



# Women in criminal justice systems and the added value of the UN Bangkok Rules

## Introduction

Many argue that treating women differently in the criminal justice system constitutes discrimination, that women prisons are ‘nicer’ anyway, and that the focus should be on the majority (male) prison population, given the low number of female suspects, defendants and prisoners. Others reason that for decades the attention has been focused entirely on male offenders and prisoners, and that the specific backgrounds and needs of women have been overlooked long enough to justify increased attention on this particularly vulnerable group. Is discrimination against women in the criminal justice system a myth? Are women offenders and prisoners ‘better off’ anyway? Do prosecutors and judges deal more leniently with female offenders? Shouldn’t prison conditions, treatment in detention and rehabilitation programmes be the same for all prisoners, and aren’t they in correctional facilities nowadays anyway?

This article seeks to outline aspects of discrimination faced by female suspects, defendants and prisoners in criminal justice systems, their number, profile and characteristics, and the offences they are typically charged with or convicted for. It covers certain key conditions in detention as well as programmes in place with regard to rehabilitation and reintegration.

In doing so, it draws on data, country examples and findings from a number of research studies. It should be emphasised that these examples have not been chosen to ‘single out’ certain countries, but are meant to be illustrative of the aspects covered and in particular to focus on countries where surveys have been conducted most recently. While research methodologies and scope vary, they provide an in-depth and recent insight into the situation in Argentina, Armenia, China, Georgia, Jordan, Kazakhstan, Kyrgyzstan, South Africa and Tunisia.

While some data has been published, mostly on women in prison in Western countries, research into the profile of female offenders and prisoners as well as their pathways to offending is still scarce, particularly in Asia, the Middle

East, Africa and Latin America. However, a few studies have been conducted recently, not least inspired by Rule 67 et seq. of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), adopted in December 2010 (GA res. 65/229 of 12 December 2010).

The lack of attention women suspects, defendants and prisoners received has not been limited to research, but was – up until the adoption of these Rules – also mirrored in key international standards relating to the treatment of prisoners. The 1955 UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules)<sup>1</sup>, still the one comprehensive set of guidelines on the treatment of prisoners and conditions of detention, provide little gender-specific guidance. They do require women and men to be detained in separate facilities and women prisoners to be exclusively supervised and attended to by female prison officers. Otherwise, however, Rules relating to female prisoners were limited to pre- and post-natal care and to nursing of infants. The UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)<sup>2</sup>, which represent the basic principles relating to the use of non-custodial measures and sanctions, do not contain any provisions specific to female offenders at all.

The adoption of the Bangkok Rules in December 2010 therefore constituted a major step forward in recognising the gender-specific needs of women in the criminal justice system. The Rules were initiated by the government of Thailand, with HRH Princess Bajrakitiyabha of Thailand playing a pivotal role in the development of the Rules, and are therefore known as the Bangkok Rules.

The 70 Rules<sup>3</sup> cover the treatment of women prisoners, but also alternatives to imprisonment by incorporating specific provisions on gender-sensitive non-custodial measures and sanctions, the consideration of gender-specific circumstances in sentencing as well as standards relating to conditions in detention. The Rules do not replace but supplement both the Standard

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Minimum Rules and the Tokyo Rules, rectifying the gaps related to specific needs of female offenders.<sup>4</sup> This article therefore seeks to highlight, where applicable, the added value of this set of international guidance on the treatment of women prisoners and their access to non-custodial measures and sanctions.

## Discrimination against women in the criminal justice system

### Gender-specific offences<sup>5</sup>

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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup> Similarly in Afghanistan approximately 50% of women in prisons were estimated to have been convicted of moral crimes.<sup>9</sup>

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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup>

Girls, in particular, tend to be treated more harshly for offences, which are atypical in terms of the behaviour expected of a girl,<sup>13</sup> including ‘being beyond parental control’.<sup>14</sup> 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.<sup>15</sup>

Women who are sex workers, including victims of trafficking, also face imprisonment in numerous countries for offences such as prostitution. International law prohibits discrimination, including discrimination based on sex.<sup>16</sup> States therefore need to review their legislation, policies and practice in order to ensure that women are not penalised exclusively or disproportionately.

### ‘Protective’ detention

Again, 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.<sup>17</sup> 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.<sup>18</sup> 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.’<sup>19</sup> 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.<sup>20</sup>

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.

### Legal representation

As a result of unequal access to economic resources in society, women in contact with the law often depend on the willingness of male family members to spend resources on due process of law for them, making them particularly vulnerable to being deprived of their liberty. Eligibility criteria for legal aid can further discriminate against women if they are based on family/household income, which women offenders do not have access to.

Many studies point to disadvantages women face in accessing legal representation. For example, while 65% of the women offenders surveyed in Albania in 2013 were legally represented in their first judicial hearings by private lawyers, they had to turn to legal aid lawyers later on in the criminal procedure, failing to afford payment. 35% of the women offenders could not afford legal counsel from the start and had to rely – where applicable at all – on legal aid lawyers, even though many were dissatisfied with the quality of representation.<sup>21</sup> For women detained in Jordan, access to legal representation was the most commonly identified support requirement.<sup>22</sup> In a prison in Afghanistan, it was found that ‘not a single female prisoner had been provided with legal representation’.<sup>23</sup>

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However, access to legal counsel is a prerequisite to safeguard a fair trial. Given that most legal systems are complex, access to non-custodial alternatives to imprisonment also often depends on legal representatives putting forward respective motions, such as for bail, diversion, restorative justice or mediation.<sup>24</sup> Lack of access to legal representation faced by women offenders in many countries therefore has a significant impact on the probability of their imprisonment.

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.

Such disadvantages in criminal procedures are exacerbated in many cultures by the fact that women are socialised in such a way that they do not speak up for themselves at court, and even less so about their experiences of domestic or sexual violence. Research in Albania, for example, has highlighted that women offenders remain 'silent' in court, reluctant to reveal their personal experiences.<sup>25</sup>

International human rights standards enshrine the right to legal counsel as a crucial element of the right to defence and fair trial.<sup>26</sup> Yet, the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems<sup>27</sup> constituted the very first set of standards<sup>28</sup> encouraging special measures to ensure meaningful access to legal aid for women, including training of legal aid providers on the rights and needs of women.<sup>29</sup>

## Non-custodial alternatives to imprisonment

Alternatives to imprisonment avoid the high social and economic cost of detention and have proven to be more effective than imprisonment in preventing reoffending, in particular for minor, non-violent offences. The percentage of women offenders charged with these types of offences is particularly high. However, both alternatives to pre-trial detention and to prison sentences tend not to be gender-specific, but tailored to the male majority of suspects and offenders, depriving women of equal access to such alternatives.

Women may be unable to meet 'standard' bail obligations like regular reporting to authorities. They may not be allowed to leave home without being accompanied by a male, because transport to the respective police station is not affordable or feasible,

or because reporting times would jeopardise caretaking responsibilities, for example conflicting with times at which mothers need to pick up their children from school.

At the sentencing stage, women offenders also face disadvantages in accessing non-custodial sanctions. Their typically high level of poverty and dependency on male family members mean that they are often unable to pay fines, which are the most frequently employed alternative to imprisonment for minor, non-violent offences. For instance in Pakistan many women were found to be detained for long periods, even for minor offences, as they had been abandoned by their families and were unable to afford bail.<sup>30</sup> In England, it was found that decision-makers were reluctant to fine women and instead issued more severe community penalties. As a result, in the event of a subsequent conviction, such women could be given even more severe sentences because a step had been skipped on the sentencing ladder.<sup>31</sup>

Moreover, schemes determining the amount of fines tend to disproportionately disadvantage the poor (see high level of poverty amongst female prisoners), and decisions on alternatives, both pre-trial and at the sentencing stage, often overlook the typical background of women offenders, their caring responsibilities, their history of domestic violence and the usually lower security risk they pose to society. The Bangkok Rule 57 therefore promotes the use of alternatives for women suspects, defendants and offenders, recognising the need for gender-specific considerations as well as the impact of imprisonment not only on these women, but also their children and families.

Relating to the sentencing stage, Bangkok Rule 61 states that 'courts shall have the power to consider mitigating factors such as lack of criminal history and relative non-severity and nature of the criminal conduct, in the light of women's caretaking responsibilities and backgrounds'.<sup>32</sup>

The impact of prison sentences on the children of the offender was the focus of a landmark ruling of the Constitutional Court of South Africa in 2007, in which the consequences for the appellants' children aged 8, 12 and 16 led the Court to suspend the prison sentence for four years.<sup>33</sup>

Good practice has been established in some countries, not least inspired by the (imminent) adoption of the Bangkok Rules – even though most examples are limited to pregnant or breast-feeding women. In China, for example, women are not subjected to detention pending trial, but released on guarantee, placed under residential surveillance or subjected to other non-custodial compulsory measures and courts pronounce a suspension of sentences until the end of the nursing period.<sup>34</sup> In Argentina, legislation allows for house arrest for pregnant offenders, women offenders with children of less than 5 years of age living with them and those caring for a child with disabilities. However, lack of awareness

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about this legal provision means that many children still reside in prison with their mothers and the law has not achieved its potential of providing an alternative.<sup>35</sup>

Cognisant of common problems leading to women's contact with the criminal justice system, Bangkok Rules 60 and 62 call for non-custodial interventions such as therapeutic courses and counselling for victims of domestic violence and sexual abuse, suitable treatment for those with mental disabilities, and gender-sensitive drug dependency programmes. The Rule takes into account the recognised gender differences in substance dependency and related complications that require different treatment approaches. In the delivery of community-based programmes, women may need gynaecological care, skills for negotiating safer sex, and opportunities to discuss issues such as violence and pregnancy.

## Stigmatisation

Gender roles result in a particular stigma attached to women in prison, and while female spouses regularly support their husbands in prison and upon release as a matter of course, women tend to be shunned by their spouse – and often even by the whole family – if they are detained. This also means no or less frequent visits in prison, increasing the sense of isolation and hindering reintegration upon release.

