

'It is not merely a question of women receiving equal treatment to men; in the prison system equality is everywhere conflated with uniformity; women are treated as if they are men.'

Her Majesty's Chief Inspector of Prisons, *Women in Prison: A Thematic Review*, UK, 1997, paragraph 3.46 (emphasis in original).

Women in prison: incarcerated in a man's world

Over half a million women and girls are held in penal institutions around the world, the largest populations being in the United States, the Russian Federation and Thailand.¹ Everywhere, women are a minority in national prison populations but their numbers are increasing in many countries. In the US, for example, the number of incarcerated women has increased by 404 per cent since 1985.² The imprisonment of low-level drug traffickers has been reported to be the largest factor contributing to this increase.³

The increase in women's imprisonment is fuelling the global trend towards the overuse of imprisonment and reflects the under-use of constructive alternative sanctions.



Credit: Amnesty International, March 2003

A woman in Katsina Central Prison, Nigeria, who is facing the death penalty for having an abortion. Under international human rights law, women have the right to decide on the number and spacing of their children

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Causes of incarceration

Some factors leading to women's imprisonment are common: in the main, they have committed petty, non-violent offences; they come from impoverished and marginalised parts of society; and they tend to have a background of physical and emotional abuse, mental health problems and alcohol or drugs dependency. Women's imprisonment is closely related to poverty, both as the reason for women's offences and because women often cannot afford legal services or to pay fines or bail. Female prisoners are often primary or sole carers and their incarceration can have a devastating effect on their family, particularly on young children.

In other respects, the profile of women's imprisonment relates to the differing legal, political, and cultural contexts of the societies in which they live. For example, until April 2007, women in Uganda found guilty of adultery could be fined or imprisoned, although a married man having an affair with an unmarried woman faced no punishment. Visiting women's prisons in Afghanistan, the UN Special Rapporteur on Violence Against Women found that a minority of the prisoners had been incarcerated for offences such as theft, drug trafficking, assault or murder. The majority were detained on charges such as adultery, which included remarriage after divorce, and 'running away from home'⁴

Fig. 1 Female imprisonment: largest female prison populations and highest rates of female imprisonment as a percentage of the total prison population

Female prison population (number of women and girls in penal institutions)		Female prisoners as a % of the total prison population	
USA	183,400	Maldives	21.6
China	71,286	Monaco	20.6
Russia	55,400	Hong Kong (China)	22.1
Thailand	28,450	Myanmar	17.8
India	13,355	Thailand	17.2
Brazil	11,000	Kuwait	14.9
Mexico	10,068	Qatar	11.8

Sources: R Walmsley, *World Female Imprisonment List*, International Centre for Prison Studies, London, 2006; World Prison Brief, accessible at www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html.⁵

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*'Some of the guidance material I have seen, particularly that of the Prison Service, although well-meaning, starts from the premise, "This is how we do it for men, how can we tweak it to accommodate women?" This approach is unacceptable.'*⁶

Prisons are single sex, coercive institutions designed to hold men in a secure environment. Women's prisons are a poor adaptation of this model. Women's experience of the criminal justice system, including prison, is significantly different from men's so it is important that the regimes under which women are held respond to women's specific needs. Although women are a minority of the prison population, they should have equal access to services and facilities.

The fact that there are fewer women in prison means that there are a smaller number of women's prisons. The consequences of this include women being held at a greater distance from their communities and families – a particular hardship for women with children.

Because of their limited numbers, a women's prisons may house women convicted of a wide range of offences but the overall regime will be determined by the maximum security requirement.⁷ Indeed, overall security requirements are designed for the male prison population and as such discriminate against women prisoners who are mostly imprisoned for non-violent offences. In addition, misclassification impacts negatively

