



Promoting fair and
effective criminal justice

QUESTIONNAIRE

“NON-DISCRIMINATION AND EQUALITY WITH REGARD TO THE RIGHT TO HEALTH AND SAFETY”

by Penal Reform International

Penal Reform International is an independent non-governmental organisation that focuses on criminal justice reform at a global level. Information provided will therefore relate to health and safety issues arising for women in the criminal justice system, and in particular women in detention.

Our work relates, not to a specific individual country, but to relevant international standards and country examples from our network of partner organisations and PRI’s own research. The information given below will therefore relate to international standards and a variety of country examples which might be of interest to the Working Group.

Although given our mandate our submission does not cover all questions below, we hope that it will still constitute useful input for the Working Group’s forthcoming report. We stand ready to provide additional information at any time.

This submission is based, mainly on:

- Penal Reform International, Briefing ‘Women in criminal justice systems: the added value of the UN Bangkok Rules, <http://www.penalreform.org/resource/women-in-the-criminal-justice-system-the-added/>
- Penal Reform International/ Inter-agency Panel on Juvenile Justice (IPJJ), Neglected girls: girls in the criminal justice system, 2014, <http://www.penalreform.org/resource/neglected-girls-criminal-justice-system/>
- PRI/ TIJ, Guidance Document on the United Nations Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules), 2013, <http://www.penalreform.org/resource/bangkok-rules-guidance-document-index-implementation/>
- PRI, e-course ‘Women in detention: Putting the UN Bangkok Rules into Practice’, <http://www.penalreform.org/priorities/women-in-the-criminal-justice-system/bangkok-rules-2/tools-resources/>

I. Prevention of sex discrimination in the enjoyment of the right to health and safety

A. Health

1. Does your country have regulations (in the Constitution, legislation or in other legal codes) that guarantee:

(Please specify in the space provided for this purpose "yes" or "no")

() the right to equal access for women and men to all forms of healthcare, at the highest available level, including access to alternative health provisions such as homeopathy, naturopathy, etc.

() access to sexual and reproductive health services

() women's rights to make autonomous decisions regarding their sexual and reproductive lives

PRI would like to point out that, with regard to women in detention, national legal frameworks and policies (such as national prison rules) usually are formulated in a generic way and are tailored towards the majority male population in detention, but fail to provide for the gender-specific needs of women. As a consequence, in most jurisdictions women do not enjoy equal access to healthcare.

As the UN Special Rapporteur on violence against women noted, 'The mere replication of health services provided for male prisoners is (...) not adequate.'¹

In a wide range of countries provision of health-care for women in prison is limited to pregnancy and pre- and post-natal care, whereas women in detention can often not access other reproductive health-care.

Many prisons do also not provide adequate substance abuse treatment programmes, do not tailor programmes for women or are discriminating against women. In Kyrgyzstan, for instance, in 2008 a planned methadone programme in women's prisons fell victim to funding cuts, and as a result opioid substitution therapy (OST) was only available in men's prisons.² When finally established,³ contrary to the programme provided in eight men's prisons, no separate 'clean zone' was available with the programme for women, but those undergoing the treatment mixed freely with the other prisoners.⁴ In Georgia, too, a survey in 2008 found that methadone as an opioid substitution therapy (OST) was available in some men's prisons but not in women's prisons, a common practice mirrored also in reports on discrimination against women regarding the accessibility of substance abuse programmes in the Russian Federation.⁵

Typically, treatment for HIV-positive pregnant women is not available, even where antiretroviral therapy could prevent mother-to-child transmission.

The common deficiencies in providing adequate health-care to female detainees underlines the added value of guidance put in place by the United Nations Rules for the Treatment of Women Prisoners and Non- custodial Measures for Women Offenders (the Bangkok Rules).

A provision on medical screening upon entry spells out the need for a comprehensive examination, explicitly including the reproductive health history, presence of drug dependency, of sexually transmitted or blood-borne diseases and mental health-care needs, and whether sexual abuse or other forms of violence have been suffered prior to admission (Rule 6, Rule 7 details the precautions in case prior abuse is determined). Due to women prisoners' backgrounds it may be the first time in their lives that they have a medical examination or have access to a doctor.⁶

¹ Quoted in Rick Lines, The right to health of prisoners in international human rights law, *International Journal of Prisoner Health*, Vol. 4 Iss: 1, 2008, p.13.

² Ed. Claudia Stoicescu, *Harm Reduction International, The Global State of Harm Reduction 2012: Towards an integrated response*, 2012, p. 129.

³ The programme 'Atlantis' was established in Stepnoye prison in 2009, providing a six month long treatment for up to 12 women at a time on a voluntary basis.

⁴ Penal Reform International, *Who are women prisoners? Survey results from Kazakhstan and Kyrgyzstan*, 2014, p. 17.

⁵ Penal Reform International, *Women in prison in Russia: at a glance*, 2010.

⁶ UNODC, WHO Europe, *Women's health in prison: Correcting gender inequity in prison health*, 2009, p. 21.

Bangkok Rule 10 (2) requires that women are examined and treated by a woman physician or nurse if she so requests, except for situations of medical urgency. Rule 11 captures that, with limited exceptions, only medical staff should be present during examinations. Conscious of the fact that women feel particularly vulnerable exposing their bodies and of experiences of sexual abuse, the Rules require health-care services to be provided in a culturally and gender-sensitive manner, ensuring privacy and dignity.

Gender-sensitivity and responsiveness to the specific needs and backgrounds of women is one of the common features in all respective provisions, alongside the principle of equivalence of health-care to that delivered in the community, which includes close cooperation between prison and public health services (Bangkok Rule 10).

Bangkok Rule 8 captures the principle of confidentiality of medical information as well as the voluntariness of examination and treatment. Women specifically may not wish to share their reproductive health history or status,⁷ but the Rule also prohibits ‘virginity testing’ as exercised in some countries⁸ in violation of the right to dignity and the right not to be subjected to ill-treatment.⁹

Health-care, for all prisoners, should include preventative health-care measures, but for women these need to comprise pap smears and screening for breast and gynaecological cancer (Bangkok Rule 18). Other preventative health-care measures required by women may include the provision of contraceptive pills, as necessary, for instance in cases of problematic menstruation.

Gender-specific treatment and care for HIV/ AIDS is required by Bangkok Rule 14, acknowledging that medical treatment for women with HIV/AIDS needs to be different than treatment of men. The components of a treatment and prevention strategy include the provision of reproductive health and family planning advice, information on the transmission of sexually transmitted infections and HIV and ways to reduce those risks. Education initiatives and an appropriate diet and nutrient supplements are another important component, with extra care for pregnant or breastfeeding women.¹⁰

Gendered differences in substance dependencies and related complications are acknowledged by Bangkok Rule 15, which highlights the need for ‘specialised treatment programmes designed for women substance abusers’. Access to harm reduction programmes,¹¹ rehabilitation programmes and drug-free areas must not be discriminating against women. Treatment programmes need to take into account prior victimisation, diverse cultural backgrounds, any history of abuse or domestic violence and mental health problems common among women with substance dependencies as well as the special needs of pregnant women and women with children.