Research in China, for example, confirmed the high level of stigmatisation of female offenders, stating that they are abandoned by their loved ones and have no one to visit them for many years.<sup>36</sup> In Jordan, 44% of the women surveyed in judicial detention stated that they had been stigmatised by their family and community as a consequence of their conviction and imprisonment. In Tunisia, this number was 41%.<sup>37</sup>

Having fewer or no visits indirectly produces additional disadvantages as for many prisoners visitors provide not only emotional support but also vital material support such as money, or goods such as toiletries, underwear and telephone cards.

## Characteristics of women offenders

The profile and background of women in prison differ significantly from those of men. Research in Europe indicates that women in conflict with the law 'are women that have been physically and psychologically abused, and sometimes even sexually abused when they were children', women with drug-dependency issues, women who 'had little or no support at all during their childhood, adolescence and adulthood', poor women, women belonging to ethnic minorities who have experienced stigmatisation, social exclusion, direct or indirect discrimination' as well as women with health problems.<sup>38</sup>

Concern for the welfare of children acts as a constraint on women's choices and, within circumstances of poverty and poor support systems, provides a rationale for both non-violent and, when combined with other factors, violent crime.<sup>39</sup>

## Poverty

While marginalised groups are overrepresented in the prison population as a whole, research shows that poverty plays a particular role when it comes to women in conflict with the law. Women are twice as likely as men to live in poverty and recent data suggests that their economic and social position is deteriorating relative to men.<sup>40</sup> The Sierra Leone Truth and Reconciliation Commission noted a 'feminisation of poverty'.<sup>41</sup>

While the rate of women as family heads is increasing, they face discrimination in the labour market, inequalities of salaries and lack of protection by labour laws.<sup>42</sup> Typically, if employed at all prior to imprisonment, a high percentage worked in precarious/uncertain types of work such as part-time and temporary labour.<sup>43</sup>

Young motherhood, experiencing poverty arising from low levels of education and the breakdown of marriages and families are common features in the profile of women in conflict with the law. Research shows that a high number of female offenders led single-headed households prior to imprisonment, and economic pressure on them was high, having to raise children with no or little financial support from their partners or husbands.<sup>44</sup>

For example, in Tunisia, 66% of the women surveyed said that they were very poor or poor, and those employed before imprisonment had worked in low-paid jobs.<sup>45</sup> Of the women surveyed in South Africa, those employed (50%) had only part-time or temporary work, and low wages still made it difficult to survive. This is reflected in women making up the highest percentage of unemployed in the country's overall unemployment rate, alongside young people.<sup>46</sup>

Research in Albania paints a similar picture, showing the high percentage of joblessness among women prisoners and lack of access to social welfare, leaving them economically dependent on their spouses. 45.5% were unemployed prior to imprisonment and 83% of those employed had worked in the black market.<sup>47</sup>

## Education

Women offenders are typically characterised by a low educational profile, which cannot be seen in isolation from the usually more limited access to education for girls in the respective countries. For example, in Albania 31.5% of the women surveyed had only eight years education and 12% even less.<sup>48</sup> The explanations the women interviewed gave for this were mainly family-related, such as marriage and/or pregnancy at an early age.<sup>49</sup>

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In China, poverty and illiteracy rates amongst women prisoners were at high levels, and levels of crimes committed were found to be linked to education status.<sup>50</sup> In the general population, the adult literacy rate in 2000 was 95.5% for men and 86.5% for women.<sup>51</sup>

In Mexico, 6.1% of women detainees were illiterate, compared to 2.4% amongst men. Illiteracy rates were high amongst women prisoners surveyed in Jordan and Tunisia. Nearly a quarter of the women in judicial detention in Jordan were illiterate, representing a higher rate than amongst the general female population (11%).<sup>52</sup>

A common reason given by women prisoners for not continuing their education included lack of financial resources in the family (e.g., for food and electricity necessary for studying) and inability to purchase school supplies, as well as having little encouragement to further their education.<sup>53</sup> Others had to sacrifice their education entirely, or had little time to devote to their studies, because they had to help at home.<sup>54</sup> Women spoke about the numerous household responsibilities they were given as children, which were generally 'gendered' and differed from tasks that male siblings were expected to assume.<sup>55</sup> Other reasons stated were traumatic life events, (early) marriage, childcare responsibilities and frequent moving. Two women interviewed had dropped out of school after experiences of rape, two others left after the death of family members.<sup>56</sup>

While this clearly impacted on employment opportunities later on, it also shaped the choices (or absence of choices) women could envision for their lives in other ways, and perpetuated circumstances of poverty.<sup>57</sup>

## Family status/children

Surveys document, across the globe, the high percentage of women prisoners who are mothers. In the South Caucasus, 78% of the women prisoners surveyed were mothers.<sup>58</sup> In Central Asia it was 75% with 45% of these children under 18.<sup>59</sup> In Jordan, three quarters of women in judicial detention had children, 78% of them under 18.<sup>60</sup> In Albania the figure was even higher at 93.2%, with almost all of the mothers imprisoned having two or more children, of which a considerable number were placed in an orphanage as a consequence of their mothers' imprisonment.<sup>61</sup> In South Africa, the percentage of mothers in the sample surveyed was 75%, 45% of them had their first child between the ages of 16 and 20 years.<sup>62</sup>

While little qualitative research is available, women's social and family roles have been shown to play a relevant role when it comes to explaining pathways to offending, particularly in situations of family breakdown. An in-depth study conducted in South Africa, for instance, shows how the women's familial and relationship histories as well as traumatic events, especially in childhood, shaped their choices – or lack thereof – and were linked to their involvement in crime.<sup>63</sup>

Motherhood, in particular early pregnancies, also appears to play a role in women's pathways to crime. Experiences of abuse during childhood are a factor for early pregnancies, impacting on the women's relationships later in their lives.<sup>64</sup> In Kazakhstan, for example, research indicated a typical pattern where women fell into debt following the breakdown of a marriage and then turned to fraud, drug dealing or theft to raise funds to make repayments. Informal marriages appear to constitute a particular factor for women's vulnerability in this country, with an estimated 30% of children born into informal marriages.<sup>65</sup>

Alongside low levels of education, responsibility for children, caring for other relatives and aging family members, typically constitute obstacles to employment for these women, contributing to their marginalisation and economic dependency. Often children are used as leverage to trap them in an – often violent – relationship.<sup>66</sup>

## Violence against women

According to the WHO, 35% of women worldwide have experienced either intimate partner violence or non-partner sexual violence in their lifetime.<sup>67</sup> There is a strong link between violence against women and women's incarceration, whether prior to, during or after incarceration.<sup>68</sup> Women have been victims of violence at a much higher rate prior to entering prison than is acknowledged by the legal system generally,<sup>69</sup> 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.<sup>70</sup>

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.<sup>71</sup> Another study found that a staggering 86% of incarcerated women had, as children, suffered either sexual or physical abuse or witnessed violence at home.<sup>72</sup>

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 represent a significant percentage, they are still likely to reflect under-reporting.<sup>73</sup> 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.<sup>74</sup>

The life stories captured in the South African study, where almost 70% of the women prisoners interviewed had experienced some form of domestic violence,<sup>75</sup> revealed experiences of abuse throughout childhood<sup>76</sup> 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

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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.<sup>77</sup>

While it is not the intention to characterise women detainees as 'passive victims of criminalisation',<sup>78</sup> it is important to understand the role trauma and violence has played in the lives of these women<sup>79</sup> and the links between offending and histories of prior abuse. For example, the South African study shows that domestic abuse is related to female offending in both direct and indirect ways.<sup>80</sup> Similarly, studies in Australia, Canada and South Africa reveal high rates of violence prior to arrest and possible links with criminal conduct.<sup>81</sup>

In the cases researched of women alleged or convicted of offences against life (assault, manslaughter or murder), experiences of domestic and sexual abuse were often 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.<sup>82</sup> 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.<sup>83</sup>

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'.<sup>84</sup> 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.<sup>85</sup> 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.<sup>86</sup>

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.<sup>87</sup> For others, abuse led to problem behaviours such as drugs, alcohol and gambling as a way of dealing with their experiences.<sup>88</sup>

### Drug and alcohol dependence

Due to factors described above, women generally experience more psychological distress than men over their lifetimes, including anxiety, depression and guilt. Maybe not surprisingly, therefore, women prisoners have shown to have higher rates of mental health issues and histories of substance abuse than their male counterparts.<sup>89</sup>

Research in women prisons in Kazakhstan in 2011, for instance, estimated that over 40% of the female prison population had been dependent on drugs prior to imprisonment, an increase from 32% in 2005.<sup>90</sup>

Canadian research in federal prisons indicated a percentage as high as 80%.<sup>91</sup> For the majority of the women surveyed in South Africa with alcohol or drug dependency problems substances had been used as a coping mechanism, including to 'escape' childhood abuse and domestic violence.<sup>92</sup>

Alcohol and/or drugs were found to play a central role in women's offending behaviour, both directly and indirectly. Addictions were the cause of their offending in order to finance substance use,<sup>93</sup> excluded them from legal employment and provided an entry into criminal circles.<sup>94</sup> In some cases recorded, it was not the women's own substance abuse that led to their criminal behaviour, but their partner's.<sup>95</sup>

### First-time offenders/recidivism

While statistics disaggregated by gender are scarce, the studies available show a high percentage of women who are first-time offenders and, in general, a lower rate of recidivism than men.<sup>96</sup>

In Tunisia, for instance, the recidivism rate according to the Directorate General for Prison Administration and Rehabilitation was 22% for women in 2013 compared to 44% for men.<sup>97</sup> A survey in Argentina found that 81.1% of women interviewed for the study had not been previously detained.<sup>98</sup> In South Africa, 74% of the women surveyed were serving a sentence for the first time.<sup>99</sup> In the US a study in 2007 stated that 'female prisoners were more likely than the total sample to have lower rates of recidivism across all four measures (rearrest, reconviction, resentence to prison and return to prison)'.<sup>100</sup>

## Women offenders and prisoners

### Statistics

On the basis of figures up to the beginning of 2013 there were more than 660,000 women in prison throughout the world. Women (and girls) comprise the minority of prisoners, constituting an estimated 2-9% of national prison populations. However, the number of imprisoned women has increased significantly, and at a greater rate than for men.

