do the prisoners run the jail?’ I said ” I’ve been waiting here three hours and you can’t find him.” I said, ‘the crims have taken over’

These delays in allowing women to see prisoners as soon as they arrive at the gaol can be due to bureaucratic processes. Katherine Ferguson argues that client delay is a normal part of all organisations set up to provide welfare services for powerless clients because of the record keeping burdens of the bureaucracy. However these delays can also be due to a distancing from the clients that develop from the systematic constraints of the bureaucratic service providers work. In prison life both of these features of the bureaucratic discourse are evident. Women reported that the delays were experienced as an arrogance towards them: that their time was of no account. The delays can also be interpreted as a general demonstration of the arbitrary power of prison officers over the prisoners or as due to a direct control of a specific prisoner when undermining the visit becomes a punishment deliberately meted out to him. The picture from the other side of the prison wall complements these descriptions from the women who do the work of

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141 Ferguson (1984) p.142
142 Ferguson p.140
visiting. 'One screw wouldn't let us out of a yard to go to a visit because he hadn't heard the call on the public address system and he wouldn't ring to check.' 143

The humiliating aspect of this total control on women's time is illustrated in Claire's description of the way that making a decision to go to the lavatory can undermine the woman's chance of having an unharassed visit.

Claire
I had a three hour wait - it was boring. I was tense, on edge, has he been called? if I go to the loo you might miss your call .... the atmosphere is total aggression. In the C.I.P. it's aggression.

On some occasions the same variety of manifestations of penal power means that the time that women spend in travelling is completely wasted. If prison officers go on strike, if the prisoner gets other visitors who use up his allocation of visiting time, if prisoners get shanghaied or lifted144 sent to hospital, or put into solitary confinement, women have made extensive expenditures of money time and labour for nothing. Often the various restrictions on visiting are relayed back to women by phone calls from the prison and wasted visits are avoided but this is not always the case.

Fay
I went all the way up to Maitland. They were on strike. I sat there and they say 'you might not be able to go in, they're on strike'. I sat there and sat there. At 25 past 12 they said 'NO, you can't come in'. I said 'I've just missed the train back' I had to wait 2 1/2 hours for a train back to Sydney. An elderly lady about 80 she was crying. She had to go all the way back to Sydney. It's just as though they say 'stuff shit' after all that time and all that money and that was my pension week

Rebecca
At Paramatta a friend of his turned up to visit from Armidale. They told me I could see him Saturday instead, then when I went they said 'Who told you that?'

Teresa
Once I was pregnant I visited him and he was in solitary confinement and I had to go back (without seeing him)

Virginia

144 T. Anderson describes this as being moved suddenly and unexpectedly, often in the evening or at night and sometime as a move against prisoners who are organisers
I went all the way up to Maitland. I had to take him (five month old child) all the way up there for nothing. To sit outside and be told there's no visit because they were on strike that day. They say 'stiff shit' and that's it.

5. Caring as mediating and negotiating work

Although visiting is the central aspect of the work of caring for prisoners, caring for dependents also usually includes the work of mediating and negotiation. It is the dependent status of women in the family that means that it is usually women who have the job of mediating and negotiating with the 'human service agencies' charities or government bureaucracies when that mediation is from a position of powerlessness.

The nexus between caring and dependency as it is currently constituted means that becoming the outside carer of a prisoner has the potential for involving women in a complex set of dependent relationships with penal, welfare, housing and education bureaucracies. In this aspect of the intersection of domesticity and penality, women in the mid 1980s are continuing a tradition of active contestation with authorities that was also a significant part of the labour of wives of convicts in the earliest non Koori settlement of N.S.W.

The feminist analysis of bureaucracy emphasises that all clients, because they are in relatively powerless relationships with welfare bureaucracies, are disadvantaged by the way that bureaucratic discourses are constituted. Information is controlled by the bureaucracy as a one way flow. The information is usually complex, hidden from the client and expressed through a maze of disparate and contradictory regulations. This control over complex and contradictory information which is nevertheless crucial to the client is manifested, Piven and Cloward argue, as apparently arbitrary action.

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146 Ferguson (1984) ch.4
147 Robinson (1988) p.238
148 Ferguson (1984) ch.4
149 Ferguson (1984) p.143
Families of prisoners are involved as clients with both welfare and social control bureaucracies. The transactions between prison staff and women who are doing the work of caring for prisoners are translated into exactly these service provider-client forms in which women negotiate from a position of powerlessness. Twenty of the women had stories to tell about the work of negotiating with legal penal bureaucrats.

It is particularly in the first period of arrest, sentencing and imprisonment prior to classification that consumes women's time in the labour of trying to work with the several bureaucracies concerned with supporting the man but at the same time maintaining the family outside.

**Julie. Husband arrested for the first time. Two daughters 13 and 5 years.**

The first couple of weeks I was in shock I know I had to keep on going because things had to be done. forms, a whole lot of things had to be done. And those first couple of weeks they were hell. My eyes were almost popping out of head through not enough sleep. All the running around. I was doing it on public transport and trying to keep up with everything. Hell....what were the key things you had to do? Get things organised... the solicitors. The two weeks before he went in he was the most unstable. After he went in, running around organising the pension, the housing commission (for changes in the arrangements about paying the rent). It was a lot of running around. I didn't need it at the time and I was feeling I was working from one minute to the next.

The most severe criticisms of the unresponsiveness of bureaucracies and their reluctance or inefficiency in giving out information essential for women to do the work of supporting the prisoner, were directed at the police in the initial periods of arrest and sentencing.

**Julie**

The night he was locked up I rang the police station wondering why he was still kept in the cells because I wasn't sure if he had been sent out to one of the gaols, because at least then he could move around and have a cigarette. and he hadn't been taken out. And some of the police in Penrith are smart. I asked how he was handling it (because he can't stand closed spaces) what was his mental attitude? And they said 'O he's very comfortable here, he's got a water bed, a colour television' and all I wanted to know was the man mentally handling it. Not to be played around... these are all the things you just don't need. You just don't need it at all. I think Penrith especially for the women (wives of arrested men) must be the worst

**Lauren**

I didn't know where to go, what to do, I was just lost. ...They took him to the cells and I went round to the police station to see him. I still hadn't seen him for ten days. And they wouldn't let me. And I asked where he was going to be sent and they weren't quite sure... they phoned and they told me that he was sent to Long Bay Jail and I rang there and they told me they didn't have him there. (laughing) So that was the start of that series of phone calls. Cause I was frightened that something was going to happen to him because of something that was said by the police, which I'd better not go into. And I was frightened that he'd be
harmed ... I rang Paramatta and they said they didn’t have him. Then I rang Penrith police station, they said he was definitely sent to Long Bay and I found out in the end he was at Paramatta. I just kept going there and after about three quarters of an hour... Terror is how I felt... I was getting all worked

However even during the more routine period of imprisonment women have to act as negotiators in order to maintain contact with the man inside prison

**Esther**
They granted us a special visit and when I went on that special visit they said ‘no’ I couldn’t visit .... He goes in for a liver biopsy, its due this week I rang up this morning ‘come up to see him now, he’s in hospital’ and they say I can’t see him until next weekend...so its a big let down I’m here all geared up for a visit and they wont let me see him ... its this big anxiety to wait for the special day to get up and go to see them and then you have to sit down and wait and wait and the waiting to see him and see that they’re not hurt and see that they’re surviving. Because nobody can survive prison.

**Beth**
Shipping happens to everybody. They don’t like you to be in the same jail very long: I think their reasoning is that if you get to know the environment too well you might be able to plan an escape, but you can be shipped if you tell a screw to F off, you can be shipped, ....... they don’t tell me when he’s going. I think they think you’re going to land on the side of the road with a machine gun to break him out of the van you see. So they won’t tell you when they’re taking him somewhere. So its very frustrating. ... Jim always gets a message out somehow, then its up to me. In those circumstances I’ve had to do a lot of telephoning ........ I have to ring up try to get it stopped or at least try to find out where he is. And thats where I’ve had to bring welfare officers, parole officers in they don’t want to tell you too much they don’t want to tell you too much. They pretend they’re interested but they never contact you back. They don’t let you have too much information.

Because imprisonment is constituted as comprising the various stages from segregation to correction and then to normalising women also have to become involved in the work of ensuring that the man’s civil rights are defended during the various in-prison judicial procedures that determine his prisoner status - the classification and the parole decisions.

The work of negotiation and contestation can often seem fruitless

**Fay**
Yes, I’ve had to get solicitors for him - probation reports going to classification board I go in to see what’s happening to him. He tells me one thing and I know he’s not telling me the truth so I just follow it through, find out for myself. I feel that I’m being sentenced. All this running around I have to do everything.

**Esther**
He’s been knocked back for parole. That’s unfair. .. the parole board, they go by reports what’s on paper. That’s unfair, because they haven’t been with that person, they haven’t seen him, what he’s like and what he’s doing throughout that sentence. That’s unfair. There’s a special parole court that you can go to and the prisoner himself has the right to get up and speak for himself. But he could not even get up and say a word for himself and I said (to the Head of the Corrective Services Department) ‘that’s unfair’. He said ‘well I can’t do anything about it’ I said ‘yes, you can. You can speak to your man that runs the court and tell him the rules. If he doesn’t bother then he’s not doing his job. He shouldn’t be doing it because he’s not doing it properly anyway.’
The unequal balance of power between the legal penal administrators and the women outside is manifested in control over access to the physical resources of administration such as fax machines and telephones. To contest and negotiate with the powerful yet often inefficient legal-penal administration demands both skill and determination. It was notable that the three women who gave the most detailed accounts of the way they were able to fight what they saw as unfair decisions by the parole board were women who either had managerial experience themselves or whose partners had a reputation for political activism whilst in prison.

Claire  
retired Public Servant
(You have to do) lot of incidental legal work. The thing that causes the biggest problem of all is remissions - nobody seems to know what they are doing. Finally they get the thing (computer) working. There’s an anniversary point (date of conviction) - But they go it wrong and everybody had to have their sheet altered. They must have been going crazy in the office. Len found out I had to go to Roden Cutler House, I took the forms to him - I explained I was in there because the computer had broken down - He would have had to stay in .... several men have served longer than they need. Having had 23 years experience in government departments I know there’s a way through the red tape and at the same time filling in their proper forms - these places are very daunting. *There’s this bureaucratic hand over you. It controls whether you have a man or you don’t*.151

Cheryl  
Partner a member of the Paramatta Resurgent Group
I went to the Parole Board and asked that his case be brought up that day ... they refused. They said they didn’t have his records. I said ‘Please,’ (I was crying) I said, ‘send an officer down the road and pick his files up and bring them back.’ you know, ‘You can fax it through,’ the jail was waiting, they wanted him out too, because they really were good up at the jail. They were going to get them to fax it through and Bernie could be released that day. The parole board wouldn’t do it. She just totally refused and I said ‘You revoked his parole on the (basis that) he couldn’t report, on the assumption of guilt’ she said ‘I did not, there’s more to it than that.’ I said, ‘I’ve got the paper.’ ...It was because he was a ‘troublemaker’ He was part of the Resurgence Group at Paramatta, and he’d spent so much time in the retractable section and so forth. I said, ‘You’re trying to justify something he done in 1969. ’Now! we’re talking about 15 years later. How long does he have to pay for his crime .... we just got into one hell of a slanging match. Bernie’s family was there, and I ... was screaming at her. I just said, ‘Look, you stink.’ I said, ‘You’ve got no bones in your body at all,’ I said, ‘you just don’t care about a solitary thing.’ I just walked out and slammed the door. After I left they decided to hold a special meeting on the Monday, but that left him in jail over the weekend....He was released on the Monday and when he was released I was fuming.

The next account of the work involved in negotiating to ensure the civil rights of the partner inside gaol has not been edited at all because it conveys the complexity of the way that control of information and resources, and the confusion and inefficiency that characterises prison regulations are also interlocked with direct manipulation of power.

151 my emphasis
Beth  Full time office-supervisor. Partner a member of the Paramatta Resurgent
Group
I've sat on the phone sometimes at work for hours, to the solicitors...when he was putting in
his application in for parole board he had to have all his papers. Now I wasn't sure where his
papers were. His solicitor, the Prisoners Action Group secretary, - the three of us just rung
each other for days and we were told all the paper work was there. He went before the Parole
board, they said there's not enough paper work. I had to ring Cessnock. I rang his parole
officer at Cessnock which I had quite a blue with. Actually she was absolutely useless,
totally inefficient and totally, um, she just didn't really care. She didn't have a paper about
his day release. She had a paper saying Jim was going to be deported back to Sweden and
Jim said well, that's a bit strange because I was born in Australia' she had the totally wrong
papers in his file. She had to send a report in to the parole board. He'd told her two weeks
before. She did not have the report ready the afternoon before the hearing. Jim had told her
it has to be down there this afternoon, because they're sitting on it tomorrow morning.' She said,'a charge of assault' I said 'What assault?' She said 'Well I don't know' 'Well I
said, you'd better get your facts right because if you send in a charge of an assault and it's not
right the whole roof will come off that jail' I got on to PAG we got on to Vern
Dalton's secretary. What had happened was that he was on another charge of not lifting his
balls on a strip search, six months previously and they'd not done anything about it. That's
what it was. It wasn't an assault charge and she was going to put in her report she believed
he had to go back up to Cessnock to face an assault charge and what he had to go back up
there for was to face another strip search charge, refusing to strip search, nothing to do with
an assault charge and I couldn't believe her inefficiency. She could have lost his parole. I
said to 'have you got the warrant in front of you?' she said 'I don't know' I said 'How can
you possibly put hearsay in your report?' and she said 'Well I'm only doing what the
governor told me' the Governor was Baldwin, Jim had had a blue with him.

Karen
He's been in remand for 8 months. It's really inefficient. They put him in segregation three
weeks ago. I went to the governor and said 'He shouldn't be in there. There's no way he
could have done that (been involved in setting off a bomb in one of the cells)...they've let him
out now and are all over him saying 'Sorry' and apologizing to me. But it was terrible for
him that three weeks... I broke down crying (when they apologised) I didn't mean to, but I
couldn't help it. Then a few weeks ago when he went to court, they sent him to the wrong
court. They couldn't get anything right.'

Sally
Once, Peter's friend, a twenty seven year prisoner at Cessnock, his mother had a stroke. I
phoned Akister, then I phoned the Governor. Every 15 minutes I phoned him. He wasn't
taking my calls, but I kept phoning him every fifteen minutes. In the end (laughing) I got
through and he said 'Don't bloody phone again, he can stay (with his mother)

However, although the inequalities of power between the penal and the domestic spheres
are so great it was not only the mature women who reported some success in their
negotiations with prison administrators.

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In some cases it is explicitly the moral basis of domesticity on which women base their
mediations with or contestations of penal decisions

Olive Son has been in M.R.P. and C.I.P.
There were that many attempts to rape him. That's the most fear for the boys. I was always
frightened. I turn on the news and hear someone escaped or murdered in jails, they give their
age but not their names. You sort of live in their fear and you're helpless. You can't do a
thing. (Once) there were two country boys got raped. I told him 'I'm going to see the
Governor. I demanded to see the Governor. He did see me I'll say that for him. He called
the three boys together. He said 'you three boys stick together, don't let each other out of sight
and he called another chap who'd been there for 15 years and asked him to look after him...
...I've rung her\(^{152}\) (Superintendent of Metropolitan Reception Prison) up a couple of times and she's always had the time to talk. You ring up CIP and you'll always get their secretaries you won't get them. You'll never get the superintendent. If I went up there and he was a bit down, he's done something, I can ring her. The last time he didn't want to be sent to Cessnock. That was worrying him. She said she'd hold him here as long as she possibly could. I wrote her a letter and she wrote me back a lovely letter.

There was one further site of negotiation in which the different claims to control based on penal and domestic morality were contested. One of the most intrusive ways that penal life intrudes on the women's control over their own sphere of domesticity is the power that the human service agencies within the prison have over women's right to marry. Six women had had to negotiate with prison authorities in order to get married to their imprisoned partners. Control as paternalism, that is control that is legitimated in terms of being imposed in the best interests of the powerless, was explicitly being imposed in the negotiations to establish the right to marriage.

**Gwen**

I tried to marry Kevin in jail and do you know what they did to me? They said to us "You haven't known each other long enough" and we've known each other since we were fifteen (for eight years) and we've got a daughter of three (as she was at that time). And they gave us all these interviews and they said to us "No, we didn't know each other well enough? Who said that? the head bloke of the jail and the chaplain I said "How long will it be before we do know each other? He said "when you're just the girl friend they don't depend on you all that much, but when you're the wife they start to get nasty with you then and say to you"You've got to be out here, and you've got to do all this for me' (But) It's not fair. It should be your right. It's your right on the outside. They made the decision. We had no say in it and we'd known each other all that time. I was really depressed about it for weeks

**Esther**

When we wanted to get married (in prison) at this particular prison they refused us saying that we didn't know what we were doing and I had to turn round and say to them 'you don't know me, you don't know him and you don't know what we share together. You've got no right to say that we don't know what we're doing, we know what we're doing. We love one another and we want to get married. If you don't let us get married here, we'll just have to get married on the outside and after two months I finally got (the permission) to get married.

There is another obstacle that women have to negotiate at the segregative end of imprisonment. Women have to fight to establish their right to do the caring work of bringing domesticity into the prison because prison as the site of the 'pure' power of institutionalised violence is predicated on the construction of prisoners as individual

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\(^{152}\) at that time this Superintendent was the only female superintendent of a men's prison in Australia. It was notable that of all the references to contacts with superintendents it was only this woman who was spoken of with some warmth by the women doing the work of maintaining family contact. Three other women made similar points about the immediate, personal and sensitive help that either they, or their imprisoned sons received from her.
bearers of the unfettered amoral violence of the masculinised public world needing to be controlled by violently repressive measures. To recognise the family status of prisoners is to introduce a different image of the prisoner and one that compromises the militaristic construction of prison life. Carole Johns and Renate Player, wives of long term prisoners in maximum security gaols in N.S.W. have, at different times, reported that prison officers have indicated to them that they should separate from their prisoner husbands and give up their work of maintaining contact and support.

In 1979 Carole Johns wrote

During a discussion with a senior staff member of the Corrective services Department, about the needs of the children of prisoners, ... I was shocked when told I was wasting my time and I should direct my energy towards finding substitute fathers for the the children .... Remarks like 'you don't know what you're letting yourself in for, women don't stick with murderers' ... are commonplace.\(^{153}\)

Ten years later in 1989 Renate Player talked about the effect of the transfer of her husband, co-editor of the prisoners magazine Rogues, from Long Bay to Goulburn gaol

'she said she was upset when she pointed out to the prison authorities that she wouldn't be able to make her usual twice a week visit and they expressed surprise that she was still visiting him so often after all these years.'\(^{154}\)

These experiences indicate that the negation of the family status of the prisoner is also a negation of the work that women do in maintaining contact with men inside gaol. At this moment of penality the family, when it is recognised, is likely to be constituted as an aspect of the control of prisoners: "A person within the department once told me "part of the punishment is to show the prisoner he is causing his family to suffer."

Although several of the prisoners were not in waged work prior to the imprisonment, the loss of freedom to exchange labour for waged income is a central part of the symbolism

\(^{153}\) Carole Johns. (1979)
\(^{154}\) Alan Kennedy (1989)
\(^{155}\) Carole Johns (1979) p.15
of punishment by confinement in Australia. Work, when it is available in prison, usually brings a wage of only $9 to $12 a week. Work release schemes only apply to men in minimum security prisons at the normalising end of punishment.

Five of the thirty women were directly affected by the loss of their husband's wage which had been the primary income in the household. Their dependency was then transferred to the State as social welfare clients which put them at risk of the humiliation of negotiating from a position of powerlessness.

Ferguson's account, cited above, of the skill involved in being a client of a bureaucratic system indicates that it comprises having to learn a new language to comprehend the mass of bureaucratic regulations and to learn both those formal rules and the informal rules governing appropriate conduct. This means having to acquire the skill of what Goffman called 'impression management' to be able to 'bow properly to immense institutional power, understand and flatter the bureaucratic personality and (to) otherwise legitimate herself before the officials.'

Ferguson's argument is that as the encounter with bureaucracy imposes emotional strain, this skill imposes material costs on the 'client'. There is the strain inherent in 'the disidentification between the individual and the manipulative role'. But more fundamentally there is also stress in internalising and acting upon the bureaucratic definition of themselves. Ferguson's arguments are clearly supported in the experiences of women with family obligations to prisoners in N.S.W.:

Claire 53 year old woman. Partner in C.I.P.
Then there is the hassle of getting on to a benefit. Finally they put me on widows pension benefits. I was seven days down at the social security, they are so rude. They've stopped special benefit for prisoner wives - but my Social Security - couldn't have supplementary and I'm too young for o.a.p. at 53

Julie Two daughters, 13 and 5. Partner in maximum security gaol
My purse gets stolen, pension day, so all my transport papers, everything keys, my whole pension gone, and then the social security doesn't help if your money gets taken, stolen

156 Chris Holcroft (1988)
Even in a situation like that, I mean the area I come from nearly every person get's their purse stolen so you get these negative looks at you - was it really (stolen)? I was lucky I reported it straight away. Otherwise I wouldn't have a leg to stand on at all and then I got told that night 'well anyone can report a purse stolen' as though I'd go to that trouble (laughing) with my keys taken I've been climbing in and out of the window and trying to get somebody to bust the door.

Many more women, eleven, were involved in changing accommodation either because their income had become insufficient or because the husband or son was sent to a prison too far away for visiting to be feasible. Four of the women who were also the outside carers of the prisoners' children spoke about mediations or negotiations they had had to make with their children's teachers as a result of the effects of imprisonment on either the child's own behaviour or school work, or because of the taunting of school friends.

Imprisonment then impinges on women's lives by drawing them more tightly into the network of human service agencies, the welfare service-client relationships in which their work of caring has to be performed from the position of dependent and therefore relatively powerless negotiator.

The contradiction between domesticity and penalty takes on a very material form when punishment extends to the loss of the family home. The caring work of families of prisoners comprises not only the reproduction of the personality of the prisoner and his children but also the reproduction of the conditions in which that work can be carried on, the material physical setting of the home. Maintaining the sense of 'family' or 'home' when the actual physical home is lost is especially onerous work.

Cheryl Husband in Remand prison. Two children: daughter 10 years, son 7 years
I was fortunate we did have that (lawn mowing) business because we had a two and a half ton truck and I'd never driven a truck in my entire life and I refused point blank to ask anyone (to help me move) because I was frightened that people would know where I lived. So I literally loaded the truck brought everything downstairs. We took a railing off the stairs, put it back on, loaded everything onto the truck, brought every thing down. It took four truck loads of furniture, and we moved. It just shows you what women can do. The most scariest part was driving the truck, just getting behind the wheel. It was so enormous, after driving a small car. It was like taking up the whole road. ... my brother-in-law did help me carry the freezer and the washing machine, and the fridge. But I helped him carry it, I nearly broke my thumb doing it. I got it stuck on the trailer ... we managed the whole lot. I was really pleased.

Hilary Partner in C.I.P. Two children
I found it very hard because we lived up at Gosford and when they brought him down here I was still paying the rent down at Gosford but I have to pay rent where I'm staying too so it
makes it hard while he's in here. Its easier (living here) because I would have had to get up about 3 or 4 (o'clock) in the morning just to get down here. Paying two rents, ... ... I was really into debt. I've just had to phone people up and say I've got to put the payment behind ... because my husbands in jail and (when) they started being rude, I just broke down and cried.

**Brenda**  Two children
When he was arrested we were living at a flat $130 a fortnight. Then I only got $288 a fortnight income for me and the two children so we went to live in the hostel after he got arrested as its only $70 a fortnight.

**Claire**
I had to move house. I wasn't working so I couldn't pay $180

**Esther**
I've had to move from Cessnock to Goulburn to Bathurst (as he got sent to different jails) because its just too expensive for me to travel from Sydney to those jails ... it cost me a fair bit but in country areas the houses are quite cheap. Cessnock its $55 a week and that was for a four bedroom, house and I shared with two other wives (also with husbands in prison) and it worked out quite cheaply.

**Jane**
When he got arrested, I was thrown out of the place he was staying at. Then I went from there to the refuge.... The Housing Commission have been pretty good

**Rebecca**
The night he went to jail, the house burnt down and I was left with absolutely nothing furniture, fridge, stereo, the lot!

For women who are the outside carers of prisoners' children the range of mediation work can also include making special visits to the children's school.

**Cheryl**  Two children  son aged 7 and daughter 10. Husband falsely arrested for murder of a policeman.
Kelly, my daughter did get into a big argument with one of the girls there and she came home, she was really distressed. I went to the school and the girl was not put over the coals, so it would rebound back on Kelly, but she was just talked to.

This aspect of the caring work of families of prisoners, that of being the outside carer of the prisoners children, locates women within a particularly complicated and contradictory set of prescriptive and proscriptive behaviours. The people living day-to-day with the family obligation to care for prisoners and for prisoners' children are not only, in Gross's words, occupying an 'impossible middle ground excluded by logic and reason in their present forms', but they are experiencing that impossibility under even more contradictory terms. The specific tensions, labour and costs that accrue from the
particularly impossible work of ‘double caring’ as it operates in the sphere of penality are described in the next chapter. However the major proposition underlying chapter five has been that it is in the day-to-day lives of the people who maintain family contact with sons, grandsons, partners, brothers, and nephews, as well as with co-parents, that the contradictions of the double moralities of domestic and public life are experienced. It is in the day to day lives of this specific population that the contradictions of universalism/individualism and familism are borne. These contradictions, delineated by Gilligan, the Brovermans, Kearns, Yeatman and Pateman in their various feminist challenges to mainstream moral psychology, liberal philosophy and sociology, were realised in a very condensed form in the concrete experiences of the people doing the work of maintaining family contact with men in prison in N.S.W. in the period 1986 to 1988. The experiences of this specific group of carers, alternately rendered invisible then significant in the penal discourses, make the point made by Seyla Benhabib, in her discussion of the Gilligan/Kohlberg debate, particularly significant. She describes the world constituted in contemporary mainstream moral psychology, and in liberal political theory, as a ‘strange world’ because it is one in which ‘mothers, sisters and wives do not exist’. It is rather the place where, in the imaginary psychological world drawn by the theorists of personality from Freud to Piaget, it is the relationship to ‘the brother’ that is viewed as the humanising experience. The hold of this universalistic model of moral development and justice then means that the dominant taken for granted assumptions about the world define the public world of justice as the world in which men acquire their ‘self’ through their relationships with the ‘generalised other’ in the public institutional relations of formal equality and reciprocity. Men are regarded as having reached maturity once they are able to ‘take the viewpoint of others’, but it is the abstract ‘generalised other’ that is the hypothetical other in this social contract view of the world. It is in the penal sphere that this model of responsibility is both, realised in its most condensed form, and where the supposedly universalistic relations of

157 Gross (1986) p.138
158 outlined in chapter one.
159 Benhabib (1987) p.90
the wider world are authorised. It was the falseness of this universalism that was exposed in the wave of prison riots in the 1970s. The realisation of the damage to a general concept of 'civility', that arose out of the actual masculinities of prison life, brought about various attempts to domesticise 'the prison'. Nevertheless these did not replace the contractual relations, but were superimposed on, the false universalism of prison life. In this especially contradictory and 'overburdened' intersection of penalty and domesticity, it was the people who provided the caring labour of maintaining family contact with prisoners who bore the major burdens of living day to day in this 'impossible middle ground'.
CHAPTER SIX

LABOURING LOVING CONTROLLING: caring for children of prisoners

Although there have been several studies of the impact of imprisonment on children of prisoners, the work of the outside carers tends either to be a taken for granted, 'natural' aspect of parenting, or the problems that they face are interpreted, in part, as a consequence of their individual, social class, or family category, pathology. The literature focuses on either the needs or rights of the prisoner, of the penal system by constituting parenthood as a path to rehabilitation, of the general functioning of society when the 'leader and breadwinner' in the family is removed, or of the needs or rights of the child. It is only in the recent feminist descriptions that the domestic labour of caring for children of imprisoned parents is constituted as a problematic aspect of social life.

If, as Garland argues, imprisonment condenses the social relations of inequality of outside life, then it is in the skilled labour of mothering as it is worked out in the day to day job of being the outside carer of a prisoner's child, that this condensation of social relations operates in its most compressed form. It is a condensed form of mothering in that:

(i) the skills involved are complex and diffuse

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1 These are included in the separate section of the bibliography listing the 'families of prisoners' literature. The work of Sack (1976) and Sack Seidler and Thomas (1976) Travis Fritsch & John Burkhead (1981) Enid Garner (1983) comprise the key texts in the psychological literature
2 See ch.4. In Australia Nancy Anderson's 1965 report on prisoners' families in Victoria was the major text that adopted the family crisis framework. (N.Anderson. 1965) Ariela Lowenstein (1984) is a recent U.S.A. reworking of the family pathology approach
3 E Williams, Zelda Elder & Shirley Williams (1970) p. 208
(ii) the paradigms which constitute the constraints within which the work of caring is carried out, are several and contradictory

(iii) the time, labour and level of skill are virtually socially invisible

(iv) the labour of caring has no economic reward but rather involves the worker in extra economic, physical and emotional costs.

(v) it is one of the forms of 'double caring' in which the organisational skills, of judging the balance of demands, being able to pace the work, and to give priority to one or other of the different individuals within the circle of dependents, are most exploited.1

The initial problem, the detention of the imprisoned parent, sets up a sequence of inter-reflexive crises of care and dependence that makes the work of the outside carer a singularly complex and demanding form of domestic labour.

Chapter four placed Claire Ungerson's argument about caring work in the context of the issue of Home Imprisonment. This argument is also relevant to the delineation of the several aspects of the domestic labour of caring for children of institutionally imprisoned parents. Ungerson makes the two points: that problems arise out of the reversals of age and gender boundaries in caring work, but that this initial problem is masked when the state constitutes that work as unproblematic. This marginalisation of the complexity of caring for adult dependents further compounds the problem by making the carers feel guilty about the extra problems they are facing. This complex aspect of caring work is even further compounded in the case of the outside carers of imprisoned men and their children by the condensed gender and class structures of inequality in the legal penal sphere: the heightened masculinity of prison culture, the contradictions of 'keeping the fathers place open'2 in a culture that defines the role of father as the representative of law and order but subjects these specific fathers to manifest forms of penal control.

1 These neglected skills have been delineated in the literature on the domestic labour of 'double caring', for example in Elizabeth Watson & Jane Mear's study (1988a)
2 Kemp et al. use this term to describe this particularly contradictory aspect of child-care
In the 1970s libertarian-reformist period of penality, the rights of men and women prisoners to increased access to family life were played out differently. Chapter three indicates the way that, for men these rights were more likely to be constituted in terms of access to sexuality and, for women prisoners in terms of access to parenthood. Although in this period there were two N.S.W. policy documents reviewing the situation of children of men in prison, few of their recommendations were implemented and neither document is commonly cited in the literature on imprisonment in N.S.W. even in the liberal reformist or radical critiques of penality. Men's parenthood is not a very visible aspect of the relations of penal life even during the liberal swings in prison life. The authors of the Children of Imprisoned Parents document showed that the same situation occurred in NSW, as Jones had found in Victoria, with the father's role of prisoner not being taken into consideration by the prison system in either of the two states in the early 1970s to mid 1980s. There was no routine access for the prisoner to his children unless an outside carer was willing to bring them. There were no father-child visits as children always shared visits with the outside carers. Visiting conditions were generally inappropriate for children, with expectations that child visitors behave as adults, no provision was made for the lower attention span of children, nor for the especial needs for the mundane tasks of bottle or breast feeding and nappy changing for small children. The worst aspects of taking children to visit their imprisoned parents were lessened to some extent in the normalising moment of imprisonment. However the dominant and official discourses in both states de-emphasised the significance of men prisoners' parenthood.

1 libertarian-reformism, in distinction to the psychological reformism of the 1950s and 1960s, moved away from an uncritical trust in 'treatment' to a more political emphasis on individual rights.
2 ch. 3 particularly in the discussion on co-ed prisons and conjugal visiting programmes
4 Jones (p.486)
5 Jones (p.486-7)
6 Valerie Bauhofer (1987) in New York and Sue Smith (1986) in England also indicate that male prisoners' parenthood is similarly invisible in the penal discourses in those administrations in the late 1980s.
Nevertheless there is evidence that men, as prisoners, are able to maintain their identities as parents more easily than women. Koban's overview of the United States children of prisoner's literature indicates that imprisonment of men is less disruptive of family life than the incarceration of a woman. 1 61% of male prisoners' children remained with the co-parent in contrast to only 26% of children of women prisoners. Men's children are much more likely to remain in a stable household with a continuous primary caretaker. Men were more likely to report that their children were happy. Men were more likely to have telephone or mail contact with their children. Men were more likely to have children brought to visit them. Women's children were more likely to be with a fostering family. Women prisoners' children were more likely to be separated from their other brothers or sisters and cared for by different carers, and women were more likely, on release, to return to a splintered family than were men prisoners.

Overall, women are closer to their children prior to imprisonment but imprisonment is likely to be more disruptive for the above reasons for women and because women's prisons are likely to be further away from their family. Koban's article was directed towards the particular problems that women prisoners experience. However, it also points up the extent to which women as outside carers of male prisoners provide an infrastructure of domestic labour in the penal sphere. Dan Gowler and Karen Legge introduced the concept of the hidden contracts that are made between employers and male management workers in the productive sphere: that the wife/mother will be responsible for maintaining the well ordered home that can be used by the employers in the entertainment of the husband's clients, that her own work will be drawn on in this aspect of managerial life, she will take responsibility for all the chronic crises of child rearing - school holidays or children's illnesses, and that her time and life style is centred around the variable and indeterminate demands of her husband's managerial

1 Linda Koban (1983)
career. Gowler and Legge's model of the hidden contract is valid for the condensed relationships of prison life: women will be available to:

(i) maintain the home for the child and the 'absent father' that is a necessary part of the prisoner's continuing sense of 'self';
(ii) care for prisoners' children; and
(iii) to ensure that the man's personality will be maintained through the material and emotional work that women do in maintaining contact between children and their fathers.

That the American evidence is paralleled in N.S.W. is illustrated in the imbalance in the requests to the Children of Prisoner Support Group. The group established as a result of the 1982 F.A.C.S.A. report by Hounslow et al., has, as one of its major tasks, the work of escorting children to prisons to visit the prisoner parents who were at risk of losing contact with their children because there was no outside carer able to do that work. The major part of the work of the group is to escort children to visit their mothers in prison. Although there is escort work for children of fathers in gaol, it is predominantly women prisoners, in N.S.W., who lack family support in maintaining contact with their children and so have to draw on the support of outside agencies.

The 1982 N.S.W. report estimated that one third of all prisoners, and one half of women prisoners are parents. Thirteen of the thirty women in the interviews for this thesis were caring for the children of prisoners and they talked of the double importance of the prisoner's parenthood - to the men inside and to the children. They saw the work they did in ensuring a continuing contact between the father inside, and the child or children outside, as an important part of the constitution of the personality of both the father and the child. Maintaining the sense of family between themselves,

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1 Dan Gowler & Karen Legge (1978)
3 Hounslow et al. pp.7-9
4 Nine were co-parents, one woman was a grandmother caring for her prisoner-son's daughter, three of the women had prisoner-partners who were effectively the step fathers of the children.
the prisoner and the prisoner's child was a central concern for them, but 'the family' was something that they were all having to struggle to maintain.

**Virginia. Son fifteen months old. Partner in C.I.P**

It's a strain taking him but he's not going to know his father. Now he goes to him straight away, but if they move him down to Goulburn there's no way I can visit him down in Goulburn, because I've already been told by my doctor that because I'm seven months pregnant that it's risky for me to take him on any long visits.

**Julie. Two daughters under five. Husband in the Long Bay complex**

I've been catching public transport since 9 this morning, now I've just got here (11.30 a.m.) Normally I do bring my little girl but it just gets too much on her and me .. the travel .. she loves to see him, she gets so excited. The other one, she loves to see him just as much.

**Lauren Partner in C.I.P. Two children**

The kids idolise him. My son cries his eyes out. It just devastates them to bring them out here. (but they do come) I thought it was better that they know.

**Mary Partner in C.I.P. Baby daughter**

She's three now, I was pregnant when he first went in, so she only knows her Daddy as being in prison. I nearly always bring her with me when I visit. She loves seeing him. she can't wait to get to see him when we come.

Sack, Seidler and Thomas, talking to prisoners and their families in Oregon in 1976, found that the effect of children's visits on prisoners was uniformly positive 'it holds me together'. With the other positive aspects of life being denied by imprisonment, being a parent was an area of life that men were eager to discuss. It was the one area of life in which they struggled to see themselves most positively. For the outside carers of children of these prisoners, visiting was especially tension ridden work. It was stressful because children were irritable after visiting. However, the mothers also felt that it was good for children to visit to maintain contact. The loss of the imprisoned parent, even of fathers not apparently close, was experienced as grief, and prisoner parents were seen in a positive light. However, this relationship was difficult, for social isolation was a common experience of both outside carers and children. Sack et al argue that 'society offers the children no honourable way out' as does separation, for

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1 Sack et al. p. 624
2 Sack et al. p. 624
example, by death or divorce. Imprisonment is a double loss for children - of separation from the prisoner parent but also a loss of sociality. Isolation and stress from the several deceptions they were forced into was a common feature of the experience of social life of the children.¹

In the interviews for this N.S.W. thesis only one of the thirteen mothers had not told her child about the other parent's imprisonment. Otherwise all twelve of the outside carers of the prisoner's children made efforts to keep the children in contact with the imprisoned parents.