- 1 International Centre for Prison Studies (ICPS), World Prison Brief, <accessed at www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief_background.html>
- 2 The Sentencing Project, *Women in the Criminal Justice System Briefing Sheets*, Washington DC, 2007. Men's imprisonment has increased by 209 per cent over the same period.
- 3 JFA Associates, *Unlocking America: Why and How to Reduce America's Prison Population*, November 2007.
- 4 *Mission to Afghanistan (9-19 July 2005)*, UN Doc E/CN.4/2006/61/Add.5, February 2006, paragraph 41.
- 5 Female prison populations range from less than 10 (in countries such as Gambia and the Caribbean Islands of Dominica, Grenada, St Kitts and Nevis and St Lucia) through to nearly 200,000, as in the USA. Female prisoners generally constitute between two and nine per cent of the total prison population, with 4.3 per cent representing the median level. Twelve countries exceed that percentage (Walmsley 2006).
- 6 Baroness J Corston, *The Corston Report: a review of women with particular vulnerabilities in the criminal justice system*, Home Office, London, 2007, paragraph 2.22.

on a prisoner's access to a wide range of facilities including educational and medical services.

*'Women are unfairly assessed according to social and personal disadvantages in their background over which they have no control. For example, if an individual is assessed as having been the victim of spousal abuse or was considered unemployed at the time of arrest, she will be identified as having a need in those areas. The greater the number of identified needs, the higher the resulting assessment of her risk and later security classification.'*⁸

Most countries now include women in all roles in the criminal justice system – police, lawyers, judges and prison staff – but they may be expected and required to work according to a historically male-dominated system.

'Ten years ago, there was only one federal facility for women offenders in Canada – the Prison for Women in Kingston, Ontario. Since the opening of this facility in 1934, numerous task forces and royal commissions have called for its closure. This is not surprising, given that the institution was geographically isolated (many women were incarcerated far away from their families, friends, and communities); it lacked programming specific to women's needs; it had limited space, ventilation, and privacy; it could not fully meet the cultural and spiritual needs of Aboriginal offenders; and its environment only supported the language requirements of its English-speaking majority.'
Correctional Service Canada, *The Transformation of Federal Corrections for Women*, <accessed at www.csc-scc.gc.ca/text/pblctl-eng.shtml>

Bias can be reflected at every stage of a woman's experience of the criminal justice system: women who report domestic violence may be ignored or further abused by the police; conditions for women in pre-trial detention are often worse than for sentenced prisoners;⁹ and women may face harsher sentences because of perceptions that only 'bad' women commit criminal offences.¹⁰ Moreover, women's ethnicity, nationality or sexuality can add to their disadvantage.

'Regrettably, the general decrease of the incarceration rate resulting from the Sentencing Reform Act has not had beneficial effects on

*the problem of over-incarceration of Canada's Aboriginal population. On the contrary, the over-representation of Aboriginals – particularly Aboriginal women – among the prison population has become even more marked. The Working Group was told that this is due to a number of reasons, including the demographic structure of the Aboriginal population, their growing urbanization and impoverishment, accompanied by high unemployment rates and lesser enjoyment of physical and mental health.'*¹¹

'In Brazil, as in other countries in Latin America and Asia, police stations staffed solely by women have been set up to facilitate the reporting of crimes against women.

Everyone knew that violence against women was not uncommon in Brazil, but no one really knew how prevalent it was until women officers started compiling statistics.

In the first year of operations, the number of charges filed by officers in women's stations was more than double the number of charges for similar crimes against women filed by the predominantly male officers in regular precincts.'

A Downie, 'Brazilian victims of domestic violence seek assistance from precincts staffed entirely by women', *The Christian Science Monitor*, 20 July 2005.

Pre-trial detention

'Lucia's husband refused to give her money to support their three children. One night Lucia took US\$35 from her husband's wallet and bought food. Her husband was furious and filed a police

- 7 BBC, 'New prison needed for women', *BBC News Online*, 11 July 2001. <accessed at <http://news.bbc.co.uk/1/hi/uk/1434483.stm>>
- 8 Sisters Inside, *What is wrong with the classification system?* Australia, undated <accessed at www.sistersinside.com.au/media/CLASSIFICATIONSYSTEM.doc>
- 9 L Townhead, *Pre-Trial Detention of Women and its Impact on Their Children*, Quaker United Nations Office, Geneva, 2007.
- 10 H Kennedy, *Eve was Framed: Women and British Justice*, Vintage, London, 1993.
- 11 UN Working Group on Arbitrary Detention, *Visit to Canada (1–15 June 2005)*, UN Doc E/CN.4/2006/7/Add.2, 5 December 2005, paragraph 51.