According to the International Centre for Prison Studies, the number of women in prison increased between 2000 and the beginning of 2013 by over 40%,<sup>101</sup> compared to 16% for the world prison population as a whole in the same period. While in 2000 women represented 5.3% of the global prison population, this figure was 6.5% in 2013, representing an increase of more than a fifth.<sup>102</sup> The proportion of female pre-trial detainees also rose in all regions from 16.4% in 2004 to 17.5% in 2012.<sup>103</sup>

In Mexico, for example, the female prison population has grown by 400% since 2007.<sup>104</sup> In China, the number of female prisoners (pre-trial and convicted) has risen significantly in the last few years: by 30.53% since 2004,

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in particular due to the increase of un-convicted detainees.<sup>105</sup> South African statistics show an increase of approximately 10% in both the number of sentenced and unsentenced female inmates between January 2007 and February 2011.<sup>106</sup>

Nonetheless, little research has been conducted to understand why there has been such a considerable increase in women's incarceration, in particular amongst certain groups. Some studies highlighted the disproportionate incarceration rates of women from ethnic and minority groups<sup>107</sup>, who in many countries are more likely to be imprisoned.

In Albania, 12.5% of the female prison population belonged to the Roma minority,<sup>108</sup> while in the last census in 2011 the proportion of the Roma population in the country was only 0.3%.<sup>109</sup> In the US, a 2005 report noted an increase in the imprisonment rate of African American women of 800%, compared to 400% for women of all other racial groupings.<sup>110</sup>

Also, the percentage of convicted girls increased more than the percentage of convicted female adults.<sup>111</sup>

## Offences

Research available on women prisoners (pre-trial and sentenced) shows that the majority of offences women are charged with or convicted for are non-violent, while the proportion of charges and convictions for these types of offences in the general prison population is generally much lower. While the overall figure for economic offences globally is 18%,<sup>112</sup> surveys reviewed for this article identified rates between 22% and almost 50% of women charged with or convicted for economic offences.

In most countries, a significant number of women are imprisoned on drug-related offences (up to 70%) while the rate in the overall sentenced prison population is 21%.<sup>113</sup> Other types of offences that disproportionately affect women are 'sex crimes', in particular where prostitution and similar offences are only penalised for 'providers' but not for 'clients'.

Statistics analysed from research in four prisons in China in 2013 show that 86.96% of the female pre-trial prisoners surveyed had been accused of non-violent offences, compared to 67.35% of male suspects.<sup>114</sup> For the convicted female prison population property crimes such as theft, fraud and extortion represented 22.32% of offences.<sup>115</sup> In the South Caucasus, too, the majority of women surveyed in pre-trial detention were charged with economic offences. In Georgia, of the convicted female prison population, 42% had been sentenced for property offences, 29% for drug-related offences and 6% for violent crimes.<sup>116</sup> In Armenia, according to official statistics, property offences account for 33.3% of convictions for female offenders, and drug-related offences 17%.<sup>117</sup>

In Jordan, 26% of women were in prison for violent offences, while the vast majority of women prisoners were charged with or convicted of offences presumed to be predominantly non-violent. 23% were detained relating to sexual offences, including prostitution and adultery, punishable with up to three years in prison.<sup>118</sup> In Kazakhstan, non-violent crimes also constituted the largest share of convictions with 41% of women detained for property offences. 28% of sentences were drug related, reflecting severe penalties for the sale of drugs in this country.<sup>119</sup> 23% of the women surveyed had committed violent offences.

Statistics from South Africa, by comparison to other countries, reflect a very high proportion of violent crimes overall, with an unusually high 36.6% of women having been convicted of 'aggressive' crimes. 10% of women offenders were incarcerated for narcotics crimes, and the largest percentage, yet again for economic crimes (45.2% for fraud, forgery, shoplifting and theft).<sup>120</sup> In Kyrgyzstan, too, the number of convictions for murder or manslaughter was strikingly high compared to other countries, with 20% of women offenders convicted of the murder or manslaughter of a male family member and a further 12% of the murder of someone other than a male family member.<sup>121</sup>

A survey in Argentina found over 85% of women were convicted of economic crimes,<sup>122</sup> and the rate of women being accused or convicted of drug trafficking was particularly high (55.75%), which appears to be common in Latin America as a whole.<sup>123</sup>

## Drug-related offences

Worldwide statistics show that drug-related offending is particularly high among women prisoners, and both domestic and international anti-drug policies have been identified as a leading cause of the rising rates of incarceration of women around the world. For example, according to a recent comprehensive study, over 31,000 women across Europe and Central Asia were imprisoned for drug offences: almost 70% of all women prisoners in Tajikistan, 40% in Georgia, about 50% in Estonia, Portugal and Spain, almost 70% in Latvia and 37% in Italy.<sup>124</sup>

In Kazakhstan and Kyrgyzstan too, a high percentage of women prisoners surveyed in 2012 were convicted of drug-related offences (about a third).<sup>125</sup> High rates of incarceration of women for drug-related offences have also been reported in the Russian Federation, with acquittal rates in drug cases of less than 5%.<sup>126</sup> In China, drug offences by women prisoners accounted for 41.88% of crimes and 48.17% of non-violent crimes.<sup>127</sup> In Canada, about a third of women prisoners were convicted of drug-related offences.<sup>128</sup> In Thailand, this figure was 57%.<sup>129</sup>

Particularly high rates of women imprisoned on drug-related charges are documented in Latin America, with percentages up to 70%,<sup>130</sup> owing to harsh drug laws. Between 2006 and 2011, the female prison population in the region almost doubled, increasing

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from 40,000 to more than 74,000 prisoners, usually for low-level trafficking offences.<sup>131</sup> This trend has been attributed to the greater ease with which low-level crimes can be prosecuted<sup>132</sup> and gender disparities in the ‘war on drugs’.<sup>133</sup>

Research in Argentina showed that women’s primary role in drug trafficking is that of a mule,<sup>134</sup> which makes them typically easy targets for drug enforcement authorities, even though it does little to disrupt drug trafficking networks. All of the women charged with drug trafficking interviewed in Argentina were transporting small quantities of illegal substances across the border.<sup>135</sup> As a consequence, harsh prison sentences, including for non-violent, low-level drug crimes, appear to affect women disproportionately.<sup>136</sup>

In Ecuador, 77% of women in prison were incarcerated for drug-offences compared to 33.5% of the male prison population, indicating a gendered disparity.<sup>137</sup> An older study in the US also found that women were over-represented among low-level non-violent drug offenders, having minimal or no prior criminal history and not representing principal figures in criminal organisations or activities. Nevertheless they received sentences similar to high-level drug offenders under the mandatory sentencing policies.<sup>138</sup>

Other research has also indicated that more serious offenders, mainly male, escape imprisonment or have their sentences reduced by entering into plea-bargaining deals and providing assistance to the prosecution, which women are usually unable to provide.<sup>139</sup>

## Motives/causes for crime

While women should not be described as ‘passive victims’ when in conflict with the law, root causes of offending and the specific contexts in which women commit crimes have to be taken into account. Research is still scarce on pathways of women to and motivations for offending, as well as the gendered nature of poverty. However, findings, for example in South Africa, illustrate the link between women’s offending and conditions of structural poverty, education levels, access to employment and the environments in which women lived and were socialised.<sup>140</sup>

Research also demonstrated that prior emotional, physical, and/or sexual abuse contributes to women’s criminal behaviour. Research in China revealed that domestic violence – ‘extreme measures to protect themselves’ – ranked highest among reasons women gave for committing a violent offence.<sup>141</sup> In Kyrgyzstan, 20% of women cited self-defence or self-protection as the main reason for their offence.<sup>142</sup> In Jordan 6% of the women in judicial detention said that they acted in self-defence or self-protection, another 6% said they sought to protect their children.<sup>143</sup> More research should be undertaken into domestic abuse as a trigger for violent crimes, and on the extent to which such experiences are taken into account by courts.<sup>144</sup>

In some cases, women are incarcerated for illegal activities, which they commit in response to coercion by abusive partners, or as a result of their connection with others engaged in illegal behaviour. One study illustrated how women had been forced to commit offences by physical attacks or even death threats, or following more subtle pressure or provocation. This included being manipulated or ‘talked into’ committing the offence, confessing to an abuser’s crime, or committing physical assaults in response to psychological victimisation.<sup>145</sup>

Sometimes called the ‘girlfriend problem’, women are often caught up in the offences of their significant other by participating in crimes, often drug-related, minimally or unknowingly.<sup>146</sup> In Mexico, for example, it has been estimated that at least 40% of the women convicted of drug-related crimes, such as transporting drugs between cities or smuggling drugs into prisons, were coerced into doing so by their boyfriends or husbands.<sup>147</sup>

## Prison conditions<sup>148</sup>

Not least because of their small number amongst the population detained, prisons and prison regimes are almost invariably designed for the majority male prison population. This includes everything from the architecture of prisons and security procedures to staffing, healthcare services, family contact, work and training. As a result, many prisons do not meet the needs of women on multiple levels.

As Debbie Denning, Chief of Programs and Support Services, Department of Corrections in Illinois, put it: ‘There is a view that when it comes to conditions in prison women get everything and men get nothing. In reality, women get everything that can be provided for free.’<sup>149</sup>

The Committee on the Elimination of Discrimination against Women established within an individual complaint in 2001 that discrimination against women encompasses ill-treatment that affects women disproportionately as well as detention conditions which do not address the specific needs of women.<sup>150</sup>

## Location/allocation

Generally there are far fewer prison facilities for women or they are housed in annexes to male prisons, sometimes with insufficient separation. As a result female prisoners are often detained far from home, limiting their contact with their families, and may be held at a higher security facility or unit than necessary, with correspondingly more restrictions and less access to rehabilitation programmes.