Mothering as 'attentive love' and the moral contradictions of outside carers of prisoners children

The work of being the outside carer of prisoners children is a particularly condensed form of mothering. It is especially condensed in terms of the moral contradictions through which the work of caring has to be implemented. Ruddick's description of the 'attentive love' of mothering as a particular form of intellectual skill is very evident in the way that women as outside carers of prisoners children negotiate the inherent contradictions of being the outside co-parent of a child whose father is being punished by the State. The usual contradictions that all parents face in balancing the contradictions between the three major interests: preservation of life, creating the conditions for growth, and the development of social acceptability, that shape the development of the intellectual skills and cognitive abilities of 'attentive love': resilience, realism, respect for persons, responsiveness to change, and tolerance for ambiguity, are clearly illustrated in the experiences here. Ruddick's thesis is supported by the evidence from crisis management studies. In general, this school indicates that there are comparable processes at work in the way mothers react to family crises, for example of accidents to children, and the way that trained problem solvers in the public sphere, for example lawyers, react to the problems that their work involves: an initial panic at the complexity of the situation, followed immediately by a settling in to analyse and organize the facts

¹ Sack et al. p. 623-625
and to meet the challenge by solving the problem. Kobasa argues that, from her work and from her review of the literature, she can identify three essential features of this ability to cope: commitment, control and challenge. Kobasa identifies 'control' as a key feature of this intellectual skill of cognitive flexibility: 'If we know the full meaning of who we are, what we do and how we got into the predicament we're in - then we can see that predicament in a broad context and deal with it."

Together with Barnett et al., she argues then, that barriers in gaining sufficient power and control are aspects of women's lives that are dangerous to their health. However the asocial, psychological emphasis in this interpretation of the risks involved in the intellectual skills of mothering means that it does not face the central paradox of the work of coping as it is experienced in the unequal social relationships of patriarchal capitalist societies: that the people who are most at risk of having to do the work of coping are exactly those who are least likely to have control over the conditions that make that work necessary. In the intersection of the domestic and the legal penal spheres, this paradox is experienced in its most condensed form. It is precisely the lack of control over so many intersecting facets of life that constitute the every day experiences of women who are carers of prisoners' children. Yet they are the women who have to provide the most complex forms of caring labour.

Gwen Husband in CSP. Daughter aged five
Once last year, my girl friends little boy, he went and told every one in the school that Nicol's father was in jail ... and they gave my daughter hell about it, and that made her even more determined to fight with them, and I told her 'You don't have to' I sort of explained to her 'well you don't have to worry what they're saying. You just have to worry about how you feel, like, if you don't feel bad that Daddy's in jail then you don't have to worry about it. It's not your fault. I think that's what you mainly have to tell the kids, that it's not their fault that they're there, because I think kids tend to think that it's got a lot to do with them, that's why it's happening. I said to her 'It's not your fault, you don't have to be punished for it'. He did it ... It's his problem. Me and you we're just here, because we're with him and we just got stuck in it and ...' you know, that's all.

1 The gender factors in stress and coping are the subject of an extensive examination in the collection of edited readings in Rosalind Barnett, Lois Biener & Grace Baruch (1987).  
2 Kobasa (1987) p.311  
3 Barrett et al. p.360
Women have to make a special kind of moral space for children of prisoners. Women, as both the moral controllers and the emotional supporters of children of men undergoing State punishment, draw heavily on the skills of empathy and sensitivity to achieve this space. Any separation from a person who is close, is likely to lead children to blame themselves for the loss. This is not to make a universalistic statement about an essential characteristic of parenting in all societies. It is the specific form of parenting, as it is constituted within the close emotional ties of the family in contemporary social life, that places children at risk of this internalisation of guilt. Significantly, both Morris and Jones point to the wider network of supporting kin as helping to reduce the problems of caring for children of prisoners.¹ Nevertheless, the stigma of the separation by imprisonment means that self blame or internalisation of guilt for children, is likely to be especially acute. A common finding in the research into the impact of the parent's imprisonment on the day to day lives of their children, is that the children are at greater risk of falling behind in their school work and of going through a 'brief flurry of anti-social behaviour'.² Sacks et al. and Fitch and Burkhead found that children of men prisoners were more likely than children of imprisoned mothers to act out their distress in the forms of aggressive behaviour.³ However, although problems with child management is one of the five problems cited in most 'family of prisoners' studies, both Morris and Jones have argued that the majority of mothers are able to deal with the extra problems of child management that imprisonment creates.⁴ Jones found that fathers were more likely to be missed as 'child carers' rather than as controllers and that it was the practical problems resulting from having children 'constantly underfoot' that was the major concern for most mothers.

That women can manage the crisis of the impact of imprisonment is perhaps associated with the fact that the work of mothering always contains components of balancing.

¹ Morris p. 130  Jones, p. 438.
³ Sack et al. p.626  Fitch & Burkhead pp. 86-88
⁴ Morris p. 219-220  Jones pp. 457-458
Susan Hutson and Richard Jenkins have shown how this skill is especially an aspect of mother-child relations in working class families in insecure economies, as children are encouraged to maintain their self respect but nevertheless not to opt out of a social, moral and economic order which constantly rejects them.1 That skill becomes especially finely honed in the work of carers of prisoners’ children. The women in N.S.W. in the mid 1980s, as in other studies of children of prisoners,2 develop the skill of responding to the day to day traumas that their children face at school or in the street by constantly negotiating the fine line between not condoning but not condemning the father. They ‘keep his place open’ morally at the same time as they protect the children as best they can from internalising the guilt on his behalf. They tell the children the truth but they have to try to protect them too from exposure to the stigma of that truth.

**Gwen**
She’ll say to me like ‘how come my dad’s always naughty’ ... I just try to explain to her that, you know, that he has been naughty and he has to pay for being naughty. That he has to go to gaol and that’s the reason why ... but I try to explain that he’s not been naughty to us. That he’s not bad to me and her, not really.

**Julie**
I’ve always told them (13 & 5) the truth ... the only thing comical with the five year old - she was proud of the situation so she was telling the postman, and the milkman, everybody where he was, where daddy was so I tried to change it to ‘hospital’ ... she’s always been proud of what he’s done so she just didn’t think it was anything less. She didn’t suppose she didn’t realize the seriousness she still doesn’t. But she knew what jail was I think. I said you tell everybody ‘it’s hospital’ and she’d say to somebody ‘daddy’s in hospital – he’s not really’

**Hilary**  Husband in C.I.P.  Daughter eight and son five  
I tell my kids he’s done something bad and if you do anything wrong, like steal or anything you come in here ... I think its best if you do tell your kids what jails all about, and let them see, so when they do get older they know right from wrong ... Lucy and Mike know that Long Bay Jail is a jail. They know what it’s all about ... Most kids when they’re 5 or 6, they think if they go in a shop and they pick up something and they get away with it and they think that’s alright but telling my kids what jail is, its stopping them from stealing, and its even stopped them from telling little lies.

**Brenda**  Partner in Bathurst. four young children  
The worst thing is for the children.... they are missing their father and I can’t explain.

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1 Hutson & Jenkins (1989)  
Sack et al. found that explanations to the child were usually the mother's job whether they were the prisoner or the outside carer. Although one option for resolving the contradiction is to keep the reason for the father's separation secret, most mothers decide that that is not a practicable solution for children.

Only one of the mothers who spoke with me had made the decision not to tell her son of his father's imprisonment. There is a tendency in the children of prisoners literature to categorise women who shield children from this knowledge as being irrational. However, in this situation it was a considered decision made in relation to the specific position of the child - the other children in the family did know about their father's imprisonment. Moreover shielding this 13 year old boy from the knowledge of his father's imprisonment involved the mother in considerable extra work and financial cost in negotiating visits and day leaves.

**Audrey** Three teenage or adult sons. Husband at day leave period of imprisonment.

... even day leaves' an uncertainty. I was supposed to have it last week. But it was cancelled because the... or something. I only know it was cancelled that week. I had a lot of mucking around sort of organizing, sending Troy (son) off for the day, roller skating (and then they cancelled it)

Most of the women wanted to maintain the contact between the father and the child by taking the children to see their father in prison. Both jobs, letting the child know about the imprisonment and maintaining family contact with the imprisoned father, were important aspects of the work of continuing to provide the 'conditions for growth'. If the children were be allowed to lead as normal a life as possible, and not be shielded from the wider society, that meant that the children were likely to be exposed to the risk of finding out about their father's imprisonment at school or in the streets if the mother did not talk about the imprisonment very soon after the arrest. Even so this did not protect the child completely from being exposed to the shared stigma of imprisonment.

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1 Sack et al. (p. 621)
Four women spoke about their children being exposed to taunting or some form of social stigma from other children.

**Cheryl**: Husband had been in several maximum security jails. Two children, daughter ten and son seven

Anthony (the seven year old) was outside on his pushbike, and he kept saying 'what time will dad be home?' (this was the day after the arrest) This kid riding past on his bike kept singing out 'Murderer, Murderer' and then Anthony said 'What's he talking about?' you know, seven years old, he didn't know what murderer was, not really and Anthony came inside and he was really, really crying.

**Teresa** Partner in Bathurst. Son born after the imprisonment, now seven years old.

He (son) had no relationship with his father then he started asking about his father he couldn't understand why his father couldn't come home. He had to go to school with his father in gaol which was the hardest part because he felt ashamed in one way but at the same time he wouldn't have any one running his father down he never talked about it, he never talked about it. I've had to be both mother and father.

However this was not the only source of this form of stress. The messages about stigma can be both covert and overt and can be passed on by children, other adults and by the police or prison staff.

**Jane** Husband then in Bathurst prison. Daughter aged five.

People have funny attitudes. One elderly lady was on the train, sitting next to me. She asked me where my husband was. I said to her 'He's in jail.' She sort of said 'Ah', got up and walked away ... Sherie said 'Why did that lady walk away' I said to her 'She can't accept what goes on in the world.'

**Tricia** Husband in C.I.P. Son aged three

When he was out (the last time) the police would put their sirens on when they went by him on the road ... they called Anthony (the then two year old son) 'Killer,' "We'll be seeing him when he grows up, won't we Killer" they hassled us all the time. We went and lived right next to St. Mary's cop shop, that was the worst mistake we ever made.

It is at the point of arrest and during the earliest part of imprisonment that the family is most at risk of stigmatisation even to the extent of being treated as sharing the criminality of the prisoner.

**Jane**

They picked him up at our place. The police weren't the best. All I got out of them: "we should take you too for covering for him. If it wasn't for that baby we'd be taking you in too."
Tricia
Wayne's (3 year old son) hyperactive now, it affected him a lot. You see when they arrested him, he saw them grab Richard and put the handcuffs on him, and they slapped Wayne. One of the police slapped Wayne when they arrested his Dad. He has nightmares now about that one particular officer. I'm going to the courts now to get him out of the force. He shouldn't be allowed to hit kids like that. Wayne's son is on medication now.

Arresting a suspect in their home makes explicit the tensions between domesticity and penalty. Police, by the nature of the way that their work is presently constituted adopt the most extreme forms of impersonality in their relations with suspects. Since the mid 1970s there has been a shift to an increasingly militaristic style of policing that includes violent 'swoops' on houses of suspects by specially trained tactical police squads. Within this setting the whole family is likely to be constituted as representing the 'enemy within'. The impact on children of being defined in these terms can be especially traumatic. Bernie Matthews was one of the active members of the political prisoner organisations in the pre and post Nagle era. After his release he was re-arrested on a charge of murder for which he was later found to be innocent. Nevertheless, the hostility that was manifested towards him in the police search in which he came to be represented as a particularly threatening 'enemy within' was extended, too, to his family. This militarisation of relations between the State and ex prisoners with a reputation for political action had especially traumatic consequences for his seven year old son. Cheryl Matthews points to the paradox of the relationship between the State, violence, civil status and the family in the parallels and contrasts between her experience and of violence as it was inversely experienced by the man responsible for the constitution of her family as enemies.

Cheryl
It was ironical. Not long after Bernie got pinched, I read where the head of the S.W.A.T. squad, his daughter, was a bank teller in a bank that was robbed. She was going for compensation for the trauma she went through with a gun held her up, and that man sent his men into my house and held guns on my seven year old boy in the middle of the night in their bedrooms. Two thirty in the morning and held guns on my two children. They were even teenagers, they were only seven, and he talks about how his daughter should get compensation! I think that's a crime. I think my children are victims of crime. A crime's been committed against them!

1 Jones (1983) p.445
In this case it was not only the style of policing that was militaristic. In a later conversation with the Detective Sergeant involved in the arrest, Cheryl Matthews found that the attitudes of the SWAT squad were oriented towards constituting the family as military enemies.

Cheryl
I questioned a Detective Sergeant of Homicide and said 'Please tell me why my kids had to be mentally hurt the way they were.' You know what his justification for it was? That the children in Vietnam were the children who held the guns and threw the grenades! and we're talking about Australia! ... ... we've got people with that sort of attitude running around with guns in their hands. Now what if one of those guns had gone off. I asked him what if one of those guns had gone off. He said 'O, those men are fully trained.' But they're so psyched up, they're like mental people. They're like people who have gone crazy. They just stormed through the house. They were running around on the roof. we have got a tin roof ... ... we've got a verandah part you can walk around on. They were running around there. They were on the roof. They were checking kitchen cupboards.

Few of the women had experiences as extremely traumatic as this and most of the arrests took place when the children were not around. Nevertheless, the symbolic importance of Cheryl Matthew's experience needs to be emphasised. Central to the way that the State and civil life are currently constituted is the possibility that once a person is imprisoned, unless they give up their civil right to be humanely treated in prison and their civil rights to be able to protest whilst in prison, they not only put themselves but also the individual women and children in their family, at risk of being defined as 'enemies within' and therefore legitimately subject to the extreme application of the physical violence of the State. Moreover the population at risk of undergoing the trauma of a militaristic police investigation is much wider than one comprising either politically active prisoners or of households in which men or women are suspects. One feature of police militarism is the 'broad swoop' and in both Sydney and in London, households which have had no previous criminal connections but are located in the lower social economic areas of the inner city, have been included in police invasions.
that have involved such militaristic aspects as doors being broken in at four in the morning, guns held at the head of residents, and of children being held at rifle point.  

The trauma of separation is not always avoided by the child's absence at the time of arrest. The sudden absence of their parent can create anxieties and uncertainties for children that might not be evident until some time after the arrest.

Gwen Daughter five
Nicol went round to sleep at her girl friends house and the funny thing was that she asked me for my bank-card. And I said to her 'what do you want my bank-card for and she says to me, 'to make sure that you come back' because when her Dad left, Dad left in the morning and said to her 'See you tonight, give us a kiss' and then she went to school and then Dad didn't come home again and I think she thinks in her mind that Mum's going to leave me too and I tried to explain that this would never happen yet ...I nearly cried when she said that. I gave it to her but she just was funny.

Ruddick's description of mothering as developing the skills of working through the inherent contradictions between the different aspects of child rearing - the preservation of life and the development of growth and individuality in the child - that means that maternal practice involves a high level of self reflection and internal monitoring in order to achieve a balance between control and permissiveness, between the processes of attachment and detachment, takes on an especially condensed meaning in this example of the intersection between domesticity and penalty. The conflict between the earlier and the later moments of penalty, firstly as the site of punishment and control based on the legitimated violence of the state and then, as the man 'progresses' through imprisonment, as the site of reformation and eventual release, contains an inherent and deep seated contradiction in the way that the 'family of the prisoner' comes to be constituted. This in turn imposes major strains upon the labour of women as the outside carers of prisoner's children.

The complex layering of this contradiction needs to be spelt out:

(i) prisoners are constituted as both 'enemies within' but as men who will achieve an unthreatening civil status as free men in the outside world.

(ii) the constitution of families of prisoners develops along parallel lines. Their civil status changes from potential collaborators and invaders of the secure space of the prison to allies of the therapeutic controllers providing a positive self for the prisoner through which he achieves his civil status as a free man.

(iii) the prisoner's parenthood is either denied or defined as threatening but is eventually transformed into the aspect of his life that becomes the basis for his redemption and reentry to civil life.

(iv) domesticity is alternately excluded from, then welcomed into the sphere of penalty at the different moments in the relations of reproduction of the social relations of production. Inconsistency is an inherent feature of the relationship between the two relations of reproduction.

(v) parenthood however is achieved by continual and regular contact with children. Domesticity demands consistency.

(vi) in order to provide the appropriate form of domesticity that is allied with penalty in the latter normalising stages of imprisonment women have to work against the way that domesticity is defined in the earlier segregating stages. To do the work that the State requires of them they are obliged to work against the way that the State defines them.

There is a further layer of discourses that makes this sequence even more contradictory. These are the writings that focus on the constitution of the personality of the child of the prisoner. All of these, from whichever paradigm the author is writing, advocate the full disclosure of the parent's imprisonment to the child and constant and consistent contact between the prisoner and the child. Nevertheless there are major problems, deriving directly from the way that prison life is constituted, that make this 'ideal' response to children of prisoners extraordinarily difficult:

Virginia Husband in C.I.P. Son aged five months

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1 among others Schwarz & Weintraub (1974) Sack(1976) Sack et al(1976)Bauhoffer (1987) Gamer (1988) Schiff (1988). This is not to say that these writers directly influence any one woman who has the family obligation to provide this domestic labour. Nevertheless the universality of this position is likely to affect the woman through her contact with the various welfare workers with whom she has to work.
Its a strain taking him (five month old son) but he's not going to know his father. Now, he goes to him straight away. but if they move him down to Goulburn .......

Women who had experience of visiting the Central Industrial Prison shared a universal condemnation of its lack of facilities for children.

Cheryl
And you're always being reprimanded if your kids are running around ... They don't like the kids running around you see, because they have to watch the kids and they can't watch the prisoners. So a certain amount of emotion is cut off I guess from both parties. ......You see, there's just no facilities. There's no one to look after the children. You know, not all women have got families they can say to 'Look Mum, can you look after the kids while I go to the jail' and there's no facilities at the jail.... ... at Parklea they've got swings and grass. In fact if every prison in N.S.W. was like Parklea, jail visiting wouldn't be so bad. ...whereas in the C.I.P. it's like going back to the days of the penal colonies.....You go into the C.I.P. and you fill in a piece of paper. You hand it to whoever is on. If you're lucky and he hasn't had a contact visit that week, you'll get a contact visit. But if there's not enough room, you'll get a box visit. It's not that he's done something wrong. It's just that there's not enough room. You're in a room. You're not outside in the fresh air. You're not allowed to take in any cigarettes. the person in jail has to take cigarettes out to you.

Brenda
You're so close and so far apart. ...no conversation .. a whole lot of people in one room. no privacy ... two guards at both ends, can't have a conversation ...If the children run around a lot the screws say some smart remark. there should be some toys or something but there's nothing for them to do.

Claire
......there are children racing around. the atmosphere is total aggression in the CIP its aggression

Jane
At CIP you can't take nappies in for the baby. so the baby's got to stay in the one nappy for the visit. You can't take the bottles in or the dummies or anything. If he's wet you've got to cut the visit short or wait until the visits over to change them. I've had times when I've checked Mark just before I went in there and he's been bone dry and then the next minute he's just piddled and piddled and piddled. He's held it all the way from home to here then just let go

Virginia
how come one jail has one set of rules and another jail has another set of rules .... because at Maitland I used to be allowed to take his (babies) bottle in but down here in the CIP section you're not allowed. And sometimes you have to wait an hour before you go in to visit and the kid's screaming and tired especially after it takes an hour to get here, getting on to the bus

This conflict between domesticity and penalty, in the maximum security conditions in the early period of imprisonment, create dual problems for the outside carers' work of visiting as maintaining contact between children and their prisoner fathers. The
conditions undermine rather than enhance the prisoner's contact with the children. The labour of making the visit then is negated in terms of the constitution of the man inside as a parent. That this labour is a particularly arduous form of caring work is illustrated in the 1975 account by a British researcher who on one occasion did the work of taking a child to visit their father in a maximum security prison in the U.K.

Any one who had the experience of taking small children to visit their father in prison, will know the impossibility of giving him attention, let alone discuss any difficult question, when an eye has to be kept on infants who get under the feet of officers (sometimes friendly, sometimes the reverse) or who disturb visitors at other tables. The mother's eyes must be all over the place all the time. The writer had this experience once, and emerged a wreck after a visit of 40 minutes.¹

The accounts by the women in N.S.W. in the late 1980s indicate that this condensed form of caring work retains all of these labour intensive, complex, contradictory and enervating characteristics.

In addition the visit, in these conditions, can also undermine the well being of the child:

**Jane**
You think you can't do anything for the people that are in prison except to visit them and give them your support and all the rest of of it. But you've got to keep on fighting on the outside for the kids. When you think about it, the kids of the guys that are in there, they get punished both physically, emotionally and mentally, you know. I've seen heaps of kids coming and going out of here; I don't like bringing the kids here. It's not the place itself...but I think kids that are coming down here, it's really heartbreaking when they have to say goodbye to their father. I've seen some women walking out and they've had to, just sort of, calm the kids down. I've had to do that with Sherie and with Mark. when its time for a visit to finish Mark and he's only two, says 'Jock, no go'.

**Julie**
Husband in C.I.P. Two daughters thirteen and five
They take turns (coming with me) the first time I was very tense. My husband was very very tense and I looked at my little girl as I was walking through the gate and the tension must have gone to her something phenomenal... she looked as if she was going to pass out ... she just had a strange look all over. I thought 'My god, this poor kids feeling the tension from him and me and she's just picking it up' She was very strange then she started to relax for a couple of minute, then the next visit wasn't so bad.

Visiting was severely punishing at first for Julie's five year old daughter but she became used to the conditions under which she was able to see her father. This resilience is one of the major findings in the literature on the impact of imprisonment on

¹ Alice Crossthwaite (1975) p.283 my emphasis
children of prisoners. Sack et al. found that although most of the children in the Oregon interviews experienced stress and that this was manifested in some form such as 'school phobia', this was usually only temporary. This study marginalised the extensive domestic labour that contributed to the children's ability to survive the chronic crisis of their parent's imprisonment. Nevertheless, Judy Jones, working from a more feminist perspective, found similar evidence of resilience both in her review of literature on children of prisoners and in her own interviews with prisoner parents in Victoria.

However in the interviews by Sack et al., the one group of children who experienced more permanent and more extreme stress, manifested in 'anti social' behaviour, were the children between 10 and 15 who never visited their imprisoned parent. Jones however, found that it was children between five and eight years old who were most distressed. Like Sack et al. she found that it was those children who were least in contact with their father, particularly those who were not told that their father was in prison, who were most distressed. She argues that the children were not deceived but the attempt at deception increased their vulnerability. Having to acquiesce in their own deception was in itself stressful and, in not being told of the details of the imprisonment, the children lost all control in managing the conditions of the separation.

There were however, two further factors in Jones's study, that increased children's vulnerability. The most vulnerable children, those who experienced severe physical ill health, were also those who had been close to their father prior to his imprisonment and whose mothers had been severely emotionally distressed by the imprisonment.

Resilience in the mother is a condition of the material well being of all children. However, for children of prisoners the mothers resilience becomes an even more important component of family life, at the same time as the conditions in which she has to work are manifestly constructed to undermine the 'resilient good humour,' that

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1 Sack et al. p.624.
2 Jones pp. 464-473
3 Jones p.472
Ruddick describes as a condition of the 'attentive love' of mothering. One of the major material costs to women, and to children of prisoners, are the risks to their health.

Material costs: Health

A common finding in reports on families of prisoners over the thirty or so years that the literature has been published, is that women are at risk of stress and physical illness when they have family responsibilities for men inside prison.\(^1\) Responsibility without control is a particularly stressful combination of factors.\(^2\) It is a combination that is an inherent aspect of the powerless morality of family life. That combination, however takes on a particularly condensed form in the case of partners and parents of prisoners. Layered on to this basic factor, that predisposes women to physical costs, are several others. Firstly the extension of punishment to the women outside through the immense financial problems, the loss of economic and personal resources that she experiences on the imprisonment of the other parent, are associated with ill health and 'problems of adjustment' in both the mother and the child.\(^3\) Secondly, social isolation means that the stresses are not likely to be diffused through family or neighbourhood supports. The pressure to alleviate the problems facing the man inside, by negating the day to day effects of the crisis of imprisonment on the family, blocks the possibility of sharing the stress with somebody who might well be the only other person who could understand the detailed implications of the various problems. Moreover, stress is inherent in the several frustrations of visiting and of negotiating from a position of powerlessness with the range of bureaucratic officers on whom partners and parents of prisoners have to depend. If stress is particularly linked to uncertainty, it becomes a routine aspect of the work of maintaining family contact as uncertainty is routine to the obligation to care for prisoners. It operates at several levels. Uncertainty characterizes the state of knowledge about the prisoner's well being, the parent or partner's day to day expectations about visiting, the possibility of planning where to live in the next month or year, the

\(^1\) among others: P. Morris p.92 Kemp et al. (1982) p.15. Newton pp.147-149
\(^2\) Kobasa (1981)
\(^3\) Lowenstein (1986)
classification or parole decisions that have a major impact on schooling, housing and income for the family outside. Unsurprisingly, the majority of women spoke of either lost sleep, a loss of appetite, 'crankiness', taking medication or increased smoking as a direct result of their experiences of the penal system. It is in the social space between the prison and home that the skill of 'being available', that is at the centre of all forms of caring work, makes the most severe demands on the organisational abilities, the material well being and the physical strength of the women who do that work.

Resilience

However even in circumstances when domesticity and penalty are most at odds, resilience characterizes many women's experiences of visiting. Ruddick distinguishes between the blind resilience exemplified by Brecht's 'Mother Courage' and the strength that, she argues, mothers exert in facing yet surviving the contradictions of child rearing. Ruddick's class neutral account does not take into account the added stress placed on women's resilience by the contradictions of the systematic economic and political inequalities produced in a class society. Alice Crosthwaite described the way that women, as outside carers of prisoner's children survived in the face of the bureaucratic indifference of the housing authorities in England in 1975

\[\text{periodically the rat infestation is controlled, then returns .. the children were afraid to go out to the lavatory at night. ... Mrs Y was so incensed by the failure of the health authorities to deal with rat infestation, that she packed a dead rat in a cardboard shoe box, and took it to the offices of various councillors and officials, slammed it on one desk after another, watching with some enjoyment the look of horror and disgust on the faces when she removed the lid... temporarily, ... this had the desired effect: action was taken and the rats disappeared.}^{1}\]

The mediating work with the (nominally) non-penal bureaucracies of the women in N.S.W. was outlined in chapter five. Women doing the solidary labour of maintaining family contact in the penal sphere, experience the stress of working against the indifference and hostility of the penal bureaucracies in an especially condensed fashion.

\[\text{1 Crosthwaite (1975) p.280}\]
In the following story women are maintaining their right to reinforce family relations in the face of the contrary control of penalty.

One of the major ways in which personalities are constituted within the family is the marking off of specific days as being the particular space in which the uniqueness of that person's self is celebrated. Exchanging presents on birthdays and special anniversaries is the usual way that this particularistic aspect of family life is reaffirmed. This very material form of signifying care is especially important in the exchanges between parents and children. In the impersonal universalism of prison life this aspect of particularism takes on even greater significance. However, the significance of birthdays is alternatively ignored or recognized at the different moments of penalty. In 1986, on the coach trip back from Berrima, a minimum security prison, the parents of one prisoner described to the other families who had been visiting under the maximum security conditions of Goulburn the birthday party that had been arranged for their prisoner-son that day. Nevertheless, in the segregative moment of imprisonment, the constitution of the prisoner and his family as 'enemies within' severely limits the ways that women can encourage this significant particularistic contact between prisoner fathers and their children.

**Cheryl**

One time I drove a young girl and her family over (to C.I.P.) from Cabramatta. It was Father's Day and this young girl had made a Father's Day card. It was the first one she'd made with her own handwriting in it. She was about five years old. She wanted to give it to her dad herself, to be the one to give it to him, not to leave it with his property so he'd get it later that afternoon, and any other time, you were allowed to take cards in, give it to them but they'd have to give it back. Then it would go with their property. Now this particular day the Deputy Superintendent made the ruling 'No cards to be taken into the jail' on that particular day, you weren't allowed to take anything in to them.

Being able to give presents as well as receive them is crucial to the way that family life is constantly negotiated in normal conditions of domesticity. It is particularly significant for children because it is a very concrete expression of particularism. Children are often even more excited about giving presents that they have made themselves than they are about receiving them. This aspect of domesticity is at odds with penalty when the
family is constituted as a threat rather than an ally. In the C.I.P. prison, officers confiscated presents of fruit or chocolate being taken out of the prison. Resilience in the face of this humiliating process was expressed by defying penal authority rather than in submission to it:

Cheryl
One particular case a young lass was visiting her boyfriend and he bought her some chocolate. It was with her money. She was taking it home and at the gate they, the screws, made a comment about the chocolate and she burst out crying. I said, 'Eat it. Stand there in front of them and eat it.' She said, 'I couldn't eat it all.' I said, 'There's six kids, give each kid a piece.' So she stood there, defiant, which was really, really good, and just gave every kid a piece of chocolate. That's just the way, you know. We paid for it but they, the screws, would get it. You know I used to stick my fingers in oranges, you know. I was just as bad. I used to get really petty at times.

Summary

Patricia O'Brien's history of the birth of the prison in France contests the Foucaultian version in demonstrating that the subjects of the penal technology of power were 'not an inert mass passively accepting the dictates of the new mode of domination'. The history of penal life in N.S.W. gaols similarly provides evidence of the resistances of men controlled in prison. However both accounts also demonstrate that in resisting, prisoners are nevertheless, of course, constructing that resistance within the terms constituted by the prison. Similarly the women locked into penal life through their family obligation to imprisoned men are engaged in a struggle to maintain their own worth as individuals within a set of singularly oppressive conditions, the contradictory moralities of penal and domestic life. The contradictions inherent in the family obligation to care for imprisoned men are made even more complex and convoluted when that obligation includes the duty to be the outside carer of the prisoner's child. The material and emotional dimensions of the work of maintaining contact with imprisoned men, and of maintaining contact between imprisoned men and their children, involves all the aspects of caring labour described in the literature on 'labouring and loving'.

1 Mark Poster (1984) p.111
outlined in chapters two and five. Moreover the women are working in a social space that is the focus of a range of contradictory discourses about the constitution of the personalities of the prisoner and of the prisoner's child. Imprisonment recreates a particularly condensed form of domesticity, if domesticity is taken to be the sphere of the constitution and the reconstitution of the personality.

The extensive labour of sustaining the self of the prisoner, and of the prisoner's child, which also imposes major costs on the women carers, then places them at risk of becoming locked into socially isolated lives. Moreover, their labour of caring in the penal sphere makes particular demands on the intellectual skills of empathy, malleability and resilience. The ambivalence of domesticity - that it can become the basis for both resistance and quietism is an intrinsic feature of the work of caring for imprisoned men. The next chapter details the way that this political strand of penal and domestic life is threaded into the material and emotional aspects of the labour of loving men inside gaol.
CHAPTER SEVEN

LABOURING, LOVING, CONTROLLING  the duality of control as it impinges on the lives of women as the outside carers of imprisoned men

Introduction

In the first three chapters it was argued that the work of the outside carers of imprisoned men is performed within sets of conditions whose essential contradictoriness stems from the basic structures of contemporary social life. In summary, that with the development of liberal, industrial then corporate capitalism there develop three spheres in which power and morality intersect: the powerful amorality of the market in the economic sphere, the powerful morality of the State in the public sphere manifested in the formal, institutional, rational structures of the legal penal system and the powerless morality of the domestic sphere as it is experienced in the diffuse, particularistic, emotional relationships of family life. The two domains concerned with social control, the polity and the family, thus become constituted as two opposing and conflicting bases of morality. The values underpinning the morality of family life are in direct conflict with those that comprise morality in public life: the particularistic and volatile affectivity that underpins the intimacy of family life, in the sphere of the reproduction of personality is in direct opposition to the universalism of the abstract impersonal realm of justice. Not only are the two spheres in conflict but, as was argued in chapter one, the morality of public life comes to be defined as the superior form. Gilligan, cited in Ungerson, summarises this constitution of the inferiority of domestic morality thus:

Women’s moral weakness, manifest in an apparent diffusion and confusion of judgment, is thus inseparable from women’s moral strength, an overriding concern with relationships and
responsibilities. The reluctance to judge may itself be indicative of the care and concern for others that infuse the psychology of women's development.¹

Although all women, who are defined primarily by their association with domesticity, experience the day to day stresses that result from living the concrete reality of being caught within the contradictions set up between these two co-existing but conflicting spheres of morality, it is the women who are constituted as 'families of prisoners' who are likely to experience these stresses in their most condensed form. They are the personal representatives of the domain of powerless morality who nevertheless have to try to implement the devalued morality of the domestic sphere within the sphere of the State - the powerful domain whose morality is based on values in direct contradiction to those constituting the basic rules of family life.

This emphasis upon the two spheres as being centrally though contradictorily constituted to reproduce moral life in a political economy based upon the amorality of the free market, leads to the propositions:

(i) that control is the central feature which dominates the working conditions of the caring labour of families of prisoners.

(ii) that control is exercised in several complex and contradictory intersections between family and prison life.

The complexity of the way that control impinges on the lives of families of prisoners results from the historical construction of the two realms of morality. In Chapter two it was argued that a layering of punishment practices and policies presently constitute daily life in prison. As the boundaries between state, economy and family have shifted there have been several 'deposits' of often conflicting ideologies and styles,

and the prison system in N.S.W. has become characterised (to shift metaphors mid sentence) as a Byzantine maze of policies and practices and regulations.

**Family policy, penal policy and the State**

Family policy in Australia operates not through a coherent and overt set of policies explicitly directed to the structuring of domesticity but through a diffuse set of policies and practices that nevertheless continually serves to constitute and reconstitute the asymmetric gendered relations of the nuclear family. This thesis emphasizes that this set of covert 'family policies' should include penal policies: that the way that domesticity is incorporated into the legal penal sphere serves both to reinforce the relationships of care and dependency that comprise family life and to draw on the infrastructure of hidden labour that those relationships create. The duality of control as it is experienced in the familial political economy of the wider social structure - that women are controlled to be the social controllers - is both reinforced and exploited within the condensed relationships of inequality in the legal penal sphere.

Domesticity and penality are presented here in the analysis in this chapter of the intersection of control, care and dependency, as being dialectically related, with the relationships of power, morality and rationality within each sphere being drawn on to reinforce the other.

From the conversations with the 38 women visiting prisoners in N.S.W. in the years 1986 to 1988, domesticity is incorporated into legal-penal control in several forms. Although in the day to day work of caring for men in prison these controls are experienced as diffuse and contradictory constraints, they are separated out and delineated here as comprising:

1. Control as neglect: poverty
2. Neglect as control: defencelessness
3. Control of women outside prison: social isolation

4. Control of the prisoner through domesticity: sexuality and gossip

5. Control of the prisoner through the threat of humiliation: the family constituted as a 'looking glass'

6. Control of women inside prison: the constitution of the family as 'accessories' and moral enemies

7. Control of information: the 'rule of anticipated reaction' and the co-optation of families into the structure of power within the prison: the family as moral allies

8. Control of the prisoner: the constitution of the family as a 'reward'

9. Punishment of women: exclusion

10. 'Emphasised femininity' as control

The first of the forms of control as it was experienced through the caring work of the women was

1. Control as neglect

It is important to disentangle the two strands of this basic form of control that is experienced by families of prisoners: it comprises both 'neglect as control' and the 'neglect of this neglect':

(i) neglect as control

Chapter Three cited Robinson's research which shows that for at least two of the children of convicts sent out in the First Fleet, their father's imprisonment and transportation led to their deaths through starvation. The several texts on the living conditions of families of prisoners in the U.S.A. and in Europe in the latter half of this century demonstrate that although this extreme form of neglect no longer

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2 Robinson (1988) pp.127-8
operates as a control upon imprisoned men, the husband's imprisonment
nevertheless usually results in considerable economic and material losses for the
family outside.\(^3\) Unsurprisingly in a society like Australia in which being a single
parent family puts that family at risk of being below the poverty line,\(^4\) similar
findings have been made about families of prisoners in Victoria\(^5\) and in N.S.W.\(^6\)
This material cost to their families outside is a significant part of the punishment
experienced by prisoner husbands and fathers.\(^7\) The neglect of the family outside is one of the key intersections between home and prison outlined in Chapter Three.
This policy of control by neglect is one of the basic 'deposits' of penalty still
affecting families of prisoners in N.S.W. Family life as it is constituted as a set of
relationships predicated on the economic dependence of women and children upon the
primary bread-winning father, means that the state is manifestly responsible for the
poverty of those women and children when punishment is the loss of freedom to
exchange labour for wages.