Bangkok Rule 12 acknowledges that successful treatment of mental health issues requires an individualised gender-sensitive approach, addressing the root causes and taking into account any trauma that the female prisoner may have experienced. Rule 16 requires the development of a strategy to prevent suicide and self-harm in consultation with mental health-care and

⁷ Research in China, for example, documented mandatory pregnancy tests. (Cheng Lei, Lü Xiaogang, and Chen Jianjun, Research Report on the Treatment of Women Detainees in China - Using the Bangkok Rules as the Starting Point of Analysis, 2014, p. 31).

⁸ For example, such practice was reported in Egypt in 2011 (Amnesty International, Egypt: military ‘virginity test’ investigation a sham, 9 November 2011).

⁹ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report to the Human Rights Council, Seventh Session, Manfred Nowak, A/HRC/7/3, 15 January 2008, para. 34

¹⁰ See more guidance in World Health Organization and Joint United Nations Programme on HIV/AIDS, HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response in this Framework for an effective national response, 2006.

¹¹ Such as pharmaceutical interventions, for example, opioid substitution therapy (OST).

social welfare services.¹²

2. Are medical services related to women's sexual and reproductive life and/or violence against women covered by universal health coverage?

Yes () No ()

If yes, what kind of medical services are free of charge?

(Please specify)

In many countries, sexual and reproductive health-care other than pre- and post-natal care is not provided to women in detention. In Argentina, for example, a survey showed that over a third of women prisoners surveyed had never received a Papanicolaou test (PAP) (32.31%) and almost three quarters reported that they never received breast cancer screening (73.36%). This number was even higher among pre-trial detainees; 42.11% and 82.11% respectively had not received a PAP test or breast cancer screening. 75.53% of pre-trial detainees versus 53.78% of convicted women indicated they never received HIV-prevention education.¹³

In China, both initial health-screening and gynaecological care later on during imprisonment were found to fail women's healthcare needs. In the facilities surveyed, medical screening on entry was limited to blood and urine tests, chest X-rays and blood pressure checks, not providing gynaecological examination.¹⁴ Such examinations were found to only be prescribed every one or two years and only for 'female workers who enter menopause'.¹⁵ 40% of the surveyed women had never undergone any specific gynaecological health and disease examinations.¹⁶

It has been established in many research studies that there is a clear link between violence against women and women incarceration.

Women have been victims of violence at a much higher rate prior to entering prison than is acknowledged by the legal system generally,¹⁷ partly due to the persistent phenomenon of underreporting of such abuse. In many regions, it is still the victim who is stigmatised rather than the perpetrator and for many women the experience of violence has become normalised.¹⁸

Anglo-American research has found that female offenders are three times more likely than their male counterparts to have been physically or sexually abused in their past and twice as likely as women in the general public to report childhood histories of physical or sexual abuse.¹⁹ Another study found that a staggering 86% of incarcerated women had, as children, suffered either sexual or physical abuse or witnessed violence at home.²⁰

In Jordan, more than 3 out of 5 women surveyed in detention had experienced domestic violence and for 92% of these women, this was a frequent occurrence. While these figures

¹² For more detailed guidance on the key components of a suicide prevention programme in prison, see Preventing suicide in jails and prisons, Co-produced by WHO and IASP, the International Association for Suicide Prevention, 2007

¹³ Cornell Law School's Avon Global Center for Women and Justice and International Human Rights Clinic, Ministry of Defence of Argentina and the University of Chicago Law School International Human Rights Clinic, Women in Prison in Argentina: Causes, Conditions, and Consequences, 2013, pp. 3, 21.

¹⁴ Cheng Lei, Lü Xiaogang, and Chen Jianjun, Research Report on the Treatment of Women Detainees in China - Using the Bangkok Rules as the Starting Point of Analysis, 2014, p. 37.

¹⁵ Ibid., p. 8.

¹⁶ Ibid., p. 37.

¹⁷ Ibid., p. 4.

¹⁸ Artz, L., Hoffman-Wanderer, Y., and Moul, K., Hard Time(s): Women's Pathways to Crime and Incarceration, Cape Town: GHJRU, University of Cape Town, 2012, pp. xiii, 148.

¹⁹ Ibid. footnote 96.

²⁰ S. Greene, C. Haney and A. Hurtado, Cycles of Pain: Risk Factors in the Lives of Incarcerated Mothers and their Children, The Prison Journal, 80(1), 2000, p. 9.

represent a significant percentage, they are still likely to reflect under-reporting.²¹ Of the women who responded to this question in a survey in Argentina, 39.04% reported experiencing violence from a spouse or family member prior to their imprisonment; 13.6% had been raped at least once.²²

The life stories captured in a South African study, where almost 70% of the women prisoners interviewed had experienced some form of domestic violence,²³ revealed experiences of abuse throughout childhood²⁴ and adulthood (including witnessing and directly experiencing domestic violence), physical and psychological neglect, exposure to violent communities, witnessing and engaging in substance abuse, and unstable and troubled family lives. 67% of the women had experienced some form of domestic violence and/or rape in their adult life, which is three times higher than the rate in the general population.²⁵

Some studies have suggested that exposure to extreme, traumatic events cause high rates of borderline personality disorder, antisocial personality disorder, substance abuse, and symptoms of post-traumatic stress disorder (PTSD) among women inmates.²⁶ For others, abuse led to problem behaviours such as drugs, alcohol and gambling as a way of dealing with their experiences.²⁷

Many penitentiary systems also overlook that medical examination by male doctors puts women prisoners at risk of re-traumatisation as a high percentage of them have been victims of violence, including sexual violence.

Are women’s rights to health, including sexual and reproductive health, autonomy and health insurance, applied also to girls under 18?

Yes () No ()

If “yes”, please indicate the legislation regulating these and indicate enforcement mechanisms.

There is limited data and research regarding the status of girls’ health while in detention. Despite this, certain common issues do emerge from the information available particularly concerning mental illness, sexual and reproductive health including pregnancy, physical and sexual abuse and substance and alcohol dependency.²⁸

As for girls, the detention environment in many countries does not provide adequately for the specific health needs of girls, such as adequate nutrition, exercise and greater hygiene needs due to menstruation. As prison systems have been primarily designed for men, girls’ health needs are often not even addressed by prison policy and procedure. This can result, for

²¹ Penal Reform International, *Who are women prisoners? Survey results from Jordan and Tunisia, 2014*, p.17. Under-reporting was established, for example, by the Committee on the Elimination of Discrimination against Women (Committee on the Elimination of Discrimination against women (Jordan, CEDAW/C/JOR/CO/5 (2012), para. 25).

²² Cornell Law School’s Avon Global Center for Women and Justice and International Human Rights Clinic, Ministry of Defence of Argentina and the University of Chicago Law School International Human Rights Clinic, *Women in Prison in Argentina: Causes, Conditions, and Consequences*, 2013, p. 2.

²³ Artz, L., Hoffman-Wanderer, Y., and Moul, K., *Hard Time(s): Women’s Pathways to Crime and Incarceration*, Cape Town: GHJRU, University of Cape Town, 2012, p. xiii, pp. 102-113.

²⁴ 37% of the women in the sample reported that they had been physically abused during their childhood, 29% of respondents reported some form of sexual abuse in their childhood. 62% of those who experienced childhood sexual abuse were abused by a father figure or male caregiver, with only 12.5% stating that they did not know the perpetrator. (Artz et al., pp. xii, xiii, 125, 132).