In Kazakhstan, for example, the size of the country and the limited facilities mean that women are imprisoned far from home, family, friends and community, exacerbated by the fact that different prisons have different security categories. The ninth largest country in the world has only 6 women’s prisons, with differing security regimes, many in remote areas. Koksun prison in Karaganda for instance is in a very isolated location about an hour and a half’s drive from the nearest city and with inadequate public transport links. This also impacts on the health

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of women prisoners since many of them rely on visitors to bring medicine, food, warm clothes and toiletries. Survey findings in 2013 confirmed the high level of social isolation experienced by women prisoners as a result.<sup>151</sup>

In China, while there are 36 women's prisons in total, there is only one facility in most provinces, meaning that it is 'largely impossible to be allocated to a place of detention near their home'.<sup>152</sup> In Albania, female prisoners are placed far from their communities, family and circle of relatives and friends as they can only be placed in one of the two women's prisons in Tirana, while the majority (71.5% of pre-trial detainees and 77.5% of convicted women) come from cities and rural villages in the north and south of Albania.<sup>153</sup> In South Africa, it was established that, while 96.77% of inmates housed within 30km of their home and family received visits, 56.10% of those inmates housed over 100km away did not.<sup>154</sup>

Bangkok Rule 4 therefore sets out the considerations that need to be taken into account when allocating female prisoners to certain facilities, including the impact on the woman's ability to maintain links with her family, the potential impact of allocation on her children and the availability of services and rehabilitation programmes.

## Separation of prisoners and staffing

As women and men being housed together in detention facilities increases the risk of abuse,<sup>155</sup> the Standard Minimum Rules for the Treatment of Prisoners require that women and men should be detained in separate facilities.<sup>156</sup> For the same reason women prisoners should be supervised only by female prison officers.<sup>157</sup> Some countries reflect these principles in their legislation and practice.<sup>158</sup> However, in other countries, even 60 years after the adoption of the Standard Minimum Rules in 1955, women prisoners are still housed together with men and are exposed to sexual abuse by male staff.

A recent investigation in Alabama, US, for example, found that women prisoners at one of the state's prisons 'live in a toxic environment with repeated and open sexual behavior' and revealed that 'serious systemic operational deficiencies (...) have exposed women prisoners to harm and serious risk of harm from staff-on-prisoner sexual abuse and sexual harassment'.<sup>159</sup>

In Honduras, a report on a 'mixed prison' highlighted that 'according to reliable reports, many of these women, when they first enter, need to find themselves a 'husband' (...) to seek protection and find a place in the social structure of the prison'. This was 'aggravated by the fact that it is a prison in which internal control is exercised completely by the prisoners and the women find themselves in a particularly vulnerable situation'.<sup>160</sup>

## Protection from violence and abuse

As the Special Rapporteur on violence against women has noted, 'The continuum of violence during and after incarceration is a reality for many women globally'.<sup>161</sup> In

many regards, women have a heightened vulnerability to mental and physical abuse during arrest, questioning and in prison.

They are at particular risk of rape, sexual assault and humiliation by male fellow prisoners and prison staff. Custody, for many women, includes ill-treatment, including threats of rape, touching, being stripped naked, invasive body searches, insults and humiliations of a sexual nature or even rape. 'Virginity tests' constitute a particularly gross form of discrimination and of custodial violence against women.<sup>162</sup>

Women in prison are routinely monitored under surveillance, including being watched by male guards in various stages of nudity, including while undressing, bathing, using the toilet and during medical examinations.<sup>163</sup> In women's prisons in Armenia, Azerbaijan and Georgia, male guards had an unobstructed view into the women's showers and regularly watched female prisoners bathing.<sup>164</sup>

Furthermore, there are cases of dependency of detainees upon prison staff, which leads to increased vulnerability to sexual exploitation, as it drives them to 'willingly' trade sex for favours. In Paraguay, for example, women reported that they had been asked by policemen to perform oral sex in exchange for better treatment. None of the detainees interviewed had filed complaints (...) stating that they feared reprisals or that the remedies available were ineffective.<sup>165</sup>

A medical screening on entry to prison (Bangkok Rule 6) is one of the essential steps in detecting ill-treatment and torture by law enforcement authorities, and vital also in providing for the psychological and physical needs likely to arise from such abuse. Furthermore, Bangkok Rule 7 details steps to be taken by prison authorities in such cases, beyond the provision of appropriate medical treatment, including full information about their right to issue a complaint, psychological support and protection from retaliation. The principle of confidentiality should be respected during this process, and any tests prescribed need to be voluntary.<sup>166</sup>

## Hygiene

Hygiene, including sanitary articles and safe and regular access to hot water, is particularly important for women prisoners, yet remains one of the most common deficiencies in women's prisons across the globe.

Women in Argentina reported problems in accessing sufficient sanitary pads while in prison, describing it as 'a nightmare for girls with their periods' as they only received one roll of toilet paper per week.<sup>167</sup> Inmates in Russia reported that they could not wash until the next allocated shift for showering when their period started unexpectedly.<sup>168</sup> In South Africa, women prisoners reported that they were rarely supplied with painkillers for menstruation cramps,<sup>169</sup> and due to the lack of lavatories they got up at 2am or 3am in order to queue for the shower to be ready for the parade.<sup>170</sup>

Often access to hygiene products depends on women having the means to purchase such items themselves, or on NGOs providing them. This was the case in China, for example, where only 3% of the women surveyed were provided with free sanitary pads, which were donated by women's federations, charitable organisations and other community organisations.<sup>171</sup>

While provisions relating to toiletry articles and items for men to shave regularly are included in the Standard Minimum Rules<sup>172</sup>, for decades provisions have been lacking regarding women's needs, even though a failure to provide a hygienic environment that meets basic health needs infringes the right to health and dignity.

Bangkok Rule 5 therefore fills a crucial gap, finally recognising the specific hygiene needs of women and requiring, explicitly, the provision of free of charge sanitary towels, as well as a regular supply of water for personal care, in particular to those women who are pregnant, breastfeeding or menstruating.

## Health-care

Provision of adequate healthcare in prison is a major issue faced by prison systems around the globe, particularly because in the prison population (both male and female) individuals with poor health and chronic untreated conditions, mental health problems and health risks related to drug injection are over-represented. The prison environment can exacerbate these existing conditions.<sup>173</sup>

Yet, beyond this general situation, women prisoners have different and greater primary healthcare needs in comparison to men. This is partly due to physiological differences, and partly because of their typical backgrounds, which can include drug use, physical or sexual abuse, sex work and unsafe sexual practices. HIV and other sexually transmitted and blood-borne diseases are more prevalent among female prisoners than their male counterparts, due to the combination of gender inequality, stigma and women's vulnerability to contracting sexually transmitted infections and diseases.

The health conditions of women prisoners may have been untreated before admission due to discriminatory practices that prevent women from accessing adequate healthcare in the community.<sup>174</sup> Typically, there is limited reproductive health-care available for women in prison and even less so antiretroviral therapy, even for HIV-positive pregnant women although such treatment could prevent mother-to-child transmission. Many prisons also do not provide adequate substance abuse treatment programmes, or do not tailor programmes for women. Many penitentiary systems also overlook the fact that medical examination by male doctors may put women prisoners at risk of re-traumatisation as a high percentage of them have been victims of violence, including sexual violence.

As the UN Special Rapporteur on violence against women noted, 'The mere replication of health services provided for male prisoners is (...) not adequate.'<sup>175</sup> Yet, most prison facilities do not meet women's medical

needs, and prior to the adoption of the Bangkok Rules, standards on health-care for women in prison were limited to pregnancy, pre- and post-natal care. 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.<sup>176</sup>

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, but no gynaecological examination was provided.<sup>177</sup> Such examinations were found to only be prescribed every one or two years and only for 'female workers who enter the menopause'.<sup>178</sup> 40% of the surveyed women had never undergone any specific gynaecological health and disease examinations.<sup>179</sup>

Access to substance abuse treatment programmes, in many countries, is discriminatory towards 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.<sup>180</sup> When finally established,<sup>181</sup> unlike the programme provided in eight men's prisons, no separate 'clean zone' was available to women, but those undergoing the treatment mixed freely with the other prisoners.<sup>182</sup> 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.<sup>183</sup>

While the principle of non-discrimination in the treatment of prisoners, including on the ground of sex, has already been enshrined in other standards, the common deficiencies in providing adequate health-care to female prisoners underlines the added value of guidance put in place by the Bangkok Rules.

A provision on medical screening upon entry finally 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.<sup>184</sup>

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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 states 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, not yet included in the Standard Minimum Rules. As both principles are human rights standards regardless of the sex of the patient or the environment medical examination or treatment are taking place, their first explicit incorporation in the Bangkok Rules is of added value to all prisoners. Women specifically may not wish to share their reproductive health history or status,<sup>185</sup> but the Rule also prohibits 'virginity testing' as exercised in some countries<sup>186</sup> as a violation of the right to dignity and the right not to be subjected to ill-treatment.<sup>187</sup>

### Specific health issues

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.<sup>188</sup>

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,<sup>189</sup> rehabilitation programmes and drug-free areas must not discriminate 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.

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. Sport activity, for example, is also a key preventative health-care measure to maintain the physical and mental well-being of prisoners. However, in many prisons recreational activities are gender-stereotyped, and often sports facilitated for men are not available for women.