(ii) the neglect of neglect as control
The relative economic powerlessness of women and children within the family is
continually reconstructed through the variety of social security, education,
occupation and economic policies that comprise the unwritten 'family policy' in the
Australian familial political economy.\(^8\) This powerlessness as an essential element
in the construction of family life means that the poverty of the women and children
who are families of prisoners is central to the way that morality is constituted within
the contemporary Australian familial political economy. The home, as the site in
which the morality underpinning the social relations of the wider society is
reproduced, is centred on this principle of unequal relationships, the economic

\(^3\) listed in Appendix I
\(^4\) Judy Raymond (1987) p.77
\(^6\) Kemp et al. (1982)
\(^7\) Morris p.61. Jones p.30
\(^8\) Lois Bryson (1988) pp.489-509
dependence of the caring mother and wife whose love is essentially expressive not instrumental. Although making a formal religious commitment to remain a loving spouse 'for better or for worse, in sickness and in health,' in the Anglican wedding ceremony is not now a universal ritual, the principle of particularism embedded in this commitment is still made manifest in the 'family policies' cited above. Women as mothers are constituted as women who are economically dependent upon men as bread winners. Nevertheless the price that women pay for this dependence is the willingness to keep offering that love even when men are unable to provide economic support.

However this centrality of the punishment by neglect of women and children who comprise the population 'families of prisoners' is masked and made invisible in the powerful morality of the political sphere. Because of the principle of specificity upon which the universalistic, legal authority of the penal system is based, the rational state is inherently unable to formally acknowledge the arationality of the centrality of the punishment of the family. To paraphrase Graham, caring, constituted as dependent love, is at the heart not the periphery, of the political economic system. But the false universalism of that system depends upon the neglect of that centrality. This neglect of neglect then further punishes the population caught up in this contradiction at the heart of the legal penal system, the women who remain committed, through their family obligation to care, to providing the unpaid labour of supporting imprisoned men and their children. Their poverty is not formally recognized as being created by the state. There is then no base upon which to articulate the unfairness of that punishment. Moreover, the familial commitment to care 'for better or for worse' conveniently shifts the responsibility for this central aspect of punishment - neglect, from the state to the family. It becomes the

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9 Graham (1983) p. 30 This point by Graham is cited earlier in the thesis but it is worth repeating here as the succinctness of the point is particularly apt for this argument.
woman's responsibility to bear that punishment quietly in order to demonstrate the neo-feudal loyalty that characterises familial obligations.

This however describes an 'ideal type' of neglect as punishment. The literature on families of prisoners indicates that the economic punishment of neglect imposed on families of prisoners is experienced in its extreme forms only in those families in which women are determined to obey the rules of domesticity. The enforced loss of the breadwinning father and husband among families of prisoners in the period of corporate consumer capitalism has different results for families depending, in part, on whether women respond by remaining committed to sustaining the man's role as major breadwinner even when he is unable to provide for the family. The families who experienced the most severe economic punishment among the women interviewed by Jones in Victoria in the early 1980s were those who made the deliberate decision not to find paid work for themselves. This decision was directly related to their commitment to care for the prisoner:wives who suffered most hardship were previously happily married wives who wanted to keep marital roles unchanged... in the hope the marriage would remain happy"\textsuperscript{10}

Kemp et al. also found that amongst wives of N.S.W. long term prisoners in the early 1980s, there was a group of women whose attempts 'to keep the marriage alive' involved them in building their lives around this closeness, as distinct from other wives who were more involved in what Kemp et al. described as 'personal development activities.\textsuperscript{11}

Commitment to the 'ideal type' of family relationship, and to her own emotional labour of keeping the husband/father's place open, thus inevitably also commits the woman to bearing the most extreme forms of impoverishment or punishment by neglect. It is

\textsuperscript{10} Jones p. (vi)
\textsuperscript{11} Kemp et al. (1982) p. 7
then, the women who are the most committed to the caring labour of providing support for the 'self' of the prisoner, who bear the highest economic costs. To further unpeel the contradictions in the intersections of the two spheres of morality, it is important to emphasize here that it is precisely the women who are conforming to the ideal of domesticity that is appropriate to the latter normalising moment of imprisonment who are most at risk of punishment by neglect. Families of prisoners then exemplify in a most condensed form the paradox of gender inequality as it is defined by Graham, that it is those who do the work of providing caring labour who pay the costs for men economic dependency and poverty is the cost of being cared for: for women, economic dependency and poverty is the cost of caring.¹²

(iii) neglect as control as it is manifested in N.S.W. in 1986-88

For fifteen of the thirty people whose partners were prisoners, the imprisonment meant the loss of the prisoner's wage. For five more the loss of the partner's share of their combined social security income was also a penalty in that it meant that they had had to move out of their home.

Three women said they were better off because they had more control over their income when their husband was inside gaol.

It was women with young children who lost most in financial terms. Women without children, or whose children were in secondary school, were more likely to be in paid work. Jones found that one of the effects of imprisonment on partners of prisoners in Victoria was that, for some women, their access to paid work was threatened because they lost their co-child-carers.¹³

¹² Graham (1983) pp.24-25
¹³ Jones p.223
The way that the social space in which domesticity and penalty has been constituted especially in the segregative end of prison life in N.S.W. reinforces this condensation of the relationship between care, dependency and control. The work of supporting prisoners especially in maximum security gaols by maintaining contact through visiting is feasible only if visits are made during the working week. There are no visits after normal working hours during the week and there are so few resources of space and staff that weekend visiting does not enable women to have 'a good visit'.

**Sally**

I never visited at weekends because weekends you're lucky to get fifteen minutes in the C.I.P. because lots of people go weekends because a lot of people work. I used to go Tuesdays because Tuesday to Friday's not so bad but Friday to Tuesday. ... Would you be able to hold down a full time job and visit? No, no way. Not possible. I was doing barmaid and I was on nightwork then they put me on daywork. They put me from ten o'clock in the morning until seven o'clock at night. I said 'No'. I left the job because I was getting four visits a week. On remand you get three, but when he was in Paramatta I used to ring up, I used to get that extra visit a week and I couldn't work. There's no way, I'd would never have seen him. There's no way ...

**Hilary**

I've been looking for a job ... I'd go for part-time jobs so that doesn't muck up my visiting.

**Ray**

Well I lost a day's wages when I visit him. When I'm doing part time work because I visit him during the week, the weekend is hopeless.

**Beth**

Has it affected your paid work? No, (because) I only visit on weekends. I have visited during the week on a couple of occasion and I take the day off, but I can do that. What is it like, weekend visiting? At the C.I.P. there are 400 guys and 12 tables, and you get half an hour. You cannot smoke you cannot get a cup of coffee. The tables numbered, the keys numbered and you are called out as a number 'number four, you can sit down,' number four, leave.'

Towards the normalising end of imprisonment the work of visiting can only be done at weekends for those prisoners who have been allocated to the various special

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14 visits to minimum security are more likely to be weekend visits only
programmes in the minimum security gaols, the external study, industrial training or work release schemes. So if women had managed to secure weekend work that had provided a sufficient income for independence in the earlier segregative moment of imprisonment, in order to maintain the work of caring for the prisoner in this latter moment of penalty that access to independence would have to be surrendered or the weekly hours renegotiated to fit the changing demands of the penal sphere. It is the malleability of women's caring work that is being drawn on in the way that the legal penal sphere is constituted here. Punishment constituted initially as the loss of the freedom of the breadwinner to exchange his labour for a wage is then transformed into punishment as improving his access to the labour market. This progressive model however can operate only on the hidden infrastructure of either the impoverishment of the family outside or the willingness of the woman to 'cope' by reshaping her life to fit the changing demands of the legal penal sphere. The loss of the man's wage means that women have to make a choice between

(i) a continued dependence on the state,
(ii) dependence on a weekend wage that has to be renegotiated into dependence on the state with the transforming moments of penalty, or
(iii) a dependence on a wage based on the 'normal' working week that then has to be constantly manipulated to allow for the occasional 'free' day to visit during working hours.

Graham's argument that

'through the concept of coping we can understand both the malleability and the invisibility of women within the family. . . . . the concept sensitises us to the way women's lives can be radically restructured in response to changing socio economic conditions without their role being formally redefined." 15

is particularly apposite in relation to the impositions that the contradictions of penal life impose on those women, who, in attempting to adapt to the morality of the legal penal sphere, do the work of 'keeping the father's place open'.

These choices are made even less free when added to these constraints are the loss of the imprisoned parent as a potential co-child carer, the several geographical moves that constitute the individual prisoner's experience of punishment, and the difficulties that women in families of prisoners share with all other women in their gender, age and class groups in getting access to paid work in the segmented labour market as it operates in Australia. It is in the social space where domestic and penal life coincide, as the two are specifically constituted within Australia, that particularly exposes women in this country to the risk of becoming incorporated into the system of control manifested as punishment by neglect. If full-time employment is taken as representing independence then only 19% of all Australian mothers were independent in 1980, (by 1988 that figure had reached 22%). Even if the criteria widened to include all mothers working 15 hours a week or more, the figure only reached 32% in 1980 (39% in 1988). For sole mothers in Australia the full employment participation rates are close to those of mothers with co-parents but the rate of part-time employment was far lower. The comparable figures for other societies with largely similar familial political economies however indicates that Australia is likely to be a particularly punitive country for women who are the outside carers of prisoners children, for two reasons. Firstly because Australian women with domestic obligations have less access to paid work: 76% of sole mothers in France, 60% of sole mothers in the Federal Republic of Germany and 87% of sole mothers in Sweden have access to independence through paid work. In the United States 56% of sole mothers have full time paid employment. The second reason that the

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16 Jordan (1989) p.114
17 Jordan (1989) p.114
18 Jordan (1989) p.115
19 Jordan (1989) p.11
people, women and children who comprise the population 'family dependents', in
Australia are more exposed to the hidden punishment of neglect than are people
captured in this social space in some other western countries is because the Australian
state has chosen the policy of equating State dependence with impoverishment. In
Australia in the mid 1980s single parents not in the labour force received only 50% of
the net average production workers wage in contrast to 93.8% of that wage received
by single parents in Sweden. Australia had the second highest percentage of
children living in poverty in countries with comparable familial political economies.
The 'hidden' punishment of women and children who comprise the population
'families of prisoners' is further exacerbated by the intersection between penal and
housing policies:

The elegant contradiction of neglect as control as it operates through
the loss then the incorporation of 'the home'

It is in the intersection of penal and housing policies as they operate in Australia that
the contradiction between prison and home as the two spheres of social control is
most elegantly played out. The irrationality of juxtaposing the home successively as
the object of control, then the object and the site of normalisation, operates in these
stages:

(i) the segregative moment of penality centres on the loss of freedom to exchange
labour for income
(ii) the loss of the breadwinner's income places the family outside at the risk of the
loss of 'the home' as a mortgaged or privately rented property. This parallel
punishment constitutes part of the punishment of the prisoner inside gaol.
(iii) the partner and co-parent of the prisoner's children works to re-establish 'the
home' as both a material and an emotional space for herself and the children to
exist in for the duration of the period of segregation. Moreover this domestic
labour is further extended as the work of home making is achieved with access
only to the reduced resources extended to a sole parent dependent on state
resources.

21 Peter Saunders & Peter Whiteford (1987) p. 23
(iv) the normalising moment of imprisonment reconstitutes 'the home' as the site of the potential reintegration of the prisoner both as a physical resource protecting him from the necessity to steal to live and as a set of domestic relationships which will lock him into the socially controlling role of the primary breadwinner responsible once again for the rent/mortgage of himself and his dependent wife and children.

It was argued, in chapter four, that the home, in the liberal reformist discourses, is constituted as the site of 'resource and resolve' with 'the family' creating a bridge back to normality for the man in gaol. The work of Irwin was cited as being especially explicit about this relationship between home and prison as intersecting sites of control. He argued that normality in civil life involves a complex set of resources that act as props to sustain a 'normal' civil status: driving licence, car registration, access to credit institutions, 'respectable' up-to-clothes. He found that imprisonment in a gaol in the USA inevitably meant the risk of losing access to some or all of these resources. Of all the sources of access to these resources, it was the family that was the most important in helping prisoners maintain ties to 'normality', keeping open job contacts, looking after the car, keeping up with the rent or mortgage repayments.

Irwin's arguments are reinforced by the findings of the N.S.W. Corrective Services Research and Statistics Division study of the 'success' and 'failure' rates of men on parole after being in the work release programme. In this New South Wales study it was men who were able to join parents or partners in a relatively stable living arrangement who were less at risk of being returned to gaol. Men living alone, or

22 Irwin (1985) p. 50
23 Cheryl Matthews in her work with Glebe House, a half way house for men leaving prison, has found that some prisoners have been released in the late 1980s from the Long Bay prison complex, twelve or so miles from the city centre, with little money and wearing the flared trousers and platform shoes of the fashion of the time when they were imprisoned, in the mid 1970s.
24 Irwin (1985) pp. 48-50
25 M. Dewdney, K. Swarris, Maureen Miner, E. Crossing (1978)
with a partner who had not been able to maintain a relatively permanent home, were more likely to be reimprisoned.26

Australian housing policies play a particularly useful part in the construction of this elegant contradiction of penatity. Australian housing policy is characterised by an emphasis on the constitution of 'the home' as a commodity good to be purchased on the free market either through mortgaged ownership or through private rentals, with only 5% of housing stock available in the form of public rented housing.27 Access to the subsidised public rental housing stock then is likely to be much more difficult for those made marginal to productive life. Women in particular have been excluded from home ownership through a complex set of familial political economic discourses that have 'marginalised women in housing terms'28 Although the needs of several groups of women - the aged, young single women wage earners, single parents - have been omitted from orthodox housing discourses,29 women who occupy the complex social space 'families of prisoners' are placed in an especially contradictory situation in the intersection of housing and penal discourses.

The impact on families of prisoners in Australia is marked. As was indicated in chapter five, seventeen of the 30 partners of prisoners in these interviews had to move house as a direct result of their partner's imprisonment. Although the methodology of the study means that it is not possible to generalise from these figures, other data on the impact of imprisonment indicates that 55%-70% is a reasonable estimate of the risk of this form of dispossession.30 As Jones points out, in contrast in England in the 1960s less than 30% of families of prisoners had to move house as a consequence of the husbands imprisonment.31

26 Dewdney et al. (1978) pp. 13, 14, 25, 43. This finding was reinforced in a separate report on the relationship between 'success on parole' and family status. Angela Gorta and George Cooney (1983)
28 S. Watson (1988)
29 Watson p.
31 Morris (1965) pp. 74-80 Jones p.227
The range of hidden ‘family policies’ that include housing, child care, social security, training and education and industrial and immigration policies as they operate or fail to operate in Australia in contrast to those in other countries then mean that Australian women are particularly vulnerable to being caught up in the underside of penal control as neglect.32

2. Neglect as control: increased risks of becoming victims of crime

One of the hidden forms of punishment faced by families outside is the fact that the imprisonment can mean that they are more at risk of becoming victims of crime. In Jock Young et al.’s critical reflections on the distortion of the concepts of ‘moral panic’ and ‘folk devils’ that had been introduced into the criminological lexicon ten years earlier, they make the point that violent crime was not mythical in terms of being non existent, but that that concept had led to an underestimation of the impact of violent crime especially on people who have the least social power.33 Moreover, it is the people most at risk of becoming victims of crime who are also those who are most at risk of being stopped or arrested by the police.34 It is in just those geographic areas of city and suburban life in which people are most vulnerable to arrest in which they are also most vulnerable to assault. This dual vulnerability is much more likely to be part of the day to day experience of people in the low cost housing areas that comprise the everyday environment of people made marginal to productive life. The increased risk of impoverishment is also then likely to place the women impoverished by their partners’ imprisonment at an increased risk of violence, either because they have to move to areas which places them at greater risk or because they continue to live in those areas in which to be a women on her own

32 The family policies that affected women in the period 1986-1988 are described here. The 1988-1990 changes to those policies are briefly covered in the epilogue in chapter nine.
34 Kinsey, Lea & Young p. 47
increases their already considerable vulnerability or thirdly, because the exigencies of working and travelling to support men inside gaol place some women at greater risk of assault. Three women had experienced this added 'punishment' of being at risk because of the loss of their partner.

**Julie**

In the area we're in it didn't take long to find out that he was inside. They just know I'm by myself and the two girls and the area (I live) there's quite a few of them on drugs and whatever so they get in to the house you're seen as a defenceless person? That's right. Yes. Definitely. They've left the back gates open so the dogs would get out but luckily the dogs haven't left. I've caught... last week I've had the police out twice... I caught two men opening the gate and running off, and we chased them and I knew them and I had another girl with me, rang the police, they came out, had a drive around, driving around to deter them and after the police had gone, there was one crouched down by the light post, one beside the window and one at the back, so I ran them again. I was frantic by this time. That wasn't the only time that was the night that I caught them the police came round again and circled around because I identified them. I told them where to go, what house to go to... All they'd be after was stereo, T.V, things like that... that's what I've been (experiencing) That's what I'm frightened of. Then my purse got stolen last Thursday and it was pension day on Wednesday, so all my transport papers everything, keys all gone.

**Jane**

He's got a hell of a lot on his mind. He's worried about things that might happen to me while he's in here...He's worried that my ex-husband is going to get out, he's at Paramatta, that he's going to get out and come and hassle me. He's worried... there's a lot of people who think that your man's inside you need the male company.

**Katherine**

I was in a Housing commission place that's in Sydney and I left that place because I used to have to travel backwards and forwards Sydney to Bathurst. I left that place because while I was down here visiting the house was broken into three times - the three times that I visited... they knew.

To identify vulnerability to crime as being an uncomplicated consequence of 'losing a man about the house' is to oversimplify the social processes impinging on the lives of people with family obligations to prisoners. It is social mobility and social isolation as much as separation from any other one member of the household, that places women at risk of this additional punishment of social defencelessness. John Minnery found that people who were living in rented households and who were more recent arrivals were at greater risk of being victims of crime. The two factors most likely to be associated with becoming a victim in inner city suburbs then, are both.

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35 Minnery (1986)
social conditions which characterise the experience of women in the population families of prisoners.

3. Control of women outside prison: social isolation

The punishment that is exerted outside of the prison over women who determine to maintain their contact with prisoners can be experienced as a penalty that is in some ways more difficult to bear than the imprisonment of the man inside gaol. Being with other prisoners means sharing an experience of deprivation, but being the partner or parent of a prisoner outside means living in but apart from the community around you and experiencing day to day a singular form of isolation - the constant reflection from the generalised or significant others of being morally different and devalued:

**Audrey**
It's hard on a woman, not so for the man, because the man's locked up in here, they've got in their own little world, in there, where a woman's outside she's mixing with people all the time you know, it gets very hard for them I reckon. A man's is locked up inside right, he's lived his own little life in there, everything's set to a rule, where a woman outside if she gets asked to go out somewhere she's got to hesitate because she doesn't want to mix with other married couples she feels out of place, you know.

**Beth**
I think the wife pays. She does time. She mightn't be locked up but she still does time. He thinks that she's got it OK because she's out. But you can be in prison in your own home and not go anywhere because your husband or your boyfriend's locked inside. You're just as much in gaol.

**Claire**
Then you suddenly find that all the way around you have to start lying - from Social Security on - the prime example of that is the bus drivers - one quietly says "Long Bay" and some are nasty.

**Dulcie**
Now I'm ignored, even at work, it was in the newspapers. They don't talk to me anymore.

**Bettina**
I'm absolutely alone. I thought I would end up on a funny farm. I said to (him) 'don't you think it's hard for me too. but now I've got Dulcie to talk to
Ray
I do feel alone, because you can't air your feelings to anyone, most wouldn't understand and some people - since he's been inside, - lose contact with you.

Tricia
I moved to get away (from people living next door) after the arrest so now I don't have anyone to talk to. I really need someone whose got kids too. That's who I'd like to talk to. They'd know more about it, but I don't have any one.

Gwen
Just to be lonely, (is one of the major problems) Like where I live everyone's paired up ... at night time I'm stuck there on my own it doesn't make you feel good. I like to go out sometimes on Saturday nights. My girl friend goes out and her boyfriend will mind Nichol and I get to go out then, but it doesn't seem the same, you've still got to come home and be on your own.

Cheryl
I don't speak to my neighbours ... don't let anyone get close to you because then they can't hurt you, I've learnt. I have very, very few friends, because a lot of people just drifted off, a lot of them Bernie had helped, they wouldn't even talk to me.

The hidden punishment of social isolation is especially likely to reinforce the risks of the other hidden punishment - of impoverishment. An important factor influencing access to paid work for Australian women in this period was access to child care.36 Sole parents in Australia were especially likely to have difficulties entering the paid labour force because of child care problems.37 For these single parents, lack of child care comprised the major obstacle to access to work skills and to the labour market.38 The 1984 study of women's employment by the Institute of Family Studies found that Australian women were much more likely to depend upon informal than formal child care arrangements.39 The added restrictions a partner's imprisonment imposed on access to informal networks of support then potentially imposed multiple stresses on women outside.

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36 Helen Glezer (1988)
38 Frey pp. 1-2
39 Glezer p. 31
If social isolation is a condition of domesticity, then in that social space in which domesticity and penality coincide, women who do the caring work of supporting prisoners, experience that isolation in a particularly condensed form. Moreover this loneliness is derived from multiple sources. Sometimes it occurs because friends and neighbours shun families of prisoners or it occurs because wives, especially if they are the outside carers of prisoners children move away from established friendships to avoid the risk of stigma. However social isolation also results from the way that control in prison life is constructed around gossip and sexuality.

4. Control of the prisoner through domesticity: gossip, sexuality and prison life

The especial feature of domesticity as coping means that women are at great risk of internalising a sense of responsibility and culpability for the punishment that their son or partner is experiencing. Jones found that even in marriages which had previously been based on a relatively companionable relationship, prisoners either directly or inadvertently exploited this characteristic of domestic life by transferring a sense of guilt onto their 'free' partners.

This particularly powerful dynamic of penal and domestic control impinged on the lives of women in N.S.W. Being 'free' outside was experienced as an unfair condition when the partner was so manifestly 'unfree'.

Dulcie
Yes, we're in there with them. He said "you can walk away from here" I never turn around when that door slams

Beth
You really do (feel guilty). You really want to take them with you...you can walk away and (you feel guilty) and in a way even though they won't admit it they probably feel that too ...

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40 These experiences of women in N.S.W. reinforce the evidence from virtually all other reports of families of prisoners that social isolation is one of the major 'hidden punishments' that they experience.

41 Jones pp.420-423 & 498-513
... I could never turn around and watch him go back inside - especially Parklea because they're pretty strict with the searches there. You feel you can walk out and they can't. You really do. (feel guilty)

**Cheryl**
I feel that if I went out I shouldn't go, for example, to a party. I felt that I had to leave him. You know they closed the door, the gate, and one thing I learnt was never to look back. I looked back once and saw Bernie going through and the gates being closed and ...(crying) I still feel like that. I hate going into jail, the doors being closed.

Both prisoners and prison guards reinforce the self imposed control over women's social behaviour. 'Keeping the man's place open' means maintaining his right to define the limits over the extent of socialising that women can experience.

**Audrey**
The men expect you to really behave yourself when you're out there all the time, and they question you all the time.

**Beth**
You can't plan to go anywhere weekends because you're spending that time in jail, visiting. You have to be there. He expects you to be there. You just have to be there ... I've seen it. I've seen the fight because she's five minutes late and maybe it's because the screws were mucking around outside and wouldn't let her in straight away. He says 'its about time you were here' .. She cops the lot!

**Ray**
because the person inside is deprived - its a feeling I suppose of wanting to help that person whose in a rough situation... knowing that you have freedom and they don't and they, do, they do make you feel that, even though they might not be conscious of it

**Claire**
It becomes common knowledge that women play up - then there's tension about who will tell him.

These experiences of women with family obligations to care for imprisoned men in N.S.W., are common to women living in that contradictory social space, in other countries. Susan Cobeanc and Paul Power reported the effect that prison gossip about one woman's search for paid work, had had on her unpaid work of maintaining 'the self' of the man in gaol.
Jim had been depressed and felt that his wife was making plans for divorce and dating other men. He had heard via the grapevine that she was away from home much of the day. ... she had been looking for a part time job ... (and) emphatically stated that she had not been dating other men.  

Sexuality and power intersect in several ways in the control of prisoners.

Homosexual rape between prisoners is as much about the power hierarchies within prisons as it is about sexuality. The institutionalised power of prison officers is manifested in their right to strip prisoners even to the right to invade the body of prisoners for 'ingenious hiding places'. The autobiographical accounts of prison life indicate that this right is used to maintain the unequal power relations between officers and prisoners.

The paradox, outlined in the previous chapter, that masculinity excludes dependence at the same time as it makes men vulnerable, becomes especially focused in that area of masculinity associated with sexuality. This contradiction, which operates in its most condensed form in the penal sphere, is central to the construction of the relationship between gender and class in the familial political economy of liberal capitalism. This aspect of the specific dynamic between power, morality and rationality as it is expressed through sexuality in liberal capitalism is indicated in the definition of the term, domesticity, in chapter one but it needs to be elaborated in greater detail here.

Although the political relationships of sexuality underpin several forms of familial political economies, it is sexuality as it is constituted within the historically specific dynamic of power, morality and rationality of liberalism that circumscribed the experiences of women partners of prisoners in N.S.W. in 1986 to 1988. The free expression of sexual desire is proscribed behaviour in N.S.W. maximum and medium security prisons, even when that freedom is expressed through the limited...
prescribed relationships of legalised sexuality as it is regulated within the domestic relations of the family. This form of punishment and discipline, the proscription of sexuality, is specific to 'modern' liberal penalty. The unfreedom of imprisonment is the unfreedom of this most central way in which masculinity, as self determined will, is expressed in the possessive individualism of liberalism. Civil society, the particular social invention and mainstay of liberalism, is predicated upon the very specifically defined notion of the individual: the individual as a possessor. The principle of possessive individualism is itself based on the central theme of the possession of free will. Civil society is the mutual recognition of the free will of the other, an inherently contradictory and unstable form of social relationship. Moreover the freedom (expressed as self interest) of each individual is 'bought at the price of its abstraction from any specific content' in the necessarily universalistic relationships of civil society. This means that the principle of 'individual as possessor' is predicated upon the family being bracketed out of the universal relations of social interaction in which the individual will is expressed in the relations of mutual indifference of the market place. However that mutual indifference, which is essential to the expression of the will, is also the basis for its erosion. Although liberal political philosophy has attempted to get to grips with this 'problem of voluntarism' it is the feminist analysis of the the contradictory interdependence between universalism and particularism that uncovers the actual mechanisms through which liberalism operates.

The primacy of the individual will is qualified in civil society. To assert itself, it requires another which accords it primacy by this other denying itself to be a separate and autonomous will.

The recognition of the self of the individual depends upon 'the other' itself possessing a will which it is nevertheless prepared to sacrifice. Women's sexuality in liberalism then is locked into a continuing cycle of will subsumed, then reasserted, to once

45 Yeatman (1982)
46 Yeatman (1982) p.3
again be subsumed. The masculine possession of a will that has been absolutely and perpetually subsumed, that is of women made into absolute slave like sexual objects would mean that masculinity itself could not be regenerated through affirmation.

the individuals of civil society require another order of persons, lying outside of civil society and within the family, and whose raison d'être is to affirm the existence of the former as wills. Love is the form this affirmation takes.

Romantic love resolves this contradiction: love that freely chooses to be unfree. Love, in the sexual relationships of patriarchal liberalism, is a relationship between an autodetermined will and a will that is unobligated, always having the potential to realise itself in its own autodeterminism but freely and willingly choosing not to.

The interdependence between civil society and domesticity in patriarchal liberalism then has to be 'bracketed out' of the liberal political analysis. Rational, liberal thought is inherently blind to its own construction and so can never achieve the actual self-reflexiveness on which, paradoxically, it is supposed to be based. However the constitution of domesticity within this specific liberal dynamic of power, morality and rationality, has the potential to be different for men according to whether their masculinity-as-possessive-individualism centres on their possession of capital or labour. In both classes, masculinity is perpetually subjected to the risk of erosion in the impersonal competitiveness of civil society. The eroding effects of the universalism of civil society could be expected to vary with the level of power and control that the ownership of capital or labour brings to the exchange of wills in the market place. However whether this means that women married to men in either group are more or less likely to be at risk of experiencing the dynamic of power and sexuality as 'unobligated will' is open to question.

Mike Donaldson, recorded several accounts of the social construction of masculinity amongst labouring men.49 His interpretation of these accounts indicates that the unequal relationships of the familial, political economy serve to make the meanings that men bring to sexuality so contradictory as to be self defeating. In the exploitative relations of the labour market, in which constant humiliation and aggravation degrade labouring men's sense of self worth, men become 'real' again only within the heterosexual relationships of family life.50 In the domestic relations of family life as it is constituted as the economic dependence of women upon men, sexuality becomes at the same time, the basis for the regeneration of the sense of self and 'freedom' for men, but part of the 'production line' of caring work that is expected of women.51 Moreover in the economically unequal relations of family life, if 'sex is used to construct and sustain male identity' then men will 'tend to react with pain, confusion and violence in the face of female sexual expression outside the relationship' because unfaithfulness exposes the vulnerability of masculinity.52

In the condensed exploitative relations of prison life where humiliation and authority become ends in themselves, rather than means to the ends of productivity, this dynamic of class and gender in the control over the sexuality of women becomes even more significant. Jones describes prisons in Victoria as being hotbeds of gossip over all aspects of prisoners lives including their family relations.53 Women in N.S.W. experienced the surveillance over their visits that this implies.

Claire
Visits are very important to them (Prisoners are) very resentful if women are late, if they don't come. Those women who come regularly, the whole lot watch. The ones who don't get visits take most interest in those who do and the prison officers. I've been told 'you're late' by this prison officer. I realized the interest in me because I was regular.

49 Donaldson (1987)
50 Donaldson pp.172
51 Donaldson p. 173 Whether this is the way that women experience that relationship is not a part of that research. Both the Donaldson research and the analysis of sexuality in this thesis are focusing on the social construction of the relationship of sexuality. The women's own interpretation of their own sexuality is not a subject of this thesis although it has been the topic for some of the reformist technicist research in the 'families of prisoners' literature in the 1970s. (see chapter three)
52 Donaldson p.173
53 Jones (1983) p.399
Alec: Ex-prisoner, visiting Glebe House a half way home
You get status in prison if you have visitors and the more good looking the visitor is the higher your status inside.

The accounts of Phillip, Gwen, Rebecca and Teresa give complementary support to the argument that control over the partner’s sexuality is an intrinsic part of penal life.

Sally & Phillip
After his sentence we began to get a few hassles. He was worried about me you get very jealous in there, you get that much time to think, things go round in your head and I was imagining things. Since I got out I found, I had no reason to be treating her like that. It is because that's all you've got to hang on to .. you can't be out there with them. You worry that something might happen

Gwen
At Cooma one night I was at the pub because there's nothing else to do at night time, and there was a prison officer there and he told Terry I'd been in the pub, and we were all really drunk and stuff And it wasn't true, I said 'why do that, its nothing to do with you, you're only here to supervise, not to tell him everything what's going on on the outside, you're just making it worse for him' Terry was really upset about it thinking I was with all these guys at the pub I said to him 'you've got no right to do that' Other prison officers knew we went to the pub but it was just this one guy and Terry never got on with him. It was like the conflict between him and him got pushed off on me. But the rest of them were very nice. I think the rest of them understand the situation. I don't think they should be allowed to do that. Putting you on show in the first place and then going back and telling Terry what goes on outside, 'well it's none of his business. I'm not in gaol. He said in the pub 'O you can tell where they come from'

Whilst Gwen emphasized the singularity of this prison officers control of both her and her partner through sexual gossip, her account also indicates that any prison officer can use his position to control the prisoner through sexual gossip and when the prison is located in a small country town, he can also use his knowledge to penalise the women by putting 'the wives on show'.

Rebecca
they (prison officers) say things about (the) wife, 'your wife's really nice' and 'we're out and you're inside' 'we can get on with her and you can't' using her to make you or break you.

Teresa married her husband in prison after he had already served five years of his sentence
The officer's turned round ', your wife is probably screwing around mate. It wouldn't matter to you, you're in here , it doesn't make any difference' and he's got rigged up and he's known for his bad temper. They just lock him in a room for a few hours. They do tease. He's confronted me paranoid sometimes. Not so much now since we've been married (three years ago) but before, he was getting paranoid thinking they knew some
thing he didn’t know and playing it against him just to get him mad... The officers can’t always help it. They’re pressured, they’re getting double shifts. It’s not always the officers fault. They get pressured. They get cranky.

The connection between domesticity, sexuality and power within the prison can operate at a more indirect level. Especially within the discourses of drug control, domesticity is easily translated into moral inferiority. By constituting domestic life as threatening to the good order of the prison the state is able to reassert its ‘authoritative masculinity’ over the body of the prisoner at precisely the time when domesticity seems to have returned to the prisoner a sense, however limited, of sexual assertion and masculinity. Women know that for the men they visit, visiting always carries with it the risk of degradation. Even (or especially) after the relatively relaxed atmosphere of minimum security visiting:

Beth
and they have this search, when you come out to a visit - and its not universal its not standard in any jail in the state, it depends on the screw that’s on, it depends on the time of day, if its raining, how they search you. They singled out Jim one day and they all strip off down to nothing in front of all the other crims in front of these screws. They all do that. And this particular screw when I had visited, he (Jim) was coming back from a visit, he asked Jim to lift his balls and he said ‘No’, he wouldn’t. ‘You want to search, you lift them’ and the screw said ‘alright, I’ll charge you, if you don’t lift your balls’ Jim said ‘I think its degrading, I’m standing here with nothing on, what on earth could I hide? I refuse on grounds of principle, I will not do it’ They charged him? To cut a long story short, the V.J. came to Cessnock, went through this rigmarole. Jim had him there for four hours. He was determined he was going to make a fight for it because he doesn’t believe it’s right, and the result was the V.J. discharged, admonished him. In other words he was saying I agree with you that it is degrading but you still should have done it. So that made Jim pretty angry. All he wanted to do was get out of Cessnock.

It is important to contrast this use of sexuality in the relations of control within the penal sphere with the contrasting and contradictory use of sexuality and control as it operates in the normalising moment of penality. It is specifically the prisoner whose sexuality is channelled into the appropriate domestic contours of family life who is most likely to achieve his freedom from institutional imprisonment. However it is not only the prisoner whose behaviour is controlled in this construction of domesticity. Women are controlled to be the controllers of prisoners’ sexuality by internalising the rules about appropriate behaviour during visits.
Esther Prior to receiving permission to marry in prison
We've had good reports from some officers saying they've seen the way we go on visits that we hardly ever fight, hardly ever disagree.

5. Control of the prisoner through humiliation: constituting the family as a 'looking glass'

Men can be punished through their families, and women drawn into the structures of legal penal control, by the way that prison officers set women up as 'mirrors' reflecting and amplifying their partner's humiliation.

Teresa
They (prison officers) do their best, (but) they're just mongrels. You can see it in their mannerisms when they come up. They play the line of discipline a little bit in front of the wife 'Right,' you know... (But) he's a man, he's got individuality, he doesn't need to lose any more face than he is... At the training centre they come up and they say 'you can't sit on the grass, sit on the edge of the grass...'. I haven't been talked to like that since I was 14. He was upset.

Hilary
...the C.I.P. was the hardest bit I had...If you had jewellery you had to take them off to walk through the metal detector. You couldn't take nothing in with you and they used to strip search him, after the visit... It sort of makes you feel like they don't trust you...some of (the guards) are nice and some are pretty awful... the other day I was visiting when my husband started to have a joke with one of them and he put my husband on a charge, you know it just makes you feel... I don't know... just little, just awful.

6. Control of women inside prison: the constitution of the family as 'accessories' and moral enemies

A common term recurring all the time in the several conversations with individual women and with groups of women visiting gaols is 'a good visit'. 'Having a good visit' means that both prisoner and visitors feel that the visit has given them some support to survive another day of the imprisonment. Support is the epitome of what visiting is about, providing enough emotional support to each other to sustain the day to day degradation of imprisonment. There are several ways that visiting as this domestic labour of the reconstitution of the particular personality of the prisoner can
be undermined. The conditions of visiting especially in the segregative end of penal life can grossly interfere with this work. The grimness of visiting conditions in some of the maximum security prisons are the antithesis of domestic comfort. The socio-political relations of visiting are an even more important hindrance.

At the segregative end of imprisonment the constitution of the prisoner as an enemy extends to the constitution of the family as potential accessories. Surveillance over visiting can be so intrusive as to undermine the conditions of intimacy and relative freedom of expression that would constitute a 'good visit'.

**Cheryl**
You’re in a room (in the C.I.P.) with tables, and you’ve got screws up here watching you. The screws in the middle here, watching them. It’s revolting. ...you’ve got eyes on you in this poky little room. You sit there trying to have a private conversation and you know that everyone is watching you. That’s why men have to switch off their emotions. You’ve got screws here and screws there... ...You’re so scared that the kids might touch something or do something wrong.

**Ray**
At Goulburn the attitude is that you must be a piece of dirt if you are associated with a prisoner whereas here (at Long Bay) they’re very direct with the rules. It’s pretty civilized. T.C, they actually give you a smile. C.I.P. they’re very direct with the rules, but they are not like the guards at the country gaols.

**Hilary**
The way they walk around and some of them just walk around and stop and stare at you for no reason. You feel like you’re in jail too, that you’re one of the prisoners.