²⁵ Artz et al. (2012), pp. xii, xiii pp. 83-100.

²⁶ Artz et al. (2012), p. 141.

²⁷ See for example Artz et al. (2012), p. 162.

²⁸ See, for example, research from the UK in Douglas N and Plugge E, ‘The health needs of imprisoned female juvenile offenders: the views of the young women prisoners and youth justice professionals’, *International Journal of Prisoner Health*, Vol 4, No 2, June 2008, pp66-76.

instance, in infrequent or absent health services including gynaecological provision for pregnant girls who are one of the most vulnerable groups in detention, due to the social stigmatisation to which they may be subjected and their inexperience of dealing with pregnancy.

A study conducted by the National Child Traumatic Stress Network²⁹ in the US found that justice-involved girls have experienced ‘higher rates of victimization than their male peers, particularly those forms of abuse that occur in the context of close personal relationships such as family violence and sexual assault’.³⁰ Post-traumatic stress disorder (PTSD) was 3 times more prevalent among girls in the criminal justice system than for boys (7.3 % compared to 2.2 %). Girls also displayed more severe PTSD symptoms than their male peers.

As for girls, the US-study by the National Child Traumatic Stress Network confirmed the higher levels of mental health issues of girls like ‘depression, linked to substance abuse, self-harm and participation in risky sexual behaviours’; and also found that girls react to ‘more subtle trauma reminders, such as roughness of staff, isolation, and a lack of privacy and control over their bodies’. As a consequence girls act out their distress. This is likely to be interpreted as disobedience and being out of control and brings further sanctions.

3. Are there any provisions which restrict women’s access to health services? In particular which:

(Please specify in the space provided for this purpose "yes" or "no")

- () require the consent of a male relative/husband for a married woman’s medical examination or treatment or access to contraceptives or abortion,
- () require parental consent in case of adolescents’ access to contraceptives or abortion;
- () allow medical practitioners to refuse provision of a legal medical service on grounds of conscientious objection
- () prohibit certain medical services, or require that they be authorized by a physician, even where no medical procedure is required; in particular:
- () IUDs (intrauterine devices) or hormonal contraceptives
- () Emergency contraceptives, including the morning-after pill,
- () Sterilization on request (please also include information regarding whether non-therapeutically indicated sterilization is allowed for men);
- () Early abortion (in first trimester of pregnancy) at the pregnant woman’s request
- () Medically assisted reproduction (e.g., in vitro fertilization)

If yes, please indicate the relevant legal regulations and indicate the sources.

See under question 1.

4. Are the following acts criminalized?

(Please specify in the space provided for this purpose "yes" or "no")

- () transmission of HIV or other venereal diseases by women only
- () female genital mutilation
- () child marriage
- () home births with an obstetrician or midwife
- () abortion

²⁹ National Child Traumatic Stress Network, Trauma among Girls in the Juvenile Justice System, 2014.

³⁰ In simplified terms, for boys victimisation was linked to community violence, whereas for girls victimisation was mostly related to family conflict and violence.

See under 6.

If yes, are there any exceptions to these prohibitions and under what circumstances do exceptions apply?

Please give legal references and provisions.

**And who is criminally responsible? (Please circle the appropriate answer)
The woman, the doctor, other persons directly or indirectly related with the pregnancy and/or the abortion.**

Please give legal references.

B. Safety

5. Does your country have regulations (in the constitution, legislation or in other legal codes) that guarantee:

(Please specify in the space provided for this purpose "yes" or "no")

() Special protection against gender based violence

() Equal access for women to criminal justice

In some countries detention is used as a form of (alleged) ‘protection’ from threats of honour crime and of victims of rape, to protect them as well as to ensure that they will testify against the perpetrator in court.³¹ For example, the UN Special Rapporteur on torture has reported detention of women for their ‘protection’ for up to 14 years because they were at risk of becoming victims of honour crimes.³² Such practices are also reported in Iraq, where ‘detention centers sometimes end up serving as protective shelters to prevent families from killing women and girls at risk of honour killing.’³³ In Jordan also, women are held in administrative detention as a means of ‘protection’ if they are perceived at risk of being harmed by their family, based on a decision by the local governor.³⁴

In response to such practices, Bangkok Rule 59 calls for non-custodial means of protection, for example shelters, and reiterates that any placement of women in detention centres for means of protection, where necessary and expressly requested by the woman concerned, must be temporary and not continued against her will. The Rule also demands respective supervision by judicial and other competent authorities.

6. Are the following acts criminalized?

(Please specify in the space provided for this purpose "yes" or "no")

() adultery

() prostitution

(If yes, who is criminally responsible – please circle the appropriate answer: the sex worker, the procurer and/or the customer)

() sexual orientation and gender identity (homosexuality, lesbianism, transgender, etc.)

() violations of modesty or indecent assault (e.g. not following dress code)

³¹ In the light of such practices, Rule 59 of the Bangkok Rules provides that ‘[g]enerally, non-custodial means of protection, for example in shelters managed by independent bodies, non-governmental organizations or other community services, shall be used to protect women.’

³² Special Rapporteur on torture on Jordan (2007), A/HRC/4/33/Add.3, para. 39. and para. 72 lit. (u).

³³ Heartland Alliance, Iraq: Gender-Based Violence Prevention: Legal, Medical and Psychosocial Services, <http://www.heartlandalliance.org/international/wherework/project-pages/iraq-gender-based-violence.html>.

³⁴ Penal Reform International, Who are women prisoners? Survey results from Jordan and Tunisia, 2014, p.8.

Please give legal references and provisions.

In many countries criminal sanctions are used to curb sexual or religious ‘immorality’ through the use/designation of ‘offences’ such as adultery, extramarital sex, sexual misconduct, violations of dress codes or prostitution. Such offences tend to penalise women exclusively or disproportionately even if they are formulated in a gender-neutral way. Some studies also suggest that females charged on moral offences are treated more harshly than males, presumably for having transgressed their gender role.³⁵

In some jurisdictions, women face charges of adultery even where there is clear indication of rape, and criminal procedures place the burden of proof on the female victim.³⁶ For example, in Pakistan reports indicate a high number of women in prisons accused of or convicted for violating the prohibition against extramarital sex, including after reporting rape or after filing for divorce.³⁷ Similarly in Afghanistan approximately 50% of women in prisons were estimated to have been convicted of moral crimes.³⁸

Criminalisation of women also occurs where abortion is illegal or legal only in limited circumstances, again including in cases of rape. In Colombia, for example, abortion is prohibited in all circumstances and women can be imprisoned for up to four and a half years for having abortions even in cases of rape or when their lives were at risk. Only narrow exceptions allow judges to waive penal sentences.³⁹

In some countries, women are imprisoned for leaving their homes without permission (‘running away’). Many of these women leave in an attempt to escape from forced marriages, forced prostitution or physical or sexual violence by a family member.⁴⁰ A study in Afghanistan in 2007 found approximately 20% of the incarcerated women were charged with the offence of running away, often combined with another offence, such as adultery or theft.⁴¹

Girls, in particular, tend to be treated more harshly for offences, which are atypical in terms of the behaviour expected of a girl,⁴² including ‘being beyond parental control’.⁴³ Research in juvenile rehabilitation centres in Afghanistan, for example, found that 14% of girl respondents were in detention, not because of an offence, but because they were without shelter. None of the boys reported being in detention as a result of being lost or without accommodation.⁴⁴

Women who are sex workers, including victims of trafficking, also face imprisonment in numerous countries for offences such as prostitution. International law prohibits

³⁵ UNODC, Handbook for prison managers and policymakers on women and imprisonment, 2014, pp. 81, 97.

