



Promoting fair and effective criminal justice

Organisation for Security and Co-operation in Europe (OSCE):
The Human Dimension Implementation Meeting (HDIM)
Warsaw, 23 September to 4 October 2013

Working session 3: Tolerance and non-discrimination II

Statement of Penal Reform International

Working Session 3: Prevention of violence against women and children

Penal Reform International (PRI)¹ would like to congratulate the OSCE's commitment to equality for women and men and the prevention of violence against women and children.

PRI would like to raise the issue of discrimination of women in the criminal justice system and highlight links with violence against women.

A large percentage of women prisoners have been victims of violence prior to their admission to prison, and as a consequence have specific and greater primary healthcare needs than male prisoners, including mental healthcare needs.

Secondly, women have a heightened vulnerability to mental and physical abuse during arrest, questioning and in prison. For many women around the globe custody means ill-treatment, threats of rape, touching, 'virginity testing', being stripped naked, invasive body searches, insults and humiliations of a sexual nature or even rape. Further, there are cases of dependency of prisoners upon prison staff which lead to increased vulnerability to sexual exploitation, as it drives them to 'willingly' trade sex for favours.

There are also wider issues of discrimination. A considerable proportion of women offenders are in prison as a direct or indirect result of the multiple layers of discrimination and deprivation, often experienced at the hands of their husbands or partners, their family and the community.

As discrimination against women in society results in unequal power relations and access to economic resources, women in conflict with the law depend on the willingness of male family members to spend resources on due process of law for them. This is reflected in particular vulnerability to being deprived of their liberty, for reasons including an inability to pay for legal representation, fines for petty offences or to meet financial and other bail or sentencing obligations.

¹ Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide. We promote alternatives to prison which support the reintegration of offenders, and promote the right of detainees to fair and humane treatment. We campaign for the prevention of torture and the abolition of the death penalty, and we work to ensure just and appropriate responses to children and women who come into contact with the law.

Moreover, in most societies alternatives to prison fail to take into account the specific requirements of women offenders, in particular their caretaking responsibilities, their previous history of domestic violence and the fact that there are gender differences in substance dependence requiring different substance dependence treatment programmes.

Women and girls comprise the minority of prisoners around the world, constituting an estimated two to nine per cent of national prison populations; however, their numbers are increasing significantly and at a greater rate than for men. Due to their small number amongst the prison population, the specific needs and characteristics of women and girls as subjects of the criminal justice system have tended to remain unacknowledged and unaddressed. Prison systems are almost invariably designed for the majority male prison population – from the architecture of prisons, to security procedures, to facilities for healthcare, family contact, work and training. As a consequence, few prisons meet the specific needs of women prisoners, and often do not prepare them for release with gender-appropriate rehabilitation.

The UN Bangkok Rules

Until 2010, international standards were almost silent on the specific needs of women in detention. The key international source relating to the treatment of prisoners, the UN Standard Minimum Rules for the Treatment of Prisoners (SMR) provided little guidance on gender-specific prison conditions beyond pre- and post-natal care and provisions related to nursing of infants. The United Nations Standard Minimum Rules for Non-custodial Measures - the Tokyo Rules - do not include a single gender-specific provision.

The adoption, in December 2010, of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) by the UN General Assembly is therefore a landmark in acknowledging the specific characteristics and needs of women offenders and prisoners.

The Rules cover access to non-custodial alternatives to detention as well as women prisoner's treatment when detained. Provisions on gender-specific healthcare, conducting searches, a prohibition of 'virginity testing' and a prohibition of shackling of women during childbirth are some examples of the guidance provided by the Bangkok Rules.

Many of the Rules do not require financial resources to be implemented, but rather a sensitisation of criminal justice actors, including prison authorities and staff.

In order to support their implementation, PRI has developed a Toolbox on the UN Bangkok Rules which includes a free online training tool, a guidance document and an assessment index. The Toolbox aims to provide assistance to stakeholders working towards implementation of a more gender-sensitive penal system, in line with the UN Bangkok Rules.

Recommendations

PRI recommends for all OSCE Member States to review its penal legislation, policies and practices, by reference of the UN Bangkok Rules including by:

- Undertaking research and data-collection on the background, characteristics and rehabilitative needs of women offenders and prisoners, in line with Rule 67 of the UN Bangkok Rules;
- Including the UN Bangkok Rules as part of the training curriculum of criminal justice actors, including prison authorities and staff.