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*report. Lucia was charged with theft and placed in pre-trial detention. He refused to pay for her bail and she spent four months in prison.*¹²

Under international standards, detention pending trial is a measure of last resort and is only permitted under certain conditions, for example when there is a risk of the suspect failing to appear for trial or interfering with witnesses, evidence or other trial processes, or committing further offences and there is no alternative way that the risk can be addressed other than detention.¹³

Law and policy may not provide alternatives to imprisonment. Certain categories of offence or offender may be denied bail. Usually, this is for serious offences, but most women are accused of petty non-violent offences which should not require pre-trial detention. In England and Wales, for example, a study found that six out of 10 women imprisoned while awaiting trial were subsequently acquitted or given a non-custodial sentence.¹⁴ Women may not have the money required to access bail.

Conditions of detention are often more restrictive than those of convicted prisoners.¹⁵ Pre-trial detainees may have limited contacts with other prisoners, fewer opportunities for medical treatment or educational or work programmes, and restrictions on family contact, including visits, which impacts disproportionately women with care responsibilities and on their children. Convicted prisoners appealing against their sentence or conviction may remain in the harsher conditions of pre-trial detention until the legal procedures have been completed. Furthermore, as the UN Working Group on Arbitrary Detention has noted:

'As empirical research in many countries has shown that defendants who are not detained

*pending trial have significantly better chances to obtain an acquittal than those detained pending trial, the bail system deepens further the disadvantages that the poor and marginalized face in the enjoyment of the right to a fair trial on an equal footing.*¹⁶

Safety in prison

'... the report that a young woman, possibly as young as 15, was left to share a cell in a police station with around 20 men and is said to have been repeatedly sexually abused, does stand out for its sheer horror.

The fact that police officers involved then started to dispute her age, as if it mattered whether she was 15 or 20, does say something about the inability to grasp the scale of what had been done.

*The girl does not appear to have been helped by the involvement in the case of women officials at various levels.*¹⁷

That women in prison are vulnerable to abuse, particularly sexual abuse, is frequently reported and always shocking.¹⁸ Such treatment violates the international prohibition on torture and cruel, inhuman or degrading treatment or punishment.¹⁹ Both the occurrence of the abuse and its prohibition, stem from the fact that women prisoners are under the control of prison guards and are powerless.

The *UN Standard Minimum Rules for the Treatment of Prisoners* states that '[m]en and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall

12 Open Society Justice Initiative, *Myths of Pre-trial Detention in Mexico*, New York, 2005, p16.

13 See for example rule 6 of the *UN Standard Minimum Rules for Non-custodial Measures* (The Tokyo Rules).

14 Prison Reform Trust, *Lacking Conviction*, London, September 2004.

15 See for example, *Report of the Working Group on Arbitrary Detention*, Visit to Latvia, 23-28 February 2004, UN Doc E/CN.4/2005/6/Add.2, 1 September 2004 paragraphs 58 to 66.

16 *Report of the Working Group on Arbitrary Detention*, UN Doc E/CN.4/2006/7, 12 December 2005, paragraph 66.

17 G Duffy, 'Rape case adds to Brazil jail notoriety', *BBC News Online*, 23 November 2007 <accessed at <http://news.bbc.co.uk/1/hi/world/americas/7109933.stm>>

18 See for example reports by Amnesty International: <http://web.amnesty.org/library/eng-373/index>; Human Rights Watch: <http://hrw.org/women/custody.html>; or the UN Special Rapporteur on violence against women: <http://www.ohchr.org/english/issues/women/rapporteur/>.