³⁶ Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, Report to the UN General Assembly, Pathways to, conditions and consequences of incarceration for women, 21 August 2013, UN-Doc. A/68/340, paras. 16 and 18.

³⁷ Ibid., para. 17

³⁸ UNODC, Afghanistan: implementing alternatives to imprisonment, in line with international standards and national legislation, 2008, p. 1.

³⁹ Human Rights Watch, Colombia: Women face prison for abortion, 27 June 2005, <accessed 2 June 2014, <http://www.hrw.org/news/2005/06/26/colombia-women-face-prison-abortion>>..

⁴⁰ Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, Report to the UN General Assembly, Pathways to, conditions and consequences of incarceration for women, 21 August 2013, UN-Doc. A/68/340, paras. 19, 20.

⁴¹ UNODC, Afghanistan: implementing alternatives to imprisonment, in line with international standards and national legislation, 2008, para. 14.

⁴² Gelsthorpe L., Sexism and the female offender (1989).

⁴³ Penal Reform International/ Interagency Panel on Juvenile Justice (2014), p. 5. See, also for example, Human Rights Watch, Afghanistan (2012), which details how girls are convicted and imprisoned for crimes that usually involve flight from unlawful forced marriage or domestic violence.

⁴⁴ Penal Reform International/ Interagency Panel on Juvenile Justice (2014), p. 5, quoting UNICEF, Justice for Children: The situation for children in conflict with the law in Afghanistan, 2008.

discrimination, including discrimination based on sex.⁴⁵ States therefore need to review their legislation, policies and practice in order to ensure that women are not penalised exclusively or disproportionately.

7. Are there any provision in criminal law that treat women and men unequally with regard to:

(Please specify in the space provided for this purpose "yes" or "no")

() Procedure for collecting evidence

() Sentencing for the same offence, especially capital punishment, stoning, lashing, imprisonment, etc.

Under the headline of ‘equal access to justice’ we would like to highlight cases where women commit violent offences against perpetrators of domestic/ sexual abuse against them and so-called ‘protective detention’.

In the cases researched of women alleged or convicted of offences against life (assault, manslaughter or murder), experiences of domestic and sexual abuse often were the direct cause of incarceration. Many women surveyed in Argentina, for example, described how they used force against their abuser after suffering severe and ongoing domestic violence, including out of fear for the safety of their children.⁴⁶ Such fears are not unfounded. Globally, two thirds of the victims of homicide were female in 2012 and almost half of all female victims (47%) were killed by their intimate partners or family members, compared to less than 6% of male homicide victims.⁴⁷

In Kyrgyzstan, a UN report noted that 70% of women convicted of killing a husband or other family member had experienced a ‘longstanding pattern of physical abuse or forced economic dependence’.⁴⁸ In Jordan, 26% of women in judicial detention charged with or convicted of violent offences, 98% of these charges/ sentences relating to murder/ manslaughter of a male family member.⁴⁹ Research conducted in New York State in the US found that more than 9 out of 10 women convicted of killing an intimate partner had been abused by an intimate partner in the past.⁵⁰

Research also suggests that lawyers and judges lack awareness of gender-specific circumstances and their relevance in sentencing. As a consequence, mitigating factors relating to offences committed by women in conflict with the law are neither pleaded by legal representatives nor considered by judges. Such circumstances include a history of (sexual) violence suffered by partners/spouses prior to violence against these perpetrators or coercion to commit or abet an offence. It is likely that in many jurisdictions the interpretation of self-defence and of mitigating factors does not adequately allow for the consideration of prior long-term and systematic abuse by male family members or partners, in particular where the violent response to (sexual) abuse by the female victim is not immediate.

⁴⁵ Convention on the Elimination of All Forms of Discrimination against Women, New York, 18 December 1979, Article 2 (f) and (g) and Article 5; see also Human Rights Committee, General Comment No. 21 (1992).

⁴⁶ Cornell Law School’s Avon Global Center for Women and Justice and International Human Rights Clinic, Ministry of Defence of Argentina and the University of Chicago Law School International Human Rights Clinic, *Women in Prison in Argentina: Causes, Conditions, and Consequences*, 2013, p. 19.

⁴⁷ UNODC, *World crime trends and emerging issues and responses in the field of crime prevention and criminal justice*, 12 February 2014, UN-Doc. E/CN.15/2014/5, para. 10.

⁴⁸ Special Rapporteur on violence against women, its causes and consequences, Report on the Mission to Kyrgyzstan, 28 May 2010, UN-Doc. A/HRC/14/22/Add.2, para. 26.

⁴⁹ Penal Reform International, *Who are women prisoners? Survey results from Jordan and Tunisia*, 2014, pp. 12, 13.

⁵⁰ Kraft-Stolar, Tamar, Brundige, Elizabeth, Kalantry, Sital and Getgen, Jocelyn E., *From Protection to Punishment: Post-Conviction Barriers to Justice for Domestic Violence Survivor-Defendants in New York State*, Cornell Legal Studies Research Paper No. 11-21, 7 June 2011, p. 3.

() So called “honor crimes” (are they tolerated in order for the perpetrator to avoid prosecution or to be less severely punished if the woman is killed?)

See above, so-called ‘protective detention’.

II. Diagnosing and counteracting possible sex discrimination in practice in the area of health and safety

A. Health

8. Are there legal obligations to provide health education in school?

Yes () No ()

If yes, does it cover: *(Please specify in the space provided for this purpose "yes" or "no")*

() prevention of sexually transmitted diseases

() prevention of unwanted pregnancies

() promotion of a healthy lifestyle, including prevention of dietary disorders of teenage girls, including anorexia and bulimia

() psychological/psychiatric training on self-control of aggression, including sexual aggression

Please indicate any relevant legal regulation or programs regarding to the above mentions.

9. Are there any statistical data disaggregated by age and/or sex (collected over the last 5 years) regarding :

(Please specify in the space provided for this purpose "yes" or "no")

() malnutrition

() maternal mortality

() maternal morbidity, including obstetric fistula

() adolescent childbearing

() health consequences of physical, psychological, sexual and economical gender-based violence

() incidence of HIV/AIDS and sexually transmitted diseases

() drug abuse

() alcohol addiction

() legal abortions

() death resulting from legal abortions

() illegal abortions

() death resulting from illegal abortions

() use of contraceptives, including mechanical and hormonal (including emergency contraceptives)

() sterilization on request

If “yes”, please provide for data and sources.

10. Are there any statistical data and/or estimations regarding the number of reported and/or unreported cases and convictions for :

(Please specify in the space provided for this purpose "yes" or "no")

() female genital mutilation

() illegal voluntary abortion

() forced abortions

- () forced sterilizations
() malpractices in cosmetic medicine
() obstetric violence

If "yes", please give further references.