Provision of adequate and healthy food also constitutes a requirement of physical and mental health, and the lack of it – and the often discriminatory access granted only to male prisoners – can give rise to concerns. For instance, research in South Africa revealed women prisoners' limited diet and poor quality of food, including smelly and rotten vegetables and meat mostly consisting of skin and fat. This appeared to result mainly from the fact that the food was prepared in the men's prison kitchen by male offenders who selected meat and vegetables for themselves, leaving the less desirable food for the women.<sup>190</sup> It was also found that women prisoners rarely had any fruit, because they only received the leftovers when excess was sent over from another male prison.<sup>191</sup>

### Mental health<sup>192</sup>

Women who are admitted to prison are more likely than men to suffer from mental health problems,<sup>193</sup> 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. Moreover, family break-ups and feelings of failure in their parental responsibilities have been found to cause women particular stress, and feelings of guilt and anxiety.

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 the separation from their children.<sup>194</sup> 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.<sup>195</sup> Of the women surveyed in Georgia a significant number suffered from post-traumatic stress disorder and various mental health problems.<sup>196</sup>

Half of the women surveyed in Kazakhstan and 38% in Kyrgyzstan experienced depression as a consequence of their imprisonment.<sup>197</sup> In Jordan, psychological distress as a consequence of imprisonment was the most commonly identified problem. Yet, only 27% had received treatment for psychological/ psychiatric problems.<sup>198</sup> 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.<sup>199</sup>

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In the US, nearly 75% of incarcerated women have been diagnosed with mental illness, a rate much higher than their male counterparts.<sup>200</sup>

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.<sup>201</sup> 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 disorder 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.<sup>202</sup>

### Suicide and self-harm

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.<sup>203</sup> This has been attributed, in part, to the higher levels of mental health problems and substance dependency and to the harmful impact of isolation due to the distances of women's prisons from their family and community. An Australian report argues that in contrast to male prisoners, who express anger and frustration by engaging in physical violence or initiating riots, women are more likely to turn to self-harm.<sup>204</sup>

A case in Canada, for example, demonstrates the fatal consequences of the failure to address a young woman prisoner's mental health needs. A woman prisoner committed suicide in 2007 while she was under suicide watch. Rather than providing treatment and support, her mental health issues were 'treated' through excessive periods of segregation, use of force and restraints.<sup>205</sup> In his report on the incident, the Federal Prison Ombudsperson found that the death was 'the result of individual failures that occurred in combination with much larger systemic issues within ill-functioning and under-resourced correctional and mental health systems.'<sup>206</sup>

In Kyrgyzstan, over a quarter of women prisoners surveyed had attempted suicide and 29% had harmed themselves at some point in their life.<sup>207</sup> In Tunisia 40% of the women surveyed had either harmed themselves and/or attempted suicide.<sup>208</sup> Certain times were highlighted by interviewees as carrying 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.<sup>209</sup> In some countries self-harm and suicide attempts are penalised as criminal offences, causing further deterioration rather than providing a solution to the problem.

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 social welfare services.<sup>210</sup>

### Body searches

Body searches,<sup>211</sup> 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.<sup>212</sup> 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'.<sup>213</sup>

The Rapporteur documented, for example, highly invasive and often traumatic strip searches in Australia, which were not proportional to the goal of preventing illegal items from being smuggled into prison.<sup>214</sup> 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 weeks.'<sup>215</sup>

In Belarus, the search by a male guard of a female arrestee led 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.<sup>216</sup> 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.<sup>217</sup> In Greece, reports stated that prisoners who refused to undergo such searches were placed in segregation for several days and forced to take laxatives.<sup>218</sup>

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,<sup>219</sup> only in exceptional circumstances when absolutely necessary, and should be replaced by

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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.<sup>220</sup>

## Restraints

While certain restrictions on the use of restraints are already included, in general, in Rule 33(a) of the Standard Minimum Rules, Bangkok Rule 24 finally prohibits the use of any kind of body restraint on women during labour, during birth, and immediately after birth. In the US, for example, the shackling of pregnant prisoners still persists to this day, even though there is no reasonable chance of a woman escaping during labour, while giving birth or after birth.<sup>221</sup>

Such practices have also been documented in the Occupied Palestinian Territory<sup>222</sup>, 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’.<sup>223</sup>

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 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.<sup>224</sup>

## Solitary confinement

Disciplinary segregation or solitary confinement<sup>225</sup> in general have been found to be extremely harmful to a person’s psychological health and wellbeing. Medical research confirms that the denial of meaningful human contact can cause ‘isolation syndrome’ the symptoms of which include anxiety, depression, anger, cognitive disturbances, perceptual distortions, paranoia, psychosis, self-harm and suicide, and can destroy a person’s personality.<sup>226</sup> Where prolonged or indefinite, such treatment can amount to torture and ill-treatment, as emphasised by the Special Rapporteur on Torture.<sup>227</sup>

Yet, for women, the particular distress experienced when in isolation needs to be taken into account, even more so if they have mental health issues, are pregnant or have recently given birth. 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. Solitary confinement also places women at greater risk of physical and/ or sexual abuse by prison staff.

Isolation has also been found to jeopardise access to pre-natal care.<sup>228</sup> In May 2014, for instance, a female detainee in Texas was forced to give birth in her solitary cell, resulting in the death of her newborn 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.<sup>229</sup>

Even though Bangkok Rule 22 is not very far-reaching, it at least 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.<sup>230</sup>

## Visits

In many prisons around the world, women receive fewer visits than men. This is caused by fewer prison facilities for women, resulting in greater distances from family and community and greater logistical difficulties and costs involved in arranging such visits. The particular stigma faced by women offenders also often means that they are shunned by their families. Prison regulations and institutional barriers may be additional factors in lack of or limited family contact.<sup>231</sup>

For example, in England and Wales (UK) half of all women on remand were reported not to receive visits from their family, compared to one in four for male prisoners.<sup>232</sup> Stigmatisation of female offenders was found to be a reason for isolation in China, with female offenders having no one to visit them for many years, as they were abandoned by their loved ones.<sup>233</sup> In Ghana, research confirmed as contributing factors for fewer visits of female prisoners the smaller number of women prisons and the different gender roles in Ghanaian culture. As a result women prisoners were less likely than their male counterparts to be delivered necessary items, including food.<sup>234</sup>

The subsequent lack of contact with the family, in particular children, is detrimental to women prisoners’ mental health as well as to rehabilitation and reintegration efforts,<sup>235</sup> even more so where the legal framework allows for the termination of parental rights in case of disrupted ties. For example, in-depth interviews in South Africa illustrated that for women prisoners, the separation from their children constituted one of the most difficult aspects of imprisonment, and that concern for their children played a crucial role in the determination of these women to resist future offending and substance abuse.<sup>236</sup> In addition to emotional support, friends and family often provide vital material support for incarcerated family members, by bringing money or goods such as toiletries, underwear and telephone cards.<sup>237</sup> Those without such support are at a considerable disadvantage.

The UN Standard Minimum Rules for the Treatment of Prisoners therefore provide that prisoners should be allowed to communicate with their family and friends. The Bangkok Rules, however, add value in the light of

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the realities in many countries that lead to increased isolation of women prisoners. Bangkok Rule 4 requires, as far as possible, for women to be allocated close to their home. However, as this is often not the case, Bangkok Rule 26 calls for measures to counterbalance the disadvantages that stem from this. Where visits are not possible or infrequent due to the distances involved, other means of communication should be facilitated and contact should not be prohibited as a disciplinary sanction (Bangkok Rule 23).<sup>238</sup>

Other measures to compensate for disadvantages caused by longer distances can include extending visiting hours or providing overnight accommodation if family members have to travel a long way. School and standard working hours should be taken into account, even if this is outside regular visiting hours, and families should be provided with information about the location and any transfer of their imprisoned family member. The frequency and length of telephone calls should be increased, if families are unable to travel to the prison, and cooperation should be developed with organisations which can facilitate visits.

The conditions and atmosphere of a visit also play a crucial role as they strongly affect the quality of a visit and are likely to impact on the number of visits women receive. Often visitors and prisoners are separated by a wire mesh or glass, and can only communicate through an earpiece, even though such precautions are not necessarily based on actual security risks.

Bangkok Rule 28 is therefore supplementary to other prison standards in recognising the strong need for mothers and children to have physical contact and requires a child-friendly environment to reduce any distress felt by the children. It is good practice to allow for visits with physical contact in a comfortable, inviting setting, which provides an opportunity for interaction, bonding and for playing with children.<sup>239</sup>

Humiliating search procedures for visitors are likely to discourage visits, in particular for children. Complaints about such procedures have been documented, for instance, in Brazil, including even elderly women and children,<sup>240</sup> and in Afghanistan. In a men's prison on the edge of Kabul, a blanket order to conduct invasive body-cavity searches of female visitors was reportedly justified as a measure to keep out contraband, while most male visitors got into the prison with a mere pat down search.<sup>241</sup>

While Bangkok Rule 21 does not provide guidance for searches of visitors in general or in a comprehensive manner, at least for children it explicitly refers to the need for any searches of children to be carried out in a way that protects their dignity. Conjugal visits,<sup>242</sup> in some countries, are allowed for male prisoners, but not for their female counterparts. For example in Chile, women prisoners are generally prohibited from having sexual relations with their partners. While two pilot programmes have been introduced, female prisoners are only eligible for conjugal visits if they have already been sentenced and if certain requirements are met, such as having a

stable partner, 'good behaviour', and if the absence of sexually transmitted infections has been verified. Male inmates, by comparison, are not required to meet any such criteria, but have the right to conjugal visits.<sup>243</sup>

To address such gender-based discrimination, Bangkok Rule 27 requires that male and female prisoners are allowed conjugal visits on an equal basis.

### **Children living in prison with their mother/parent<sup>244</sup>**

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.<sup>245</sup> 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.<sup>246</sup> In 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.<sup>247</sup>

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).<sup>248</sup> 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), and their experience must be as close as possible to life for a child outside (Bangkok Rule 51). Children living in prison with their mothers (or fathers) are likely to also have health-care and psychological support needs, which are recognised in Bangkok Rules 9 and 51.