19 For a discussion on the distinction between torture and cruel, inhuman or degrading treatment or punishment see *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, UN Doc E/CN.4.2006/6, paragraphs 34 to 38.

be entirely separate.²⁰ Rule 53 (2) states that '[n]o male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.' Further, paragraph 3 states, '[w]omen prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties...' However, this provision, even when enforced in the past, has often been abandoned to provide equal employment opportunities for female and male prison staff. What can happen as a result has been described as:

*'Given the power imbalance inherent in prison/prisoner relationships and the hierarchy within the prison, relationships between prison guards and prisoners corrupt the prison environment and tend to exploit the women. Sanctioned sexual harassment, i.e. women being patfrisked by men and monitored in their rooms and in the showers by male corrections officers, is also prevalent. A woman who was housed in a Michigan prison said that 1985, when the prison system began allowing men to guard women in women's prisons, was the turning point; after that sexual misconduct accelerated.'*²¹

A 2004 survey of women on death row in the US found that much of their experience mirrored that of male death row prisoners, such as inadequate defence counsel, poverty, alcoholism, drug abuse and mental illness. However, the survey established that many women were victims of domestic abuse – a fact often withheld in court, even where it could have been a mitigating factor in their defence. In prison they were subjected to mistreatment and denied access to medical and other services normally available to their male counterparts. Particularly where they were the only death-sentenced woman, they were held effectively in isolation.²²

As noted above, the power imbalance between the guards and the guarded, regardless, to a considerable degree, of the professionalism and commitment or the indiscipline and cruelty of the prison staff gives rise to abuse. The provision of a full and effective system of prison inspection and oversight backed by an independent and confidential complaints system is essential in preventing violence and abuse.

Health and well-being

*'Being in prison is a health hazard: the health status of prisoners is generally lower than the rest of the population.'*²³

The health status of prisoners is generally lower than that of the general population²⁴ and women's health needs may be seriously neglected in a male-dominated prison system. Many women prisoners have a background of physical and sexual abuse or of alcohol and drug dependency and have not had adequate health care prior to their incarceration. Women in prison often have a higher level of mental health problems than women in the general population.²⁵ Mental illness is often both a cause and a consequence of imprisonment: the rates of self harm and suicide are often greater among female than male prisoners and both are higher than in the outside community.²⁶

Regarding England and Wales, Baroness Corston reports that:

'Outside prison men are more likely to commit suicide than women but the position is reversed inside prison and the number of women taking their own lives in prison has increased in recent years, from one in 1993 to 13 in 2004. In 2003 women represented only 6 per cent of the prison population but accounted for 15 per cent of suicides. The statistics for 2005 and 2006 are more proportionate. Motherhood is a factor that

20 Rule 8(a).

21 *Report of the mission to the United States of America on the issue of violence against women in state and federal prisons*, UN Doc E/CN.4/1999/68/add.3, 9 January 1999, paragraph 55.

22 American Civil Liberties Union, *The Forgotten Population: A Look at Death Row in the United States Through the Experiences of Women*, New York, 2004.

23 World Health Organization Europe, *Prison Health as part of Public Health*, Moscow Declaration, 24 October 2003.

24 Penal Reform International, *Health in Prisons: realising the right to health*, London, 2007.

25 See, for example, Prison Reform Trust, *Bromley Briefing*, London, May 2007, p14.

26 J Palmer, 'Special requirements for female prisoners' in *Health in Prisons: a WHO guide to the essentials in prison health*, WHO, Geneva, 2007.

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Eye Camp at the Women's Prison in Jaipur, India

Credit: PRI

*appears to protect women in the community against suicide but this protection does not apply in prison where mothers are separated from their children and those serving long sentences may lose their opportunity to have children.*²⁷

Longer sentences now being imposed in some countries mean that prisons have an ageing population that they are not equipped to support. A study of older women in prison in California, where in 2005 the state had approximately 7,500 prisoners aged over 55, noted that they must contend with prison rules that require them to drop to the ground for alarms, climb onto top bunks and undress for strip searches. Arguing that 'geriatric prisons'

are not a solution, the author of the report recommends reducing the number of older prisoners through a combination of early release programs and expansion of community-based alternatives to incarceration.²⁸ It appears that few countries are giving due attention to an ageing prisoner population although, in the US, the non-governmental Project for Older Prisoners, POPS, has devised a risk-based approach towards the older prisoner population designed to achieve the supervised release of high-cost low risk prisoners and appropriate conditions for those who need to remain in prison.²⁹

As noted above, security classification can affect access to medical treatment. In Queensland, Australia, for example, female prisons held in low security

27 Corston, 2007.

28 H Strupp and D Willmott, *Dignity Denied: the price of imprisoning older women in California*, Legal Services for Prisoners with Children, San Francisco, December 2005.