11. Is the gender perspective included in national health-related policies:

Yes () No ()

In particular: *(Please specify in the space provided for this purpose "yes" or "no")*

- () in planning the distribution of resources for health care
() in medical research on general diseases, with proper and necessary adaptations to the different biological make-up of women and men
() in geriatric service provision
() in state custodial decisions to institutionalize children between 0-3 years old

Explanation: *The need for a gender-based approach to public health is connected with the necessity to identify ways in which health risks, experiences, and outcomes are different for women and men and to act accordingly in all health related policies.*

See question 1.

B. Safety

12. Are there any national policies regarding women's safety in public spaces?

Yes () No ()

If "yes", please give references.

13. Have there been any public opinion research polls on the fear of crime among women and men (over the last 5 years)?

Yes () No ()

If "yes", please give references and the outcomes of such research polls.

14. Are there any measures and programs undertaken in order to increase women's safety e.g. in public urban spaces, in public transportation, etc.?

Yes () No ()

If "yes", please give references.

15. Are there any statistics on crimes amounting to violence against women in public spaces and/or domestic violence?

Yes () No ()

If "yes", please give references.

16. Is the sex of the victim reflected in the police, prosecutors and courts records?

Yes () No ()

If "yes", please give references.

C. Health and Safety

17. Are there any data and/or results of research on the detrimental influence of the feeling of insecurity and unsafety on women’s mental health?

Yes () No ()

If “yes”, please give references.

Women who are admitted to prison are more likely than men to suffer from mental health problems,⁵¹ often as a result of previous domestic violence, physical and sexual abuse. Mental health issues can be both the cause and consequence of imprisonment, sometimes further exacerbated by overcrowding, inadequate health-care services and abuse.

Parental concerns have been found to have a significant impact on women’s experiences of incarceration, in part emanating from the fact that due to societal gender roles women have a higher sense of guilt for not fulfilling their role as mothers when detained and suffer more from family break-ups and the separation from their children.⁵² Research in China, for example, confirmed the greater emotional damage to female prisoners following family breakdown due to detention, resulting in depression, loss of hope, anxiety and other symptoms.⁵³ Of the women surveyed in Georgia a significant number suffered from post-traumatic stress disorder and various mental health problems.⁵⁴

Half of the women surveyed in Kazakhstan and 38% in Kyrgyzstan experienced depression as a consequence of their imprisonment.⁵⁵ In Jordan, psychological problems as a consequence of imprisonment was the most commonly identified issue. Yet, only 27% had received treatment for psychological/ psychiatric problems.⁵⁶ As many as 71% of the women surveyed in Tunisia said that they experienced depression as a consequence of their imprisonment and 61% experienced anxiety, but only a third had received treatment for a psychological or psychiatric problem.⁵⁷ In the US, nearly 75% of incarcerated women have been diagnosed with mental illness, a rate much higher than their male counterparts.⁵⁸

Yet, adequate psychological care, counselling and support relating to the causes of mental health problems are often missing, and much too frequently, symptoms are addressed through medication. In Argentina, women surveyed described the common practice of receiving sleeping pills at their appointments with the psychiatrist without further inquiry into their specific health issues.⁵⁹ In Canada, an investigation found a dramatic spike in prescriptions for all mood-altering medications among female prisoners in the last decade, at least until 2011. So-called psychotropic medications overall surged in 2013 to 63% of female prisoners, up from 42% in 2002. Medications prescribed included *quetiapine* as a sleeping aid, although approved only for treating bipolar diseases and schizophrenia. 21 out of 22 women interviewed said that they had been prescribed this drug in either a federal or provincial institution. Health professionals stated that the drugs used have side effects that can be lethal.⁶⁰

Linked to women prisoners’ state of mental health, research has shown a higher risk in comparison to men of women prisoners harming themselves or attempting suicide.⁶¹ This has

⁵¹ For example according to a study conducted by the Bureau of Justice Statistics in 2002 and 2004. See UNODC Handbook (2014), p. 9.

⁵² Artz, L., Hoffman-Wanderer, Y., and Moul, K., *Hard Time(s): Women’s Pathways to Crime and Incarceration*, Cape Town: GHJRU, University of Cape Town, 2012, p. 167.

⁵³ Cheng Lei, Lü Xiaogang, and Chen Jianjun, *Research Report on the Treatment of Women Detainees in China - Using the Bangkok Rules as the Starting Point of Analysis*, 2014, p. 10.

⁵⁴ Penal Reform International, *Who are women prisoners? Survey results from Armenia and Georgia*, 2013, p. 18

⁵⁵ Penal Reform International, *Who are women prisoners? Survey results from Kazakhstan and Kyrgyzstan*, 2014, p. 18

⁵⁶ Penal Reform International, *Who are women prisoners? Survey results from Jordan and Tunisia*, 2014, p. 16).

⁵⁷ *Ibid.*, p. 28).

⁵⁸ American Civil Liberties Union, *Worse than Second Class: Solitary Confinement of Women in the United States*, 2014.

⁵⁹ Cornell Law School’s Avon Global Center for Women and Justice et al. (2013), p. 22.

⁶⁰ CBC News, *Prisoners given powerful drugs off-label, allegedly to ‘control behaviour’*, 14 April 2014.

⁶¹ WHO Regional Office for Europe, *Health in Prisons* (2007).

been attributed, in part, to the higher level of mental health problems and substance dependency and to the harmful impact of isolation from the community due to the distances of women's prisons from their family and community.

In Kyrgyzstan, over a quarter of women prisoners surveyed had attempted suicide and 29% had harmed themselves at some point in their life.⁶² In Tunisia 40% of the women surveyed had either harmed themselves and/or attempted suicide.⁶³ Certain times were highlighted by interviewees as constituting a heightened risk of self-harm and suicide: during the first weeks of admission; the period before and after trial; and following a six months' period of detention.⁶⁴ In some countries self-harm and suicide attempts are penalised as criminal offences, rather causing further deterioration than a solution to the problem.

With regard to girls, differences between the health issues experienced in comparison to boys are stark. In the United States, a study covering data on 1,400 young people in different juvenile justice settings (community-based programmes, detention centres and secure residential facilities) in 2006 found that 80 per cent of girls met the criteria for at least one mental health disorder, compared to 67 per cent of boys.⁶⁵ Girls are far more likely than boys to suffer from affective disorders (like depression) as well as anxiety disorders.⁶⁶ They are also at higher risk of harming themselves or attempting suicide in comparison to boys or adults. In the UK, a report by the Inspectorate of Prisons found that young women under 18 were twice as likely to injure themselves as adult women. In 2007, 89 per cent of girls under 18 in custody had self-harmed.⁶⁷

Yet too often self-harm is addressed with medication or even punishment. Studies suggest that mental illness among girls in prison often both causes and results from imprisonment.⁶⁸

The impact of separation from family and community can severely harm a girl's mental health, emotional well-being, self-esteem and social and life skills and abilities to varying extents, yet mental health issues are rarely addressed.

18. Are there specific health and safety protective measures for women , and/or with special provisions for mothers with young children, in “closed” institutions including in:

(Please specify in the space provided for this purpose "yes" or "no")

() prisons (e.g. measures similar to the Bangkok Rules),

Almost all countries allow babies and children to live in prison with their mothers, typically until they reach a certain age. For example, Argentina allows children up to the age of four to reside with their mothers in prison.⁶⁹ In England and Wales, babies can stay with their mothers until the age of between 9 and 18 months - or longer if the release date is imminent.⁷⁰ In

⁶² Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 18. In Kazakhstan authorities had requested four questions to be removed from the questionnaire, which related to the provision of psychological or psychiatric treatment and to suicide and self-harm prior to and during imprisonment, and no research results are therefore available.