**Olive**
Paramatta, I don’t like it at all. You don’t feel ease there. They look at you as though you’re the worst in the world. They have their eyes on you all the time. They’re eyeing you all the time as much as to say ‘well, you’re the prisoners mother so you must be bad’ and I’ve never been in trouble in my life, ever! My son-in-law is a prison officer...! You go in this little room which is the shabbiest in the world. (but) I like M.R.P.. They treat him as a human being and they treat me the same I can walk in and everyone says ‘Hello Mrs D’

The political relations of prison life can be manifestly extended to control over visitors. Women can be punished for attempting to do the work of defending the prisoners rights.
Lauren
C.I.P. isn't really good. ...at the moment I'm having a lot of hassle with the officer there because I made a statement when he was first brought down here and ever since then I've had a real hard time. They were letting other people in before me, making me wait. They are punishing you? O yes, definitely. If it keeps up I'll see the superintendent ...I'm just worried that if I do something they'll make it more difficult for him, which they do. The other day it was the same. They gave out table numbers, and what table number you are, goes before the next time and they let four people in before me. I was table no. 5 not table no. 1 and he kept the table for me so I'd have to leave first. He's been doing it for a while now. I left here crying my eyes out the other day because I had that much to say to my husband, you know, I couldn't believe how quick they cut the visits ... It takes me nearly two hours to come here ... a bus, a train, a bus, which really is time consuming.

Although control over individual visits is important, it is the sense that prison officers and administrators have an arbitrary and overarching control, that can be most debilitating for women whose experience of visiting covers several years.

Rebecca
the worst thing about visiting is the degradation, the way they put you down, playing different mind games, keeping you waiting, clearing around you unnecessarily. the box visits are dreadful. They play on that, they feel above you, not just prisoners but families as well. They want the person broken in spirit, to be seen as the people with the keys, the power, whether you get the visit or not, the letter or not, whether you get a box visit or not.

7. Control over information: uncertainty, the 'rule of anticipated reaction' and the co-optation of women into the structures of power

Sue Smith has argued that whilst the prisoner has the rules and boundaries of prison life explained to him, women have to operate in situations characterised by uncertainty and a lack of information. The mystification of the rules and regulations of prison life means that women visiting prison or maintaining contact by telephone or letters are vulnerable to transgressing unknown limitations.

Virginia
how come one jail has one set of rules and another jail has another set of rules ..., because at Maitland I used to be allowed to take his (babies) bottle in but down here in the C.I.P. section you're not allowed.

Elizabeth

54 Smith (1986)
I touched my man on the leg one day and I was told to get my hand away and I wasn’t doing anything wrong, you know, it’s just normal things that you do at home that you can’t do here. It’s totally depressing.

Beth
when you’re up for parole and someone escapes nobody gets parole that week, nobody... when they had a riot out at the Bay I didn’t know if he was there because they were sending him up to Maitland and they don’t let them tell you what is happening - you can’t hear from them. Everything you hear is by heresy. You don’t understand the message. You ring round frantically, totally in the dark you are. It amazes me how people who can’t speak English manage

Pauline
At first we never got them (his letters) at Long Bay they had to have a number on or something. I’m not sure what it was exactly, but he didn’t know - they were just thrown in a bin - he didn’t know

Control of information within penal bureaucracies is an especially important feature of the power to punish. Moreover it is especially likely to occur in the social space where penal and domestic life intersect. Firstly, the way that penality has developed historically, as an arena of contradictory policies and practices, often implemented as a result of ad hoc decision making, means that the confusion of penal life affects even those people who are the administrators.55

Hilary
One day when they moved him down here they said it was an all day visit. So I came here at 8 o’clock in the morning thinking I can stay here all day with him and when I got here they said ‘You can have only the afternoon visit or the morning visit’. So I said ‘you should get your telephone calls straightened out’, so he just walked away and ignored me. And I’ve spoken to a lot of people and its happened to them

Secondly, the particular power relations within prison means that the custodial officers, the workers with whom prison visitors are most likely to interact, are allowed a great deal of discretion. This arbitrary power of individual warders was a major feature in the descriptions of the uncertainties surrounding the work of visiting for all the women interviewed.

Beth

55 Weatherburn (1986) p.137
I used to think that the way crims react to screws was wrong, but they (prison officers) really do react to childish things, and they glorify in that, they really do... childish things, if you (the prisoner) wear a white tee shirt, you lose your television for three days, if you wear things - and they have this search, when you come out to a visit - and its not universal it's not standard in any jail in the state, it depends on the screw that's on, it depends on the time of day, if its raining, or... ...

However control over information is set much deeper into the relationship between domesticity and penalty as they are constituted as the two sites of morality based upon opposing sets of values. Even within the official class-blind paradigm of the nature of penalty, domesticity is inherently threatening to the legal penal sphere as the two sites are constructed within liberalism. The moral obligations of family life are intrinsically opposed to the impersonal demands of punishment predicated upon universalism. Denying information to partners or parents of prisoners, for example about prison transfers of officially defined 'dangerous' men, inevitably results from this definition of the two spheres as mutually incompatible arenas of morality. When the power relations of class and gender are layered on to this liberal interpretation of social life, and the relationships between prisoners and custodians is interpreted as one reflecting and condensing the humiliating masculinities of political economic life then the control of domesticity becomes an even more embedded aspect of the power to punish. This includes control over information. The accounts, outlined in the previous chapter, of the problems surrounding the mediating and negotiating work of partners and parents of prisoners, demonstrate the practical difficulties that confront women battling a bureaucracy which has control over a one way flow of information. The legal penal bureaucratic control over information has a more diffuse and more powerful impact. When the uncertainty that characterises women's day to day experiences of supporting men in gaol inculcates a diffuse sense of fear of the penal bureaucracy, this fear of transgressing boundaries which are themselves not clear interacts with the other levels of control that are exerted on families of prisoners and 'harnesses' the particular skills of malleability and culpability that underpin the domestic work of coping. The work of maintaining contact with imprisoned men then becomes an exercise in anticipating and avoiding prohibited behaviours but in
situations in which the exact nature of the regulations appear arbitrary. Women then become involved in controlling their own behaviour and the behaviour of their children and of the prisoners themselves not only over specific incidents but through the more diffuse policy of 'keeping your head down' and of not causing trouble. Jones has shown how, in Victoria, this controlling work of women was strongly associated with the career model of imprisonment. When visiting conditions are made less stressful as part of the general improvement of penal conditions in the medium and minimum security prisons, women are at great risk of being controlled to be the controllers.

Cheryl
at Parklea they've got swings and grass. In fact if every prison in N.S.W. was like Parklea, jail visiting wouldn't be so bad. ...whereas in the C.I.P. it's like going back to the days of the penal colonies. ...

Sally
.. I've told him not behave stupid otherwise we'll be back to those days again (when she was only allowed box visits) .. and he has listened to me, he has, because he doesn't want them either

The 'rule of anticipated reaction' then becomes a significant aspect of the intersection between home and prison, but in a complex form. It is not only that the rules are unclear. It is rather the lack of coherence in the rules about the rules that makes visiting an intellectually demanding labour. It is the arbitrariness of the way that the regulations are imposed that is puzzling. It then becomes the work of the people who are the subjects of bureaucratic power to impose meaning on the contradictory and incoherent messages about the nature of imprisonment. Moreover the more tightly the regulatory structures are drawn the more contradictory are the experiences of the people on whom the power is being imposed. It is in the maximum security prisons that women become the targets of the most confusing messages about their work of maintaining contact with imprisoned men. The

56 Jones pp. 348-353
57 Roderick Bell, David Edwards & Harrison Wagner (1969) p. v
accounts of confusion about times of visits, whether there can be a contact or a no
contact visit, whether young children can have spare nappies or bottles during the
visit, or whether cards or presents can be given directly the prisoner, were much
more likely to be told by women visiting men in the segregative moment of
punishment. There is however another peak period of uncertainty. This occurs
during at the normalising end of penalality when men are due for day leave.

Prison, the site of a range of abstract universalistic rationalities, legal-penal,
scientific, economic, is at the same time the site of gross forms of irrationality.
However, to be able to operate in this complex and contradictory sphere of power
relations, women doing the work of maintaining contact with imprisoned men have
to impose meaning on that incoherence and in doing this they are then at risk of being
co-opted through the 'rule of anticipated reaction' into the structures of power within
the prison. However there are other ways in which women are drawn into the
structures of discipline and control.

8. Control of the prisoner through domesticity: the family constituted as 'a reward'

The prison as it is constituted as a series of 'progressive' stages operates as a
powerful form of control on men when they reach the medium security and minimum
security prisons. The segregative end of imprisonment is distinguished in many
ways from the latter more open end of imprisonment. In improved contacts with
the family outside in the exchange of gifts, the numbers of telephone calls, visiting
hours and the conditions of visiting are all rewards for prisoner compliance.
Women's domestic work of maintaining contact becomes intertwined within the
penal sphere in the management of control and punishment in prison.

Jane

or the more rewarding maximum security prisons such as Parklea
The last time I travelled to Goulburn I was about eight months pregnant... travelling down there a few times, I've got down there and been told I can't see him, the superintendent's orders. So I've gone back to the hotel and rang through to find out what the hells going on and the superintendent knows nothing about it and it just turns out it's something that one screw had against my husband and he sort of rang through and said that he can't have a visit because he's on, what do they call it, 'loss of privileges' or whatever they call it, which means no visits ... I had to ring the superintendent and he knew nothing about it. One officer or screw, down there was a real pain in the backside, but all the others was really good.

Sally

Phillip was in maximum ... which affects the visits. I've travelled all the way from Minnamura to see him and get twenty minutes ...... because minimum you can have two to three hour visits, couple of times a week, plus he can ring me two or three times a week. In maximum I'm allowed two visits a week, maybe between twenty minutes and forty minutes ... they're not very good visits, you can't even have a smoke there. Whereas at the M.T.C. you can bring in food ... have a barbecue if you want to ... in maximum you only ring once a week for three minutes, in maximum you're not allowed a cigarette, not allowed to have coffee ... in Silverwater, someone escaped, they put all the lifers back in maximum ... ... in low security gaols they like to play their little game more and more. They threaten to send you back to maximum if you don't do every little thing they want.

The ambiguity of family life is that it both supports and controls men in both economic and penal life. Donaldson contrasts the relative power in the workplace of single and married labouring men in this quote from King:

I know people that have got young families and it's real tough on them, they have to do all the overtime they can ... when the boss comes around, you get up slow, but they jump, because they realise what their job means to them.59

Prison relationships parallel this control through domesticity as it is experienced in the workplace. In the interview with Sally and Phillip, Phillip recounted the difference that his relationship with Sally made after going through ten years of prison life with no family.

Phillip

They couldn't hurt me any other way because before when I done gaol I had nobody outside. I'd been cut off from me family and everyone and I got through me gaol really easy because I didn't have no worries. All I worried about then was the screws and giving them heaps and then with Sally, they had it over you. "You don't do this you lose visits" I had a few box visits through the glass and used to go back to the gaols feeling even worse ... ....

Cheryl Matthews met her husband after he had spent several years in prison and had been a political activist. When he was sent to prison again after he had become a family man his experience of prison life changed.

**Cheryl**

He says now that sixteen months were harder than the eleven years he did and he'd spent eight years of that in the retractables section of the gaol. I think it's partly because he did have a family... ...

**Beth**

I've heard Bernie say 'a cut across the head is better than not having visits...'. They'll stop your visiting. They will do that. They put you on a box visit. They will do that which is a dreadful experience, to be sitting in a wire cage or a glass cage or a cardboard box type thing and talking to the man on the other side. Especially I can imagine if you have little kids: to see Daddy - I mean Daddy's in gaol, but gaol isn't Daddy behind bars, but in a box visit virtually is. They're dreadful. That's a regular visit. They don't have to give you a contact visit. People have fought to get that. And that's only recent.

This form of control is intricately tied to the neglect and invisibility of the importance of domestic life. Even in a penal system which incorporates the several links to domestic life through day leave, parole, home leave, visiting is defined only in relation to the individuality of the prisoner and not in relation to the other basis of morality, the family relationship with parents, partners or children outside. The moral claim based on domesticity, that children have a right to maintain contact with parents, is subordinated to the moral claim of penality, that the authority of the state over the prisoner be dominant. Contact with the family outside is defined as a privilege of the prisoner not as the right of the child or partner outside. The previous chapter indicated that in the powerful moral sphere of penality the right of children to give Fathers-day cards to prisoners was redefined as a privilege that could be taken away. There are other examples of the way that domestic morality, based on particularism expressed through special days and gifts, can be incorporated into the structures of control in prison.

**Beth**

You can take in magazines and books, depending on how much of an activist you are (affects) whether you get them or not. I gave Jim a birthday present in Parklea and he wouldn't have got it only I told him I'd sent it and he fronted them and asked them where it was.
With visits defined as the prisoner’s privilege, men’s behaviour inside gaol can make major differences to the women’s experience of visiting. Women then become coerced in becoming the co-controllers of the men encouraging them to do their time as legally as possible.  

**June**  
I told him, if he touched drugs I'd cut his frigging fingers off. **Why is that?** Well, first, I don't want to spend the next few years coming to this place and second we're planning to get married whilst he's inside and I don't want to give them anything so that they can stop that.

However the move to prisons with better visiting facilities can also be a contradictory experience. Jane's partner was about to be transferred to Silverwater, a minimum security gaol, which is one of the prisons placing most temptation on prisoners to escape (and the kind from which most escapes are made).

**Jane**  
He wants to go to Silverwater but he's worried if he goes to Silverwater he might jump the gate. I've told him, I've said to him "if you do take off, don't come back home" he said "What?" and I said "because I don't want coppers knocking on the door" I've had it for 6 1/2 years and I said to him "I don't want it again" I think it will (be effective) I think it will keep him there (not escape) He’s pleaded with me not to leave him or to take Mark away from him..

Women as co-controllers of men inside gaol also have to moderate their own behaviour. Concern about keeping prisoners out of trouble inside gaol means that visits sometimes get cut short.

**June**  
Some of them (prison officers) are really nice but some of them are pigs. Most of them understand the situation but this guy's just been in too long. He came up to us four times on one visit and Wayne was getting that cranky I said I'd better go or he'll get to you and you'll have a go at him and get into trouble.

It also means that the work of visiting involves not disclosing the extent of the problems that imprisonment imposes on women outside. The Department of

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60 This is a common finding in Smith (1986a) and Jones (1983) theses.
Corrective Services research into prison escapes shows that the prisoner's concern about problems that the family face outside is one of the major reason for escaping. Concern about the impact of disclosure was a major feature of the women's descriptions of visiting. Coping work as negation is very evident in this downplaying of the parallel punishment that is extended to families of prisoners.

Olive
I can hide a lot I never let my son know just how upset I can be. Because if I get upset, he gets upset and if he gets upset that when he gets in trouble

Most of the women said that they did not tell their partners or sons the problems they were experiencing on the outside in order to protect the prisoner either from getting upset or from getting into trouble as a result of getting upset. Prison control then extends outside into women's lives, preventing them from sharing the stress they experience with the one person who can understand the dimensions of the problems that cause that stress.

9. Punishment of women: exclusion

Control in prison life and the humiliation of men can undermine the labour of visiting in other ways. Even though with imprisonment women outside nominally have greater independence and autonomy than men inside prison, the sense of moral obligation to the person undergoing punishment can condense rather than reverse the unequal relationships of family life. The extensive time, labour and economic costs of visiting can then be negated by the control that the prisoner exerts over women outside. The sense of culpability and accountability that underpins the work of caring means that prisoners can exert control over visitors either deliberately or inadvertently. At various crisis points the experience of imprisonment can be so

extreme that the 'selfishness' of men inside dominates the visit. Sometimes this can be a reflection of specific injustices that the prisoner is undergoing.

**Beth**
It does boil down indirectly to affecting the visitors (and their families) because if your man's being degraded, if your man's being picked on or your man's coming out aggro because of somethings that happened and you've gone all that way to see him and all you want is a nice visit and all he can talk about is how much he hates them and how stupid they are, it upsets you and you come back feeling 'O God', you know.

**Rebecca**
Sometimes it (visiting) is very difficult. Sometimes the tension in there sets me off - the general tension. He brings his own tension. I go back outside and feel so depressed.

However there is also a long period when the prison becomes the 'real world' and visitors feel excluded by the processes of institutionalisation that are inherent in the way that penal life is constructed.

**Claire**
About the second month it's 'me, me, me' until I pointed out... and Len would be one of the most unselfish persons on earth - at two months I felt 'everythings going out, nothing's coming back' especially if the man doesn't use letters or phone calls. Prison really does bring out the chauvinistic in them.

**Olive**
They do become accustomed to the jail life, my son said he could stay there another ten years. He's got his own cell, his video, his TV, his little Breville. He's paid for all that. He works. Now and again I'll put $10 in his property, or I'll take him in some socks and undies.

**Teresa**
I get worried. He gets worried and he get upset when I get upset. So I have to hide my feelings. My husband doesn't understand. He's been in there so long. He really doesn't understand. He thinks his feelings are wrong. His normal feelings because they're rubbish. When they go inside they've got to conform to the inside mentality. Then he's closes off to me. He thinks his feeling are wrong. They have these kinky ways of making them feel their normal feelings are wrong.

**Ray**
I feel bitter. After a while the man inside becomes more oriented to the people inside. After all the effort of visiting and contact I feel as if it's wasted. I feel bitter about that.

There has been an extensive literature on institutionalisation and imprisonment following on from Goffman's analysis of total institutions. Kemp, Cheron et al,
summarising this literature in their report for the N.S.W. Department of Corrective Services, reflected the reformist technological arguments current in North America and in Europe a decade earlier. They argued that institutionalisation results from the routinisation of prison life and from the pressures to conform to the prison system and to be 'a good prisoner'. Imprisonment then, paradoxically, leads to 'regression' and undermines the prisoner's chances of making it once he is released. Their report argued that visiting was an antidote for this pathological aspect of imprisonment. However they also point to the evidence in the literature that there is a crisis point sometime between 18 months and two years when the prisoner becomes 'emotionally inaccessible'. Their concern was that this withdrawal 'weakened the marital ties' and the loss of the family as a key element in the 're-integration' of the prisoner into normal social life.

The introduction of less intimidating visiting conditions in the new maximum security prison at Parklea followed the publication of this report. However there was little alteration to the punitive atmosphere of visiting at the older maximum security gaols. Moreover Paramatta, the gaol which was closed with the opening of the new more humane maximum security gaol at Parklea, was reopened after a short time, to soak up the increase in the prison population. This variation in visiting conditions then adds another layer of control into the relationship between domestic and penal life.

10. 'Emphasised femininity' as control: the contradictions of femininity as commitment to, and against, ideologies of class and gender

The feminist materialist analyses of caring work emphasize that that work has to be understood in terms of the symbolic bonds that hold the caring relationship

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62 It would be wrong to imply that the report caused the changes, it is more probable that the report and the improved visiting conditions were both facets of a more general diffuse reorientation to the relationship between domestic and penal life with N.S.W. lagging a decade behind the USA in this reformist stance.
together. Women are controlled to be the social controllers through their identification with the private sphere of reproductive life.

Chapter two outlined the way that this gendered identification was socially constructed through the social policies and practices of the nineteenth and especially the early twentieth century with the policies of the Welfare State having contradictory effects on women. On one hand they mitigated the gross inequalities that resulted from the reconstructed relationship between productive and reproductive life occurring within laissez faire capitalism but these policies and practices of productive life also entrenched women more deeply into the 'emphasised femininity' of wife and mother in a home constituted as an increasingly private sphere of reproduction.

Women's dependence then resulted from economic and social policies in the public and private spheres. At the same time, in this historically specific form of family relationship constructed as a particular nexus between caring and dependence, the work of caring became central to women's lives and to women's definitions of themselves. The controls upon women to be the caring controllers were both externally and internally imposed.

The internalisation of self as what Connell calls an 'emphasized femininity' that developed out of this segregation of private and public spheres was reworked in the cultural packages marketed in consumer capitalism. Although this reconstitution of femininity placed greater emphasis on receptive sexuality, compliance and caring remained basic themes around which femininity was constructed. However the structural changes of this era, particularly those which drew women into the paid work labour market, have also meant that some women have access to a wider range of

63 Graham (1983) p.29
choices in interpreting femininity. Nevertheless, it is 'emphasized femininity' that can be exploited in the State's use of the caring work of women for those people made marginal to productive life. At the same time it is through the work of caring that women, otherwise isolated from social life, are able to achieve a sense of self fulfilment. In Graham's influential 1983 article, she emphasized that the analysis of domestic labour has to bring together the economic and the psychological dimensions of caring: 'caring is the constitutive activity through which women achieve their femininity and against which masculinity takes shape.'

In this conceptualisation of femininity, caring creates a sense of 'meaning, value and significance' through the experience of feeling needed. However there is some question about how essential this is to women's experience of being a woman. Other studies of caring work indicate that femininity can be constituted in other ways that place women at less risk of exploitation. Ungerson in her empirical study of carers of aged dependents, makes the distinction between the women who are caught by the externally and internally imposed controls that exploit their domestic obligation to care, and the women who avoid this obligation. It was largely the carers' greater economic and material powerlessness that placed them at risk of the obligation to care. Similarly Betsy Wearing's analysis of the 'ideology of mothering' indicates that it was women with least economic power who were most at risk of being controlled by the internalisation of a commitment to unpaid nurturing and caring.

Moreover there is some evidence that it is domesticity rather than gender that is significant in constituting caring work as 'natural' labour, in both the external and the internal control over the people providing that work. In Briggs' study, in England

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65 Graham (1985) p.17
66 Ungerson (1987)
67 Ungerson (1987) pp.142-143
in the 1980s, just over a quarter of the carers of elderly relatives were men.69

Although Pascall cites an E.O.C study that indicates that women carers get less external support and do more, and physically harder work, in caring for adult dependents,70 in both Briggs' study, and in the work by Ungerson, it was domesticity rather than gender that was the significant factor in the amount of external support that the carers received.71 The least support was provided to young married women carers, with married daughters receiving considerably less state provision, than unmarried carers, male or female.72 In addition Ungerson found that women carers were much more likely than men to be motivated by 'duty' rather than 'love'.73

There seems then to be a dynamic relationship between

(i) economic powerlessness and/or domestic status
(ii) the commitment to unpaid nurturing work, and
(iii) the exploitation by the state of that commitment, through a series of social policies that foster women's caring role at the same time as they restrict the carers' access to material resources.

The way this dynamic is worked out in the labour of caring for men made marginal to productive life through imprisonment, is especially contradictory. The loss of the 'breadwinner' through imprisonment has parallels with other forms of separation through divorce or death that contrast with the position of women who have the obligation to do the day to day work of caring for invalid or aged adults.

Nevertheless, the obligation to maintain contact with the man in gaol imposes restrictions on women's time and labour that are similar to the practical restraints experienced by carers of dependents in the home. Imprisonment then would seem

71 Arbler & Gilbert pp. 116-117
72 Arbler & Gilbert p.117
to have an inbuilt complexity in the potential for increasing or decreasing women's dependence.

Three recent feminist studies of the impact of penalty upon wives of prisoners have centred their focus on the extent to which imprisonment led to an inversion of these dependent relationships of family life. Their findings indicate that there is no simple picture of an overall inversion of dependencies when women are caught between the two conflicting moralities of prison and home.

Geraldine Wilson talked to twelve wives of a specific group of prisoners in London, short term prisoners most of whose sentences had resulted from offences related to heavy drinking. Of these twelve women, seven had been battered by their husbands and for them prison meant primarily a 'rest from battering'. The other five women found that imprisonment meant that they were able to gain more control over their own lives, with one wife buying a horse for herself and subsequently starting a small horse stabling business, a move towards economic independence that would have been out of the question had the husband not been imprisoned. This article emphasizes the asociological feminist concern with women's independence within the family relationship, but only within the micro relationships of the family. The work of Jones and S. Smith broadens the analysis and shows how gender and class are linked in the lives of women with obligations to care for men in prison.

Jones found that for some women imprisonment reversed aspects of dependence especially in the emotional relationship between prisoners and their wives. The husbands' imprisonment increased their emotional dependence on their wives and this meant that the power to maintain or discontinue the marital relationship was shifted to the

women who exerted far more informed control over the decision about marital re-union than they had over the original decision to marry'.

A major overall conclusion in this Victorian study of wives of long term prisoners was that some women did come to control their own lives in a more independent fashion. However, although fifteen of the 35 women in that Victorian study became the family 'breadwinners' during the man's imprisonment, this did not lead to an uncomplicated reversal of the economic relationship of care and dependence. The women who had previously regarded themselves as 'lucky' in having a companionate relationship made what Jones calls the 'rational' decision to maintain their economic and emotional dependence on their husbands to keep his place open. Jones makes the point that women's commitment to economic dependence was reinforced by the range of penal practices and practitioners as well as the practicalities of living in the welfare state as it was constituted in Victoria at that time. The social policies, the social workers, the husbands and significant others all '... acted to maintain the wives' financial dependence even when the wives themselves questioned it'

This meant that 'the wives were still controlled by their financial dependence even after their husband's departure'.

Whilst in the early 1980s, in the complex layering of penal discourses that constituted penality in N.S.W., the Correctional Services Department was discussing ways of supporting women who wanted to 'keep the husbands place open', Carole Johns experience of being married to a long term prisoner in N.S.W.

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76 Jones (1983) p.522
77 Jones (1983) p.200
78 Jones pp. 499-500 The women whose husbands' 'manliness' had previously been based either on his overt control over the wife or on his success in work or business gained in competence during the shift in relationships during imprisonment.
79 Jones p.201
80 Jones p.201
81 Kemp et al. (1982)
at that time was made more difficult because prison officers encouraged her to separate from her husband.\textsuperscript{82} Paradoxically then Carole Johns points out that she had to fight to retain her relationship with her husband.

Sue Smith’s research originated from her own experience as a prisoner’s wife. From her own standpoint of having gained some independence from this experience, she started out in her research to elaborate on this aspect of the dynamic of family and penal power. Nevertheless, in her conversations with 27 women with family obligations to men imprisoned in England, she found that there was little eagerness on their part to exchange their economic and emotional dependence on their husbands for greater independence.

Only 8\% of the women preferred their new independence and wished to maintain it even when their partner was released. The majority voiced an overwhelming longing to ‘Let him take over everything again.’\textsuperscript{83}

Smith shows how inequalities of gender and class are condensed as they are played out in the penal sphere and makes the point that even the women who are forceful and articulate feel powerless to challenge the limitations and responsibilities placed on them because of their political ‘invisibility’ and social isolation.\textsuperscript{84} Like Hounslow et al. in N.S.W. in 1982, she argues that in order to overcome the loss of confidence brought about by the gross material and social punishments of being a wife or parent of a prisoner, what is needed is a form of state intervention centred around a point of advice, support and information for prisoners' families. She found an overwhelming desire amongst the women she talked with for this form of State intervention.\textsuperscript{85}

It was in the era of consumer capitalism, prior to the retreat from welfare, from the late 1960s to the early 1980s, when there was an expansion of political protests challenging

\textsuperscript{82} Carole Johns (1980) p.14
\textsuperscript{83} Smith (1986 a.) p.12
\textsuperscript{84} Smith (1986 a) p.13.
\textsuperscript{85} Smith (1986 a.) pp. 8-9
a range of constraints and inequalities, that in London, Sydney and in all the 'prison cities' in the Netherlands, there developed small groups of women with family obligations to prisoners, who attempted to provide this form of support for each other.

In London the South London Wives Group was established in 1965. In Sydney, Carole Johns was one of the founder members of the Families of Prisoners Associations in 1977. The major material and social burdens that are imposed on partners of prisoners, and the very dynamics of prison life, however, mean that self support groups depend on the energies of a small number of especially committed women unless there is some level of external support. In the words of the 1982 Children of Imprisoned Parents Report 'too often self help groups are expected to be self -annihilation groups.'

Of these three groups only one is still in operation. This is the Belangengroepen Vrouwen van Gedetineerden in the Netherlands. It is funded by the Netherlands probation service but operates autonomously in a network of small groups in each of the prison cities in the country. The history of the Families of Prisoners Association is detailed in chapter five. The South London Wives Group is no longer in operation. The Prisoners' Wives Group, a more recent London organisation, funded by the Greater London Council and the Home Office, was based in the visitors centre at Pentonville prison until the opposition of the prison officers led to its removal to a basement room close to Pentonville prison. However the G.L.C. funding was cut in 1986.

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86 Crostwaite. (1975) p.275
87 Hounslow et al. (1982) p.7
89 Hounslow et al. p.149
90 Relaties van Gedetineerden (1986)
91 In conversation with 'Pauline' and 'Gloria' the two organisers of the group January, 1986
92 In the U.S.A. the 'Women in Crises' group in New York and the 'Connections' groups in Chicago and San Francisco have been providing practical help and action centres for families of prisoners since the early 1970s. However there is an emphasis on developing 'adaptive' skills of coping in the literature on these groups rather than political skills of negotiation. Mary Schwartz & J Weintraub (1974) pp. 22-26
All of these accounts\textsuperscript{93} emphasised the fragility of the group-based resistances of women in the population 'families of prisoners', to the grosser impacts of imprisonment on themselves and their families.

One other form of resistance to the control of femininity is for the outside carer to give up the relationship with the prisoner, to reject the family obligation to care. Nancy Anderson found that the response to the imprisonment of their husbands for fourteen of the 55 women interviewed in Victoria in the mid 1960s was that they 'were pleased to see his backside'.\textsuperscript{94} The loss of family relationships (i.e. the loss of the unpaid work of the outside carer) is especially probable in the case of long-term prisoners.\textsuperscript{95} One argument has been that it is the institutionalisation of the prisoner and his emotional turning away from the partner or parent outside that leads to this break up.\textsuperscript{96} However this is not necessarily an easy option for the women outside. Both the London and the Netherlands groups found that severing the relationship with the prisoner was one of the reasons that women needed support from the group.\textsuperscript{97} Jones also found that it was women who had wider social support who were able to make this break.\textsuperscript{98} In the 1986 N.S.W. interviews one partner of a man constantly being arrested and reimprisoned found that the women's group in the women's' refuge, together with the Al Anon, gave her the support she needed to be able to redefine the caring and dependent relationship she was caught up in:

\textbf{Katherine} Five children. Husband imprisoned several times in past fourteen years

My husband attended A.A. and I went along to a few meetings of Al Anon and one lady said 'you're not to blame and he's using you as an excuse.' and I come to believe it because there were times when the kids weren't even around so he'd still use that excuse 'that I had to drink because I was thinking about you all the time'. ... I was like a child... spoke to and spoken to and do what I'm told. ... Now I can stand up and I can say 'No', you know, just through this friend's advice. ... This time 12 months ago I'd have been too frightened to even mention not going up to the jail and visit him. ...while he's in jail I was frightened, that he could do anything there, it was when he come home. There's always that threat that he was going to kill me if ever I left him... ... Its hard to let go. Everyone said you know for the

\textsuperscript{93} this is not a necessarily definitive account of all 'family of prisoners' groups. The very characteristics of the groups that make them fragile also means that they are relatively invisible

\textsuperscript{94} Nancy Anderson (1965) p.19.

\textsuperscript{95} Jan Aitkin & Glenda Arterell (1983)

\textsuperscript{96} Aitkin & Arterell (1983) and Phillipa Merriman (1975)

\textsuperscript{97} in personal conversation (1986)

\textsuperscript{98} Jones p.433
kids sake. That's one of the reasons why I let go for the kid's sake. I can't bear for them to see their father abuse me in front of them.

Because wives separate from men during imprisonment this does not necessarily mean that those men are doing their time with no caring support from women.

Firstly, one universal finding of the many reports of prison visiting is that it is the prisoner's mother who is the consistent carer. Mothering is the most powerful manifestation of femininity as uninterested love. Whereas both men who are caught up the recidivist cycle of arrest and re-arrest and men doing long term sentences are likely to lose their original partner, it is the prisoner son/mother relationship which is 'the most durable'.

Secondly, Ungerson describes the commitment to caring that femininity exposes women to, as then outlasting the love that originally sustained it. She was talking about the tending work of caring for aged or invalid adults but this commitment is evidenced too in the work of caring for men in gaol. The 1982 Children of Prisoners Report records that women separated from men before imprisonment are among those who do the work of visiting and maintaining his contact with his children whilst he is in prison.

Thirdly, some men are able to establish new family relationships with other partners.

Katherine

... it's hard to let go (after deciding to separate from her husband in jail for domestic violence) Everyone said, you know, for the kid's sake. That's one of the reasons why I let go for the kid's sake. I can't bear for them to see their father abuse me in front of them. ... It's hard though. It's difficult. No matter what you say their fathers the best. ... he's already got (another) girl friend ... his girl friend lives at Bathurst in the same house with me (laughing)

99 Frances Lovejoy and Eve Barboza (1987) in their review of the 'families of prisoners' literature.
100 Ungerson (1987) pp 144-146 & ch. 5.
101 Hounslow et al. p. 26-27
Whilst imprisonment can reverse some aspects of the caring-dependent relationship, Jones found that the several injustices that men suffered, especially in the early period of arrest, sentencing and segregation, served to shake women's initial belief in the legal penal system and in doing this reinforced the women's support for the man. They redefined their husbands as victims of an inhumane and over harsh punishment.102 This process emphasized the importance of the women's commitment to the work of caring.103 Several of the women in N.S.W. said that they had experienced this same reappraisal. They had usually condoned the general principle that their son or partner should be punished by the State.

Olive Son in prison for second time
I think they should have to pay for what they do wrong. Even though it might hurt the family. If they didn't you wouldn't be safe to walk anywhere. They should go to prison but they should be segregated the 18 and 19 year olds from the others. He went through a morbid stage that the world was all against him and I said 'Well you make the world'. You've got to live by the rules and the world doesn't owe you a living so you've got to get out of that, and start thinking about it.'

Beth Office supervisor, met her partner - a prison activist - after his imprisonment
I used to think that the way crims react to screws was wrong ... ... .I'm still a square head too.

Margery Son arrested for a drugs charge
....I'm glad he's caught. I'd rather he was was caught than dead....

Cheryl Partner arrested for a murder of which he was innocent
I believed in the law for such a long time, and it was taken away from me in just one night (of the arrest)

However the implementation of that punishment especially through the earlier moments of arrest, sentencing, early imprisonment and classification, and in the later semi-judicial processes of applying for early release was so manifestly unjust in their eyes that they reassessed their own position vis a vis the State.

103 Jones (1983) p. 300
Margery
Going to the court you've got to go down the step with the police man and his bail conditions have got to be read out to you and he was looking over, looking over Thomas's figures. He (the policeman) was going like this, like this, with that look on his face as though to say 'o what a lad, o fancy him getting away' I said 'do you know addiction's a disease?' he said 'the only good junkies a dead one, the only one who won't use again is a dead one ... ... ... yes, and he was a lovely handsome young policeman and I thought 'O, isn't it sad' and I said 'have you ever been to a Narcotics Anonymous meeting?' and he said 'sagh, I've got better things to do' I said 'why are you a policeman' he said 'lady, I'm in it for the money' O, it was just his whole attitude. He was like ... he didn't treat me as vermin, but as if Terry was"

Femininity then has a double potential. It can commit women to greater labours of nurturing work but it does not necessarily mean that women do not act as agents making some attempts for control in their own lives. The work of caring for the prisoner involves women in contesting, at an individual level, the class inequalities that are mediated through the control of the State. However even though their experience meant that they re-identified the penal situation as one of unequal power, the sense of injustice that this evoked usually meant that women became more committed to the individual work of caring for, or acting as advocates for, the man in gaol. However some women specifically identified collectivity as a possible basis for change. It was Cheryl Matthews experience of the injustices meted out to Bernie Matthews that led to her commitment to the Prisoners Action Group. Similarly Beth's contact with Bernie Matthews and her own experience of her partners unjust treatment drew her into greater contact with prisoner activism and the need to defend the rights for greater prisoner-family contact that had been fought for in the 1970s

Beth
Box visits ... they're dreadful. That's a regular visit. They don't have to give you a contact visit. People have fought to get that. And that's only recent. In the last five years, I'd say

Cheryl Matthews experience of the injustices of policing in the period of arrest was shared by other women and in Tricia's experience the concern for her partner was so strong as to provoke a class response:

Tricia
... the police at Penrith ... what I'd like to do is to get a whole lot of women who are in the same position as me, get them altogether and picket Penrith police station, just to bring it out into the open what goes on there ... there are a lot of ... women who know, who've been through what I've been through. Penrith station, is bad, Sergeant X ... there are a lot of women who know ....

However there are both pushes and pulls for collectivity and co-operation between women in the same situation. Having a partner inside gaol means people are especially likely to want to preserve a sense of being different to other wives:

**Dulcie**
But you have to be careful who you talk to - our husbands are white collar criminals - some of those women you wouldn't want to associate with

Other women deliberately resist this initial feeling of being different and emphasize the bond that the situation creates:

**Beth**
When you visit the same jail for a long period of time and you see the same faces, it's quite easy to strike up a friendship, and part of me backs off, saying I don't want to, because something inside me keeps saying 'Leonard and I are different' and the other part of me - I've given lifts to people going to jail and going back ... I think women in that situation do have a bond, it's an unspoken bond, they understand the situation where a normal square head (wouldn't) and I'm still a square head too ..

Maintaining support for the man inside can also mean isolation. The especial emotional pressures on imprisoned men can mean that he demands an exclusive loyalty that excludes contact with other women:

**Audrey**
My husband doesn't want me to get too friendly with the other men's wives, but if I didn't come here to the Family Support Centre I wouldn't be able to manage. He doesn't realise ... it's only by talking to Elisabeth and the other women here that I get to know ... its information that's important ...