29 POPS Testimony on Prison Reform and Older Prisoners before the House Judiciary Committee, 6 December 2007, jonathanturley.org. See www.nytimes.com/slideshow/2007/11/02/world/1103-JAPAN_7.html for a report on male elderly prisoners in Japan.

accommodation could only be hospitalised or receive dental treatment at a restrictive high security facility with the result that a number of women refused medical treatment.³⁰

At the most basic level, prison authorities around the world fail to cope with women's menstruation. They fail to provide sanitary napkins (or the locally accepted equivalent), provide them only as part of (limited) medical supplies or sometimes withhold them as punishment. Privacy, adequate bathing and washing facilities are often lacking.

*England: 'I was dismayed to find that in some of the prisons I visited there were toilets, often without lids, in cells and dormitories, sometimes screened by just a curtain, sometimes not screened at all. It is humiliating for women to have to use these facilities in the presence of others, most particularly during menstruation.'*³¹

*India: 'When a woman is menstruating it becomes a public event: ... there is no privacy when she needs to 'change', no privacy when she needs to wash, and above all no privacy should she be suffering from cramps and doubling up in pain. The whole barracks knows and often the unkind ones taunt and joke about the woman who may be incapacitated.'*³²

If prison authorities cannot cope with women's menstruation, how will they ensure that women enjoy the highest attainable standard of mental and physical health?

A recent report by the UN Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health discussed the 500,000 annual, and largely preventable, cases of maternal mortality. PRI has been unable to ascertain what proportion of these occur among women prisoners but notes with concern the

Special Rapporteur's analysis that, '*in both developing and developed countries, the burden of maternal mortality falls disproportionately on ethnic minority women, indigenous women and women living in poverty*',³³ a background shared by many women prisoners.

Maintaining family contact

The situation of women giving birth in prison, women prisoners accompanied by small children or children separated from their mothers because of imprisonment is one of the most difficult questions around imprisonment. Many women prisoners are mothers and usually the primary or sole carer.

*'...It is somewhat perplexing that in a society where the accepted traditional norm of family care and child development is that it is essentially a function of the mother ... this ascribed role, so carefully laid out for Indian women, is completely ignored when the woman steps into the prison.'*³⁴

Some countries make special provisions for prisoners who are mothers: in the Russian Federation, for example, a custodial sentence may be postponed and subsequently cancelled or reduced for a pregnant woman or a woman with children under the age of fourteen unless her sentence is for more than five years. On the other hand, a recent study of women in prison in England and Wales found that the average sentence of 42 days is just long enough for many women prisoners to lose their home and contact with their children.³⁵ International human rights standards, specifically the *UN Convention on the Rights of the Child*, emphasise the absolute necessity of respecting the child's best interests but these are not always easily established.³⁶

Equally, the maintenance of family contact is an important factor in successful reintegration on release. Research has shown that sustained family ties help to

30 Anti-Discrimination Commission Queensland, Women in Prison, 2006 www.adcq.qld.gov.au/pubs/WIP_report.pdf

31 Corston, 2007.

32 R Shankardass & S Haider, *Barred from Life, Scarred for Life: Experiences and Voices of Women in the Criminal Justice Sector*, PRAJA, India, 2004.

33 Report of the UN Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health, UN Doc A/HRC/4/28, 17 January 2007.

34 R Shankardass and S Haider, 2004, p.203.

35 Home Office, *Champion for Women needed for those with particular vulnerabilities in the criminal justice system*, 13 March 2007 <accessed at <http://press.homeoffice.gov.uk/press-releases/the-corston-report>>

36 For a thoughtful discussion of the issues, read M Alejos, *Babies and Small Children Residing in Prisons*, Quaker United Nations Office, Geneva, 2005.