⁶³ Penal Reform International, Who are Women Prisoners? Jordan and Tunisia, 2014, p. 28).

⁶⁴ Penal Reform International, Who are Women Prisoners? Armenia and Georgia, 2013, p. 18.

⁶⁵ Shufelt J and Coccozza J, Youth with mental health disorders in the juvenile justice system: results from a multi-state prevalence study, Research and Program Brief, National Center for Mental Health and Juvenile Justice, 2006. Cited in UNODC, Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders, 2012.

⁶⁶ Teplin L A et al., 'Psychiatric Disorders in Youth in Juvenile Detention', Archives of General Psychiatry, Vol 59, No 12, Cited in F T Sherman, Making Detention Reform Work for Girls, A Guide to Juvenile Detention Reform, Juvenile Detention Alternatives Initiative Practice Guides 5, Annie E. Casey Foundation, 2013.

⁶⁷ HM Chief Inspector of Prisons for England and Wales, Annual Report 2006-7.

⁶⁸ Penal Reform International, Health in Prison: Realising the right to health, PRI Briefing No.2, 2007(2).

⁶⁹ Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 5.

⁷⁰ Penal Reform International, Submission for UN Committee on the Rights of the Child, Day of General Discussion, 30

contrast, prison rules in most states in India permit imprisoned mothers to keep children with them up to the age of 6, and some state prisons have allowed girls of 10 and 12 who have a disability to remain in prison with their mothers.⁷¹

While allowing infants and young children to live with their incarcerated parents (co-residence programmes) reduces some risks associated with separation, life in prison is a distressing and traumatic experience for children and has to be implemented with adequate safeguards, proper infrastructure and necessary resources.

The Bangkok Rules therefore include specific provisions tailored to children living in prison with their parent (mother or father).⁷² Bangkok Rule 49 stipulates that decisions to allow children to stay with their mothers/ fathers in prison need to be based on the best interests of the children. If they co-reside with their parent in prison they should never be treated as prisoners (Bangkok Rule 49), their experience must be as close as possible to life for a child outside (Bangkok Rule 51). In recognition of the difficult situation arising from separation, Bangkok Rule 52 requires that such decisions shall be based on individual assessments and the best interests of the child and that the removal of the child from prison shall be undertaken with sensitivity, and only when alternative care arrangements for the child have been identified.

In the US, for example, the shackling of pregnant prisoners persists to this day, even though there is no reasonable chance of a woman escaping during labour, while giving birth or after birth.⁷³

Such practices have also been documented in the Occupied Palestinian Territory⁷⁴, and have been described by the Special Rapporteur on violence against women as ‘representative of the failure of the prison system to adapt protocols to unique situations faced by the female prison population’.⁷⁵ Bangkok Rule 24 finally prohibits the use of any kind of body restraint on women during labour, during birth, and immediately after birth.

Serious health concerns arise from this practice. As women in labour need to be mobile so as to assume various positions as needed and so they can be moved to an operating room if necessary, shackling of women in labour compromises the mother and baby’s health. Lack of mobility can cause hemorrhage or decrease in fetal heart tones. In particular, if complications arise during delivery, a delay of even five minutes can result in permanent brain damage for the baby.⁷⁶

For pregnant women and breast-feeding mothers the practice of solitary confinement has been found to have particularly negative effects. Solitary confinement also places women at greater risk for physical and/ or sexual abuse by prison staff. For example, a report by the American Civil Liberties Union revealed that a number of women perceived to be mentally ill were held in solitary confinement, some of them as a punishment for raising complaints. The isolation has also been found to jeopardise access to pre-natal care.⁷⁷

September 2011, Protecting Children in Prison with a Parent – Implement and Develop the Bangkok Rules.

⁷¹ Ibid.

⁷² Para. 12 of the Bangkok Rules’ preliminary observations state that ‘‘Some of these rules address (...) both men and women, including (...) parental responsibilities (...).’ See further recommendations in the Report and Recommendations of the General Discussion on ‘Children of Incarcerated Parents’, 30 September 2011, UN Committee on the Rights of the Child, and; General Comment 1 on the African Charter on the Rights and Welfare of the Child Comment (2014).

⁷³ American Civil Liberties Union, Briefing Paper, The Shackling of Pregnant Women & Girls in U.S. Prisons, Jails & Youth Detention Centers, 12 October 2012.

⁷⁴ Special Rapporteur on violence against women, Occupied Palestinian Territory, E/CN.4/2005/72/Add.4 (2005).

⁷⁵ Special Rapporteur on violence against women, A/68/340 (2013), para. 57.

⁷⁶ Provided to Amnesty International by Chicago Legal aid to incarcerated mothers, December 1998, and printed in Amnesty International, Not part of my sentence (1999).

⁷⁷ American Civil Liberties Union, Worse than Second Class (2014).

In May 2014, for instance, a women detainee in Texas was forced to give birth in her solitary cell, resulting in the death of her new-born baby. A respective lawsuit claims that ‘obvious signs of labor and constant requests for medical assistance’ were ignored and she was left unattended in a solitary cell. The woman reported that the nurse on duty had examined her, but said she was not in labour. While in her solitary cell, repeatedly requesting to see a doctor, the guards ignored her until a detention officer walking by her cell saw that she was delivering.⁷⁸

Even though Bangkok Rule 22 is not very far-reaching in this regard, at least it incorporates an explicit prohibition of the use of solitary confinement or segregation as a disciplinary measure for pregnant women, women with infants and breastfeeding mothers. Beyond this explicit restriction, due to its harmful and often irrevocable consequences disciplinary segregation or solitary confinement should be used only as a last resort in exceptional circumstances and for the shortest period of time possible.⁷⁹ Further limitations have been included in the recently revised Standard Minimum Rules for the Treatment of Prisoners (to be known as the ‘Mandela Rules’), adopted by the UN Commission on Crime Prevention and Criminal Justice in May 2015, in Rules 43, 44 and 45.⁸⁰ Indefinite as well as prolonged solitary confinement are prohibited, where ‘prolonged’ is defined as isolation for a time period in excess of 15 consecutive days (Rule 44). Furthermore, the revised SMR put on record the exceptional nature of solitary confinement, ‘as a last resort, for as short a time as possible and subject to independent review’ (Rule 45(1)). The prohibition of solitary confinement for pregnant and breastfeeding women has been incorporated in the Mandela Rules (Rule 45(2)).⁸¹ Body searches,⁸² in particular strip and invasive body searches are prone to humiliation and abuse for both, male as well as female prisoners. Yet, given women’s background (anatomy, socialisation) and the high rate of prior abuse, the impact of such searches on women is disproportionately greater than on men, in particular where conducted by male staff or in the presence of men. Such searches require prisoners to undress and lift their breasts, bend over at the waist and spread their cheeks. In some countries they are conducted on a more or less routine basis or by male guards.⁸³ The Special Rapporteur on violence against women described the improper touching of women during searches carried out by male prison staff as ‘sanctioned sexual harassment’.⁸⁴

The Rapporteur documented, for example, on highly invasive and often traumatic strip searches in Australia, which were not proportional to preventing illegal items from being smuggled into prison.⁸⁵ A prisoner described how they were strip searched after every visit, ‘naked, told to bend over, touch our toes, spread our cheeks. If we’ve got our period we have to take the tampon out in front of them. It’s degrading and humiliating. When we do urines it’s even worse, we piss in a bottle in front of them. If we can’t or won’t we lose visits for three

⁷⁸ Counter Current News, Jailed Woman Forced to Give Birth in Solitary Confinement, Baby Dies in Cell, 26 May 2014, <http://countercurrentnews.com/2014/05/jailed-woman-forced-to-give-birth-in-solitary-confinement-baby-dies-in-cell/>.