Imprisonment intensifies the potential for emotional blackmail between carer and dependent that other carers of dependent relatives experience. The extraordinary material and emotional pressures on women as well as the social isolation inherent...
in being a prisoner's partner can undermine attempts to act collectively. Betty Hounslow et al in describing the pressures on the five women who started the Families Of Prisoners Association in the late 1970s

(in all) self help groups ..., individuals wear themselves out, sacrificing personal needs to the group cause. *Burn out* rates are high. The usual problems of non-funded community organisations were compounded in FOPA by the continual emotional and material strain which, of necessity, characterised the lives of its members. As well, 'prison-wives' have more than the normal demand on their time and energy. Maintaining a relationship with a man inside is a time consuming business. Energy levels are quickly depleted.\(^{105}\)

The material and economic burdens however can became the basis for the collective action. Esther was one of the women who had met her partner during his imprisonment. That is to say she was one of the women who had made a rational decision to provide the labour of caring for an imprisoned man. Her commitment to femininity in terms of a commitment to providing uninterested nurturing and care for a prisoner was clearly also associated with a sense of control and agency not compliance:

**Esther**
Up at Cessnock I knew people that were going up there, I'd organise to meet them and we'd all jump in a cab and pay a certain amount each which cuts down the cost a lot. Then we'd all share a caravan which as pretty good. Then when I bought a house up there they moved in some of them with me so it was pretty good. Everybody always got somewhere to stay there even if they have to camp on the lounge room floor. At one stage we had 15 people there. We had air mattresses all over the kitchen floor all in the lounge room. The kids would come, run round, wake us up early in the morning ...and I had blokes at Cessnock write to me and say 'can you put my lady up and we made a lot of friends, that way, we had a good time...I love those people and they feel the same about me they're like my own sisters and if I've got a problem I want to talk about all I've got to do is go to them.

Ten per cent of the long term prisoners in the Aitkin and Gartrell study had established their relationship with their partners whilst they were in prison.\(^{106}\) Six of the women in these interviews had met the prisoner after he had gone to gaol. This commitment to take on the work of caring for someone even without any earlier non-imprisonment experience of being together and establishing a loving relationship indicates the strength of the force of femininity and domesticity on women. It is

\(^{105}\) Hounslow et al. (1982) p.149
\(^{106}\) Aitkin and Gartrell (1983) p.6
important to emphasize here that it was these six women who were among the most articulate and forceful in their work of supporting the man inside by mediating, negotiating and contesting the inequalities of penalty. Femininity then is not necessarily constituted as compliance. The ambivalence of family life, that it can act as a source of control yet also be the basis for resistance is clearly demonstrated in the work of women like Beth and Sally and Esther who took on the labour of loving after their partner had been imprisoned. Their especially determined commitment to femininity then locked them into the contradictory roles of being moral controllers but also their partners' primary advocates in contesting the injustices of penal life.

Feminist analysis has been described as confronting the false ordering of reality that is based on the dualisms of modernist social science: for example of individual/society, of agency/structure. These dichotomies rest on the principle of a unitary standpoint of individual agency, whereas women's experiences, as are those of other minority groups, are embedded in more manifestly multiple and self contradictory identities. Agency in orthodox social science has been associated with the heroics of bourgeois individualism. However the moral hierarchies of Rawls, Maslow, and Kohlberg have little explanatory value in interpreting the contradictions of the complex moralities which women such as Esther, Katherine, Sally, Cheryl or Beth experience in their day to day lives as individuals with family obligations to imprisoned men.

Conclusion: the complexity of control

Foucault's description of the prison as a configuration of the four elements: the punitive, the disciplinary, the network of knowledge and the reproduction of criminality is clearly applicable to the penal system as it operates in N.S.W. The complexity of the contradictions of control that develop out of this configuration

107 Yeatman (1990) p.15
becomes even more condensed in that social space in which domesticity and penalty intersect.

Prisons are sites of institutionalised violence. They constitute the social space where ascendency of one group of men\textsuperscript{108} over the other is explicitly and legitimately based on brute power. Moreover in countries that are not at war the legal penal sphere is the only site in which rational morality can be legitimately expressed as the physical coercion of one group of men over another. In Genevieve Lloyd's examination of the connections between the masculinity of war and the masculinity of the ideals of citizenship in the Western philosophical tradition she describes 'the state's capacity to wage war as the ultimate source of the self conscious individuality of its citizen... ...' because to be ready to die in war is to achieve the final victory of rationality as domination over nature.

It is not surprising then that the era of Australian history following the withdrawal of troops from Vietnam was also the era of an increasing militarization of police and prison life. This reconfiguration of power, morality and rationality coincided too with the reshaping of the familial political economy both in Australia and in the U.K. when the restructuring of the labour market increased the proportion of workers marginal to productive life. Moreover this period was also the era of an increasing commodification of daily life with its parallel emphases upon the values of consumerism and impetuous desire. In chapter two the argument was made from the review of the literatures on domesticity and penalty, that this restructuring of the wider familial political economy was associated with the reshaping of penalty as a complex combination of 'soft' community controls, and 'hard' militarised imprisonment.

\textsuperscript{108} Although the domestication of N.S.W. prisons has led to the employment of some women in custodial, corrective and administrative positions, masculinity is the continuing dominant characteristic of prison life in N.S.W.
With the militarization of the legal penal sphere, the deaths of prison officers and policemen on duty, however rare, take on a major symbolic importance. In their deaths they achieve a public significance far beyond that accorded to public figures of higher public status, meriting funeral attendances of extraordinary pomp and splendour. They symbolise the willingness of all policemen and prison officers to face death in their day to day interactions with the 'enemy within'. Their deaths transform all prisoners however mild into potential killers. The prison is constituted as the site, not only of the denial of citizenship to the prisoner but the achievement of the highest form of citizenship to prison officers as representatives of the State.

Inversely prisoners who have killed prison officers, for example, Darcy Dugan or Peter Schneider, take on major symbolic power invoking instant political activity by the police and prison officer unions over any minor shifts in their categorisation as anything other than dangerously threatening killers. Brown and Zdenkowsky indicate that this process of myth making extends out into the wider social world. They detail the way that Darcy Dugan became 'open slather for the yellow press' which transformed him into the icon, 'the enemy within'. The point they emphasize is that when Dugan attempted to sue for defamation over some of the grosser false press reports, the full High Court, (with only the one dissension, Justice Murphy) deprived him of his legal status to sue. 'He ceased to be a legal subject'.

Lloyd emphasizes the way that domesticity, in the intertwining themes of ethical self-consciousness, death and gender, in Western liberal thought becomes both 'what is left behind' and 'what is drawn in'. These contradictory processes are very evident in the way that domesticity is incorporated into the penal sphere. The discourse of prison life as the sphere of courage and physicality coexists, and very uneasily, with the alternative interpretation of penality as the site of the scientific management of reformation. Nevertheless the post Nagle confrontations between the representatives of the two schools in the N.S.W. penal system indicate that the introduction of a

109 Brown & Zdenkowski p.294
separate set of specialist experts in the field of human management has paradoxically
reinforced rather than undermined the relationship between prisoners and prison
officers as that of soldiers and enemies.

In this increasingly condensed contradiction between the two moralities (domestic
and legal-penal) that underpins the reproduction of the social relationships of
corporate consumer capitalism, the experiences of women who do the work of
reproducing the 'self' of men degraded by the punishment of imprisonment becomes
an extraordinarily condensed version of the duality of social control that impinges on
the day to day lives of all women: that they are socially controlled to be the
controllers.

The prison, as the site of the contradictory discourses of segregation, correction
and normalisation, is part of the wider network of penal control comprising a range
of forms of surveillance and 'care' operating out in the community. In the
experiences of women caught between the two moralities, the familial obligation to
care and control imposes further contradictions on their daily lives as partners or
parents of men on bail, parole, probation, day release or home imprisonment. The
way that the contradictory experiences of penality and domesticity are reworked
when punishment is extended to men outside of the institutional prison is examined in
the following chapter.
CHAPTER EIGHT

LABOURING, LOVING, CONTROLLING: domesticity and 'community control'

Marriage and family are the most effective correctional institutions we have.¹

Introduction

Chapters five to seven indicate that Foucault's version of the prison, as a configuration of the four elements: the punitive, the disciplinary, the network of knowledge and the reproduction of criminality, is applicable to the penal system as it operates in N.S.W. not only in the day to day lives of men in prison but also in the extension of the contradictions of punishment to the parents and partners of imprisoned men. These four elements of penality also interweave but in an even denser configuration in the experiences of women who have the obligation to care for prisoners doing time outside of the walls of the gaol.

Increasingly, over the period from 1960 to the late 1980s the moral sphere of domesticity was becoming incorporated into the moral sphere of penalty in N.S.W. in more manifest forms. This chapter reviews the literature that demonstrates that the site of social control in N.S.W. was more and more likely to be the home in terms of both the numbers and the relative rates of people under some form of penal control and surveillance.

There are two models of the relationship between the prison and the home that form the different frameworks for describing the dynamics of this new partnership between the two incompatible spheres of morality - penalty and domesticity. The difference between the two perspectives can be graphically presented as a contrast between a unilinear and a feedback model of social control.

Models of social control
The relationship between the Home and the Prison

I. The techno-reformist linear model

PRISON

HOME

Segregative    Corrective    Normalising
II The radical critique of penality posits the relationship between the two spheres as having a cyclical component: an 'iatrogenic feedback loop' between prison and home.

Chapter two referred to Cohen's introduction of the term 'feedback loop' to describe the relationship between control in the community and imprisonment. He describes the increase in the use of community based controls through a fishing net analogy. However a more useful metaphor in the case of families of men on parole, probation or other forms of home based surveillance in N.S.W. might be to describe the home as a 'fishing pond', with homes and local neighbourhoods of ex-prisoners making particularly useful catchment areas for the fishing expeditions of policemen. The relative merits of the two models are examined through the accounts of the twenty seven women who have had some experience of living with men on conditional liberty. However prior to investigating the impact of the expansion of penalty into the home as it affected the day to day lives of women as partners or parents of sentenced men this chapter outlines the various forms of extensions of penal control as they have occurred in N.S.W. in the past three decades.

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2 S. Cohen (1985) pp. 55-56
The extension of penal control outside of prison walls in N.S.W. 1950s to 1980s

General

The unilinear model is the dominant paradigm framing the official discourses of penal control in N.S.W. The 'modern' form of penal control as a finely graded series of punishment based upon detailed distinctions of times and hours that can be spent either inside or outside of prison walls has been a feature of penal change from the 1950s. It is common for liberalist histories of penality to locate parole as part of the continuing history of community based controls since the ticket of leave days of the First Fleet. The description of the constitution of the two spheres of social control outlined in chapter two however indicates that the extension of punishment and control into the streets and homes of everyday life took on a specific form in the period of consumer capitalism and the retreat from welfare that characterised the familial political economy of the 1950s to the 1980s.

There were several ways in which penalty extended outside of prison walls in N.S.W. by the early 1980s. These included:

Back End programmes:

Day Leave
Work Release I
Work Release II (Home Release)
Parole
Release on License
After care Probation

3 Lorna Bradwell (1972) Ivan Vodanovich (1988)
Front end programmes or alternatives to imprisonment:

Probation
Community Service Orders
Day Attendance Centres
Periodic Detention
Bail

The various programmes were introduced with varying degrees of contestation. Their introduction or remodification represent a series of victories or failures in the several battles between the liberal reformists of the rational scientific management school of penal control and the less cohesive group of politicians, judiciary, penal administrators, or energetic pressure groups who loosely comprise the 'law and order' school in the State. Very often the key decisions about their introduction or modification were made not on the basis of clearly spelt out ideological positions but as a result of ad hoc decision making as responses to specific political crises.

It is in the debates over the introduction or modifications of these programmes that the assumptions about the contraditoriness or the complementarity of domestic and penal life as the two spheres of social control can be disentangled. The ways that these official discourses then coincide or conflict with the experiences of women caught in the social space where the two spheres intersect is examined through the accounts of the twenty three women whose partners or sons have undergone some form of 'community control'.

There was a third more radical group of protagonists in this era comprising prisoner action groups and their outside supporters. However their impact was felt mainly in terms of the way the more powerful scientific or legalistic authorities responded to them rather than in their direct control over penal policies and practices. Janet Chan cites Zimring's comment that 'penal reform was dramatically demonstrated by prisoners, intellectually strengthened by liberal academics, and opportunistically exploited by law and order politicians' Chan (1986, p 446)
General

There were two key eras in the construction of the new partnership between prison and home as the two sites of punitive surveillance in N.S.W. The first from the 1950s to the mid 1960s reflected the optimistic positivism and the importance of the scientific rationalists. The significant term characterising the ideology underpinning this era was 'rehabilitation'. Through the promise of a reduction in recidivism by a focus on the individual psychological characteristics of the offender the 'human scientists' made a major influence on penal policies that increasingly linked the prison and the home, firstly through the corrective and especially the normalising moments within prison and then through the extension of penal surveillance out in 'the community' which in the majority of cases meant the prisoner's day to day life at work and in the home. 'Rehabilitative' principles of the normalising processes within prison, and the extension of control after prison, were linked explicitly by the Superintendent of Berrima Training Centre in 1949: 'To release these prisoners without some form of further guidance is like pruning and cultivating a tree until it promises to bear fruit and then neglecting it'.

The network of knowledges and psychologically oriented practices comprising the 'rehabilitative' discourses were designed to extend from pre-sentence, through imprisonment and into the 'after-care' of people defined as offenders. Initially in this period it was assumed that there would be perfect accord between the legal rational authority of the judiciary and the scientific rational control of the executive:

...judges feel deeply the responsibility of sentencing men and women without adequate information as to the background, the upbringing, the education and the mental condition of such persons. All these data will be available to judges before the sentencing of convicted persons, but more than that, the scheme will embrace after-care and supervision of persons on probation for any period.

1950/1951 was a key year in the establishment of this orientation. In that year prisoner after-care, adult probation and the Parole Board were all established. Frank Hayes

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7 Hayes (1987) p. 18
sensitive reflections on the initial introduction of parole in 1951 convey the atmosphere of the discourses surrounding the beginnings of the scheme: a belief that Australia was lagging behind the more 'progressive' penal systems of America, a commitment to case work based on a cloudily defined professionalism, a belief in rehabilitation through individual effort, the justification for building up dossiers of information on the positivistic basis of the promise of the potential moral redemption of the offender, the constitution of the main structure of the service as the mobilisation of voluntary community based resources, an acute sense of the practical limitations of working within a penal authority oriented to segregation in which, for example, the function of the first two parole officers was at first believed to be that of Payroll Officers. Hayes indicates too that parole was constituted as an inferior form of profession in that the first two parole officers (he and one other) had previously failed in their application to join the probation service. On their appointment in 1950/51 they had:

...had no experience in dealing with criminal offenders. They knew nothing of institutional life, nor of working within a public service bureaucracy, especially one where authority and control were imperatives ... (they) held a belief that most individual offenders ... in the long run could make good if encouragement, and relevant practical help backed by community support was available.... ...

His autobiographical account emphasizes the liberal individualism in this remedial approach and from this period on there was a sense of parole as representing a liberalism embattled within an antagonistic conservative and punitive organisation, that continued into the 1970s naming of the welfare space in Long Bay as Camelot.

By the late 1960s and early 1970s however the promise but not the authority of the scientific managers was being undermined as the academic and administrative debates
about penal control in N.S.W. reflected the impact of the American and European discourses exemplified by the powerful two words of Martinson's critique of penal positivism: 'nothing works'. The N.S.W. experience also paralleled the dynamics of the overseas prison experiences as the prisoner struggles within the gaols 'blew the cover on the 'rehabilitative ideal'\textsuperscript{16}

However in the second era, from the late 1960s on, the scientific managers were able to retain their claims to authority within the legal penal sphere by reworking the debates about recidivism and rehabilitation away from control over the individual in terms of his earlier psychological predisposition to criminality to the revised claim that they were able to provide programmes of control over the offender that would ameliorate the criminogenic effect of prison itself. It is notable that the major expansion of penal control in N.S.W. occurred after this redefinition of scientific rationality. Thus the N.S.W. experience neatly reinforced Foucault's account of the way that knowledge and power intersect in penal life with the very failure of imprisonment reproducing the conditions through which the experts are able to reassert their claims to authority.

\textbf{Work release, day leave, weekend leave}

The work release programme introduced in N.S.W. in 1969 was heavily influenced by the schemes introduced twenty or thirty years earlier in the United States and Northern Europe.\textsuperscript{17}

By the late sixties however home leave and work release programmes were specifically introduced as 'normalising' programmes to counteract the criminogenic and the infantilising aspects of imprisonment. In their report on life sentence prisoners two

\begin{itemize}
\item \textsuperscript{17} M. Dewdney, K. Swaris & M. Miner (1981) p.2
\end{itemize}
members of the Indeterminate Sentence Committee\textsuperscript{18} cite the views of one gaol superintendent that to manage to exist in prison these prisoners have to

learn to manipulate both fellow inmates and the gaol system. In short they have to learn a fair amount of criminal behaviour - manipulating people, cheating, lying, standing over others, etc. \textsuperscript{19}

The same issue of the tension between segregation and reintegration is represented but from a slightly different perspective by one prisoner talking to Hounslow et al in the 1982 study of children of imprisoned parents: They belt you for nine years and rehabilitate you for the tenth\textsuperscript{20}

The normalising process is presented as a calculated and scientifically produced programme necessitating two years of gradual and measured re-entry into 'the community'.

From trials and past experience it has been found that gradual re-entry into the community should be spread over approximately two years (that is from the first day leave until full time work release). If it is any shorter inmates suffer too much shock at the sudden changes in their lives. If it is any longer than two years then the pressure of being neither free nor imprisoned becomes too great.\textsuperscript{21}

Although the graduated releases through day leave and weekend leave were introduced within the treatment paradigm promoting 'reintegration', they were also quite explicitly legitimated within the discourses of punitive control. In the 1976 interstate conference on penal philosophies and practices that had been organised in response to the prison crises of the early 1970s, the 'home leave' schemes in New Zealand were recommended to Australian penal administrators because '... home leave has turned out, as we expected, to have a strong controlling effect on the institutional conduct of inmates.'\textsuperscript{22}

\textsuperscript{18} both were former members at the time of the report
\textsuperscript{19} Jan Aitkin & Glenda Garrell (1983)
\textsuperscript{20} p.65
\textsuperscript{21} Aitkin & Garrell p. 136
\textsuperscript{22} W. Garrett. (1976) p.60.
The work release programme explicitly links the spheres of domesticity and penalitly. It is specifically domesticity in terms of the man's role as income earner providing for his dependents that is central to the discourse here.

The advantages (of the scheme) are best realized when men on work release are placed in jobs carefully suited to their abilities and interests, when provision is made for home visits, when the offender contributes towards his board at the institution and sends money to his dependents thereby defraying some of the costs of prison administration, of social services to his family and contributing to revenue in the form of income.23

The first three prisoners on whom the programme was initially based were all 'married with dependents'24 and even after the selection criteria were widened and the number of prisoners in the programme had grown to over 20, the prisoner described as being the ideal candidate for entry into the work release programme was still defined as: 'a stable family man with dependents ... ...25

Domesticity, penalitly and morality neatly intersect as well in a 1980 change in the programme when the previous 'unsupervised involvement of the inmates in community groups' was compared unfavourably to this revised form of family involvement:

Church services are held at the old Church of St. Augustine within the complex grounds by chaplains from Long Bay on Saturday and Sunday afternoons. Friends and relatives are permitted to attend the services with inmates.26

It seems appropriate that in this scheme which locates the reintegration of the prisoner through waged work and a recommitment to the role of family breadwinner it is Protestantism that legitimates the family's entry into the prison.

What is prohibited in this 'normalising' programme however is access to the alternative, more usual site for the celebration of family reunion, the 'pub'. As in all other forms of works release programmes re entering the community in the N.S.W. scheme specifically

23 M Dewdney, K Swaris & M Miner p. 19, citing the initial objectives of the scheme set out in the 1966 legislation.(my emphasis)
24 Dewdney et al.
25 Dewdney et al. p. 25
26 Dewdney et al. p. 25
excludes re entering one of the most normal sites of communal life. Jimmy Boyle describes the risks of humiliation for the prisoner and his family when prisoners celebrate their conditional release back into the community by behaving normally in this 'normalising' phase of penality. On his entry to the Edinburgh work release prison one of his fellow prisoners...

... describes this particular part of the sentence as 'running the gauntlet'. He expands on this saying that if a few minutes late on returning, or smelling of drink, you get thrown in the punishment cells. He described one occasion when it happened to him. He arrived back after a couple of pints but took some mints to cover the smell... they took him to the punishment cells and kept him there overnight. ... on occasions they've been in a pub and a prison officer has walked in and they've all tucked under the table. ... if any of them are with their girlfriends. It is embarrassing. 27

What seems clear then is that the 'normal' domestic life as it is constituted within the programme does not mean 'normal' life as the prisoner and the woman who is the partner or parent of the prisoner might interpret it. In the N.S.W. scheme in 1981 church going was allowed but 'community' otherwise extended only to the home, the work place or these specifically defined forms of recreation and leisure that reflect a very specific morality disguised as 'normality':

extensive community involvement was encouraged through provision of weekend leave to be earned by participating in community service projects, organisation of sporting teams, encouragement of evening education, attendance at local technical colleges, local church services or district meetings of Alcoholics Anonymous.

Unsurprisingly then it is a shift to middle class values that is used as the criteria for success in one of the evaluative studies that the N.S.W. report on work release approvingly cites

two well controlled research studies provide some preliminary data on the effectiveness of particular work release schemes in changing inmate attitudes and behaviour. ...in Florida in 1973 Waldo, Chiricos and Debring concluded that work release participants do not have significantly better attitudes ... the attitudes that were studied comprised ... achievement motivation .. self esteem and a shift from 'lower class' to 'middle class' orientations. 28

27 Boyle p.273
28 Dewdney et al. p 13.
The narrow interpretation of 'normality' as the change of prisoners' attitudes to a set of values fitting to a 'middle class' life style means that the focus of the evaluation of work release glosses over the extensive practical problems that partners or parents of prisoners can face in this manifest intersection between penal and domestic life. Whilst the report on the N.S.W. Work Release Scheme, emphasized that half of the prisoners 'were favourably disposed' towards making payments to dependents, in the appendices of the report (but included without any further comment or analysis) is the concern expressed in a comment by the Superintendent of the scheme, that the income of the partner of the prisoner can be in jeopardy as a result of the complex intersection between prison, social security and domestic life brought about by this normalising moment of penalty. Penalty comprising segregation, correction then normalisation draws the prisoner into a cycle of restriction from, access to, then restriction from, waged work. The income of the family outside then follows a parallel cycle but in this case the cycle is one of dependence on social security, restriction on access to that form of material support when the man's income from the work release scheme is supposed once again to become the family's support, then once the period of imprisonment is at an end, and his wage from the work release scheme is lost, the partner outside has to re apply once more for full support from social security. In some cases this led to a lengthy period without resources: 'Superintendent's evaluation of the (past) scheme - problems for prisoner: on removal, the wife waits for six weeks for social security payments.'

Parole and after care probation

Release on license under the control of parole supervision constituted as professional care was introduced in 1951 in N.S.W. but it was with the Parole of Prisoners Act in 1966 that prisoners were released as parolees. The concomitant statutory obligation

29 prisoners were often not able to keep the jobs after release 'for geographic reasons'. N.S.W. D.C.S. Annual Report (1985) p 38.
30 Dewdney et al. p. 127. There was no indication in the subsequent reports on the scheme whether this problem was resolved or whether it continued into the later stages of the programme. Joy Turnbull, Don Forritt & George Cooney (1982)
that was placed on parole officers to maintain supervision of parolees and to prepare pre release reports entrenched parole as an intrinsic element in the disciplinary and knowledge network of the penal sphere. The departments annual reports throughout the 1970s and 1980s detail the contradictions experienced by the new professionals because of the competing claims of record keeping and 'caring'.

The claims to scientific rationalist authority that underpinned the introduction of the parole service meant that there was a strong emphasis on tertiary qualifications and professionalism. From the beginning this reworking of penal control as early release in 'the community' under penal surveillance, was closely associated with the growth of social welfare as a form of less obviously overt control in the community.

The development of the schools of social work in the two universities closely paralleled the growth of professionalism through parole officers claims to control rehabilitation within the penal sphere. By the late 1960s however the major ideology of rehabilitation upon which the introduction of the system of parole had been legitimated, had been undermined. In addition in 1978 the Nagle Report condemned several aspects of the way that Parole was operating in the State.

Parole in the late 1970s

Although the positivistic promise of 'rehabilitation' was diminished by this time, back end forms of community control became increasingly popular in N.S.W., as in all Western penal systems, as politicians faced the common problem of prison overcrowding in an era characterised by the socially explosive mixture of a consumerist

31 Bradwell (1972) p. 78.
culture, a restructured labour market that dispossessed significant sections of the paid work force and a familial political economy in which increasing claims were being made on the welfare and penal budgets of the state. The 1970s saw an escalation in imprisonment costs per prisoner. Between 1970 to 1979 the increase in costs of incarceration per prisoner was 500% over the increase in the preceding decade.\textsuperscript{34} Moreover this increase was occurring during a period of fiscal crisis.\textsuperscript{35} The concern about the exponential increase in the costs of imprisonment led to an interstate meeting of Correctional Ministers in 1987 at which it was predicted that there was likely to be a 50% increase in the national prison population in the period 1987-1997 which would result in 'at least a $750 million capital expenditure programme with a subsequent increase of $300 million in recurrent expenditure'.\textsuperscript{36}

Weatherburn details the several N.S.W. legislative attempts to reduce prison overcrowding by various forms of back end schemes, from the Parole of Prisoners Act in 1966 to the Probation and Parole Act in 1983.\textsuperscript{37}

In 1973 there were 11,190 people under penal control in N.S.W. who comprised prisoners in gaols, on periodic detention, on probation and on parole. By 1987 after an initial decline in prison numbers in the early 1970s, the total had increased to 16,734 and the range of forms of control had extended to include Community Service Orders and After Care Probation.\textsuperscript{38} Most significantly however, the prison population increased in spite of the legislative attempts to reduce prison numbers.\textsuperscript{39}

In N.S.W., as in other States, the penal debates in this period were over the relative ideological merits of rehabilitation and reintegration, the clash between the legal rational

\textsuperscript{34} Weatherburn (1986) p.124
\textsuperscript{35} Weatherburn (1986) p.124
\textsuperscript{37} Weatherburn (1986) pp. 122-125
\textsuperscript{39} Weatherburn (1986)
power of the judiciary and the scientific rationality of prison administrators, and the pragmatic concerns about imprisonment costs. However added to these contestations was the specific circumstance of bribery and corruption over prison releases.

The Jackson Release on License Scheme was introduced in 1982. Under this programme over 1,000 prisoners were released on license in the fifteen months of the scheme's run. The corruption surrounding the programme severely affected the implementation of parole. In the media scandals and hyperbole about 'dangerous prisoners' that followed the scheme, the Parole Board reduced the rate of prisoners granted release on parole from 90% to 30% and this reduction was largely unrelated to either the seriousness of the offence or the prior criminal record of the offender.40

The relative benefits of parole over the Jackson release programme, in terms of the recidivism rates41 of the two forms of conditional liberty, were the subject of a Department of Corrective Services study in the mid 1980s.42 The research showed that parole supervision was itself criminogenic. In the contrast between the data for prisoners released without and with parole supervision, the recidivism figure for the former was 30.5% and for the latter, 46%.43 Moreover the figure for return to prison because of further crimes committed after release, for both groups, was the same: 30%. The difference between the two was mainly attributable to the 10.4% of parolees who were reimprisoned for violations of the conditions of their parole. Interestingly the Department reports this study as indicating the success of their parole programme.44 This is in marked contrast to Weatherburn's description of the Jackson Release on License Scheme as comparatively 'spectacularly successful in reducing prison populations.45

41 defined as reimprisonment two years after release
44 N.S.W. D.C.S. Annual Report (1987) p. 34
45 Weatherburn (1986) p.10
If the release on license scheme was measurably more successful than release on parole why did the parole system regain its place as the major form of release from prison? One answer lies in the level of corruption surrounding the Jackson Early Release on Licence Scheme that eventuated in the imprisonment of the Minister responsible for its introduction and administration and made both the penal legislative and executive bodies wary of future accusations of 'leniency' a term that by then was conflated in the media discourse with 'scandal'. However Weatherburn and Janet Chan, in separate papers, indicate that there were other reasons associated more with the tensions inherent in any penal system comprising contradictory sets of discourses. In this then the battles within the N.S.W. system closely parallel the tensions between the judiciary and the executive branches of the penal sphere outlined in chapter two. O'Malley described how, in the corporate era of capitalism in the late nineteenth century, the moral authority of legal rationality was reinforced by the scientific rationality of the human managers. However, the two coexisted in uneasy coalition throughout the twentieth century. There was bitter resentment amongst the N.S.W. judiciary over the encroaching power of the executive especially as it was manifested in its power to usurp the legal rational authority of the courts through both the remissions and the release on license scheme. This bitterness was manifested in closely calculated political attacks on remission provisions by the judiciary in the courts to what Brown describes as 'a pre-alerted press'.

Chan points out that in this battle over indeterminacy or determinacy in sentencing, as it was played out in the 1970s and 1980s, there were three major groups of contestants. The prison administrators in their control over release dates sought in part to balance biases in judicial sentencing as well as to implement their scientific rational authority as

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48 Brown (1986) p. 344
49 Chan (1986) pp.460-475
human managers. The judiciary were opposed to this executive control over their power to punish. Parole could be reconstituted as it had been in Victoria to return power back to the bench. The third group of power holders in these decisions about the legitimate basis of the power to punish were the politicians. The pressures on politicians are complex. Their own power is mitigated by the broader political economic climate in which they operate, the bureaucratic systems they inherit in which various factions have an already established authority, as well as the specific exigencies of media sensationalism. The major force behind the media presentation of penal issues was the drive for high viewer or readership ratings which meant that prison stories emphasized the frightening or the lurid aspect of crime and imprisonment. In N.S.W. in the mid 1980s politicians responded in an ad hoc fashion to these various and contradictory pressures by taking 'a strong line on law and order' at the same time as they attempted to keep control over the resulting increase in the costs of penal control. Politicians then interpreted parole in quite a different light than did either the liberal rationalists of the judiciary or the scientific rationalists, the managers of human behaviour within the prison administration. Releasing prisoners out into the community at the relatively invisible back end of imprisonment enabled politicians to emphasize their commitment to controlling crime in the streets whilst having the short term effect of keeping prison population rates down to manageable levels. The possibility that the longer term consequences of these back end solutions was an increase in imprisonment rates was put to one side in the pragmatic push to be seen to be able to control the law and order portfolio. (The party in opposition, as it was not having to face the contradictions of being in power, was able to afford the luxury of an almost wholesale condemnation of the 'soft' option of early release)

By the early 1980s, N.S.W. was facing the dilemma outlined by Joan Petersilia in her influential paper on the contradictions of community corrections in the United States.

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50 Brown & Zdenkowski (1975) ch. 13
51 Joan Petersilia recommendation for "a spectrum of punishments to match the spectrum of crimes" has become a current penological shibboleth.
The dilemma resulted from the volatile combination of three factors: increasing numbers of people coming before the courts, increasing pressures on state budgets which reduced the comparative rate of spending on both prison and 'community' forms of control, and public concern, fed and politicised by the media, about the perceived ineffectiveness of non imprisonment penalties. In addition, the prison administrators were interpreting the de-institutionalisation of psychiatric control through the Richmond Report as adding to the problems of prison overcrowding.53

The solution was the design and implementation of penal programmes that promised to reduce prison populations without serious hazards to the general public.54

These schemes were the Intensive Surveillance Programmes (I.S.P.) that were designed to 'fulfill the public's expectations for harsh and punitive sentencing, but do so less expensively, and without jeopardizing the public's safety.'55

The 1983 Probation and Parole Act was an attempt to relieve the crisis of prison overcrowding in N.S.W. after the rise and fall of the notorious release on license scheme. However the judiciary readjusted their sentencing practices in resistance to what they saw as an attempt to reduce the length of effective sentences.56 This objuracy of the sentencers exacerbated the growth in prison numbers in the 1980s. The other elements adding to the pressures on imprisonment were the increased investments in policing and the creation of new offences.57 So by 1986, prisoners were sleeping three to a cell in the one man cells at the Central Industrial Prison., and overcrowding was becoming the basis for increasing tensions within the prisons with for example the principal grievance of the prisoner 'disturbance' in the C.I.P in September that year listed

52 Petersilia (1985)
53 Grant (1987)p.85
54 Petersilia p.345
55 Petersilia p.341
56 Weatherburn (1986) p.121
57 Weatherburn (1986) p.127
Moreover the parole professionals were arguing that the ad hoc nature of the Act and its implementation were creating greater confusions for them. In addition, they were having to face increased prisoner hostility as a result of the increased uncertainties that the Act created. In the face of these increasing tensions by the late 1980s both the N.S.W. Minister, senior members of the parole service and the prison administration, and some members of the judiciary were indicating that an intensive surveillance scheme, home imprisonment, would shortly be added to the forms of penal control available to the sentencing authorities.

The universality of the attraction of intensive surveillance and home detention for the three otherwise contending authorities lay in its many sided appeal. For the legal rational authorities, the magistrates, Home Detention controlled not only the prisoner but also the parole officers who were being defined as too oriented to being 'advocates' rather that controllers of prisoners on conditional liberty. The probation and parole authorities saw in home detention a chance to revive their case work skills through a revival of the promise of rehabilitation and reintegration, as well as the possibility that the surveillance and care aspects of community control could be separated with private security firms taking on the 'punitive' aspects of control as surveillance of specific groups of home detainees such as fine defaulters, thus leaving the professionals free to focus on the human management aspects of those needing more personal care. For the political and economic rationalists within the prison bureaucracy intensive surveillance offered the chance to extend early release to increasingly 'hard' line prisoners, taking the pressure off the increasing crisis of prison overcrowding without having to choose between what Weatherburn describes as the Scylla and Charybdis of the two political

58 Weatherburn p.119  
59 Nigel Stoneman (1986)  
61 Briese (1987)  
63 Robertson (1986) pp. 2-3
risky choices of increasing legislative control over sentencing or of building new prisons.

In fact a form of home detention had already been in operation in N.S.W. in the form of one of the 'releases under community control' schemes at the back end of imprisonment. This was the work release II (home release) Programme.

**Home Imprisonment**

The Work Release II (home release) programme operated from 1976 until its decline as a result of the notorious 1982 Early Release Scheme. Prisoners controlled in this programme worked at the Paramatta Linen Service during the day but were allowed to return to their own homes under conditions that virtually constituted the home as a place of detention in the evening and at night. The intersection of penality and domesticity as sites of morality and control was carefully constructed in this programme with very specific criteria being laid down restricting access to the programme to those prisoners who were serving a first prison sentence for a non violent offence and had a viable family unit with dependent children or parents.

The singular conditions under which the programme was introduced are worth detailing here as they indicate the way that the boundaries between the two spheres of morality were explicitly renegotiated as a response to the specific political economy of the locality in which the programme was set. Fiori Rinaldi has pointed out that this first reintroduction (since the early forms of home based control under colonisation) of constituting the home as the site of control occurred without any claims by the government that the programme was an "enlightened penological advance. It was rather the result of a very pragmatic compromise between the Government that had spent $10 million dollars on a new prison laundry at Paramatta and a union movement that was

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64 N.S.W.D.C.S. Annual Report (s) (1979) p.23 & (1985) p 38
65 N.S.W. D.C.S. Annual Report (1978) p. 25
66 Rinaldi (1977) p.182
strongly resisting the introduction of cheap prison labour in an area particularly hard hit by unemployment. One alternative was to employ all prisoners at award wages but this costly move was avoided by allowing twenty prisoners release from prison to live with their families during the day whilst working for award wages during the 'peak crime period' shift of 3p.m. to 11p.m. The new home release prisoners were a trade off in the agreement between the unions and the prison authorities that then allowed most of the work to be done by conventional prison labour at rates of $14 a week.67

It was this programme that fell into decline as a result of the introduction then collapse of the early release scheme in 1982/3.

By the late 1980s however, the ground was set for its reintroduction. The penal administrators under the Labour administration had plans to reintroduce Home Detention as a back end programme to reduce prison overcrowding whilst assuaging judicial and public fears about 'leniency'. However before the programme could be implemented the Labour government lost office.

In summary, in N.S.W. the period 1986 to 1988 was one in which: the numbers of people under penal surveillance was increasing, whilst there was increasing tension between the various actors within the legal penal sphere, that reflected and amplified the stresses deriving from the structural crises of the wider familial political economy. As a consequence, the number of people in prison was accelerating but prison was increasingly becoming the site for the 'hard cases' as a range of non institutional forms of control in the form of both back and front end alternatives to imprisonment were impinging on the lives of a wider range of 'offenders'. Moreover these non institutional controls were feeding back into the prison a significant proportion of people further criminalised by the very processes that were nominally aimed at 'normalisation'.

67 Rinaldi pp.181-183
Markedly omitted from the several discourses constituting this expansion of penality was the extent to which these programmes further exploited the labour of women who were providing the infrastructure of domesticity on which this widening network of penal surveillance was based. This omission is despite the extensive literature on the range of 'community controls' and their effectiveness. The 'family' is included as a factor in the vast array of evaluations of recidivism. However the 'cognitive passion' of the professional programme evaluators fits neatly into Yeatman's description of the social sciences as blinded by a dual conflation with 'familism' masking the work of individual women within the family through the constitution of the home as the site of a division of labour centred on the 'natural' dispositions of women to love and care and 'community control' masking significance of the home as the social space within which prisoners come to be reconstituted as citizens. Chapter three details the way that the reformist technologists conflate the terms community, family and women in their investigations of families of prisoners as community resources for the prison service.