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improve inmate behaviour; increase the likelihood of regaining custody after release and aid child development – the greatest obstacle to maintaining such bonds being the distance of the prison from the child’s home.³⁷

In New South Wales Australia, the Department of Correctional Services acknowledged that:

‘We believe that people who maintain contact with their families are less likely to re-offend than people who do not. And we recognise that the types of relationships that people have with their families are very, very important, particularly relationships with children. People, when they come into custody, are dislocated from their families and from their social support network. One of the challenges for people when they return to the community after they have been in custody is to get those relationships operating again and, therefore, the visits process is a very, very important part of that.’³⁸

In practice, however, the Mother and Children programme at Emu Plains women’s prison in New South Wales has all but ceased following changes to the visit protocol. The programme had fostered bonding between imprisoned mothers and their children by allowing all day visits with lunch provided by the local Rotary Club. The current system allows for two-hour block visits only.³⁹

Education, training and rehabilitation

Article 10(3) of the *International Covenant on Civil and Political Rights* states the ‘penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation’. The provision of education and training are therefore central to the successful reintegration of prisoners on release. However, the characteristics of women’s imprisonment – that there are fewer women in prison than men who are mostly serving shorter sentences – impact on their access to education and

training. This is the case even where government policies encourage the provision of education and training. As the German government has commented:

‘Because there are fewer women in prison and because the composition of their group varies, it is extremely difficult to offer vocational training courses – especially courses differing in content – in the institutions. Here it will depend either on if there is an institution for men close by, in which case vocational training measures can be arranged for men and women together in a co-educational context, or – which is preferable – on if women can be allowed to participate in vocational training outside the institution.’⁴⁰

Other restraints apply to vocational work:

‘Section 41 of the Prison Act places inmates under an obligation to perform work. This duty, however, only applies to work which is in keeping with their physical abilities and which they are able to perform owing to their physical state. Otherwise, work would not be treatment-based, but punishment-based ... The work is to be economically productive, because of the tense situation on the labour market, there is a high level of unemployment in penal institutions too (approx. 50 per cent).’⁴¹

At a minimum, women should have equal access to educational and training facilities as men, and these should be designed to equip them for release. There is some justified criticism that vocational training for women in prison is gender stereotypical, such as hairdressing, sewing or cooking. These should not be the only options and, where they are offered, they should reflect the women’s employment preferences and lead to genuine employment possibilities on release.

Even small-scale projects can have a positive impact. Week-long health camps for women prisoners in India provide physical health examinations but are also used

37 See for example, Tennessee Department of Corrections, *Impact of Incarceration on Children*, 2003

38 Mr L. Grant, Assistant Director of the Department of Corrections, New South Wales, Australia to the General Purposes Committee No 3 on 17 November 2006.

39 Justice Action Australia, ‘Emu Plains Update 07’ <accessed at www.justiceaction.org.au/index.php?option=com_content&task=view&id=210&Itemid=104>

40 Cited in Quaker Council for European Affairs, *Women in Prison: A Review of the Conditions in Member States of the Council of Europe*, 2007.

41 Cited in Quaker Council for European Affairs, 2007.



Mordovia Women's Prison, Russian Federation

Credit: PRI / Sophie Brandstom, 2004

to identify mental health problems. Other benefits of such programmes are to instil in prisons and prison staff that the inmates' health is an important issue, and to break the usual prison routine and bring the prisoners, staff and people from the outside together.⁴² In women's prison IK-6 in Orlovskaya in the Russian Federation, women with mental health problems, some of whom have committed serious crimes, are involved in theatre therapy aimed at solving deep emotional problems by learning to express their feelings and experiences with positive results.

Particularly for women who have lost their home or custody of their children while in prison, and this can happen as a result of only a short sentence, steps must be taken to ensure that they are not trapped between finding a home, regaining custody of their children or finding paid work on release.

International standards relating to women in prison

*'The concept of equality means much more than treating all persons in the same way. Equal treatment of persons in unequal situations will operate to perpetuate rather than eradicate injustice.'*⁴³

International law requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and that the penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation.⁴⁴

As the UN Human Rights Committee has pointed out, this imposes on states a positive obligation towards

42 PRI, PRAJA and the Andhra Pradesh Prisons Department, *Where the Mind is without Fear and the Head is Held High*, India, 2001, pp 24-27.