⁷⁹ UNODC, Handbook for prison managers and policymakers on women and imprisonment, 2014, p. 47.

⁸⁰ See, ‘Standard Minimum Rules for the Treatment of Prisoners’, UN Doc. A/C.3/69/L.3, 26 September 2014, available at http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/69/L.3, accessed 31 March 2015. Note that following the considerable insertion of text the SMR have also been renumbered. The text will be put forward for final adoption to the UN General Assembly in autumn 2015.

⁸¹ This provision incorporates the respective prohibition of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), adopted 12 December 2010, UN-Doc. 65/229.

⁸² Searches include all personal searches, including pat down and frisk searches, as well as strip and invasive searches. A strip search refers to the removal or rearrangement of some or all of the clothing of a person so as to permit a visual inspection of a person’s private areas. Invasive body searches involve a physical inspection of the detainee’s genital or anal regions. Other types of searches include searches of the property and rooms of prisoners. Visitors to prison are also frequently searched.

⁸³ Special Rapporteur on violence against women, United States of America, HRC/17/26/Add.5 and Corr.1, (2011), para. 43; Human Rights Watch, *Unjust and Unhealthy* (2010); South African Human Rights Commission, *Report of the National Prisons Project*, 1998, p. 67.

⁸⁴ Special Rapporteur on violence against women, United States of America, E/CN.4/1999/68/Add.2, paras. 55, 58.

⁸⁵ Penal Reform International, *Guidance Document on the Bangkok Rules* (2013), p. 62, footnote 209.

weeks.⁸⁶

In Belarus, the search by a male guard of a female arrestee lead to a widely noted complaint to the UN Committee on the Elimination of Discrimination against Women. During the search, one of the guards had poked her buttock with his finger, made humiliating comments and threatened to strip search her.⁸⁷ Such practices were also reported, for example, by inmates at a prison in Zambia, which involved prison officers inserting their fingers into women's private parts, on a routine basis on Saturdays, in search of valuables and money.⁸⁸ In Greece, reports stated that prisoners who refused to undergo such searches were placed in segregation for several days and forced to take laxatives.⁸⁹

Bangkok Rules 19 and 20 are therefore of particular relevance, even more so as to date they provide the only explicit international standard on body searches, differentiating between pat down, frisk and visual searches as compared to invasive and body cavity searches.

The Rules reiterate that strip or invasive body searches should only be carried out by someone of the same gender,⁹⁰ only in exceptional circumstances when absolutely necessary, and should be replaced by scans and other alternative screening methods. Where necessary, it should be undertaken in two steps, meaning that the detainee is asked to remove his/her upper clothing at separate times so they are never fully naked.⁹¹

- () police detention cells
- () psychiatric hospitals,
- () pre-deportation centers,
- () camps for displaced women and families (if relevant),
- () nunneries
- () women's shelters

If "yes", please provide any information about the protective measures established.

19. Are there specific training programs for medical and legal professionals on the issue of gender-based discrimination in the area of health and safety?

Yes () No ()

Do they cover: *(Please specify in the space provided for this purpose "yes" or "no")*

- () the issues connected with specific women's needs in area of health
- () specific women's vulnerability to be victims of gender-based violence or specific crimes, covering e.g. the issues of:
 - () the nature of gender-based violence,
 - () its occurrences and symptoms
 - () methods of detection

⁸⁶ Australian Human Rights Committee (2012); and Amanda George, Strip Searches: Sexual Assault by the State, in Without consent: confronting adult sexual violence, Australian institute of Criminology, 1993, p. 211.

⁸⁷ UN Committee on the Elimination of Discrimination Against Women, CEDAW/C/49/D/23/2009 (2011).

⁸⁸ Sylvia Mweetwa, All Africa, Zambia: Humiliating Searches Unsettle Kabwe Inmates, 25 May 2013, available at <http://allafrica.com/stories/201305260053.html>, accessed 4 June 2013

⁸⁹ Penal Reform International, Guidance Document on the Bangkok Rules (2013), p. 61, footnote 208.

⁹⁰ The principle that women prisoners should only be supervised and attended to by female officers is already enshrined in Rule 53 of the Standard Minimum Rules, and has been emphasised by various international and regional bodies in order to prevent sexual abuse and humiliation of prisoners. Yet, increasing use of mixed staff also means that male staff is carrying out searches of women prisoners in some countries, and the Standard Minimum Rules do not include any explicit guidance on body searches.

⁹¹ World Medical Association, Statement on Body Searches of Prisoners (2005). It states, inter alia, that physicians should not participate in prison's security system and that searches should not be conducted by physicians who will subsequently provide medical care to the prisoner.

() medical protocols
() influence of gender based violence, in particular of sexual violence on the future behaviors of victims (post-traumatic stress symptoms etc.)

**III. Could you please indicate any legislative reform, policy or practice, that you consider “good practice” regarding health and safety for women in your country?
If yes, please indicate on which criteria your definition of “good practices” is based.**

The good practice examples below relate to concerns mentioned above relating to the treatment of women in detention.

Good practice in the UK:

The Ministry of Justice of the UK developed new strategic objectives for female offenders, published in March 2013, which included the following key priorities, among others: (...) Ensuring the provision of services in the community that recognise and address the specific needs of female offenders, where these are different from those of male offenders. [...] Guidance Document, p. 10, referring to Ministry of Justice, UK, Strategic Objectives for Female Offenders, March 2013 www.justice.gov.uk/downloads/publications/policy/moj/strategic-objectives-female-offenders.pdf

Good practice. Legislative measures to fight against ‘honour killings’ in Turkey

On 26 September 2004, a new Penal Code was approved in the Turkish Parliament Grand National Assembly. The new Penal Code includes more than 30 amendments and took a significant step forward in relation to ‘honour killings’. In the previous Penal Code, a general article regulating cases of ‘unjust provocation’ was often misinterpreted by judges to cover murders committed in the name of honour and was used to grant sentence reductions to perpetrators. In the reformed Penal Code, the article has been amended to only include ‘unjust acts’ and in the justification of the article, it has been explicitly stated this amendment was made to prevent its application to honour killing cases. Furthermore, ‘killings in the name of customary law’ have been defined as aggravated homicide in the new Penal Code. This provision does not encompass all honour killings, but still constitutes a significant advancement.