One of the most recent Australian texts on punishment and control reflects this process of invisibilising through conflation. John Braithwaite's 1989 sociological discussion of the possibility of reducing crime rates by refocusing punishment away from imprisonment through programmes of 'reintegrative shaming' describes the relationship between the home and the legal penal sphere as complementary sites of moral control because

the most compelling reason for going straight is that young men fall in love and want to marry and have children. Marriage and the family are the most effective correctional institutions we have.  

However he gives no details about the import of this relationship for the women who are part of this useful compact between penal and domestic control in the community.

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68 S. Cohen (1985) ch.2
69 Braithwaite (1989) p.91 citing Bayley (1985) Social Control and Political Change Research Monograph no. 49 Woodrow Wilson School of Public and International Affairs, Princeton University. p.113, citing Silberman (1978)Criminal Violence Criminal Justice Random House. New York. This layering of citations indicates the density of this discourse and thus the continuing power of the theory of the family, constituted as the site of irrationality and romantic love, as the basic building block of morality. It is significant that this argument is part of a wider argument for control through greater state intervention in, and greater administrative and technical rationalisation of, control of everyday life (but through particularistic relations).
Nevertheless the women who talked about their experiences of being caught up into the system of 'community controls' in N.S.W. in the early and mid 1980s indicate that the unpaid work of the labour of loving in this intersection of prison and home is extensive.

Twenty three of the women visiting men in gaol in these interviews had had some earlier experience of their partner or son being controlled under one or more forms of these non institutionally based punishments. The work of caring in each of its three aspects, as material, emotional and political labour, was in several ways amplified for these women when the prisoner was under these alternative forms of surveillance.

**Labouring, loving and controlling under conditions of community based penalty**

Both the malleability and invisibility of domestic labour becomes even more evident when punishment by institutionalised imprisonment merges through the normalising processes of penality into punishment in the 'community'.

The interweaving of the material, emotional and political aspects of the work of caring becomes even more dense when prisoners are controlled from home. Moreover there are significant stresses of caring and controlling when partners or parents and prisoners experience the tensions of the contradictions between domestic and penal control in the minute to minute life of family interaction. Although it is the density of this singular form of caring work that must be emphasized the different aspects of the work of caring that women do under these circumstances is separated out here as:

1. Culpability as a central aspect of the work of caring for prisoners on conditional liberty.
2. Intellectual skills of empathy involved in managing the day to day contradictions of domestic and penal moralities.
3. Emotional skills of reconstituting the personality of a prisoner reacting to release from the brutalising experience of imprisonment.

4. Home as a fishing pond: mediating and negotiating work.

5. Contradictions of moral responsibilities when prisoners breach the conditions of their conditional liberty: mediating and negotiating work.

6. The material costs to women when home is the site of reintegrative 'resource and resolve'

1. Culpability as a central aspect of caring work of partners or parents in community based control

The Chairman of the N.S.W. Corrective Services argued in 1984 that the prisoners released under some form of conditional liberty were always controlled in the end because, 'there are) powerful sanctions under existing legislation for people who are on conditional liberty to be easily returned to gaol.'

The release into the care of the partner or parent is always underwritten by this fear of return to prison. This form of penal control then incorporates the exploitation of that aspect of caring labour identified by Hilary Graham as being a significant part of coping work: culpability. The element of culpability that distinguishes caring work means that parents and partners of prisoners on parole are exposed to special stresses:

Olive Son now in prison after previous period of imprisonment followed by parole
what is it like for you when he is on parole? I think it's worse than in jail why? If he goes out he might forget, go to the pictures or something, he might forget, then they can pull his parole. His life isn't his own. The last parole officer was really good, but there were a couple if he was ten minutes late they were willing to pull his parole. I worry if he doesn't get there on time. There's more tension at home than when he's in here. It's really not my responsibility but he's still my child. I've still got to stick with him. I want to see him come good. I say to him he's got to do it.

This experience exemplifies not only the intensification of the hidden punishment that is extended to families of men on parole but the particular skill of sensitivity demanded of the controlling work of parents and partners. Penalty is constituted as a sequence of

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70 Vern Dalton (1984) p.34
different moments parallel to the stages of family life. Both are constituted as a series of different stages in the development of the personality of the individual. In this paradigm of penalty as a progression to 'maturity', parole parallels the period described by Donzelot as being the time when parenthood becomes the difficult balancing act of control - the period of adolescence in which the parents have to weigh the contradictory demands of 'freedom' and 'containment' to secure the individuality of the maturing child. The prisoner has to be contained but at the same time has to be allowed to make his own decisions. Moreover the penalties for getting the balance wrong are severe: the prisoner can be returned back to the brutal and infantilising moment of penalty as segregation.

This specific form of tension was evident in most of the replies about control outside of prison. Day leaves and weekend leaves, for example impose particular responsibilities on women.

**Audrey Husband in day leave period of pre release**

..you're responsible for them, you've got to sign papers (but) the men have their own ideas, as far as they're concerned they've got (free) time. I'd be worried if John wanted to drive but I'm lucky John doesn't drink or smoke.

These periods of 'freedom' are strictly policed and to make the most of the short periods allowed it is useful to be able to ferry the prisoner by car rather than public transport. As men are not allowed to drive when they are on this form of release it is specifically the woman's responsibility to ensure that he conforms to the rules about getting back in time. This sense of responsibility is reinforced by the several stories women tell about other prisoners' families who have failed to beat the deadline.

**Claire Husband about to be given day leave**

Girls don't realise the seriousness of it, but the men are released into our custody, we are responsible for them. If we don't get them back on time we can be arrested for aiding an escape. One lady with four children and a car accident blocked the traffic, they phoned the gate house, 'we will be late' they said 'that's OK' When he got in he was confined to his cell: day leave for the next month was canceled.

**Audrey Three children, husband in day leave period of pre-release programme**

but it isn't day leave, they're not to do this, they're not allowed to do that, they're not allowed to go here, they're not allowed to go there. Not allowed to drive, so virtually you've got to get
you yourself around and back again on the dot of five and you’re responsible for them. If they go down and get in trouble. You’re responsible. You’ve got to sign papers.

The pre-release period comprising the finely graded programmes of day and weekend leave prior to parole is one of the high points of the surveillance procedures of penal control when minute details of the individuals’ lives are processed and subjected to judgement. Time as lateness, driving as a proscribed activity are made the object of penal surveillance. Success or failure in conforming to the finely defined regulations becomes the responsibility of both the prisoner and his sponsor.

2. Managing the contradictions of domestic and penal moralities

An acute understanding of the delicacy of the situation of being the person nominally responsible for an adult partner who has just been released from prison was a common feature of the descriptions of people who had previously experienced that situation as well as of the women who were about to undergo it:

Ray Partner has been in and out of prison twice before. Do you feel as though you have any responsibility when he is on parole? Yes, there’s a feeling that you’re the prison warder now but yet not necessarily, you can’t tell them what to do — when they come out they want total control. It messes up your own life.

Beth Partner about to be paroled after several years in maximum, medium and minimum security gaols

(anticipating the prisoner coming out on parole shortly) Q. Will that mean you will be the controller? I don’t think the guy would let them (the wife, control him) because he’s done time ... the more time he does the more he thinks the world owes him something. You’re the one he’ll probably take it out on. Because they don’t work 9-5 in jail the guy doesn’t want to work 9-5 ... he’s got to do what he wants to do. No one is going to be happy if you make him go and work in D.J.’s from 9-5 so what’s the point? For the relationship to survive you make the sacrifices and hope that he just doesn’t get involved in anything else. Because that must be the problem for all women — when they come out are they going to come back again. In ‘Star’ the character says to his girl friend that’s the thing I do, robbing banks, that’s what I do. How do you break that? ... she has to compromise an awful lot. I think ... He says I’m going to be straight, that doesn’t stop her wondering where he is if he’s ten minutes late and what he’s doing? ... I don’t think it’s possible (to tell a man how he should behave) maybe if you’ve got a reasonably intelligent tolerant sympathetic sensitive man — ha, ha — those sort of men don’t exist, if they do they don’t end up in jail. (laughing)

Teresa Partner about to be released on parole after several years in gaol

He’ll be facing an extra 15 years if he breaks parole. It wouldn’t take much for anything to go wrong then - WANG he’s got 15 years to worry about. How are you going to manage that? It’s his responsibility and it’s my responsibility to keep him clear. What worries me is the time he’s spent in there and the extent he’s going to break loose. That’s what worries me ... I just wish there was something I could do.
Esther Partner in day release programme after several years of gaol

He applied for day leave got accepted and I had to sign him out I was responsible for everything he did. If he drank alcohol, got tested I could get into trouble for it. I could get fired for it if he didn’t return. I’d get into so much trouble it wasn’t funny ...I just turned round and said ‘I trust you’ and he was fabulous ...

The amount of work involved in balancing encouragement and support on one hand and containment and control on the other and the consequent stresses of this tension are clearly evidenced in this next account by a woman who had been in prison herself. The moral obligations of family life mean demonstrating that you are ‘on the side’ of the prisoner but ...

Sally Partner recently released from prison after several years, now on bail facing three other charges

He’s got to report otherwise they put him in jail if he doesn’t. Do you feel you have to make sure that he does go? No, No, I trust him. I only go with him for the simple reason that they can’t touch him any more, so they can’t try and say ‘Look we seen you do this last night. I’m a witness to sort of (protect him) that’s the only reason I go with him. I never tell him to report. He knows he has to report. So there’s no trouble there....I don’t feel like a warder at all. I trust him. If he doesn’t want to go I’m not going to make him. If he looks like going to jail that’s up to him. If he wants to run, well, ... I don’t care about the bail. I hate the coppers. I hate the screws...I’ve had plenty of time to think about it and whatever he decides on I’m with him all the way, that’s all there is to it. But as I’ve said to him ‘there’s only one thing I’d say to him - if you run, you’re running for the rest of your life - what if I get pregnant? They’re always going to get you. They might not get him for twelve months, they might not get him for two years, but they will get him eventually and he’s going to be taken away from me again, and that decision will be his. What he wants to do, but he’s done the right thing so far. I can’t see him not doing, because he knows himself if he ever gets into trouble again and he does do the right thing he’ll always get bail. If he does the wrong thing and doesn’t go to court he’ll never get bail. So if he does go to jail he’ll have to stay there another seven or eight months on remand again if he does the wrong thing ... any decision is his, you know?

Caring for men on condition liberty however can also mean resisting exhausting emotional pressures

Kay Nephew on weekend detention

He is always asking for money to pay for his methadone treatment, or his rent, and then coming home and telling me he has been robbed so he needs more money, ... the other day in the car, he was screaming at me ‘you don’t understand, you don’t understand’ and saying ‘if you don’t give me the money I’ll go and do a robbery’ I said ‘go ahead, go ahead then, and rob somebody, look there’s a little old lady over there, she looks as though she could be knocked over easily, why don’t you go and rob her and knock her out. I’m not going to give you any more money.

3. Emotional skills of reconstituting the personality of a prisoner reacting to the brutalising effects of imprisonment

Graham argues that the caring work of women looking after aged or invalid adults is negated by the language of normalisation. The constitution of family life as natural
means that the work of caring can be marginalised by defining it as normal and unproblematic even when care is for aged or invalid adults and the usual dependent relationships of family life are inverted. These processes of negation are especially relevant to the work of women whose husbands are either about to enter gaol or who have just been released from gaol. In both cases there are major stresses deriving from the injustices and uncertainties of penal life. There is major emotional work for women who have to attempt to manage the households when men are living through these stressful periods of penalty. The next accounts indicate that in both the period prior to imprisonment as well as the time immediately following release on parole can make major demands on the emotional skills involved in the work of caring:

Julie Two children and a husband who had been out on bail
He was on $2,000 bail because it was his first offence and I had to scrape together $2,000. I did it and then when he was out and it got adjourned it was just the pressure of the court case. Just what was going to happen what type of judge we were going to get, All those things... he was working slowly trying to pull us out of debt and I was mainly more or less sort of keeping him stable. That was the most important thing... and the last week was the worst. He was very tense and it was just like waiting for somebody to... and the kids suffered once again because at that stage it was very irrational, and he was the most important then so the kids sort of got side tracked for that time.

Cheryl Husband had been released on parole, arrested, wrongly accused, imprisoned for sixteen months and acquitted of murder. He is serving an extra penalty of control under conditional liberty as a consequence of the false imprisonment which had forced him to breach the conditions of his previous parole.

Although the injustices of Bernie Matthews' imprisonment exacerbated the stress of parole, the tensions that Cheryl Matthews had to counter were also due to the dynamics...
of prison life. The pressures on men to contain their emotions when they are doing time in prison have repercussions that go beyond imprisonment. A N.S.W. investigation into the health of people released from prison into some form of community based control, found that the death rate of people under community supervision is six times that of people in a comparable age group. The most common cause of death is suicide, and the most common period in which deaths occurs is in the first few weeks after release from prison. One of the few, if not the only, account of this particular intersection between the home and the prison in which the people in the prisoners family are allotted any substance as individuals is the research by William Wardell. His overtly phenomenological account accords with Cheryl Matthew's experience that, in this period, there are strong emotional reactions that all the people in the family work through. Cheryl Matthew's own experience of working with other families when men had been freed, had been that most prisoners were at risk of needing to 'be selfish' and that they imposed major demands on the supportive labour of caring of their partners or parents, in the period immediately after release. Her account is supported by other people's experiences of the early weeks after release on parole.

**Hilary**

I've just adjusted to not having him back home with me, so now I've got to adjust back to having someone there. (when he came out last time) the first few weeks was the hardest because there was times to do this times to do that and it was hard in those weeks. The first day he gets out we don't ever go out where its crowded until he's adjusted ... and then when he's adjusted to that, he can do whatever he wants to. We sort of take it slowly and not rush into things. That sort of helps him

**Ray Partner** in prison after earlier period of imprisonment and parole

when they come out they expect you to be the prison system almost. Theres always a transition of about four weeks - a pattern of quietness, the hostility and its towards you. For having ... you're the person who's been the closest and you're the person who's been free whilst they've been inside.

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73 Wardell (1983)
74 Wardell's work however is apolitical in both feminist and materialist terms. He does not indicate whether there are any problems associated with inequalities of power within the family nor does set up as theoretically problematic the work that women do in this period.
Jimmy Boyle described the difficulties that weekend leaves imposed on him as a long term prisoner in Scotland:

Weekend leaves are atrocious that after such a long period of confinement the simple example of getting used to sharing a bed with someone is in itself a traumatic experience. That once every three weeks is disruptive ...

An almost parallel account of the impact of release as an experience of physical readjustment was made about weekend release in N.S.W.:

Esther Partner a long term prisoner on weekend release
The first weekend release, he could stay overnight and all next day until 5 o'clock, they were the hardest. At night time, the first time, he woke up and he thought someone was strangling him.

Particular tensions derive too from the normalising moment of imprisonment constituted as a cycle of freedom and imprisonment. These occasional releases into conditional liberty were described by one partner as:

Ray
... its (day leave) like dangling a carrot they all go through trauma - both the prisoner and the person on the outside. For a week after they're severely depressed. It takes a week to get over it. Its like dangling a carrot

To these tensions there can be an added stress from the seemingly arbitrary changes to the programme of normalisation:

Audrey. One teenage son who believes his father is in New Zealand. Partner in
day leave programme
even day leave's an uncertainty I was supposed to have it (day leave) last week. But it was canceled because the .. um ... or something I only know it was canceled, that week. I had a lot of mucking around sort of organizing, sending Troy (son) off for the day, roller skating. Its supposed to be tomorrow but the way I feel I could tell him to stay in there (in jail) (laughing) its horrible, but, you know, its too much organizing at home just for a few hours for him to go out and come back in again. I don't think I could stand putting him back in again. that's the worst thing you know, and he's got to understand that ...

These were accounts of release on day or weekend leave and parole but It is important to set these experiences against the proposals for home detention. The tensions that are
clearly outlined in these accounts of release into conditional liberty could be expected to be far more volatile when the prisoner is literally imprisoned in the emotional sphere of the home. Moreover the tensions of living in close confinement would be exacerbated by the stress engendered by the uncertainty inherent in the new panopticism of control. Surveillance by random telephone calls in the home as 'the tiny theatre of punishment' is the electronic replacement for the moral architecture of Bentham's panopticon penitentiary. It is the randomness of the telephone call from the prison officer that endows it with panopticonism. If the prisoner does not know when the call will come he has to expect it at any time. One American designer of home detention schemes said that the stress of waiting for such a call is so difficult that prisoners reverse the surveillance relationship and initiate the contact with the monitoring officer if there is no call for 24 hours. Although this new panopticism parallels the earlier architecturally based surveillance in that it directly depends upon the stress of uncertainty, it has the added refinement of potentially extending that stress to everyone in the home. The partner or parents of the prisoner come under the control of the penal 'gaze' of the tantalising telephone call in this new technology of control. This intensification of surveillance then is a qualitatively different form of control than those experienced at present in N.S.W. None of the women in these accounts spoke about the parole officers' surveillance as a punitive invasion of their privacy. Most women regarded their contact with the parole officer as either insignificant or as a benefit.

Beth
You get home visits when they come out and check on you but it doesn't worry me .. they're only here for 10 minutes or so, Its all just rubbish

Rebecca
I end up talking to her (parole officer) about things I can't cope with - money problems, work problems. I go to work just to get out of the house because the tension of, the insecurity of it.

76 The evaluation of the New Jersey scheme indicates that these tensions are criminogenic - of the 29 'failures' in that programme 28 (95%) were due to breaches of the conditions of the scheme. (Joan Petersilia, 1985) p. 344
77 Ted Nissan in private conversation (1988)
Hilary
Its more easier (than gaol). His parole officer if he couldn't make it out to the office he used to come out to the house and talk to us in the house with us and talk to us in the house ..... He asked us how do they look on life and how are finances going .... sometimes its helpful because things he doesn't talk to you about it comes out in that conversation. So that sort of helps you too because you know what he's going through that he just doesn't want to talk to a woman .... Sometimes it feels like when they come they're invading your privacy but if its going to help him in the long run its better.

Graham has made the point that professional workers in health and education do not take away the work of caring from families or from women. Rather the 'professionals listen and advise: it is left to mothers to put their advice into practice'. Although the enforced partnership between women carers and penal professionals has more manifest controlling characteristics for some carers of men on parole the same division of labour occurs:

Gwen Partner now in prison again after an earlier period of imprisonment and parole ...
... they all (parole system) used to say to me 'well you're there, you can help him' but I used to say 'How can I help him, you know, I don't know anything about it' I know of it and know all the after effects of it because I'm the one that sits there and cops it all' I said, 'but, I don't know anything about what its like to be on drugs or anything' I said 'how can I help him?' he's saying 'help me, help me' and I try but it's always more stronger than what I was. It was just hopeless. It is really.

Although the arbitrary power of parole officers over revocation decisions was experienced as potentially stressful, it related to decisions about determinate times and conditions. The controlling gaze upon which the proposed intensive surveillance of home detention depends is based on indeterminacy. The control of home detention would then be an experience of an especially severe 'micro physics of power', a minute by minute invasion of the home.

Although parole officers visits were not regarded as punitive, surveillance by the police was stressful for women caring for men on conditional liberty:

4. The home as a 'fishing pond': mediating and negotiating work

A major factor increasing the stress on women caring for men on conditional release is the fear that they will be falsely arrested. The way that police work is constituted increases the chances that men released from gaol will be prime suspects for crimes committed in their neighbourhoods. Moreover the poverty induced by imprisonment as it is presently constituted means that the conditionally released prisoner is more likely to live in an area of high crime rates. Three women gave accounts of the punishment and work of women and children in families of men on restricted freedom, when the home is the 'fishing pond' for police needing to improve their arrest rates. The account by Cheryl Matthews of her partner's arrest when he was on parole for a murder he had not committed is outlined in chapter five. This was the most extreme example of the constitution of the home as a 'fishing pond' but it was not the only one:

Laurel
he was in Redfern - they got him - two other fellows did it but they picked him up for - he'd just got out - on parole

Olive
Anything that happens in our area they're first to our place, the police. The garage just up the street from us got robbed. It was lucky we seen them straight from the garage to our place, fortunately he was up at his, my, sisters ... We saw them, they came straight from the garage to our place. Once he had a gun put to his head when he was on parole ... I asked him to run down to the bank for me ... as he was running past the back doors of the bank (and his sister was there with a little baby) two detectives jumped out of a car, threw him up against the wall put a gun to his head and said 'go on run', we'd like nothing better than to do you' but his sister, was there with a little baby, saw them go over and pick up a bit of silver cigarette paper say 'look what I found in your pocket' and he didn't have it on him. She seen the detectives pick it up when they threw him up against the wall ... to try to get him for doping, heroin. They arrested him My daughter ran back to me terrified. I dropped everything and ran to the police station ... they told me they'd let him go. As I was walked out, I glanced up. There was my son trying to attract my attention up the stairs ... I went back in, I said 'I've seen him. I want to see him and I want to see what he's been charged with'. So they brought me down this sheet and say he's been charged with heroin I said 'that's a lie. He didn't have nothing'. He went to the bank for me My daughter's seen you pick up something on the street and put it on him He had to go to court. He went to court and there wasn't even a writ ... he got let free but I had to go through all this for nothing. That's what really gets me. That no kid can go straight if they're going to hound him.

Rebecca
a complete helplessness, an absolute sinking for me. You can't really explain what's going on. You haven't reported you're going back to jail. Once you're in that cycle you're picked as an easy target. One time they came we'd just finished dinner. I kept saying 'Look, what's happening' (because he had done the right thing that time) In a week he was out, but they just say '0 well, he would have done something anyway'. It made me feel the absolute unfairness of it. We didn't get any compensation.

Tricia
When he was out, (the last time) the police would put their sirens on when they went by him on the road..

The anticipation of this extra risk of home based control can add too to the tension women experience before the man is released:

Esther
how do you feel about him coming out on parole? Scared. I'm petrified that if he's going to do something ... I'm not frightened of him (but that) he is going to get set up or if he's going to do it himself.

The constant cycle of arrest, release, revocation and re-arrest can be particularly punitive for the children of prisoners and their outside carers:

Dorothy One son. Partner now in Bathurst after a series of periods of imprisonment and release
He's been in and out. Fourteen years ... ... sometimes he's been out a week, sometimes a month, sometimes just a day ... I've got a boy of seven, my son was terrified of the police.

The experience of being at constant risk of police harassment both when the man is on conditional liberty and during his imprisonment has been documented by the South London Wives Group in England in the 1970s.80

Because of Mr Y's criminal record, the family have suffered much from the attentions of the police. After her husband had been sent down on one occasion, the home was regularly visited by the CID, sometimes as often as twice a week, and everything in it turned over.

As was the case with the women in Sydney this harassment led to tough negotiations with the police:

Mrs. Y's protestations that she was honest, that there were no stolen goods there, that she would not allow these in the house anyway, went unheeded. This persecution, as she considered it, became too much for her, and when her patience was finally exhausted, she went to the nearest public phone box, telephoned the Home Office, and demanded to be put through to the 'head man'. She seems to have managed to get through to a senior official, who listened courteously to her tale. She was successful: from that time on, she was left in peace and her possessions undisturbed.81

80 Crosthwaite (1975) p.281
81 Crosthwaite (1975) p.281
6. Contradictions of domestic and penal moralities: breaches of conditional liberty and mediating and negotiating work of carers

Possibly the most condensed contradiction between domestic and penal moralities occurs for women whose partners or sons have breached the conditions of their early release. Somewhere between 30% and 46% of prisoners on conditional release end up back in prison either for committing new crimes or for breaching the conditions of their release. Whether prisoners are returned to gaol or not is decided by the arbitrary judgement of the police or parole officer depending on the form of conditional release the prisoner is undergoing. The work of managing the contradictions of domestic and penal obligations in this situation is perhaps one of the stressful and at the same time most skilful forms of the domestic labour of caring that women have to provide. The work can comprise having to balance the contradictory demands of the two moralities as well as mediating and negotiating to keep the man out of gaol.

Pauline  son had been on a bond prior to imprisonment
He had to report three times a week between April and September. One night it was raining and his bike had broken down. He rang, 'can you pick me up?' I rang the police station and they said O.K. as long as he's here before midnight. The next time they were not so helpful - I had to plead with them.

Fay
My son was had several warrants out for him. He took off to another State and I was involved, caught up because I knew where he was and I didn’t want to put my son in, but also I didn’t want to tell lies about him because that was wrong too, so I just answered the phone and said ‘just don’t tell me where you are’ but the police caught up with him.

Sally
He’s got to report between 6 p.m. and 9 p.m. If he’s not there by nine o’clock they’ll put him back in jail. One night it was pouring with rain and he had to get over to Mascot (from Glebe). He had a doctors certificate too. ... I phoned them and they said ‘Bad luck, if you don’t come there’s going to be an instant warrant on him tonight’ so I rang up called them all the bitches under the sun and hung up on her, then rang back and said ‘Look I’m coming in now.’ I rang my Mum up and they said ‘Come around and we’ll give you $20 to get a taxi,’ so I rang her back and said ‘I hope you’re happy, I’ve been able to get some money I’m on my way in’ and she said ‘O, I’ve been a bit harsh. Make sure he reports tomorrow’ ...they’ve got the power to do anything they bastards, I hate them.

Frank Morgan (1988) pp. 94-97
**Gwen** One daughter and a partner now in Long Bay for a drug related crime after being on parole

I had another one, a woman one (parole officer). He didn’t used to say anything, he used to go in there say anything, he used to go in there, he was half asleep. I used to think ‘when is she going to notice?’ (but) he’d sit there saying ‘How have you been today? Good. Ra,ra,ra,’ and that would be it and I’d sit there thinking ‘when are you going to notice what’s going on? I can’t give him in for it, but what would you have liked her to do? I would have liked her to have put him in a WHOS or something. Or she could even have helped him with methadone. I mean this was the second time, (he’d been on heroin) why couldn’t you have told her?

Well, because, I don’t know, it was like, how we grew up, was when we was young kids, it wasn’t, I know its sort of silly, but you never give anybody up for anything, and for me to give him up like that would have been important to him because he’d have thought I’d betrayed him and so I couldn’t.

**Rebecca**

I do a lot of explaining to the parole officer to get Owen out of it. Emotionally and physically its just exhausting. I mediate between the welfare worker and priest and police sometimes when he’s had to sign on report every day to the police and sometimes he’s been too drunk, I’ve had to go to them and talk to them or get a medical certificate. Sometimes with the parole officer, he just doesn’t want to talk to her. He says you’ll just have to talk to her for me.

One of the major criticisms of parole is that for the 40% or so prisoners whose parole is revoked, their time under punitive control outside of prison walls, or their ‘clean street time’ is not counted. Parole then for a significant proportion of prisoners extends their total period of imprisonment. This is one of the most keenly felt injustices of the parole system. However if men are falsely arrested the injustice of this extension of control is compounded and the stress of experiencing that injustice is keenly felt by the partner of the prisoner:

**Cheryl** Partner arrested on a false charge whilst on parole

... when he was released I was fuming. I wanted to go back and physically strangle every member of the Parole Board. Because the three and a half years he done on the outside (between the two periods of imprisonment) they said they didn’t count. He’s back doing five and a half, six years(on parole) he still owes them now.

Other forms of back end release can also extend the period of punishment. Day leave at the normalising end of imprisonment can impose major stresses on men who are faced in an immediate way with the responsibilities of family but who are nevertheless still constituted as ‘adolescents’ needing to be confined to inside the walls of the prison:

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Esther
He got in a bit of trouble at Silverwater. He was on a works release for three weeks. He was on day leave, about 8 day leaves over about six months. I got pregnant then I miscarried while he was still on the day release programme. That's why he did what he done (escape while on day leave). He got three months for that.

One of the most common reasons for escapes from penal control in N.S.W. is concern about family problems. The normalising moment of penalty constituted as a reintegration programme of control imposes major tension on both the prisoner and the outside carer. In Esther's situation it was her partner who was caught in the double bind imposed by the contradictory moralities of home and prison. It seems likely that this tension is an inherent aspect of day leave as, in the period 1971-1983, 5.5% of all prison escapes occurred during day or weekend leave. However this masks the increasing pressure on prisoners on this form of conditional liberty, as there was a steady increase in the rate from 2.2% in 1975 to 10.1% in 1982.

One further basis of tension for women in this situation is the complexity of the responsibilities they carry for different dependents in the family. Although the prisoner makes major demands on the labour of the outside carers, there may be other family demands that have priority. The hidden punishment of being an outside carer in this more complicated family pattern can be severe:

Kay Nephew in C.I.P. after breaching the conditions of a warrant
When he was out on a warrant he escaped to Adelaide. His mother told the police his address in Adelaide, now he won't talk to her. He is very angry with her. But she only told them because the police were coming around to our home to my mother (his grandmother) who is 82 and not well. She only told them to stop my mother being harassed and bothered by it all.

The re-arrest of the man when he breaches the conditions of parole can result in gross illegal physical punishment that then commits women to stressful frustrating contestations:

June
when he got into a fight (outside the pub) and the coppers held him down and when they got him
back to the police station, they give him an hiding. His head, cut open twice He had 37 baton
marks on his body. Then I went in and I wanted to,, I went off me head and I said 'I want to put a
charge against police officers' and I said '0, he done it by himself in the back of the van, did he,
really cut his head open did he?' and the sergeant turned around and he said 'look, I've go a lot
coming up around this area soon' he said and 'I don't want any more trouble, see you later' what
did he mean 'a lot coming up'? Well it was over at Glebe so he said, he's got enough on
his plate and he needs all the men he's got, without me charging any and getting them suspended.
So in other words he wasn't going to do a bloody thing.

7. Material costs to women of 'community control': the home constituted
as the site of 'resource and resolve'

The most visible cost is related to the women's responsibility, outlined above, to collect
and deliver the prisoner in the day and weekend leave programmes of release in the
normalising phase of imprisonment. In the early 1980s day leave was extended to
prisoners in some country goals and the geographical limits for prisoners from these
gaols extend to over 100 kms. These liberal extensions of the programmes of controlled
release then increase the demands on women's resources.

Release on parole however, can also involve women in major losses of income. The
loss of income of the families of prisoners that is an inherent part of imprisonment as
segregation is not inevitably reversed in the later stages of penal control. The works
release programme is extended to only a minority of prisoners and not all prisoners on
that programme are able to keep their jobs once they are on parole. Braithwaite found
that in 1979 only 26.9% of prisoners released from gaol in N.S.W. found jobs in the
four to six months subsequent to their release. Indeed it is because the family is
constituted as a resource providing material support for the prisoner that parole can be
incorporated into the penal programme. Releasing prisoners without family support can
involve the state in the additional costs of halfway houses. About 10% of long term
prisoners, and an unknown proportion of other prisoners marry, or begin new de facto

87 Dewdney et al. (1977) p.146
88 Braithwaite (1980) p.203
89 The long term programmes of using halfway houses for men on parole were specifically introduced as
'family surrogate' schemes to compensate for 'deficient nuclear families' (Ellen Handler (1974)). By
the late 1980s the N.S.W. Department of Corrective Services was contributing $500,000 per annum to
the costs of their halfway houses.
relationships, whilst they are in prison.\textsuperscript{90} Aitkin and Gartner suggest that this is because single prisoners' in N.S.W. interpret penal administrators perceptions of the home as the most promising site of 'resource and resolve'. In these cross currents of prison speculation it is specifically the home defined as the site of 'normal' heterosexual relationships that prisoners aim for in their bid to influence parole decisions.\textsuperscript{91}

The impact on women of this incorporation of the home as a material resource is rarely investigated. In one of the few studies examining the impact of release on the economies of the prisoners' families, Jeffrey Liker found that for 175 families of released men, in Atlanta and Houston in the U.S.A., the man's freedom placed severe financial burdens on scarce household resources. In these families it was mothers who were most adversely affected although 40\% of wives reported that their husbands were contributing no money toward household expenses.\textsuperscript{92}

In these N.S.W. accounts of the intersection of prison and home it was especially the partners and parents of men locked into a cycle of recidivism who described the material costs imposed on them through their family obligations to men on conditional liberty.

\textbf{Katherine} Four children. Partner imprisoned 'several times' (we were better off financially while he was in jail, because (for example) one Christmas all he wanted to do was buy the grog for a Christmas party and I had toys for the kids on lay by. He couldn't understand they had to come out first.

\textbf{Ray} Partner to be released in nine days after his third period of imprisonment. If he doesn't get a job straight away I have to feed him, pay his fares everywhere and so on. You know when they come out they should have some money maybe they should save up through the year or work for it.

\textbf{Sally} Met partner when he was in prison. He is now on parole but waiting for some in-prison charges to be brought. We're bringing in $340 a fortnight which is not a lot of money when you think you are paying $160 rent out of it without buying food. ...Phillip finds it hard to get work. ... ...we've got nothing. I've got a sister who'll help. I could go and live with her (at Albury) but we can't do nothing because Phillip's got to report here (seven days a week).

\textsuperscript{91} Aitkin \& Gartrell (1982)
\textsuperscript{92} Liker (1981) p.16
In this situation it was the conditions of parole that were imposing costs on the partner of the parolee. Aitkin and Garrell pointed out in 1983 that the conditions of early release could impose costly restraints on both the parolee and his family citing the example of one elderly man whose return to the home of his older sisters had meant that all three were prevented from entering a home for the elderly because of the licencees's reporting obligations.93

The alternative of imposing fines rather than imprisonment can make a direct impact on the economic resources of women in the family of the prisoner. Two of the women spoke about paying fines for their sons or nephews to make sure he was not imprisoned for fine default.

Kay One nephew on weekend detention, one nephew in C.I.P.
He (nephew on weekend detention) is always asking for money to pay for his methadone treatment, or his rent, and then coming home and telling me he has been robbed so he needs more money. ... They come to me to pay their fines and their warrants because I'm the single aunt whose got a good job and no family of my own - I'm supposed to be the wealthy one. But I tell them they can't rely on me any more, now I've retired and living on my annuity. But I still paid $200, 4 weeks ago to pay off Edward's warrant. He still ended up in Long Bay though over another incident so I didn't get my money back this time either

Pauline Son, a truck driver, had a series of fines for traffic offences, was initially held for fine default, later imprisoned.
He was to go to Silverwater but they were short of staff. So they kept him at Castle Hall police station. I rang and rang Silverwater. They didn't know anything. I said if I pay the rest of the fine can I get him out? I paid $80. He had had next to nothing to eat. He was there 8 p.m. Wednesday to midnight Thursday.

One study of fine defaulters in Britain in 1978 found that the majority of individuals who do not pay fines are people who have no family support.94 The current discourse on how to keep fine defaulters out of prison draws directly on the help that relatives and friends can give.95 It would not be far-fetched then to suppose that the classical liberal image of a penal economic contract being negotiated between the individual and the state, in fact masks a redistribution of resources within households and that that redistribution

93 Aitkin and Garrell (1983) p.26
94 P. Sinclair (1974)
for at least some, if not most, families involves a shift of resources from women to men. The Softley study found that fine payers reduced their spending on food, clothing or shoes to pay the fine but did not indicate who in the family went without food, clothes or shoes in this renegotiation of the household budget. This then is also likely to mean that it is a redistribution of resources from the pockets of individual women to the state as long as the constitution of penalty as a career of increasing penatity means that a fine default ends in other, more costly, forms of penal control.

All of these examples indicate that the sources of the extra costs to women lay in either the individual responses of the released prisoner or in the legitimate but penalising structure of penal control as it is presently constituted. The final example indicates that the illegal activities of the legal-penal controllers might be a factor in putting women at risk of material losses in this moment of penalty:

**Sally and Phillip.** Phillip had been imprisoned a number of times before he and Sally met. He had been sentenced both in prison and outside of prison for a series of small scale acts of aggression. He got picked up the other night, just look at his face. They (the police) bashed him up and took all our money, $210 of our money. Bashed him up again. I got Internal Affairs onto them again. Now he has to go to court. All he was doing was standing outside a shop and they reckoned he was trying to break into it, and they’ve charged him with a Breaking and Enter. They give him a hiding, took all his money. Now I’ve got to go through it all again now. They just took it, pocketed it, kept it for themselves. **Phillip:** I know how they go and I hid the money down me sock. I’ve had it taken before. They stripped me down. I had a pair of socks on. I didn’t even get me socks back.

**Summary**

The feminist materialist analyses interpret the domestic labour of caring as the work of reproduction. The work of caring for men on conditional liberty is doubly caught up into the relationship between productive and reproductive life. Penality has been constituted in a variety of forms, from segregative imprisonment as the dominant form, to imprisonment as an end point in an increasingly wide smorgasbord of controls to ‘fit the punishment’. This multiplicity of forms of punishment and control is intrinsic to

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the reproduction of the social relations of industrial then welfare then corporate consumer capitalism. The extension of penality, however hidden, to the carers of men under punitive control is part of this broader aspect of reproductive life. The home as the site of 'resource and resolve' provides: the material infrastructure upon which contemporary penality rests, the potential psychological control upon the prisoner about to be reintegrated into the 'normal' family relationships of care and dependency and, according to the penological theory of deterrence, the sufficient threat to the man who does not commit the offence for fear of sacrificing this relationship. In this the home is a significant element of the reproduction of the conditions of social life.