43 Office of the UN High Commissioner for Human Rights, Fact Sheet No.22, *Discrimination against Women: The Convention and the Committee*, Geneva, undated.

44 Articles 10(1) and 10(3) of the *International Covenant on Civil and Political Rights*.

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persons who are particularly vulnerable because of their status as persons deprived of liberty, and complements for them the ban on torture or other cruel, inhuman or degrading treatment or punishment. Prisoners may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons.⁴⁵

These provisions are enforced by the *Convention on the Elimination of All Forms of Discrimination against Women*. The *UN Declaration on the Elimination of Violence against Women* states that violence against women includes physical, sexual or psychological violence, perpetrated or condoned by the State.

Specific standards that recognise the special needs and circumstances of female prisoners are included in the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (the need for specific measures to protect the rights and special status of women, especially pregnant women and nursing mothers).

The Standard Minimum Rules for the Treatment of Offenders state that female prisoners should be separated from male prisoners and supervised by female officers. It also requires the provision of special accommodation for all necessary pre-natal and post-natal care and treatment and recommends standards for accommodation, personal hygiene and clothing and bedding.

PRI's response

2008 marks the 60th anniversary of the promulgation of the *Universal Declaration of Human Rights*. The UN's celebration of the anniversary is themed 'Dignity and justice for all of us', which reinforces the vision of the Declaration as a commitment to universal dignity and justice and not something that should be viewed as a luxury or a wish-list.⁴⁶

PRI believes that women in conflict with the criminal justice system need dignity and justice. Imprisonment should only be used as a penalty when absolutely necessary and only in proportion to nature of the crime. Going to prison *is* the punishment – the conditions

of imprisonment must not be an additional penalty, particularly when they are discriminatory in any way or form.

The rapid increase in the number of women being imprisoned in many countries owes more to politicians' fear of being seen to be 'soft on crime' than to an increase in women's criminality. The politicians' view is not necessarily supported by public opinion. A recent survey in the UK, for example, showed that 67 per cent of those asked said prison was not likely to reduce offending by women and 73 per cent did not think mothers of young children who commit non-violent crimes should be detained. There was overwhelming support for community alternatives to prison such as centres where women are sent to address the causes of their criminal behaviour accompanied by compulsory work in the community.⁴⁷ The *Corston Report*, a review of women with particular vulnerabilities commissioned by the UK Government, called for the establishment of a six-month timetable to close down existing women's prisons and replace them with a local network of small custodial units reserved only for those who are a danger to the public.⁴⁸

Women in conflict with the criminal justice system have, in the main, committed petty, non-violent offences; they come from impoverished and marginalised parts of society; and they tend to have a background of physical and emotional abuse, mental health problems and alcohol or drugs dependency. These are the problems that need to be addressed and solutions can often be found without resorting to custodial sentences.

Women prisoners are often primary or sole carers and their incarceration can have a devastating effect on their family, particularly on young children. This needs to be considered before mothers are sent to prison.

Where women do need to be removed from society, it should only be for a proportional length of time with the emphasis on rehabilitation and reintegration.

Above all, criminal justice systems must become more woman focused and stop treating women as if they were men. Government and prison authorities

45 UN Human Rights Committee, General Comment 21, 10 April 1992.

46 See www.ohchr.org/EN/UDHR/Pages/60UDHRIntroduction.aspx

47 Prison Reform Trust, *Public say stop sending women to prison*, 6 March 2007.

48 Corston, 2007. The UK Government's response to the report is available at www.official-documents.gov.uk/document/cm72/7261/7261.pdf. NGO reactions can be found at www.prisonreformtrust.org.uk/standard.asp?id=1195 and www.fawcettsociety.org.uk/index.asp?PageID=575

around the world are failing women prisoners by act and omission and the most urgent change needed is for criminal justice and prison systems to be based on laws and policies which do not discriminate against women but respond to their specific needs. Vigorous inspection systems must scrutinise the implementation of such policies to ensure that high standards are met and maintained.

PRI's work for women in prison

PRI's programme work has focused on developing and extending rehabilitation and resettlement services to women and girls in prison, improving support to babies and small children who are imprisoned with their mothers and promoting alternative sanctions to custody.