The conditions in detention inevitably impact on the children living in prison with their parent, both in terms of overall conditions as well as due to the lack of infrastructure suitable for children. Sierra Leone's prisons, for example, were found to lack dedicated infrastructure for co-residence, and infants frequently became ill due to the conditions in prison and the spread of contagious diseases.<sup>249</sup> Most of the children in prison with their mothers were under two and held in a maximum-security prison, which was seen to have the best facilities. However, babies were observed to be malnourished, whether breast-feeding or eating on their own, because of the lack of food and basic hygiene.<sup>250</sup>

As most countries provide in their laws for a specific age until which babies and children can live in prison with their parent, inevitably, they will be separated at some point, resulting in emotional stress for both the parent and the child, and raising questions about alternative child-care arrangements.

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In recognition of the difficult situation arising from separation, Bangkok Rule 52 requires that such decisions 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.

## Rehabilitation and reintegration

### Classification

In order to achieve the rehabilitative purpose of imprisonment, the prison term has to be used to ensure to the greatest extent possible that upon return to society the offender is able to lead a law-abiding and self-supporting life.<sup>251</sup> Classification, usually conducted upon arrival, constitutes a crucial tool to ensure suitable rehabilitative services.<sup>252</sup>

Women prisoners may face discrimination in such classification processes, which can result in the allocation of a security level higher than necessary, usually linked to more restrictions and less access to work and rehabilitation programmes.<sup>253</sup> Common causes are the low number of women prisons and procedures that are not gender-sensitive, in particular with regard to women's experiences of violence and typically poorer state of mental health, which is often misinterpreted as a security risk.<sup>254</sup>

In Australia, for example, the insufficient number of women prisons has resulted in women being detained in maximum-security prisons with male prisoners.<sup>255</sup> In the women's section of a prison in Thailand, there was only one male prison guard in charge of classification and all women were classified as high-risk, even though the prison director said that only six of them actually met the criteria.<sup>256</sup> The lack of gender-sensitive processes is also illustrated in South Africa, where sentence plans, including the determination of rehabilitation programmes, are drawn up on the basis of an initial admission interview with incoming offenders. The design of the process resulted in women only indicating recent events and issues directly related to their arrest, rather than violence and trauma dating back further.<sup>257</sup>

Taking into account these common problems in classification methods, Bangkok Rules 40 and 41 stipulate the development and implementation of classification methods that are gender-specific and ensure appropriate rehabilitative plans.

### Consequences of imprisonment

In designing rehabilitation programmes it is important to understand the consequences of imprisonment for detainees in general, and to identify particular obstacles women face in this regard.

Overall, former prisoners will experience loss of employment while they were imprisoned, and their criminal record will make it difficult to find work again.

Loss of housing will also be a common feature, although women may be more affected in societies where they face increased stigma and are rejected by their families. If they have left a violent relationship, women will have to establish a new life, which is likely to entail additional economic, social and legal difficulties. Already before imprisonment women are likely to have faced discrimination in the labour market, which will be exacerbated following imprisonment.

The low levels of education and vocational skills, which have been identified as a common feature amongst women prisoners, if unaddressed during their prison term, will remain an equally big challenge after imprisonment. Break-up of families tends to affect women more than their male counterparts, and they are likely to have a particular sense of guilt towards their children. In some countries they may lose their parental rights. Confidence and life skills also tend to be lower amongst the female prison population than amongst their male counterparts.

Poor health is a common problem for both male and female prison populations, and is likely to have been further exacerbated by prison conditions, poor nutrition, the prevalence of infectious diseases<sup>258</sup> and poor health services. Yet again, former women prisoners will be affected by discrimination in access to health-care services and social welfare in countries where equality has not been achieved in these areas.

The lack of attention to women's particular health issues in many prisons, not least their reproductive and preventive healthcare needs, may mean they are in a particularly poor state of health following their release. Mental health problems, typically higher amongst the female prison population, are likely to have worsened in prison rather than improved, and they may have long-term consequences due to isolation and the higher rate of self-harm and suicide.<sup>259</sup>

Other challenges and forms of discrimination in society may also affect women following their release. Research in China, for example, has revealed that male spouses often force their wives in prison to enter into unfair divorce settlements or secretly initiate property transfers, leaving them without financial security when they are released.<sup>260</sup> Women prisoners are therefore likely to face different and additional challenges, which need to be addressed in a gender-sensitive way when preparing them for release and following discharge from prison.

### Rehabilitation programmes in prison

Pre-release preparation and post-release support policies and programmes are typically structured around the requirements of men and rarely address the gender-specific needs of women offenders. There are usually fewer educational and training opportunities for women, and those that are available are less varied and of poorer quality than those offered to male detainees.<sup>261</sup>

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Furthermore, in many prisons the types of activities offered to women as part of rehabilitation programmes are gendered,<sup>262</sup> and those traditionally thought appropriate for women. While skills taught to men are generally framed in terms of preparation for employment on release, those taught to women rarely are. Where they are not mirroring domestic work conventionally conducted by women in the household, they equip them for the lowest paid jobs in the economy. This reinforces women's dependency on men and their inability to find employment with sufficient income following release.

A UN report on Abomey prison in Benin, for instance, reflects this phenomenon, stating that women prisoners 'appeared not to have equal access to the training courses and workshops provided for some male prisoners, nor to the education classes provided to male adolescent detainees'.<sup>263</sup> In New Hampshire state prisons, a report by the State Advisory Committee observed, that 'It is noteworthy that the vocational training opportunities made available to incarcerated men reflect the kinds of well-paying work from which women have been traditionally excluded – automotive mechanics, carpentry, and the like while the sole industry available to women at the Goffstown prison is sewing. (...) The facts speak for themselves regarding the state's complicity in sex-based discrimination confronting incarcerated women within the state.'<sup>264</sup> The Committee also found that the significant contrast of services offered to women prisoners resulted in exceptionally high recidivism rates for female offenders in New Hampshire. In 2005, the reoffending rate for women was at an unprecedented high of 56% compared to 49% for men.<sup>265</sup>

Discrimination against women prisoners in access to rehabilitation programmes is also captured in a report of the UN Special Rapporteur on the right to education stating, '[i]n many countries, the quality and range of programmes is poorer than those provided for men and, where they are offered, they often reflect traditional female roles such as sewing, kitchen duties, beauty care, and handicrafts.'<sup>266</sup> The Special Rapporteur on the right to education noted that generally 'it is unsurprising that research involving female detainees has uncovered deep expressions of frustration with the extent and quality of education and training they received'.<sup>267</sup>

Other support, like social services, counselling, confidence-building and life skills, are too often lacking or ignore the fact that similar needs operate differently for men and women.<sup>268</sup> For women, interpersonal skills, with a special focus on family, have also been found to be important. A parliamentary review of educational programmes for women in British prisons found that literacy and numeracy were over-emphasised, with insufficient focus on 'emotional literacy'.<sup>269</sup> Criminologists with gender-specific expertise also emphasise the importance of 'assertiveness training programmes, anger management and activities, which enhance women's skills and experiences'.<sup>270</sup>

Surveys on women's priorities with regard to rehabilitation programmes confirm this approach. Programmes to build confidence and life skills represented the second

most important support desired in a survey in the South Caucasus, even before vocational skills training (19% in Georgia and 21% in Armenia).<sup>271</sup> Women prisoners interviewed in South Africa also highlighted life skills ('surviving out there'), for example how to open a bank account, how to use an ATM, how to get a cell phone contract, how to draft a CV or apply for a job with 'missing years', how to apply for social grants, how to secure housing and handle rental contracts, as highly important for rebuilding their lives.<sup>272</sup> If a variety of rehabilitative programmes are provided in women's correctional facilities, they are often dependent on external funding and volunteers.<sup>273</sup>

Responding to discrimination against women prisoners in access to appropriate rehabilitation programmes, Bangkok Rule 46 requires prison authorities to implement comprehensive, individualised rehabilitation programmes which take into account women's gender-specific needs and aim to address the underlying factors that led to their offence so they can better cope with them following release. Programmes offered should not be limited to skills which are traditionally considered appropriate for women due to gender-stereotyping but should emphasise training and work that increases women's chances of earning a living wage after their release.

In light of the impact of family breakdown and separation from children, maintaining relationships with the family, in particular children, is also of key importance in preparation for the successful reintegration of female offenders. Support for child-care and reunification with family was highly ranked in surveys, for example in the South Caucasus. 49% of women in Armenia and 50% in Georgia stated they required this kind of assistance to build a new life.<sup>274</sup>

## Reintegration support following release

Although many problems women face upon release are similar to those of men, the intensity and multiplicity of their post-release needs can be very different. On top of typically having access to fewer and/or lower quality rehabilitation programmes preparing them for release, 'they are commonly burdened with low social and economic status in society and within their own families, and therefore face more difficult conditions upon release than do men'.<sup>275</sup>

For women prisoners surveyed in Jordan, stigmatisation was the biggest obstacle preventing reintegration (71%), followed by family abandonment (50%). Women prisoners in Tunisia had similar anxieties, with 69% of them identifying stigmatisation as the most serious obstacle to reintegration.<sup>276</sup> Obstacles in finding employment with a criminal record usually constitutes the biggest challenge following release from prison in general, but even more so for women. Confronted

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already with low levels of education and discrimination in access to the labour market, work and rehabilitation activities in prison – if existent – may not have equipped them with the necessary skills.