Secondly, the work of caring is constituted within present penal discourses as being about the reproduction of the individual personalities of each specific offender within the 'haven' of the particularistic relationships of family love. It is this double featured aspect of domesticity that is its main characteristic in general social life. That is, it has both material and emotional elements. However these features of domesticity are especially significant, and create specific tensions, as the labour of loving becomes incorporated into the realm of punishment and control.

Presently authority in the penal sphere comprises the three powerful and often contesting rationalities: the judicial, the scientific and the economic. The moral powers deriving from these three spheres of rationality and from the debates between their particular representatives are currently constituting penality as a broad social net that will increasingly exploit the powerless, arational morality of the home as a source of control.

The home is both a physical space providing material resources and a set of relationships specifically constituted as a nexus of caring and dependence.
The two models of the relationship between prison and home posited at the beginning of this chapter are both relevant to the experiences of women caught in the singular social space where penalty and domesticity intersect.

In the current reconstitution of penal life those men who are able to demonstrate their attachment to social life through their ability to fit the category of provident wage earner and/or through the evidence of having access to a home comprising sufficient material resources to enable him to cross the 'bridge' back into normal life, are likely to experience punishment as a one way process through the 'progressive' moments of penalty. However having a 'home' is not always a sufficient safeguard against entering and reentering the reprocessing cycle of punitive segregation and correction and conditional liberty.

The contradictions of the current dynamic of a familial political economy characterised by the contradictory dynamics of consumerism and neo classical deregulation is likely to place further stresses on the tensions between desire and control. These historically specific stresses are increasingly leading to an exploitation of the powerless arational morality of domestic life operating through the extensive and intensive labour of women in the home. The central characteristic of this labour, and of the material costs and extension of control to the women in the home of men under community surveillance, is its invisibility. It is the hidden labour, hidden costs and hidden control of women that underpins this moment of penalit.

Penal and 'family' policies are jointly constructing the dilemmas of 'care as control' for larger numbers of women in the particular tensions of this current familial political economy. The actual character of this current complex form of exploitation of caring work is not immutable. Within Australia there are significant differences in imprisonment rates reflecting both differences in sentencing practices as well as
differences in the ways that laws are interpreted. Moreover within O.E.C.D. countries 'family' policies are currently constructing the nexus between care and dependency in significantly different forms. N.S.W. in the period 1986-1988 was moving to the more punitive combination of increasing prison populations, widening 'community' networks of penal control, and restricting public provision of resources for families without male breadwinners.

The final chapter comprises an overview of the theoretical and empirical material presented so far in the thesis by reviewing the propositions set out in chapter one against the evidence from the analysis of the several official penal discourses and from the accounts of the 38 people who spoke of their experience of being the 'family' through whom those policies and practices were effected. Finally, the concluding chapter also includes an epilogue in which this overview is set against the changes in penal and family policies and practices that have developed since the election of the Liberal government in N.S.W. in 1989.

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97 John Walker (1989)
99 Department of Social Security Annual Report (1988/9) p. 10. This latter aspect of the welfare/punishment package is a complex one. Whilst the Child Support Scheme places greater emphasis on the economic responsibility of the non custodial parent, the Family Allowance element of the Social Security programme has helped to increase the level of income of sole parents. These programmes are discussed in greater detail in the epilogue in the final chapter.
CHAPTER NINE

CONCLUSION: the home and the prison.

The central premise of this thesis is that an analysis of the relationship between 'the home' and 'the prison' makes an important contribution to the broader feminist materialist programme/agenda/challenge to sociology, and thereby extends sociological understanding. That challenge is based on the basic tenet that the investigation of the relationship between the domestic and the various 'un' domestic spheres that comprise social life, is one of the major tasks facing sociologists in their interpretation of the nature of power and inequality.

This argument, that the analysis of the construction of domesticity is essential to an understanding of power and inequality, centres on the basic contradiction of universalism. That is, that universalism is like being pregnant: it is not possible to be a little bit non-universal. If universalism does not hold for all citizens then, logically, it cannot hold for any citizen. Individualism can then not be the entitlement of only a section of the citizenry. Because of this basic character of the principle of universalism upon which liberal democratic capitalism is based, domesticity is far more central to our understanding of the embeddedness of inequality in social relationships than are race, ethnicity or gender. It is this proposition which is the major feminist challenge to sociology. Although inequalities centred upon race, ethnicity and gender remain as contradictory aspects of the supposed universalism of liberal democratic capitalist relations, it is possible, even if it is not probable, to envisage that each of the inequalities based on these three social categories could eventually be dissolved through appeals to universalism. People whose inequality is centred upon domesticity however
can not make use of this appeal because, within the form of liberal capitalism as it is presently constructed, familism is the term upon which individualism/universalism depends.

A key aspect of the embeddedness of this form of inequality is the relative invisibility of this interdependence between these apparently incompatible values of social life. It is in the lives of people in the population ‘families of prisoners’ that this central sociological problem is manifested in one of its most condensed forms. The thesis has argued that ‘why’ and ‘how’ we persuade ourselves that the interdependence of domestic and public life does not exist, are especially significant questions when we pose them in the intersection of the two domains as it occurs in the legal-penal sphere. This is because it is in this area of public life that the powerful signifiers ‘power’, ‘morality’ and ‘rationality’, (around which the contradiction between familism and individualism revolve) are most clearly articulated. This potential for clarity, that is an especial characteristic of the legal penal sphere, then makes more urgent, for the defence of the principle of universalism, the necessity to mask or marginalise the contradiction of the interdependence and incompatibility between domestic and public life. The several ways in which this obfuscation of the importance of domesticity has occurred in the various transformations of penal life has been outlined in chapters four to eight.

In this delineation, the thesis has presented a framework for the investigation of ‘the home and the prison’ that has drawn on three literatures: the socialist feminist critique of the relationship between state, economy and family, the feminist critique of criminology, and the radical critique of penalty, which itself draws on materialism as well as the more idealist analysis of Foucault.
In Foucaultian terms, the investigation into this central contradiction of social life has involved the deconstruction of the three terms:

a) 'the home'

b) 'and'

c) 'the prison'.

Although the thesis uses analytic tools derived from Foucault's work on prison life, the analysis of these three terms has been grounded in an emphasis upon materialism, and on the centrality of the domestic-political-economic relations within which the discursive practices have been moulded, modified and renegotiated.

Foucault's analysis of the penal sphere is a description of the transformation in the relationship between the state and the individual in which the prison represents the most intense and powerful form of a series of 'normalising' social disciplinary apparatuses. However, where Foucault makes '...the technology of power the very principle both of the humanization of the penal system and of the knowledge of man.', the central theme of this thesis is that this technology of power is also about the alternating masculinisation/domestication of penal life and the knowledge and exploitation of both women and men as carers.

The review of the literature in the field of radical penology, in chapters two and four, indicates that that discipline draws on, but is also critical of, the Foucaultian analysis. The materialist critique of Foucault comprises the 'historians objection' and the 'agency objection'. Firstly, there are several specific concrete historical exceptions to the notion of the universal imposition of disciplinary mechanisms to reform and control. Secondly,
the history of the actual social implementation of this transformation of the penal sphere
is also the history of the resistances to that power. Prisoners in the Foucaultian picture
are shadowy passive objects upon whom that power is imposed without opposition.3
This thesis, whilst drawing on the Foucaultian interpretation of penality, indicates a
third problem with that perspective that is at the same time a critique of the standard
Marxian position. Chapters two and four of the thesis indicated that there are three
levels of the interpretation of the will to power:

(i) the description of the transformation of penality as a morphology of the will to
    power, focusing only on the imposition of that will on the passive recipients upon
    whom the new 'disciplinary discourse' is imposed;

(ii) the parallel accounts of the history of the introduction of the social disciplinary
    apparatuses and of the history of the revolts against them. This second, more
    complex, interpretation of the transformation of penal life then becomes a
    description of the opposition of wills between the controllers and the controlled
    whilst recognising that that opposition is itself constructed within the forms
    imposed on it in the new disciplinary discourses; and

(iii) a feminist materialist account that argues that neither of these two approaches is
    sufficiently complex as they are not able to encapsulate in full the contradictions of
    the way that the will to power in modern life is constructed out of the relationship
    between will and 'unobligated will'.

Chapter two included a summary of the radical critique of social control and punishment
which investigates the specific problem of social order and control engendered in a
familial political economy - liberal capitalism and its successive forms - that is centred
upon the contradictory duality of the principle of the freedom of the individual in the

3 This criticism of Foucault's text holds even though in his own day to day life he was himself part of the
prisoner resistances of the 1960s.
public sphere, the state, but inequality of market position in the private sphere, the economy. This thesis has investigated the way that this political economic problem, of the delicate balance between nominal freedom and actual inequality in capitalism, is associated with particular patterns of intersection between, on one hand, the formal systems of punishment and control and, on the other, the family. Penalty and domesticity are defined as two of the major spheres of social control in a political economy in which the contradictions of freedom and inequality are played out. A basic argument has been presented that, as liberal capitalism becomes overlaid by its successive forms - industrial capitalism, welfare capitalism, and advanced corporate consumer capitalism, different rationalities have been brought into play so that the intersection of home and prison has become a maze of contradictory interdependencies.

Underlying the actual social practices in the construction of the domestic and the legal-penal spheres as especially important sites of morality, is a complex and often contradictory mass of ideas, philosophies, moralities, religious edicts and economic 'laws'. Sometimes aspects of this confusion of abstract but powerful ideas are explicitly stated. Sometimes they are presented as a seemingly coherent, consciously worked out, statement of social order. However, more often than not, the contradictions and complexities of the dual moralities surrounding the construction of penalty and domesticity in liberal capitalism remain a tangled, largely unspoken, yet influential set of social rules.

Chapter five of the thesis outlined in some detail the implications of the recent feminist materialist analyses of the specific ways that domesticity has been, and continues to be,
constructed and modified within capitalism. It is from this perspective that the contradictions and complexities of these often invisible social laws have been most elegantly dissected. Several studies within the feminist materialist perspective, of the occupational sphere, and of the relationship between family and state, have compiled evidence of the interdependence and incompatibility between individualism and familism, and the consequent exploitation and oppression of women within the domestic sphere, that develop from that contradiction.

Over the past fifteen years this approach has delineated several aspects of the way that the state, through a variety of social policies, mediates family relations in a class society. The key concept in these analyses, of the significance of 'caring' in the construction of inequality in class society, has been taken as the central tool of analysis of the way that the family is incorporated into the penal sphere. Social policy analysis indicates that it is the nexus between caring and dependence that is at the centre of the way that the relations of production and reproduction in a class society intersect. The evidence from the review of literature in chapters two and four, and from the personal experiences recounted in chapters five to eight, indicate that this nexus, as it operates in the social space between the home and the prison, results in particularly condensed experiences of economic exploitation, political oppression and cultural domination. Hidden labour, hidden costs, and the hidden incorporation into the field of punishment and control, are the risks inherent in the caring relationships of the domestic sphere, when a partner, son or brother is sentenced to the 'rational' punishment of imprisonment.\footnote{The thesis has not recorded the parallel accounts of the people in N.S.W. who care for women in prison. However the overview of the literature by Koban (1983), cited in chapter five, indicates that these hidden costs are especially compounded in the case of carers of women prisoners.}

Moreover, when the 'outside carer' of the prisoner also has the family obligation to care for the prisoner's child, the experience of living day to day between the two spheres of
morality becomes particularly exploitative. Chapter six outlines the several
corrations, and the consequent burdens of caring, that occur when 'the prison'
reflects in a condensed form the gendered division of labour of parenting as it occurs in
the wider society. The evidence from this thesis indicates that, in N.S.W. in the late
1980s, the parenthood of male prisoners is concurrently crucial to the sense of self of
prisoner parents, yet virtually invisible in the official penal discourses. It is the work
of the outside carers of prisoners' children that provides the infrastructure of unpaid,
yet costly, domestic labour that bridges the gap between these two incompatible aspects
of punishment and control - the significance yet the negation of prisoner parenthood.
The work of caring that is involved in this particularly condensed contradiction of social
life also includes the extensive skills of managing the tensions and stresses experienced
by the children. The principle of the innocence of children, which is one of the basic
values of civil society in this moment of the familial-political-economy, is at odds with
the punishment that the children of prisoners experience. This punishment is manifested
in several ways: in poverty, in the separation from the parent, in the especially painful
experience of separation because of the imprisonement of the parent, in the knowledge that
one's father is being punished and the risk of stigma that that experience brings, as well
as in the specific tensions that can be part of the experience of visiting prison. The work
then, of caring for children of prisoners, ameliorating as it does some of the hidden
punishments that the children experience, plays an particularly significant part in
maintaining the 'civility' of civil society. However, although this is an especially
onerous form of domestic labour that draws on especially skilful aspects of the ability
to care, there is little acknowledgement of its significance, either in the official
discourses of penalty or in the several government, orthodox academic, or even
feminist analyses, of family life. Without that skilled labour however, the punishment
of imprisonment would impose costs on both the prisoner and the child that would

6 and from the several texts cited in chapter six that refer both to N.S.W. and to other states and countries.
seriously undermine the legitimacy of the state as a body that has the right to impose just and universalistic punishment. The concept of the deprivation of liberty of prisoners does not extend to the notion that they should be forced too, to lose for all time, their civil status as parents. Given the current constitution of parenthood that emphasises 'quality time', and bonding for both men and women as parents, the lack of all contact with their children would effectively cut prisoners off from their status as parents in contemporary society. Without the domestic labour of maintaining family contact, that consequence of imprisonment would become a more manifest aspect of penalty. The material in the thesis, both from the review of the history of penalty in the state, and from the accounts of the carers, indicates that the costs to the state, were that particularly significant form of domestic labour to be withheld, could be expected to be high. This is because that specific form of the work of caring has implications for the costs of the health of the children, of the well being of the prisoners, and of the costs of imprisonment, as it is the loss of visits that plays such a large part in the pre-conditions of prison revolts and even in the destruction of prisons. The carers work provides a bridge between domesticity and penalty in this specific case, of the parenthood of prisoners, that is then extraordinarily theoretically problematic in its invisibility.

The extent to which the parallel punishment, and work, of the population constituted as 'families of prisoners' is hidden varies with the different forms that rationality takes in the different moments of penalty. The shifts in the discursive practices of penalty have a dual significance for those people who comprise the population 'families of prisoners'. The prison crises of the 1970s, coinciding with the 'retreat from welfare' discourses in the social policy sphere, framed the immediate historical setting that constructed the complex and contradictory social space of the thirty eight people whose experiences, of
having a family obligation to care for prisoners in N.S.W. gaols, form the basis of chapters five to eight.

The 'prison crisis' has been interpreted in this thesis as, in part, a crisis of masculinity. The false universalism that disguised the masculinity of prison life became increasingly exposed throughout the 1960s and 1970s. The thesis interprets the liberal responses to that crisis as an attempt to reinsert domesticity back into the penal sphere and outlines the forms of domesticities that were reinserted, and the role played by the social sciences in this intersection of penal and domestic life. It also indicated that certain domesticities were bracketed out in this attempt to balance the stresses between segregation, correction and normalisation.

The material in chapters five to eight indicates that the introduction of these liberal reforms, that were layered onto the more conservative, masculinist segregative and punitive penal policies, have brought some benefits to the people in the population 'families of prisoners'. The increased recognition of the importance of the intersection of domesticity and penalty in the liberal reformist phases have ameliorated some of the economic and the personal costs of the work of maintaining family contact for some partners and parents of prisoners. However the accounts of the thirty eight 'carers' indicate, too, that the shift, from the relative 'invisibility' of family life in the classical liberal period to a greater recognition of the importance of 'the family' in penal control in the reformist eras, has also resulted in increased costs as their labour, and their family commitment to provide, is more manifestly incorporated into penal life. Moreover, during the 1980s, as domesticity was more openly inserted into penal life, the tensions that occurred between the co-existing sets of discursive practices - the segregative, correctional and normalising moments of imprisonment - also had punitive consequences for the people who were members of the population 'families outside'.
It is especially the concept of 'coping' as it has been deconstructed within the feminist materialist analyses of social policy that provides a framework for interpreting the extensive skills and labour and costs to the outside carers of prisoners in their response to the complexities of current penal discourses.

In this part of the thesis, the evidence from the 'carers of prisoners' supports the arguments, from the feminist analyses of domesticity, that rationality is not exclusive to non-domestic areas of social life. The liberal discourses, that construct the segregation of domestic and non-domestic life around the distinction between rationality and emotionality, depend upon a very narrow definition of rationality, one that countenances only its abstract, intellectual components. The socialist critique of this 'abstracted' rationality deplores the false segregation of the senses and abstract thought in this liberal capitalist version of 'intelligence'. This differentiation, growing out of the productive system of industrial capitalism and compounded in the increasingly capital intensive forms of production in the early twentieth century, between intellectual and manual skills, legitimated the devaluation of manual labour. The feminist materialist criticism goes further and focuses on the social construction of the segregation of the intellectual, the sensual and the emotional components of intellectual life, and the way in which the construction of false boundaries between those three components reinforces the devaluation of domesticity. The evidence from chapters five to eight add substantial weight to the feminist argument for a broader definition of rationality, one that reaffirms the holistic character of intellectual ability. This understanding of intellectual ability goes beyond the narrow definitions of either economic, legal-penal or scientific rationality that authorise our day to day experiences in the non-domestic spheres of contemporary social life. The evidence from the thesis indicates that it is in the condensed experiences of people in the population 'families of prisoners' that the compound skills of 'caring' are set in clearest relief against the narrower rationalities of the public sphere.
Nevertheless, although the sets of 'knowledges' that are based on caring-for-the-prisoner are used and exploited in several ways throughout the experience of imprisonment, and of release on parole, it is through the narrower 'rationalities' of the economic, scientific or legal-penal worlds that the power to prescribe and proscribe behaviours continues to be authorised. In this particularly unequal imbalance between power, morality and rationality, caring skills are translated into 'coping behaviours' in an especially intensive way in the social space between prison and home. As in the several other examples of the construction of family life as the long-time care of dependents, the state is able to draw on and exploit the complex skills of 'coping' in the chronic crisis of imprisonment. However, although, the thesis points up the potential for political quietism in the way that penal discourses exploit the malleability, negation, and accountability inherent in 'coping', caring for prisoners can also involve the people who are the 'outside carers' in both individual and collective political action against the several ways in which the contradictions of penality result in manifest injustices for the men inside.

In chapter four, the thesis outlines the various forms of the intersection between domestic and penal life. It plots four major ways in which the boundaries are constructed between prison and home as the two moral sites of the reproduction of the social relations of capitalism: the home within the prison, the home clearly separated from the prison, the boundaries between home and prison becoming more permeable and fourthly, the prison within the home. Both in this general delineation in chapter four, and in the more specific description of these forms as they apply to N.S.W. in the 1980s, the thesis indicates that there is likely to be an increasing exploitation of the domestic labour of the people who comprise the population 'families of prisoners'. The various 'rationalities' that legitimate the powerful morality of penal life seem to be reconstructions of the boundaries between home and prison in the form of increasingly
complex and contradictory methods of social control that alternatively constitute the family as the site of 'resource and resolve' but also as the site of a range of new criminalities. The 'home' seems to be increasingly likely to become both criminogenic and exploitative as it is presently being constituted within the technical, economic and legal rationalities of the penal sphere. In chapter eight the accounts of the women who have lived within the complex social space 'the home of the man on parole' indicate very clearly that there are extensive forms of hidden labour, economic costs and punishments involved in that experience. What is not yet clear is to what extent these forms of exploitation, domination and oppression will be intensified with the introduction of the new forms of intensive surveillance that are being introduced as potential solutions to the current tensions of control in advanced corporate consumer capitalism.

In the eighteen months between collecting the information from the interviews and writing up the thesis there have been two major changes in policies that constitute domesticity and penality in N.S.W. The thesis, therefore, ends with an epilogue in the form of a summary of these recent changes in the domestic and the penal spheres that places an especial emphasis upon:

(i) the basic assumptions about domesticity that underpin the new 'law and order' discourses and the likely effect of these changes upon those people who live in that complex and contradictory social space between domesticity and penalty, the individual women, men and children who comprise the population 'families of prisoners', and

(ii) the implications for penalty of the new family policies
Epilogue:

(i) the decline of 'domestication' in N.S.W. prisons 1988-1990

In 1988 the Liberal party was elected to power in N.S.W. following a campaign explicitly articulating the political philosophy of the New Right. This comprised the contradictory mixture of neo-liberal policies in the economic sphere and neo-conservatism in those areas of life concerning law and morality. This contradictory, yet complementary, combination of laissez faire philosophies and social authoritarianism was most evident in the promises and the actual policies and practices that have been enforced in the administration of the Corrective Services department.

Several feminist writers have delineated the consequences for the constitution of domesticity in the volatile mixture of neo-liberalism and neo-conservatism in the political philosophy of the New Right. Briefly these are: women become invisible in the 'free' market relationships of the economic sphere, with the principles of universalism and individuality being extended only to those people with no family obligations to provide the domestic work of caring, whilst women's interests are subsumed into the 'natural' sphere of the family. At the same time, the patriarchal family, constructed within the classically unequal relations of the economic dependence of the caring wife and mother on the bread-winning father, is constituted as the 'natural' site for the transmission of values essential to 'law and order'. In the language of the contemporary New Right philosopher John Rawls, the home, as the site of the inferior morality of association, and the state, as the site of the superior morality of principles, are reconstituted as junior and senior members in a partnership of control to impose the sense of justice and balance

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7 Outlined in chapter two
upon the behaviour of men working in the economic sphere, the domain of self interest. Although the unequal relationships within the family are legitimated by their 'naturalness', because 'the family' is so crucial to the New Right's model of discipline and morality, they also become the legitimate object of state intervention.

The several tensions that accrue from these contradictions between the invisibility, yet the significance, of the domestic sphere have been most clearly illustrated in the policies and practices of the Liberal administration of the Corrective Services department. The penal sphere is, at the same time, the area of social life in which economic rationalism is sanctioned through the constitution of law breakers as rational individuals who have chosen to break the rules, and the sphere in which the strong state and the family co-exist as senior and junior purveyors of law and morality.

It is important to emphasise that this Liberal New Right management of prison life is not always clearly distinguishable from the administrative practices and public statements of the previous Labor government. The prison population was increasing to the point of overcrowding before 1988. Both parties foregrounded 'Law and Order' as an election issue and promised to build new prisons, to crack down on street crimes and drug offenders, and to review sentencing policies. Both parties were planning to introduce more intensive forms of community controls and 'home detention' programmes. Nevertheless, the Liberal administration of the legal-penal sphere is based on a set of discourses that explicitly articulate the combination of economic rationalism and social authoritarianism characteristic of the New Right political philosophy. Whereas the social authoritarianism of the Labor administration was always in tension with their continuing support for the normalising moment of penalty, the current, most visible, penal

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9 Hogg (1988) pp. 2-4
discourses under the Liberal Ministers for Police and the Corrective Services underemphasise this domestically oriented aspect of penalty.

Although there are contradictions between policies based alternatively upon economic rationalism or social authoritarianism, there have also been claims that the two principles are complementary. This is the argument that, by increasing prison capacity, the state saves money, because the costs of crime are greater than the costs of imprisonment. '... incapacitating prison-eligible offenders now crowded out by today's space constraints would likely cost communities less than they now pay in social damages and prevention.'

Zedlewski's article is based on the asociological assumption that criminality is the result of the activities of a finite pool of potential criminals. However this is an unstated and therefore an unexamined aspect of his argument. Nevertheless it is the argument that seems to underpin the move to greater social authoritarianism in N.S.W. in the late 1980s.

In chapter eight, it was argued that the 1980s penal debates were tussles between power groups within the legal penal sphere whose authority was based on three competing claims to 'rationality': the legal penal, the social scientific and the economic 'experts'. The Liberal administration has given priority to the claims of the legal-penal and the economic rationalists in its management of prison life. However it has not resolved the contradictions that derive from supporting these two competing authorities. Moreover, several of the policies and practices that have been introduced in this period have also developed from a pragmatic response to specific exigencies developing out of this

10 Edwin Zedlewski (1987)
11 Zedlewski. p.6.
contradiction as well as an ideological commitment to New Right political philosophies. In general terms, the swing to the New Right has led to a de-domestication of prison life, at the same time as it has increased the stresses within prisons that have then placed greater demands on those people who constitute the population 'families of prisoners'. However the contradictions inherent in the New Right mixture of laissez faire economics and social authoritarianism are made more complex in that they are being imposed onto the already existing complex network of scientific, economic and legal rationalities that comprise the criminal justice system of N.S.W. in the late 1980s.

The reconfiguration of the intersection of domesticity and penalty is occurring in three main areas: in policing, in the courts, and in imprisonment. The way that the two basic principles, of social authoritarianism and economic rationality, are being applied within these three sites is complex and contradictory. The specific changes are listed here. However, the following discussion is not a neat sequential itemisation of each of these points but an elaboration of their intersection with an especial emphasis on the the way this reconfiguration of power, morality and rationality implicates the people in the population 'families of prisoners'.

In brief, the changes in the criminal justice system in N.S.W. that have developed from the principles of the New Right are:

**Social Authoritarianism**

(i) an increase in the range and militarisation of policing

(ii) an increased militarisation of prison life

(iii) an increase in the rate of imprisonment, prison overcrowding and an expansionist prison building programme

**Economic rationality**
(iv) 'Truth in Sentencing' and 'back to justice' policies

(v) privatisation as the transfer of state responsibility for some of the unprofitable provision of penal services to the 'private sphere' of the family and the voluntary sector

(vi) corporatisation of several parts of the remaining state sector provision of penal services

(vii) privatisation as the commoditisation of imprisonment

Social authoritarianism, penality and domesticity

The ideology of the New Right, in constituting prisoners as free rational individuals who have chosen to commit crime (in the neo-liberalism of the economic sphere), specifically endorses the swing to the neo-conservative social authoritarianism within the prison that justifies the militaristic and brutalising aspect of punishment and the move away from the domestication of prison life.

There have been several changes in penal discourses influenced by this social authoritarian strand of New Right thought: an increase in policing in terms of numbers of policemen on the streets, an increase in the arbitrary power of the police to define behaviour as criminal with the reintroduction of the Summary Offences Act, and a 'get tough' policy inside the gaols. This latter stance has led to a variety of manifestly militaristic and punitive practices inside the prisons including an intensification of militaristic drug searches, greater restrictions on visiting rights of prisoners' legal advisers, greater access given to the police to interview prisoners, restrictions on prisoners' access to the Ombudsman, the suppression of prisoner produced magazines, abolition of the right of appeal against decisions by magistrates in prison disciplinary hearings, harsher penalties for escape, a repressive rather than a co-operative policy on the issue of the spread of A.I.D.S. in prison, and the creation of a new set of in-prison
offences. The costs of this re-masculinisation of prison life, to the people providing the infrastructure of family care, have been largely invisible in the commentaries surrounding their introduction.

Policing and the Summary Offences Act

One of the first changes made by the Liberal government in the area of crime and punishment was the reintroduction of the Summary Offences Act. This extended the arbitrary power of the police to define aspects of everyday behaviour in public places as criminal. The Act brought larger numbers of people into the sphere of control and punishment. It was especially those people most likely to be spending 'unorganised' free time in public spaces who came to be at increased risk of criminalisation: the homeless, the young from lower socio-economic areas but particularly Black people who were most at risk of being affected by this change.\(^{12}\) Describing the effect of a parallel intensity of social control deriving from New Right policies in Britain four years earlier, Bryan, Dadzie and Scafe describe the way that these 'Law and Order' policies intensified the work and punishment of Black women as

> ... mothers and as workers we came into contact with institutions that daily compounded our experience of racism. We were the ones who rushed to the police station when members of our families got arrested. ... We were the ones who had to clear up the debris when police entered our homes uninvited to harass and intimidate us.\(^{13}\)

Although the militarisation of policing had already begun in N.S.W. during the Labour governments period in power,\(^{14}\) the continuing militarisation of everyday life for women in families on the margins of productive life, was extended with the widening

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12 Phillip Clark (1989) p.2. Brown (1989 b) pp.144-146 summarises the several recent studies indicating that a central aspect of contemporary penality is the imprisonment of Koori people for social behaviour that, in other groups, is not penalised.
of police powers under the Summary Offences Act. In a survey of the impact of the Summary Offences Act on arrest rates in three country towns, there was an increase of almost 300% in the rate of arrests of people charged with offensive behaviour, following the introduction of the Act in 1988.

The Human Rights Commission’s National Inquiry into Racist Violence heard submissions from a number of different ethnic groups that of all forms of racist violence 'police violence based on race came through as the most serious area of concern'. Three incidents in N.S.W. have particular resonance with the experiences of the Black women in London: the armed invasion by police of a Koori sports day and carnival, the armed invasion of a number of homes by N.S.W. police, in their search for a man suspected of killing a policeman. In one home, that eventuated in their killing a man, David Grundy, who was unconnected with the crime they were investigating. That shooting left a woman widowed and her son with a loss of his father. In the same para-military operation, N.S.W. detectives threw five stun grenades 'to neutralise' the residents of another home in Queensland. The media also successfully 'neutralised' the impact of the report of that raid in using the term 'occupants' to mask the ages, gender and family relationships of the people stunned by the grenade. Thirdly, in February 1990, in a strategically planned armed invasion, Operation Sue, several homes were broken into in one Black area of Sydney. This was an early morning raid involving 135 police, in which doors were broken down, guns held to the heads of the

15 evidence presented to the Royal Commission into Black Deaths in Custody sitting in Sydney on the 6th February, 1990, demonstrated that both the Summary Offences Act and section 249 of the Local Government Act were being used by the police to imprison Koori people for consuming alcohol on public streets. Moreover, a number of youths have also been charged under the Act for wearing T-shirts with a pro-Treaty political message. Aileen Kennedy & Teresa Libesman (1989) p.2.

16 Roseanne Bonney (1989) p. 21 However Bonney points out that the Act was one of a number of factors contributing to this increase.

17 Pino Migliorina (1989)

18 reported in the Sydney Morning Herald 17/7/89 p. 2, 18/7/89 p.3 and 21/7/89 p.11.

19 in April 1989

20 reported in the Sydney Morning Herald, 29th April 1989, p. 1
children and adult residents and belongings ransacked. In chapter four, it was argued that in the socio-biological interpretation of deviance, women were especially likely to be at risk of being drawn more overtly into the sphere of social control and punishment, and that it is during New Right regimes that this interpretation of 'criminality' is most likely to 'flicker up' again. However incoherently articulated, it was a socio-biological theory that underpinned police actions in the latter military incident in the construction of the specific group of Koori people as 'enemies within'. This relatively large scale invasion was partially justified by one of the officers in command in terms of 'the breed' of the people in the street that suffered the raid.

The increased militarisation of policing, the push to 'active policing', the introduction of the Summary Offences Act were all changes that served to increase the numbers of people imprisoned in the state. Another was the increase in the numbers of police. The combined effect of these factors is illustrated in the increase in the overall arrest rate for N.S.W. which rose by 17% in 1989. One other major factor is the introduction of 'Truth in Sentencing' legislation.

'Truth in Sentencing' legislation

The neo-liberalism and neo-conservatism of the New Right come together in the legal-penal sphere in its reconstitution of punishment as 'a precise determinate quantity of pain inflicted on the wrongdoer in exchange for the offense (of infringeing ) legally prescribed rules'.

21 Ch. four pp.146-152
22 reported in Sydney Morning Herald, 9th February 1990 p.2
23 when this term covers the range of forms of imprisonment including being held in police cells on arrest. In the six month period to the end of December 1988, only four people had been sentenced to imprisonment for offensive behaviour. Roseanne Bonney (1989) p.30.
24 Weatherburn, director of Bureau of Crime Statistics and Research cited in S. Harvey. (1989a)
The ideological emphasis upon individualism underpins the move to 'Truth in Sentencing'. The 'Truth in Sentencing' legislation which came into force in 1989 abolished automatic remissions. The prisoner's non-parole period as it is handed down by the courts thus becomes the sentence that the individual actually serves in prison. The 'Truth in Sentencing' principle has the potential for increasing the level of overcrowding by extending the non parole period of prisoners' sentences unless the sentences allotted in the courts are reduced by a third. However, Brown has pointed out that the Department for Corrective Services has refused to set out the legislative criteria that would assist the judiciary to avoid sentence increases and, although the Minister has argued that the government is not seeking to make sentences longer, other Liberal members of parliament are acknowledging that the new system may increase the prison population. The president of the Criminal Lawyers Association, estimated that the legislation would mean that sentences would 'effectively increase by 300 per cent'. Moreover there is no evidence that the current administration has attempted to evaluate whether the courts will act to reduce sentence length as the department has refused to publish basic information about overall projected increases, the number of new prisons required or their estimated costs. However the director of the Bureau of Crime Statistics and Research has argued that any evaluation would not be feasible until six months after the introduction of the legislation. Moreover, he has argued, judges are capable of adjusting to the new legislation. He has supported this view by pointing to the way that judges reacted to the introduction of the Probation and Parole Act. Nevertheless, the changes in sentencing policies have been introduced with little visible

26 Brown (1989 a)
28 Brown (1989 a) and M. Moore (1989)
evidence of the government's concern about their impact on the prison population. In addition, by March 1990, the Minister had acknowledged that

the rapid growth in the State's prison population was a direct result of the Greiner government's tougher sentencing policies as well as a more stringent approach to policing ... (and) the Truth in Sentencing Act ... ... appeared to be a major contributing factor to the increase in prisoners.30

and by July 1990, the Department of Corrective Services itself reported that the legislation had resulted in prisoners serving an average of an extra 50 days. This translated into an increase of an extra 525 prisoners being in gaol at any one time, with a prediction that that figure would increase to 830 as the full effect of the legislation flowed through.31

This central feature of Liberal penal policy is a promise to allocate only a determinate, and therefore calculable, amount of pain on individual rule breakers. However, as Russell Hogg points out, the calculability extends only to the amount of time served not to the extent of brutality experienced within that time.32 Thus 'Truth in Sentencing', he argues, is ideological sloganising rather than a political principle underpinning a detailed and coherent penal policy. Indeed, as Hogg goes in to suggest, the 'Truth in Sentencing' principle, as it is manifested in current penal discourses, has resulted in greater uncertainty within prison. This increase in indeterminacy derives from the juxtaposition of the 'Truth in Sentencing' practices with the other major ideological principle of the current Liberal administration, 'economic rationality'.

31 Moore (1990) p. 3
32 Hogg (1988) p. 8
The second ideological difference between the two political administrations lies in the free market emphasis of the Liberal government that has been clearly articulated in the Curran Report of 1988.33

Economic rationality, prison life and domesticity

The Corrective Services budget is one of the few areas of State expenditure that has expanded during the Liberal administration. Nevertheless, the principle of economic rationality has been applied to prison administration. There have been cut backs in prison spending on prison officer staff, on welfare and education staff and programmes.34

There have been other transfers of the costs of imprisonment from the state to the people in the population 'families of prisoners'. The cutting back of public sector spending results in prison practices that are in manifest contradiction to the principle of determinacy in the back to justice' and 'Truth in Sentencing' features of Liberal ideology. Even by 1987, the cut backs on prison resources were creating uncertainty, stress, and increased violence in the C.I.P.35 Thus the principle of legal rationality as it is being introduced through the social authoritarianism of the current administration, whilst promising to offer greater determinancy of punishment, is operating in direct conflict with its other central priority, economic rationalism, which constantly undermines the conditions on which that determinacy should be based.36

Prison overcrowding, 'getting tough' and privatisation as the transfer of costs to the domestic sphere

36 D.Brown (1989.)
Prison overcrowding has resulted in a rolling back of several of the reformist shifts that incorporated domesticity into prison life in the post-Nagle era. The unit system of prison management at Bathurst and at Parklea prisons has been undermined by the increase in the numbers of prisoners and the reduction in prisoner-prison staff ratios. In the Central Industrial Prison, where overcrowding and stress were already high prior to 1988, the numbers had increased to their highest level of 600 by October 1989, 296 more than its usual capacity. By that month, prisoners were staying up to seven weeks in police lock-ups that were designed only for overnight accommodation. The Corrective Services recognition of the change in the use of police cells from overnight accommodation to longer term imprisonment was acknowledged in the transfer of a prison officer to administer the prisoners detained there, a move that prompted the president of the N.S.W Police Association to respond. ' ... ... we would like to find out whether it is the intention of this Government to use the S.P.C. as a prison and if it is well and good but we'll get our police officers out of there.'

This ad hoc change in imprisonment has resulted from the combination of the increase in policing, and the hold up in the court system that has resulted from the economic rationalist Liberal policies and the failure to invest more public funds in the court system to keep up with the rise in arrests. Consequently, prisoners are now spending longer periods of their imprisonment in conditions that were heavily criticised in the Nagle report over ten years earlier. Currently imprisonment in the Sydney Police Centre is described in these separate reports:

you never get enough to eat and you're in a cell with a heavy draught, one scratchy blanket and they won't even give you shampoo.

37 A.G. Muir (1988)
39 Taylor cited in Harvey (1989 b)
40 'Julie' cited in Harvey (1989 b)
prisoners do not see daylight after they have walked from the charge room down the corridor to the cells. Once inside the only change is a twice a day walk for 30 minutes in the underground exercise area which is more like another room. ...  

In chapter five it was argued that it was the visits to partners or sons in detainment in police cells that created most problems for the outside carers. The risk of death in custody is highest in this phase of imprisonment. The work of maintaining family contact is at the same time most essential in this initial traumatic period of imprisonment yet it is conducted under the most difficult conditions: 'prisoners have to wait three days before family or friends may visit. This is not a contact visit but behind glass'.