In South Asia, PRI has worked with the Andhra Pradesh Prisons Department to establish counselling services and psychological support to women prisoners, as well as provide relevant training for prison staff.⁴⁹

In the Russian Federation, attention has focused on the development of rehabilitation and educational services for female offenders at the juvenile colony for girls. With help from PRI, creative study groups have been established in the colony, including drama, sport, needlework and flower-growing. Ongoing research with the girls is helping identify their support needs on release and the availability of appropriate services in the community. To improve communication between correctional institutions and community-based services working with young offenders, PRI has organised meetings and conferences for prison staff and NGO representatives.

Conditions of detention for women imprisoned with their babies are also of concern in the Russian Federation. PRI has been monitoring living conditions for women prisoners in Colony No.2 in Mordovia and working with the prison department and local prison administration to advocate for women's increased access to their babies. More generally, PRI has been lobbying for the development of state policy on babies and small children imprisoned with their mothers, both in Russia and Ukraine. The needs of imprisoned babies and small children was just one of the problems identified at a regional conference on women in prison, which took place in Gomel, Belarus in October 2007. The resulting *Gomel Declaration on the Execution of Punishments for*

Gomel Declaration on the Execution of Punishments for Women (2007)

Key recommendations for participating countries (Belarus, Russian Federation, and Ukraine) and elsewhere:

1. Establish a special department at a high level of the penitentiary system responsible for the implementation of criminal punishments for women;
2. Improve the status of educational, psychological and social services staff within the penitentiary system, recognising their key role in social integration and the preparation of offenders for release;
3. Improve the legal basis relating to the sentencing and carrying out of punishments for women including criminal and criminal-executive legislation;
4. Enhance the legal protection of imprisoned women;
5. Reduce the application of custodial punishments for women; extending the application of alternative punishments within the community;
6. Develop and improve a system of preparation for release, social rehabilitation and follow-up programmes for women released from places of detention;
7. Give special attention to young girls in places of detention;
8. Adopt a national plan of action with regard to babies and young children accompanying their mothers in places of detention.

Women, which was developed by prison staff, social workers, medical professionals, NGO representatives and government officials from Russia, Belarus and Ukraine, outlines a series of recommendations for prison systems in the respective countries.

Finding employment and accessing social support are typical problems faced by women in Georgia on their release from prison. In response, PRI is working with the Penitentiary Department, NGOs and local businesses to establish a training centre at the women's prison in Tbilisi. Once completed, the training centre will not only provide vocational courses that are tailored to

49 PRI, PRAJA and the Andhra Pradesh Prisons Department, 2001.

the local employment market, it will also provide support to prisoners in finding employment on release.

At the international level, PRI has worked with the United Nations to raise awareness of the vulnerabilities of women and girls in prison. In March 2007, for example, PRI co-sponsored two workshops at the UN Commission on the Status of Women in New York in collaboration with the John Jay College of Justice, the American Civil Liberties Union Human Rights Programme (ACLU) and Human Rights Watch (HRW). PRI lobbied specifically for acknowledgment of the particular risks and vulnerabilities of girls in detention in the Commission's final report and recommendations.⁵⁰

50 Commission on the Status of Women, *Report on the fifty-first session* (26 February – 9 March 2007), UN Doc: E/CN.6/2007/9.

PRI publications and resources on women in prison

Gomel Declaration on the Execution of Punishments for Women

Published in 2007. Available in English and Russian

PRI Training Manual No.1: Human Rights and Vulnerable Prisoners

Published in 2003. Available in English, French, Spanish and Farsi

Where the Mind is Without Fear and the Head Held High

Published in 2001 with PRAJA and the Andhra Pradesh Prisons Department. Available in English



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PRI Mandate

Penal Reform International seeks to achieve penal reform, whilst recognising diverse cultural contexts, by promoting:

- the development and implementation of international human rights instruments with regard to law enforcement, prison conditions and standards;
- the elimination of unfair and unethical discrimination in all penal measures;
- the abolition of the death penalty;
- the reduction in the use of imprisonment throughout the world;
- the use of constructive non-custodial sanctions which encourage social reintegration whilst taking account of the interests of victims.