Help with finding employment was the most common support need expressed by women surveyed in Central Asia and the South Caucasus. For example, nearly 60% of women in Kyrgyzstan and half of the respondents in Kazakhstan highlighted this as a priority and stated that their criminal record prevented employment.<sup>277</sup> In Georgia, 70% of the women surveyed indicated that they needed support in finding employment following release, in Armenia this figure was 65%.<sup>278</sup> In Tunisia, too, support in finding employment topped the list of support requirements expressed by women prisoners, with 56% highlighting this as a priority.<sup>279</sup>

Finding housing is also a significant challenge for former prisoners, who often lose their accommodation due to imprisonment. Following release, they are likely not to have financial resources to afford housing, in particular to pay rent upfront or make security deposits. Applications may also require the disclosure of criminal records.<sup>280</sup> For women the situation may be exacerbated by being shunned by their families, or not being able to return to their spouses in cases of previous domestic abuse. In Australia, research has shown that women are left homeless, or forced to remain in secure custody, due to fear of payback and retaliation by the community.<sup>281</sup> A survey of women prisoners in Afghanistan highlighted that women released from prison cannot sign a property rental agreement without a man's signature, restricting their ability to lead an independent life.<sup>282</sup>

In a survey in Kazakhstan and Kyrgyzstan, accommodation was perceived as a problem by 40% of the women.<sup>283</sup> In England and Wales, 30% of women offenders lost their accommodation while in prison, and of the women who had reoffended following release, 56% stated that homelessness contributed to their offence.<sup>284</sup>

Another barrier faced by women prisoners following release is addressing various health problems, either through denial of access or inability to afford health-care insurance.<sup>285</sup> In the South Caucasus, the majority of women identified treatment for health problems as the most important support they needed to help them to reintegrate (48% in Georgia and 60% in Armenia).<sup>286</sup> In Jordan as well as Tunisia, the women surveyed indicated that their poor psychological state was a major obstacle to reintegration (50% in Jordan and 61% in Tunisia).<sup>287</sup>

Absence of substance dependency treatment following release is particularly damaging as the lack of care 'means that the conditions that rendered them vulnerable to drug involvement in the first place are sometimes replicated and augmented in prison, and after release'.<sup>288</sup> According to a study in Canada, women released were 10 times more likely to return to prison within one year when they did not participate in a drug treatment programme.<sup>289</sup>

Attention to mental health problems is equally important following release, as former women prisoners have a propensity to self-harm, including overdosing on drugs. For example, a study in England and Wales found that within one year of being released, former female prisoners were 36 times more likely to die by suicide than the general population.<sup>290</sup>

While the Bangkok Rules could be more specific and detailed on the elements of gender-specific aftercare, Rules 56 and 47 emphasise the requirement to design gender-specific reintegration programmes in cooperation with probation and/or social welfare services, local community groups and NGOs and to provide additional support to released women who need psychological, medical, legal and practical help.

## Conclusion

Women who come in conflict with the law certainly should not be described as unaccountable passive victims of male making. At the same time, they undeniably face discrimination in the criminal justice system, to a considerable extent sustaining discrimination in society in general.

Patriarchal structures, perceptions of gender-appropriate behaviour, economic dependence and discrimination in the labour market as well as in access to education in many countries shape women's lives. It is not surprising that these factors leave a trace and directly or indirectly contribute to women offending – or in case of moral crimes and protective detention to their penalisation in the first place. Penitentiary systems are designed for the majority male population of offenders and prisoners, overlooking – often in a misunderstood claim of equality – the specific characteristics and needs of women.

The link between violence against women and imprisonment is particularly striking. What research there is available shows that the pathway to prison of many women offenders is paved with domestic or sexual violence, mostly at the hands of their partners or family members. Once in detention they may easily find themselves, yet again, in a 'toxic environment'<sup>291</sup> of (sexual) abuse and harassment. International standards ignored their needs for too long, maybe most evidently symbolised in the provision for shaving items in prison standards since 1955, but the incorporation of sanitary pads only in 2010.

The UN Bangkok Rules do not provide guidance on all issues surrounding women in the criminal justice system (discriminatory penal laws or sentencing, gender-specific offences, legal representation are not within their scope). However, they are a truly comprehensive set of standards covering not only conditions in detention but also non-custodial measures and gender-specific considerations in sentencing.

In a few areas the Bangkok Rules are not very progressive or far-reaching (e.g. limitations to the use of solitary confinement or restraints) and in others guidance could be more concrete and specific (co-residence, visits, search procedures regarding children for example).

That aside, they are a milestone in the recognition of the need for gender-sensitive penal systems, and have a considerable added value to guide states and authorities on how to rectify their blind spots when it comes to women offenders and prisoners. The call for

gender-sensitive justice systems does not mean that attention should suddenly shift from the majority male prison population to their female counterparts. Yet, in the light of the amount of ignorance and neglect vis-à-vis women in contact or conflict with the law for decades counter-balancing is now in order.

Human rights for offenders and prisoners are not only rights for the majority and the mere replication of services provided to men does not produce gender equality.

# Toolbox on the UN Bangkok Rules

## on women offenders and prisoners

### Guidance document and Index of implementation

A guide to each Rule and a comprehensive checklist for an assessment of implementation. (Co-published with Thailand Institute of Justice)

### E-learning course: **Women in Detention: putting the Bangkok Rules into practice**

Self-paced free online course, with a certificate issued on completion.

### Short guide

Short illustrated overview of the typical profile of women offenders and their needs, and what the Rules cover.

### Women in detention: a guide to gender-sensitive monitoring

Guidance on how bodies monitoring places of detention can incorporate a gender perspective into their work. (Co-published with APT)

### Neglected needs: girls in the criminal justice system

Examines discrimination faced by girls in criminal justice systems and the measures needed to strengthen protection of their rights. (Co-published with IPJJ)

### Quarterly e-bulletin on women in the criminal justice system

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# Endnotes

- 1 Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.
- 2 UN General Assembly, United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules): resolution / adopted by the General Assembly, 2 April 1991, A/RES/45/110.
- 3 See Penal Reform International Toolbox on the Bangkok Rules: <http://www.penalreform.org/priorities/women-in-the-criminal-justice-system/bangkok-rules-2/tools-resources/>.
- 4 While they do not represent a legally binding treaty, they do express a commitment by the 193 member states, which unanimously adopted them at the UN General Assembly.
- 5 Sometimes, the term 'status offences' is used, which refers to laws prohibiting certain actions to persons based on their sex, race, nationality, religion, age etc.
- 6 UNODC Handbook (2014), pp. 81, 97.
- 7 Special Rapporteur on violence against women, A/68/340 (2013), paras. 16 and 18.
- 8 *Ibid.*, para. 17.
- 9 UNODC, Afghanistan (2008), para. 14; Human Rights Watch, Afghanistan (2012), p. 1.
- 10 Human Rights Watch, Colombia (2005).
- 11 Special Rapporteur on violence against women, A/68/340, (2013), paras. 19,20
- 12 UNODC, Afghanistan (2008), para. 14.
- 13 Gelsthorpe L., Sexism and the female offender (1989).
- 14 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.
- 15 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.
- 16 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).
- 17 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.'
- 18 Special Rapporteur on torture on Jordan (2007), A/HRC/4/33/Add.3, para. 39. and para. 72 lit. (u).
- 19 Heartland Alliance, Iraq.
- 20 Penal Reform International, Jordan and Tunisia (2014), p.8.
- 21 Papavangjeli (2013), p. 13.
- 22 Penal Reform International, Jordan and Tunisia, (2014), p.18.
- 23 Amnesty International, Afghanistan (2005), p. 32.
- 24 AdvocAid (2012), p. 13.
- 25 Papavangjeli (2013), p. 13.
- 26 E.g. Article 14 (3b) of the International Covenant on Civil and Political Rights, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Rule 93 of the Standard Minimum Rules for the Treatment of Prisoners; Principle 8 of the Basic Principles on the Role of Lawyers.
- 27 The Principles clarify, inter alia, that legal aid is a duty and responsibility of the state, for which it should allocate sufficient resources, and acknowledge that legal aid needs to be provided promptly and effectively at all stages of the criminal process, including unhindered access to legal aid providers for detained persons (UN General Assembly resolution 67/ 187, 20 December 2012).
- 28 Bangkok Rule 26 reiterates that women prisoners' contact with legal representatives shall be encouraged and facilitated by all means. However, the provision is located in the section on treatment in prison, does not address access to legal aid or call for specific measures for women offenders.
- 29 Principles 10 and 37 and Guideline 9.
- 30 Law and Justice Commission of Pakistan (2012).
- 31 Report by Baroness Jean Corston (2007), p. 18.
- 32 Rule 64 reiterates the preference of non-custodial sentences for pregnant women and women with dependent children.
- 33 Constitutional Court of South Africa, S. v. M. (2007).
- 34 Lei et al. (2014), p. 30.
- 35 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), pp. 5, 32.
- 36 Lei et al. (2014), p. 27.
- 37 Penal Reform International, Jordan and Tunisia (2014), p.14.
- 38 Papavangjeli (2013), p. 2.
- 39 Artz et al. (2012), p. xvi; UNODC, Women and HIV, p. 3.
- 40 Eilís Lawlor et al. (2008), p. 7.
- 41 AdvocAid (2012), p. 15.
- 42 Surt Association (2005), p. 23.
- 43 Papavangjeli (2013), p. 9.
- 44 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p.2.
- 45 Penal Reform International, Jordan and Tunisia (2014).
- 46 Artz et al. (2012), p. 106.
- 47 Papavangjeli (2013), p. 9.
- 48 National secondary school participation has been reported at 84.3% for men and 82.4% for women between 2008 and 2012. (UNICEF, [www.unicef.org/infobycountry/albania\\_statistics.html](http://www.unicef.org/infobycountry/albania_statistics.html))
- 49 Papavangjeli (2013), p. 10.
- 50 Lei et al. (2014), p. 21.
- 51 UNESCO, Background paper (2006), p. 5.
- 52 UNESCO, Education for All Global Monitoring Report 2013/14, p. 320.
- 53 Artz et al. (2012), pp. 105-106.
- 54 *Ibid.*, pp. 105-106.
- 55 *Ibid.*, p. 197.
- 56 *Ibid.*, pp. 31-32.
- 57 *Ibid.*, p. 106.
- 58 Penal Reform International, Armenia and Georgia (2013), pp. 13-14.
- 59 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p.11.
- 60 Penal Reform International, Jordan and Tunisia (2014), p.11.
- 61 Papavangjeli (2013), p. 10.
- 62 Artz et al. (2012), p. vi, 11, 35.
- 63 *Ibid.*, p. ix.
- 64 See for example Artz et al. (2012), pp. xv, pp.114-137. Early motherhood plays an important role in women's pathways to crime and in the way in which they experience incarceration. Experiences of childhood victimisation increased the women's vulnerability as young girls to early pregnancies, which impacted heavily on their relationships and support systems (Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 30).
- 65 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), footnotes 42, 43.
- 66 Artz et al. (2012), p. xv.
- 67 World Health Organization, Factsheet N°239 (2013).
- 68 Special Rapporteur on violence against women, A/68/340 (2013), p. 4.
- 69 *Ibid.*, p. 4.
- 70 Artz et al. (2014), pp. xiii, 148.
- 71 *Ibid.* footnote 96.
- 72 Greene et al. (2000), p. 9.
- 73 Penal Reform International, 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).
- 74 Cornell Law School's Avon Global Center for Women and Justice et al. (2013) p. 2.
- 75 Artz et al. (2012), p. xiii, pp. 102-113.
- 76 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).
- 77 Artz et al. (2012), pp. xii, xiii pp. 83-100.
- 78 Special Rapporteur on violence against women, A/68/340 (2013), para. 2.
- 79 Edlira Papavangjeli (2013), p. 4 referring to trauma theory.