See: Women for Women’s Human Rights (WWHR) website:

www.wwhr.org/turkish_penalcode.php

For the original text (in Turkish) of the Penal Code, see

www.tbmm.gov.tr/kanunlar/k5237.html

Guidance Document, p. 19

Good practice: Medical services for women in the New Model Prison System of the Dominican Republic

Part of the health services are covered by the Ministry of Health and part by the Attorney General’s Office, with some doctors being attached to the Ministry of Health and some to the Attorney General’s Office. Many health care services are provided in prisons, but prisoners who require special treatment are transferred to hospitals. In the medical area of CCR No. 2 Najayo Mujeres (Women’s Prison) eight specialist doctors are employed, including psychiatrists, gynaecologists, oncologists, dermatologists, among others. A well-equipped dental treatment centre staffed by a qualified dentist is also provided in this area. All prisoners have a dental check three times per year and they can also see the dentist in emergencies.

All prisons of the New Model Prison System, referred to as Centres of Correction and Rehabilitation (CCRs), including the women’s CCRs, have a laboratory where specialists from the Ministry of Health are employed. They have the facilities to conduct various medical

tests on site, such as full blood tests, pregnancy tests, tests for Hepatitis B and syphilis. HIV testing is voluntary. HIV positive prisoners receive treatment and a special diet. The Psychological Service provides individual and family counselling and various types of therapy: eg. drug therapy, therapy for physical abuse and motivation therapy. Each prisoner who enters the system has to undergo a psychological needs assessment. In the women's prison there are two psychologists, who are employees of the Attorney General's Office (responsible for the prison system). (Guidance Doc, p. 50, referring to UNODC, Atabay, T., *The Prison System and Alternatives to Imprisonment in Selected Countries of the Organisation of Eastern Caribbean States, Barbados and the Dominican Republic*, 25 November 2010 (unpublished))

Drama therapy in a woman's prison in Lebanon

In Lebanon, the initiative of an actress and drama therapist led to a six-months project in the Baabda women's prison, where about 70 women are held. Several times a week, the drama therapist spent an afternoon with interested women encouraging them to talk about their experiences. The project was due to culminate in February or March 2012, with a theatrical performance based around the women's own stories. According to interviews with the prisoners who had taken part in the project and the actress/therapist who led it, the project had empowered the women and for the first time given them an opportunity to express themselves. Guidance Document, p. 85, referring to 'Lebanon's women prisoners find freedom behind bars', Catriona Davies, CNN, 11 January 2012
<http://edition.cnn.com/2012/01/11/world/meast/lebanon-womens-prison/index.html>

Promising practice - First night centres

In some countries, 'reception' or 'first night custody centres' are used to reduce the distress experienced by women when entering prison. In London's Holloway Women's Prison, a dedicated first night centre was set up to house women coming into the prison for the first night. The women would receive more information and help from an organisation 'Pact', specially trained prison officers, medical staff and members of a peer support scheme. The environment was designed to be as welcoming, personal, and non-institutional as possible. A study found that the centre reduced the distress of new prisoners as it helped to meet their practical needs. For example, there were fewer difficulties and less frustration in making contact with family.⁹²

US: Response to allegations of rape and sexual abuse:

The Prison Rape Elimination Act in the United States, which came into effect in June 2012, asserts that if a woman is a victim of sexual abuse, correctional officials are required to set an appointment with a medical or mental health professional within 14 days of her entering a new facility. Information given to a medical or mental health professional about prior abuse in a prison or other correctional facility must be shared only with other medical personnel or staff as necessary to determine a treatment and security plan. Officials must also provide a mental health evaluation and treatment to all prisoners who have been victims of sexual abuse as necessary. These include follow-up services, treatment plans, and referrals upon release or transfer. Victims must receive mental health services for sexual abuse that are '*consistent with the community level of care*'.⁹³

Involving women detainees in health education:

PRI's Women's Health in Kazakhstan project, which included education on HIV/AIDS, helped reduce the transmission of HIV in a women's prison to zero cases in 2012. A nurse of from Karaganda Women Prison explained: 'The project helped me to understand how to work with women prisoners more effectively, and gave me necessary knowledge on HIV/AIDS and

⁹² UK: Howard League for Penal Reform, 'Care, concern and carpets: How women's prisons can use first night in custody centres to reduce distress', 2006. Note: Unfortunately this is no longer running in Holloway prison.

⁹³ ACLU, Know your Rights: Special Issues for Women Prisoners, 2013, p. 12.

TB which helped to explain to prisoners ways of prevention. For the first time in my professional practice we used new informational tools, group lessons, discussions, individual counselling, films which are according to the project statistics and my personal feeling very effective for prevention of HIV and TB. I am very proud that as a result of the project in 2012 we had no cases of HIV transmission in our previously very problematic women's prison'.⁹⁴

Lichtenberg Women's Prison, Berlin, Germany:

In Lichtenberg Women's Prison a needle and syringe programme offers free and anonymous facilities for injecting drug users. This prevents some of the serious consequences of intravenous drug use, and is based on the fact that not all drug addicted females are willing to stop injecting, or in fact decide to use non-injecting drugs as a substitute.

The prison also provides a holistic approach to drug dependency. There is a drug addiction unit which is divided into the basic unit and the so-called 'motivated' and 'substituted' unit. Usually drug dependent women move into the basic unit from the admission unit. During the 'orientation' phase, these women are motivated to address their addiction and to live a drug-free lifestyle. Women can apply to move into the motivated unit which is divided into two flats. One flat accommodates women who are using substituted medications, and the other is for women who are drug free. All women have to participate in a urine sample programme to prove their abstinence and to prepare for a drug free life. Compared to those housed in the addiction unit, women housed in the substituted unit have increased hours out of their units and are not locked up at night which encourages their sense of responsibility and group dynamics. The motivated unit provides a drug free area, even greater freedom and the opportunity to apply for early release into drug rehabilitation following an assessment.⁹⁵

Reducing body searches:

The practice of carrying out an internal physical search of every woman prisoner upon admission to the Moscow Women's Remand Prison was abolished in 2003. Previously undertaken on the grounds of preventing drugs from being brought into the prison, the practice was found to be more effective at disrupting prison management and damaging prisoner than it was at addressing the issue of drug smuggling. The searches are now only carried out in individual cases where there is an identified security need. Statistical evidence suggests that criminal activity has decreased rather than increased since this change took effect.⁹⁶

Prohibition of shackling during labour:

In Japan, the Ministry of Justice has been revising the Act on Penal Detention Facilities and Treatment of Inmates and Detainees, which required handcuffing of prisoners while being escorted in and out of prison and whenever they are outside prison facilities, with no exceptions when giving birth in a hospital. In most cases, female prisoners have given birth with at least one handcuff on.⁹⁷

End./

⁹⁴ PRI project evaluation (internal), Quote from Larissa Protasova nurse and trainer of the patients' school for female prisoners in pilot region Karaganda oblast.

⁹⁵ Institution for Female Offenders Berlin; Publisher and editorial office - Institution for Female Offenders Berlin.

⁹⁶ International Centre for Prison Studies, 'Penal Reform and Gender: Gender and Security Sector Reform Toolkit. Eds. Megan Bastick and Kristin Valasek. Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW, 2008, p. 8.

⁹⁷ <http://www.japantimes.co.jp/news/2015/01/09/national/female-inmates-okd-give-birth-without-handcuffs/#.VK-goSusWck>