The Liberal government's response to the issue of court delays and the misuse of police cells was to fund a $300,000 study by a firm of private consultants, Coopers and Lybrand, to report on the NSW court system. The major conclusion of the report, published in 1989, was that too many accused people plead 'not guilty' and that more procedures to increase the guilty plea rate should be introduced into the court system, including the abolition of legal aid for habitual offenders. In taking this approach to remedying the injustices created by the delays in the court system, which in turn are created in part by the increases in policing, the New Right is, at the same time, supporting a shift in the criminal justice system that contraditorily, fits more with the scientific managerialism of corporatism than with the classic liberal principles of justice centred on individualism. The slogans of liberalism then are continuing to be mobilised,

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41 Simpson (1989)
42 Suzanne Hatty & J. Walker (1986) p.29
43 Simpson (1989)
44 Coopers & Lybrand (1989)
but in this period of N.S.W.'s penal history, to justify an increase in social authoritarianism and repression.45

The term 'prison overcrowding' focuses attention on the issue of restricted space within prison. However there are several other reductions of resources to prisoners in the current rise in prison populations. There are also shortages of mattresses, of prison clothes and shoes as well as extra restrictions on education, welfare and health services. The decreased ratios of prison officers to prisoners mean that there are a range of services within the prison which are restricted. Two of the restrictions in particular, those on the processing of prisoners mail, and on the supervision of visiting, make the work of maintaining family contact more difficult and time consuming. The relative invisibility of the family status of prisoners in the New Right 'tough' discourses of prison life means that the extra demands placed on the resources necessary for visiting, of time, of space and of supervisory labour, have not been met by an extra supply of those resources. Indeed the levels of prison staffing have been cut rather than increased.46

The denial of the family status of prisoners who are constituted in the 'tough' New Right discourses as violent and threatening individuals then becomes a denial too of the extent to which the penal administration draws on the provision, by the outside carers, of extra material resources for men in overcrowded prisons. In addition to having to bear all the financial expenses of visiting, with the funding cuts to the community groups which provide free transport and family support services, women visiting the Long Bay prison complex in the winter of 1989 reported that prisoners were needing pyjamas, shoes and jumpers.47 Their reports were supported by the complaints made to and by the Inmates

45 This point made by Andrew Jakubowicz in private conversation
46 Harvey (1989b) (1989 c.)
47 in personal conversation with women visiting imprisoned men at the Long Bay prison complex and with prison welfare officers in the winter of 1989
Support Group in the Central Industrial Prison in their negotiations with prison administrators, in the winter of 1989, about the insufficient supply of tracksuits, jumpers and tee shirts. It’s bloody cold lately and I want to know what a bloke has to do to get some warm clothing? I try to get across to Reception everyday but keep getting told that Reception hasn’t got any jumpers.

In response to these negotiations, the Support Group reported that 'track suits, shorts and tee shirts can now be sent in via the post.'

The costs, to the actual people who provide these resources, is not only invisible to the prison administrators. This report from the Inmates Support Group indicates the difficulty that men in prison have in accepting that this provision is likely to be made by drawing on the scarce resources of their children, parents or partners outside, a difficulty resolved by the use of the passive voice in this report - that these clothes 'can now be sent'. Nevertheless it is in the official discourses on penalitv that the invisibility of the material and emotional support provided by people with the family obligation to care for prisoners is most marked. This negation is particularly evident in the discourses on A.I.D.S.

**Militarisation of prison life: drugs, sex and A.I.D.s**

The social authoritarianism of the New Right penal discourses is evident in the A.I.D.S. in prison policies of Michael Yabsley (the current Minister for Corrective Services). He has explicitly set out these policies in terms of 'getting tough' with prisoners and has

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49 Letter signed 'Frigid' in Rogues, Vol One, No 1. Winter 1989
specifically distanced himself from the A.I.D.S policies of both the Federal Labor, and his own N.S.W. State government, on the control of A.I.D.S., arguing that

I take a narrow and parochial view about these matters. I can understand from a strict health perspective people believe the battle has been lost. I am just saying that is quite irrelevant to the prison system. There are different aims that we have, and I am not about to bow to the old argument that it's happening on the outside so it's happening on the inside.\(^5^1\)

The Minister, when he was in opposition, exploited the drugs in prison issue to achieve major media coverage as a man capable of 'controlling prisoners'. In this extreme example of the congruence between economic rationalism and social authoritarianism, prisoners are constituted as rational but hedonistic individuals, freely choosing the illegal pleasures of drugs and sex and then being rendered more powerful and threatening to the security of prison life as a consequence of their indulgence: an image of prison life enhanced by the media coverage of an attack by a drunken long term prisoner on a man imprisoned for two days for a fine default, 'the Jamie Parttic affair'. The Muir Inquiry which was set up to investigate the management of the Central Industrial Prison following this assault indicated that the issues of power relations, drug taking and homosexuality in prison are far more complex than this simplistic model would allow. That report gave legitimacy to the submission from the Corrective Services Teachers Association by citing it in full as a 'very helpful submission'. This submission reported that

all too often violent but 'on side' prisoners are used by the system to keep order by heavyising their fellow prisoners. Regrettably this method has greater favour than making improvements to management practices .... the violence that occurs regularly in the C.I.P is very much a product of the prison's function and structure. As long as the prison continues to be operated the way it is, as long as overcrowding continues, and whilst the prison is starved of resources, the outcome will always be one of violence.\(^5^2\)

\(^5^1\) Michael Yabsley cited in Moore M. (1989) p. 42

\(^5^2\) A.G. Muir (1988) p. 437
It is notable that one of the earliest changes made by the Liberal administration, and justified by the corporatist strand of economic rationalism, was to transfer responsibility for prisoner education from members of this Association to Prison Superintendents, and to cut back on education staff and education programmes in prison.

A further cut back of prison services was the reduction of the library staff in the Corrective Services library from seven to two. Although a relatively minor cut back in terms of the numbers of staff involved, this restriction has a major implication for the way that penalty is constituted in N.S.W. The relatively free flow of information between prison staff, Corrective Services administrators, Corrective Services researchers and the public groups concerned with protecting the civil rights and the general conditions of prisoners depends, in part, on the material provision of salaries and facilities for libraries and library staff. The 70% cut to library staffing then has a significance far beyond the saving of five salaries.

The freedom to escape the prison experience through drink and drugs is being constituted as an especially proscribed form of behaviour. This has led to the restriction of fruit and vegetables in the prison diet, an increased use of militaristic drug searches, a ban on the use of Milton disinfectant in prisons on the grounds that its use in sterilising needles would encourage drug taking. All these actions and policies go against the findings of the Muir Report in placing the blame for prison violence and disorder on the prisoners.

A particularly concrete expression of the way that people in the population 'families of prisoners' are constituted as enemies in this revival of militarism in prison life, is the

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53 although this ban was subsequently revised after confrontations between Yabsley and the Liberal Minister for Health. Moore M. (1989) p. 42
loss of contact visits at Paramatta prison. The individual tables and chairs in the visiting section of that prison have been replaced by long tables at which prisoners and visitors face each other separated by a transparent plastic barrier that extends the length of the table. The powerful rhetoric of drug control means that handing babies over the barrier for a cuddle by their fathers brings immediate reprimands even though the babies have been strip searched prior to the visit.54

In a reinforcement of the constitution of the domestic labour of visiting as a threat to the state, the Minister has asserted that it is mainly women making family visits to gaols who are responsible for drugs entering prisons: 'Mr Yabsley said yesterday that most drugs entering jails were concealed in the vaginas of visitors.'55

The Special Response Unit is being given specialised training in visitor interception and visitor interviewing.56 There has been an increase in the numbers of visitors being searched by this unit. 57 This search can take the form of having to strip and then, being naked, having to perform five squats in front of two prison officers.58 By mid 1990, the N.S.W Council for Civil Liberties reported receiving several complaints by partners and other relatives of men in prison, especially those visiting men in Maitland and Bathurst prisons, about 'unjustified and undignified body searches'.59 The labour of maintaining family contact under these conditions exemplifies the point made in chapters five and seven that the work of caring for adults is not a normal extension of family

54 from personal accounts by women visiting Paramatta prison in February 1990. By May 1990, Parramatta had become the site of a number of prisoner political activities including the destruction of some sections of the prison by fire. Restricted visiting was one of the factors cited by prison officers as creating the tension in the prison prior to the demonstrations.

55 Aubin(1989)


58 in personal conversation with one mother of a prisoner in N.S.W. who had been subjected to this form of control in 1989

59 Ken Horler Q.C. President of the N.S.W. Council for Civil Liberties cited by Luis Garcia (1990)
relations but can involve reversals of relationships and breaching of sexual taboos that can be especially stressful for those providing the labour, and for the people receiving it. In constituting partners or parents of prisoners as potential threats to prison security in this way, the state continues, and, in the social authoritarianism of the New Right, increases, the appropriation of women's energy and women's bodies. The potential for using the threat of the demeaning strip search as a form of control between prison officers and prisoners has to be considered as an increasingly likely aspect of prison life given the overall shift towards the constitution of penalty as the site of segregation and brutality. Moreover the conflicting moralities of domesticity and penalty have placed women at greater risk of imprisonment themselves, in the current militaristic interpretation of drugs in prison. In February 1989 the Minister for Corrective Services reported that as a result of his increased monitoring of visitors several grandmothers were amongst those arrested for smuggling drugs to their relatives inside prison.60

However, one other Liberal administration response to the Muir Report was to end imprisonment as an option for fine defaulters. Traffic offenders, who comprise the larger proportion of people imprisoned for fine default are now liable to loss of their license, not imprisonment, as a punishment for failure to pay traffic fines - a penalty that fits the economic rationality of 'a utilitarian calculus of suffering' for this more 'tolerated illegality'.61 Nevertheless for those prisoners whose crimes do not fit this tolerated category, the move to a 'just deserts' policy of punishment has meant that there has been a general re-masculinisation of prison life which has three major consequences for domesticity and for the labour of people in the population 'families of prisoners': parents, friends and partners of prisoners become constituted as potential accessories to crime in the drugs in prisons discourses, the work of maintaining family contact

60 in a media interview with Tracey Aubin reported in the Sydney Morning Herald 24th February, 1989
61 Hirst (1986)
becomes invisible in the general swing towards the brutalising and segregative policies that increase the level of stress in prisons and move away from the more domestically based normalising moments of penalty, and thirdly, the partners of prisoners become invisible in the penal discourse on A.I.D.S.

In this latter intersection between family and prison life, there are clear tensions between the two rationalities which currently constitute authority within the prisons in N.S.W. In contrast to the Corrective Services Ministers 'get tough' stance is the therapeutically oriented A.I.D.S. programme which is Federally based but also supported by the Liberal government's own Health Minister. There have been public disputes between the N.S.W. Corrective Services and Health Ministers, between the National Advisory committee on A.I.D.S. and the Prison Officers Association, and between the Australian Institute of Criminology and the N.S.W. Department of Corrective Services, about the policies to control A.I.D.S. by either repression or by promoting 'safe practices' of sex and drug taking within the gaols. By May 1990, the Minister for Corrective Services had managed to persuade Cabinet to support his 'get tough' stance against the introduction of condoms in N.S.W. prisons. Moreover, in line with the economic rationalist stance, prisoners with A.I.D.S. have to use their own, or their families, money to buy vitamins even though these are crucial to maintaining a healthy immune system.

**Militarisation of prison life: escape penalties**

As part of his campaign to present a public image as a minister who would 'show who was in control of the prison', the Minister for Corrective Services imposed restrictions on prisoners with an escape record. Prisoners with a record of escape are now not able

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63 John Stapleton (1989)
64 This is a phrase that the Minister for Corrective Services has used in several of his interviews with the media.
to go through the complete cycle of imprisonment from segregation to correction then to the normalising stage of imprisonment. They are restricted from spending any part of their imprisonment in minimum security gaols. The hidden implication of this policy is the potential it has for adding extra problems to the people who do the work of maintaining family contact and maintaining men's morale during their imprisonment, as it is in the minimum security prisons that prisoners are placed on day leave and work release programmes. Moreover the introduction of this policy was infused with the symbolism of a 'tough' minister getting to grips with hardened criminals using force to escape by 'breaking out'. Prisoners captured after an escape are to be moved to a high security prison, hundreds of kilometres from Sydney. The Minister has declared that this new prison, which will house 150 prisoners, will be made as 'spartan' as possible. This policy is in contrast with the Department's own research which, as the discussion in chapter eight indicated, shows that a significant number of escapes are by men who overstay their day or work leave, or who do not break out, but walk out, of prisons because they have family problems they feel they can only resolve by being at home.

Although it is at the remand stage of the penal process that the tension of prison overcrowding is being felt most keenly, the stress of visiting prisoners in the Long Bay complex and at other maximum security prisons has also increased. With increased pressure on resources resulting from prison overcrowding, visiting times are being cut and the period of waiting at the gaols for a visit are being extended. Prisoners caught with drugs are to be refused contact visits or telephone calls for five years as a penalty for drug taking. With the Minister sanctioning this higher priority to the segregative and brutalising moment of imprisonment, it seems probable that this emphasis on prison

65 in media interviews on 14th April 1990
66 Gorta & Nguyen (1988)
67 Aubin (1989)
as the site of control will give greater strength to the factions within the prison administration who are critical of the various forms of the insertion of domesticity into prison life which stemmed from the reforms following the Nagle report.

The greater difficulties of prison visiting are occurring at just the time when there are greater pressures on parents and partners of prisoners to maintain family contact. The move to a militarisation of prison life produces a major point of tension in the intersection of prison and home as the two major sites of morality. The combination of prison overcrowding, the extended use of police cells for holding remand prisoners, and the increasingly militaristic constitution of prison life has led to reports of increasingly higher levels of negativity and stress inside gaol.68 One of the most telling indicators of this tension is the increase in prison suicides in the year 1989-1990. By May 1990, although the administrative year was only three quarters of the way through, there had been fourteen deaths by suicide. Eileen Baldry points out that 'this compares with an average of four to five over the previous 12 years'69

From the arguments outlined in chapters five to eight, it can be argued that the increased stress, endured as part of prison life as it is currently constituted in the present penal discourses of the New Right, means that there are greater pressures on people in the population 'families of prisoners' to maintain family contact. Chapter five showed that concern for the material well-being of their partners or sons was one of the principal reasons that people perform the arduous and stressful labour of visiting prison. Whilst women are at risk of being made responsible for these deaths, both by themselves and by the judiciary,70 the labour of maintaining family contact becomes more difficult,

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69 Baldry (1990)
70 Chapter five cites the case of a magistrate who laid the responsibility for a prison suicide partly upon the prisoner's wife, for her refusal to take the prisoner's child to visit him in prison. Terry (1990)
more hazardous and more costly in the current reconstitution of penalty. At the same time as this form of privatisation of the costs of imprisonment are occurring, the profit making aspects of imprisonment are being transferred to the private economic sector.

**Privatisation and the commodification of imprisonment**

Chapter two outlined the materialist argument that one of the major transformations of the legal penal sphere was the transfer of the power to impose coercive force from the private sphere to the state. Both private policing and privately controlled prisons, in their various mercenary forms, became redundant, even threatening, to the imperative to maintain widespread control of the domestic population in the new more volatile class relations of a market society. The move, to allocate to the state monopoly control over the power to use deadly force, was part of the rationalisation of social control that 'inserted the power to punish more deeply into social life' whilst securing the appearance of the separation of that power from the dominant economic class. By these last decades of the twentieth century, the extensive range of goods and services that come under the umbrella of penal-welfare provision has meant that the economic role of the state has expanded to such an extent that the state controls a budget equal to one third or more of that of the entire private sector. The dominance of the economic rationalist imperative of the New Right gives greater priority to the policy that economic control in the penal sphere should be transferred away from the state back to the private sector, over the importance of securing the appearance of the disinterested administration of moral force. This policy then makes more manifest the connection between the exploitation of labour and the control of the population. The boundaries between the economic and the political spheres become even more permeable.

The New Right governments in the U.S.A., in the U.K. and in N.S.W. have included commodification of punishment as part of their programme of economic rationalisation.
Twelve states in the U.S.A. have implemented some form of private enterprise prisons. In the U.K. however, the Wilson Report, which investigated the American systems of prisons-for-profit, condemned the shift to entrepreneurial imprisonment because it had involved the 'grossly inhuman treatment of inmates ... (with prisoners being treated) like battery hens'. Nevertheless in Australia the 'old right' in the form of the Nationalist Party administration in Queensland introduced a privately run prison in 1989 and in that year in N.S.W. the Minister for Corrective Services commissioned a merchant banking firm, Kleinwort Benson Australia Limited, to report into private sector involvement in the management of the prison system. The Minister endorsed the eventual report by these princes of private enterprise that did indeed recommend the introduction of privately managed prisons in N.S.W.

The commodification and marketing of prison life has several aspects. First, that the government pays a firm in the private sector for the provision of management and administrative services involved in either running a prison, or in providing perimeter controls, prisoner escorts or prison catering. Second, that in the privately run prison, prisoners' labour is tendered out to other firms for the production of commodities. Third, that prison officers lose their security of tenure and have to compete for their jobs in the privately run prisons in a competitive system of regular contract renewal. The emphasis in this set of discourses of economic rationality is on the increased cost effectiveness and administrative efficiency that market based competitiveness would endow on the sphere of punishment and control.

The more overt fusion of capitalist interests with social control has led to several debates about the ethics of mixing profitability with imprisonment. The criticisms have included the arguments:

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(i) that the cost effectiveness is based on a false accounting that ignores the hidden costs of state infrastructural support.72

(ii) that cost effectiveness depends upon clauses in the contract guaranteeing a minimum bed occupancy rate. This then undermines community debate about reducing the rate of imprisonment.

(iii) that the priority given to cost effectiveness undermines the wages, security and job conditions of prison officers working in the private system.

(iv) that the priority given to cost effectiveness leads to greater dependence on capital intensive forms of surveillance that parallel the forms of containment condemned in the Nagle Report as an 'electronic zoo' and thus a cruel and unusual form of punishment.

(v) that the insertion of profitability into the sphere of punishment and control leads to the development of a new and powerful lobby group whose interests are to maintain and extend imprisonment as a form of punishment.

(vi) that the transfer of responsibility for the day to day running of prison life enables the state to distance itself from accountability for the crises that result from the complex contradictions of imprisonment as a form of control.

(vii) that one especially significant aspect of (vi) above is that the transfer of responsibility for penal control also involves the delegation of the right to use deadly force to an agency that is not directly accountable to the electorate. Moreover, given the complex interconnectedness of corporate capital, it is possible that the firm that employs the labour of the prisoner is closely associated with the firm that has the constitutional right to kill the prisoner. This then not only reconstructs the relative power between capital and labour within the prison.

72 These points have been made in a range of texts that include Kevin Krajck (1984) Zdenkowsky (1988) George(1989) D. Wilson (1989)
but has wider implications for the redistribution of surplus value in the production of commodities in the wider labour market. The pressure on productivity within the prison has the potential to undermine the bargaining power of labour in the outside economy.

(viii) that the civil rights of prisoners in privately run prisons would be at greater risk. The current scrutiny of state prisons by community civil rights representatives would be replaced by the state scrutiny of private prisons. Community surveillance then would be placed at one remove from its current position, being able only to monitor the monitoring of the state. Moreover the current, although relatively powerless scrutiny of families of prisoners in state prisons, could well become diffused in the duality of accountability involved in the system of private imprisonment. The mediating and negotiating labour of concerned parents or partners would become even more complicated with the risk that their complaint would be passed from one bureaucracy to another when the state is responsible for long term policy, and the private sector for the day to day administration of punishment and control.

The implications of the shift in penal policy for the people providing the labour of family support for prisoners has been generally invisible in the debate surrounding its introduction. However, because the current form of commoditisation of the penal sphere is focused on the medium security prison in the corrective and normalising moment of imprisonment, the Queensland profit making prison has been organised around a unit system of management, as this more domestic form of control is expected to be more cost effective in reducing tension and thus making fewer demands on staff.73 This prison also includes family counselling as part of its rehabilitative programme.

73 Don Hutto (1989)
Borallan, the Queensland profit making prison, has an especial significance in the current negotiations between the State and the private sector in Australia. As the first prison run by a profit making enterprise whose long term policy is to become a widespread and intrinsic part of the penal system in Australia, it has become a showpiece. The administrators, taking account of all the above criticisms, have taken care to demonstrate the superiority of private enterprise over state run prisons. The prison administrators emphasise its openness to community representatives as well as to the monitoring agencies of the State. The current financial arrangements are not based on per capita payments. The public discourse of both the owners and the supervisors emphasise the correctional rather than the punitive aspects of privatised imprisonment.

This image however is belied by the tensions that accrue when a profit making enterprise becomes more deeply embedded in a penal system. The question arises as to whether this firm, or any private firm, will be as open as the State system, to criticisms of cost cutting, inhumane conditions, and an emphasis on brutality rather than reformation, if it takes on the management of an increased number, and a wider range, of penal institutions.

There have been suggestions in the U.S. that these privately run prisons in which the prisoner’s own labour becomes a commodity should be reorganised as family labour penal colonies. There has, so far, been no suggestion in N.S.W. that the home should be so manifestly reinserted back into the penal sphere. It is rather in the inverse penal form, of the prison within the home, that the boundaries between state economy and family are most likely to be dissolved in the last decades of the twentieth century in N.S.W.

74 Greg Roberts (1990)
75 Worrall (1982) see ch. four pp.130-135
Home Detention

The Minister, when in opposition, criticised the Labour administration's plans for a Home Detention scheme as a penal programme that demonstrated that government's 'softness' on criminals. In the first two years of his administration however, he has indicated a more ambivalent attitude to the programme. By mid 1990, he had reaffirmed his unwillingness to go ahead with home imprisonment, indicating that periodic detention, that is weekend or midweek imprisonment, was the more favoured option for 'intermediate' punishment. Nevertheless, this stance followed an earlier commitment that his administration would introduce a scheme of electronically monitored home based detention. This was a detailed three tiered programme of home imprisonment comprising a sentencing option, a form of early release, and a form of post-imprisonment control for violent prisoners who would otherwise have been released into the less intensive form of surveillance of parole. With the introduction of this package of front end and back end forms of home imprisonment, he had distanced himself from the programme designed by the Labour government. This version of home imprisonment fitted the New Right framework in giving the power to reconstitute the home as a prison to the legal juridicial authority of the magistrates rather than making it only an early release option under the control of the scientific authorities within the prison. However, even though the introduction of the scheme had been legitimated in terms of reducing the prison population, it was this front end version of home imprisonment that had the most potential for extending the control of the state both more widely and more deeply into social life. The ad hoc nature of the Ministers commitment to each of these opposing proposals for a 'hard' line, intermediate, penalty, indicates that the home imprisonment programme

77 in a press release on 24th April 1990.
78 Bernard Lagan (1989)
80 see discussion in ch. four.
Penalty in N.S.W. is currently being reconstructed as three more clearly demarcated sites of control, with the prison, in the segregative moment of control, becoming the site of more punitive and militaristic relations in which there is a negation of the prisoner as a man with a family life. In this moment of penalty, economic rationality takes the form of pressures to decrease resources and staff-prisoner ratios. Second, the corrective phase of imprisonment in the medium security prisons is becoming defined as the province of the private sector in which economic rationality legitimates increasingly capital intensive forms of control and surveillance mediated by a more domesticated form of management. Labour costs are also reduced in this phase by transferring responsibility for control to a non-unionised and thus a cheaper labour force. Third, in the much less visibly debated moment of penalty, the New Right is implementing and extending the scientific managerialism inherited from the earlier administration.

In chapter eight, it was argued that the tensions of prison did not end once a man had left gaol but that the frustrations experienced in prison were likely to be manifested in major emotional or physical tensions in the home. The negation of prisoners as men with a family life, in the majority of the most visible current penal discourses in N.S.W., is in direct contrast with the emphasis placed on the family in other aspects of Liberal policy. It also contrasts with the emphasis placed on the family in the less visible changes in penalty in N.S.W. in which the current Liberal administration is implementing and reinforcing the changes introduced under the Labor administration in the normalising

81 recorded for example in the Proceedings of the Institute of Criminology No. 77 on 'Punishment Outside Gaol.' Institute of Criminology, Sydney University Law School. 22/6/1988.
moments of penality. At the same time that the state government, through its education, child care, home service provision, child sexual abuse, family and community policies and practices, is attempting to reconstitute family life as the site of unequal relationships between men and women and children, it is creating a situation in which increasingly higher numbers of men will leave prison having had months or years of experiencing the frustrations and violence of imprisonment as it is presently being constituted in the gaols of N.S.W. The shift then towards an increasing invisibility of the family in the present discourses of penality seems likely to be the basis for major dangers to the people who constitute the population 'families of prisoners'. The nexus between caring and dependency is being realigned but at potentially major costs to the people providing that care.  

It is important, however, to interpret the changes in the penal sphere, and their impact on the population 'families of prisoners', in a broader framework than that of penality alone. The changes are occurring in an era in which, in Australia, there has also been a change in the constitution of domesticity with the restructuring of the federal government's social welfare policies.

(ii) the Federal Labor administration's Social Security Review: increasing the visibility of the labour and the costs of domesticity

Running parallel with the State-based changes to prison life outline above, are the Federal government's attempts to redistribute resources to all people performing the caring work of looking after children. This brief includes, as a particular goal, an attempt to improve the position of sole parents, and of children, in families on low wages. 

82 and the specific population 'families of A.C.T. offenders' seem to be especially at risk of experiencing the condensed contradictions of home imprisonment in the recommendation, cited in chapter four, that 80% of its present prisoners be controlled under a home imprisonment programme.
A general theme of the Social Security Review is to increase participation in the paid work force by those people who have also to do the work of caring for children. This includes carers in sole parent families. The implementation of the recommendations has improved the financial position of people doing the work of child care at the same time as it has enabled those carers to enter the paid work force without bearing exorbitant 'tax cuts' in the form of an outright loss of their 'carer's pension'.

For people living in the complex social space 'families of prisoners' the impact of these changes varies according to whether it rebounds:

(i) on those people who are made 'sole parents' by the imprisonment of the offender
(ii) on those people who are either the partners or parents of a prisoner but who do not have the added responsibility of caring for the prisoner's child

In the first case, the position of the outside carers of prisoners' children who opt to do the triple work of child care, care for the prisoner and paid work would be improved by the two aspects of the scheme that make entry in the labour force less punitive: the proposals to increase the numbers of child care places for those at work or undergoing some form of training, and the proposals not to impose a 100% 'tax' on the sole parents pension.

That group of carers who opt to conform to the 'ideal' of total carer by not taking up paid work, benefit, in part, from the increase in family allowances and from the schemes to supplement the rental allowances for sole parents. To this extent then, imprisonment of the father becomes less of a punishment to the family outside.

However, what is omitted from these 'family packages' is the acknowledgement that one especially symbolic group of sole parent unpaid carers have a double and contradictory burden to bear: the loss by 'civil death' of the earning co-parent and the costs of supporting that 'civilly dead' man. The penal policies implemented at state level are making it more difficult for people in the population families of prisoners' to negotiate the double roles of paid workers and 'prisoner's visitors' at the same time as the family policies, implemented at federal level, are encouraging sole parents and other categories of working age women to re-enter the paid work force.

This particular population of people in N.S.W. then are bearing the burden of the way that social life is split and divided between the various administrative levels of government. The costs of caring for prisoners are the responsibility of state governments whilst the costs of caring for the children of prisoners largely come under the umbrella of Federal responsibility. Between these two areas of responsibility, the specific interests of the outside carers of prisoners and prisoners' children disappear. The benefits that have accrued from the Federal government's redistribution of resources could be seen to be simply contributing to the expenses created by the State policies that have transferred part of the costs of imprisonment to the carers of imprisoned men: a hidden and regressive transfer incorporating, as it does, a shift of costs both, from women to men, and from the lowest income groups to the general population.

A longer term consequence of the Federally based redistribution of costs could be an increased disillusionment with imprisonment as a punishment. If the sole parents of prisoners' children are less likely than other sole parents to take up the options of paid work, it is possible that they will become an increasingly visible group of carers, whose economic dependence on the state then could be at risk of becoming increasingly defined as 'deviant', especially as children and their mothers seem no longer to be so
obviously sharing that punishment. The principle of 'less eligibility' becomes increasingly undermined as a *raison d'etre* of institutional imprisonment, within the family policies at federal level, at the same time as, at the level of state politics, the penal discourses become increasingly centred on economic rationality, which incorporates that same principle.

There is a further reason to be aware of this potential shift in the definition of the population 'families of prisoners'. The other strand of the Federal government's 'family package' that is, in part, both financing and legitimating the redistribution of resources to families with children, is the relatively successful attempt to shift the costs of the maintenance of children to the non-custodial parent.\(^\text{84}\) Prisoners are one group who are manifestly excluded from this responsibility. Those sole parents who are the outside carers of the children of the 'civil dead' then are likely to be defined as even less 'normal' in this reconstitution of domesticity. The actual intersection between 'family policies' and penal policies could become a much more visible aspect of public discourses of punishment and control if the maintenance of families of prisoners becomes a more obviously costly aspect of imprisonment.

'The extent to which these family policies will have an impact on penal policy in an era in which economic and social uncertainty engenders a hard line 'law and order' atmosphere is unclear. Economic rationalism might well give way to social authoritarianism at just this boundary between prison and home, however visible it becomes with the implementation of the federal governemts 'family package'. Nevertheless there is reason to expect a very heightened sense of volatility in this current constitution of 'the home and the prison'.

\(^{84}\text{Department of Social Security (1988-89) p.98.}\)
Conclusion

The current restructuring of the social space between prison and family life, makes more urgent the task of clarifying the complex and contradictory ways in which 'home' and 'prison' are constituted. The simplistic symbolisations of social relationships of New Right administrations, that legitimate their attempt to reimpose classic liberal patterns of power, morality and rationality upon the already complex contradictory layers of penal control, through constituting both family and punishment as unproblematic, seem likely to lock the people with a family obligation to care for prisoners in even more exploitative forms of hidden labour, hidden punishment and control. Although the corrective and normalising moments of penalty remain as important elements in the sphere of punishment and control there is a much greater emphasis upon the more punitive and segregative aspects of prison life. The tensions created in the contradiction between legal and economic rationalities in the New Right programme of control seem likely to result in an extension of the hidden costs, hidden labour and hidden punishment of parents and partners of prisoners.

It has been argued that the feminist challenge to sociology has a singular characteristic in being the first theoretical perspective created by the people who are directly exploited and disempowered by the relationships they are analysing.\(^{85}\) The energy resulting from that first hand involvement has been manifested in an exponentially increasing number of empirical investigations of masculinist forms of control and exploitation and an explosion of theoretical debates about the specific patterns of class, ethnic and gender power relations in which women (and men who resist masculinist power relationships) are enmeshed.

\(^{85}\) Yeatman (1990) p. 27 citing Mackinnon (1982)
It has been argued throughout this thesis that one of the most significant forms of exploitation, oppression and domination is the one experienced by the people who have a family obligation to care for prisoners. Moreover, this argument emphasises that an inherent aspect of that experience is its opaqueness. The material, emotional and social deprivation of the people who comprise that population makes the labour of theorising, and the costs of making the theoretical implications part of a public discourse, an especially difficult task. Judy Jones, a voluntary worker in the Victorian prison system, Betty Hounslow, a member of the Prisoners Action Group in N.S.W., Carole Johns and Cheryl Matthews, prisoners' wives in N.S.W., Judy Perram, a worker with the Children of Prisoners Support Group, Heather Deane, a one time member of the probation service in New Zealand, Valerie Bauhofer battling the prison authorities in New York, Alice Crosthwaite working with the South London Wives Group in England and especially Sue Smith, a prisoner's wife in England, are some of the people who through writing about their own practical experience of living in the social space between family and prison have made more transparent the exploitation, and the reason for that exploitation, of this singular form of caring labour.

In these writings they have also contributed to the feminist challenge to the social sciences. Any theoretical discipline that attempts both to understand and to change the intricate pattern of power, morality and rationality that circumscribes the lives of all people caught up in the exploitative relationships of class, ethnicity and gender has also to grasp the especial significance of the experience of people living the the complex and contradictory social space in which 'prison' and 'home' intersect. Their experience is not marginal to, but centrally implicated in, the ways in which productive and reproductive life have been, and are being, renegotiated. The current opaque but

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86 Deane (1988)
87 in all of these cases, apart from Deane's work, these texts have already been cited earlier in the thesis, and are listed in the bibliography
powerful reinterpretation of social life being imposed by New Right governments in familial political economies characterised by a global restructuring of capital/labour relations and the particular tensions of an advanced corporate consumer economy, makes the task of exposing that complex and contradictory relationship the more urgent. From the review of the penal discourses outlined in chapters two to eight, it is argued that more people are likely to be caught up the networks of control. There are likely to be an increasing number of bifurcatory systems of classification that end in more people being sent to prisons in the 'hard' end of the penal system and of those prisons becoming the site of more and more brutal and exploitative forms of containment. The home, constituted as the site of unequal relationships between men and women is also likely, for people still attached to productive relations in the economic sphere, to become the site of more criminogenic forms of community based controls in the normalising moment of penal control. Meanwhile, in the increasing tensions at the 'hard end' of imprisonment, the 'home', for the people made marginal to productive life, is likely to play an increasingly significant, but officially invisible part, in providing an infrastructure of financial support and source of unpaid physical and emotional labour, legitimated by, but going far beyond, the appeal of the 'natural work of family caring'.

There are three forms of restructuring of government provision of services in the New Right agenda of 'neo-liberalism': firstly corporatisation, that is applying the criteria of economic efficiency and accountability to the provision of the services that the government department provides; secondly, privatisation in terms of shifting responsibility for the profit making sectors of governmental provision of goods or services to the private sector; and thirdly, privatisation in terms of shifting the unprofitable aspects of government provision onto the unpaid labour of people who work in the voluntary and domestic sectors. The consequences of these three processes have been outlined in several of the socialist feminist analyses of the care of people made
unproductive in the current form of capital labour relations. It seems likely that it is in the condensed relations of power, morality and rationality as they are played out in the intersection between home and prison that this restructuring of social life is likely to involve the most complex and contradictory forms of exploitation and domination. It is important that the implications of these changes for the people in the population 'families of prisoners' should be made a continually visible part of the discourses of punishment and control.

It has been Yeatman's three questions about the relationship between domestic and non domestic life that have formed one of the major frameworks of the thesis. These questions concern: the specific social constructions of the interdependence of domestic and public life; the incompatibilities between the two areas; the false assumption about the self-sustaining nature of public sphere, with the consequent marginalisation of the domestic and privileging of the public spheres of social life. She argues that this feminist 'promise' to sociology should included the agenda of 'disestablishing the "other" as a permissable term' If 'the disestablishment of this status requires the participation of all individuals subsumed as "other" in constituting their identity, their sense of self, needs..', the particularly condensed constitution of people in the population 'families of prisoner as "others" should be the privileged not the marginalised problematic of the discipline. It is because these 'carers' live and work in one of the most densely layered of all the spheres of social life that the accounts of their experience bear the greatest promise for an understanding of the complexity of the social construction of inequality.

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88 detailed in chs. two & five
89 Yeatman (1990) p.20
90 Yeatman (1990) p. 21
The thesis also supports the parallel claim in Yeatman's 'challenge to academia': that a sociology, freed of masculinism, holds out great promise to feminism. In the terms in which that argument has been traced out in this thesis, it is not so much in the dualistic concern about men and women in penal life, but in the analysis of the interdependence of penality and domesticity, that the several administrative, judicial and academic discourses that construct both areas of social life, can be most usefully investigated. In a familial political economy characterised by the contradictory combination of an increasingly deregulated financial and employment market, an emphasis upon the constitution of the individuality of the citizen as a consumer, and a 'retreat from welfare' in the field of social policy, social control is increasingly comprising a more punitive state at the 'hard end' of prison life, together with an expansion of the state in the fusion of punishment and welfare systems at the 'normalising' end of the control continuum. It is against this specific historical setting, that the thesis concludes with the argument that the focus upon the construction of domesticity should become a central aspect of both feminist and sociological investigations, and, with the argument that is the corollary of that position, that these analyses should cut across the so far relatively rigid boundaries between the disciplines of feminist criminology, social policy analysis, and the radical critique of penalty.
APPENDIX

List of topics discussed with Carers in the interviews
(n.b. these topics formed the basis for the conversation with the carers. They are not the actual questions that were asked nor were they raised in any set sequence)

Basic
1. Relationship with prisoner
2. Caring for child of prisoner
3. Experience of visiting which prisons
4. Visiting one or more prisoners
5. Any experience of living with prisoner when he has been on some form of community based control

Travelling
1. Distance
2. Time
3. Preparation
4. Cost: economic/other

Visiting general
1. 'Would you take me through your day when you visit: your experiences of getting here, then having the visit and so on'

Reasons
1. Why visit?
2. Why bring children to visit?

Impact of imprisonment on you and other people in the family
1. at arrest
2. on bail/waiting for sentence
3. early imprisonment
4. classification
5. day leave/parole

Work involved in being 'outside carer' in addition to visiting?
1. mediating/negotiating
2. caring for children

General impact
1. Economic costs to you of imprisonment
2. Housing changes as a result of imprisonment
3. Personal (health/other) costs to you/children: parallel punishments?

Managing
1. Any help from relatives/friends/government departments/other
2. Any benefits from whole experience?/What you would like to see changed
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