- 80 Artz et al. (2012), pp. Xiii, pp. 83-100.
- 81 Special Rapporteur on violence against women, A/68/340 (2013), p. 5.
- 82 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 19.
- 83 UNODC, World crime trends (2014), para. 10.
- 84 Special Rapporteur on violence against women, Kyrgyzstan (2010), para. 26.
- 85 Penal Reform International, Jordan and Tunisia (2014), pp. 12,13.
- 86 Kraft-Stolar et al. (2011), p. 3.
- 87 Artz et al. (2012), p. 141.
- 88 See for example Artz et al. (2012), p. 162.
- 89 WHO Regional Office for Europe, Health in Prisons (2007); Moloney et al. (2009), pp. 426-430.
- 90 Penal Reform International, Kazakhstan (2011); Penal Reform International, Kazakhstan and Kyrgyzstan (2013), p. 17.
- 91 Artz et al. (2012), p. 202.
- 92 *Ibid.*, p. 206.
- 93 In South Africa, for example, of the women with a drug dependency problem, one third (9% of total sample) had committed financially-motivated crimes (drug trafficking, robbery, and fraud) as a means of financing their addictions, and in one case, in an attempt to raise enough money to send herself to rehabilitation. (Artz L et al., p. 210)
- 94 Artz et al. (2012), pp. xvii, 203.
- 95 *Ibid.*, p. xvii, pp. 138-145.
- 96 Deschenes et al. (2006).
- 97 Penal Reform International, Jordan and Tunisia (2014), p. 3.
- 98 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 17.
- 99 Artz et al. (2012), pp. viii, 38.
- 100 Deschenes et al. (2007).
- 101 Walmsley, R. (2014).
- 102 Penal Reform International, The use and practice of imprisonment (2014), p.11.
- 103 UNODC, World crime trends (2014), paras. 15, 16, based on a sample of 40 countries worldwide.
- 104 Agren D, Female felons swell ranks among Mexican criminals, USA Today, 2 December 2010.
- 105 Lei et al. (2014), p. 4, 5.
- 106 Artz et al. (2012), p. 10.
- 107 Special Rapporteur on violence against women, A/68/340 (2013), p. 5
- 108 Papavangjeli (2013), p. 10.
- 109 See information at PAIRS South East Europe at [www.pairs-see.net/page?view=15](http://www.pairs-see.net/page?view=15), accessed 2 June 2014.
- 110 American Civil Liberties Union, Caught in the Net (2005), p. 1.
- 111 UNODC, World crime trends (2014), para. 16.
- 112 *Ibid.*, para. 29.
- 113 *Ibid.*, para. 29.
- 114 Lei et al. (2014), p. 19.
- 115 *Ibid.*, p. 22.
- 116 Penal Reform International, Armenia and Georgia (2012), pp. 8, 9, with reference to Georgia's very strict drug legislation resulting in a high rate of imprisonment for drug use or possession.
- 117 *Ibid.*, p. 11, noting new legislation implemented in 2009 which de-criminalised the use of illegal drugs and the transfer of small amounts of drugs without purpose of sale (e.g. sharing of small quantities among users).
- 118 Penal Reform International, Jordan and Tunisia (2014), p. 12.
- 119 The European Monitoring Centre for Drugs and Drug Addiction describes Kazakhstan's national drug laws as 'the most rigid criminal legislation on the territory of post-Soviet countries' and reports sentences imposed for the sale of drugs ranging from five to 12 years. (Penal Reform International, Kazakhstan and Kyrgyzstan 2014), footnote 34.
- 120 Artz et al. (2012), p. 11
- 121 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 14.
- 122 Women prisoners in Argentina (2012), p. 2.
- 123 *Ibid.*, p.12.
- 124 E. Iakobishvili, Cause for Alarm (2012), p. 5.
- 125 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 12.
- 126 Mikhail Golichenko (2013).
- 127 Lei et al. (2014), pp. 20, 21.
- 128 EurekAlert (2011).
- 129 Department for Corrections, Ministry of Justice, Thailand, [www.correct.go.th/eng/statistics.html](http://www.correct.go.th/eng/statistics.html)
- 130 E. Iakobishvili, Cause for Alarm (2012), p. 5.
- 131 D. Tomasini (2012), cited in OAS, Women and Drugs in the Americas (2014), p. 29.
- 132 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 15.
- 133 Special Rapporteur on violence against women, A/68/340, (2013), para. 26.
- 134 Transporting drugs, often by swallowing them or introducing them into their body cavities.
- 135 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), pp. 2, 17, with reference also to Transnational Institute, Drug laws and prisons in Latin America, supra note 10, at 97 (studies suggest 'a growing number of women, often the sole providers for their families, enter the drug trade simply to put food on the table for the children.')
- 136 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 15, with reference also to a report from the Office of the Human Rights Ombudsman in Buenos Aires.
- 137 Special Rapporteur on violence against women, A/68/340 (2013), para. 26.
- 138 Amnesty International, Women in Prison Factsheet (2005), citing Department of Justice, Bureau of Justice Statistics, Prisoners (1997)
- 139 Special Rapporteur on violence against women, A/68/340 (2013), para. 26.
- 140 Artz L et al. (2012), p. 118.
- 141 Lei et al. (2014), pp. 19, 26. (This affected mainly the female prison population in the age range of 30-50.)
- 142 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 17
- 143 Interview with PRI and SIGI and Adalah Centre for Human Rights Studies, 11 December 2013.
- 144 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, in particular where the violent response by the female victim is not immediate.
- 145 Beth E. Richie (1996), pp. 127-131.
- 146 American Civil Liberties Union, 'Girlfriend problem' (2005).
- 147 David Agren (2010).
- 148 Although rather comprehensive, this chapter does not provide a complete overview of treatment and conditions in prison or of the Bangkok Rules provisions relating to them, but seeks to capture the main areas in which gender-specific attention is required and in which the Rules provide a particular added value.
- 149 Report of Expert Group Meeting University of Chicago Law School (2013).
- 150 UN Committee on the Elimination of Discrimination Against Women, CEDAW/C/49/D/23/2009 (2011), referring also to the Bangkok Rules.
- 151 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 20; See also Frances Sheahan, Imprisoned far from home (2013).
- 152 Lei et al. (2014), pp. 27-28.
- 153 Papavangjeli (2013), p. 11.
- 154 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 26.
- 155 Bastick and Townhead (2008), p. 29.
- 156 Rule 8(a) Standard Minimum Rules for the Treatment of Prisoners.
- 157 Rule 53 (2) and (3) Standard Minimum Rules for the Treatment of Prisoners.
- 158 In China, for example, the legal framework requires women and men to be held in separated facilities, and female prisoners to be under the direct supervision of female staff (Lei et al. (2014), p. 14).
- 159 US Department of Justice (2014).
- 160 Inter-American Commission (2013), paras. 91-93.
- 161 Special Rapporteur on violence against women, A/68/340 (2013), p. 4.
- 162 Special Rapporteur on torture, A/HRC/7/3 (2008), para. 34.
- 163 *Ibid.*, para. 42.
- 164 Council of Europe, Parliamentary Assembly, (2007), para. 53; Special Rapporteur on violence against women, United States of America, A/HRC/17/26/Add.5 and Corr.1. (2011)
- 165 Subcommittee on Prevention of Torture, Paraguay, CAT/OP/PRY/1 (2010), paras. 134, 141.
- 166 See also Istanbul Protocol on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2004).
- 167 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 22.
- 168 European Committee for the Prevention of Torture (2006), para. 31.
- 169 Artz et al. (2012), p. 47
- 170 *Ibid.*, p. 54
- 171 Lei et al. (2014), p. 33
- 172 Rules 15 and 16. Rule 16 reads: 'In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.'
- 173 International Centre for Prison Studies, Guidance Note (2005).

- 174 A study undertaken by the European Fundamental Rights Agency, for instance, on inequalities in accessing healthcare in EU countries has found that financial barriers affect women's access to health-care, European Union Fundamental Rights Agency (2013), p. 41.
- 175 Quoted in Rick Lines (2008), p.13.
- 176 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), pp. 3, 21.
- 177 Lei et al. (2014), p. 37.
- 178 *Ibid.*, p. 8.
- 179 *Ibid.*, p. 37.
- 180 Stoicescu (2012), p. 129.
- 181 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.
- 182 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 17.
- 183 Penal Reform International, Russia (2010).
- 184 UNODC, WHO Europe (2009), p. 21.
- 185 Research in China, for example, documented mandatory pregnancy tests. (Lei et al. (2014), p. 31).
- 186 For example, such practice was reported in Egypt in 2011 (Amnesty International, Egypt (2011).
- 187 Special Rapporteur on torture, A/HRC/7/3 (2008), para. 34
- 188 See more guidance in WHO et al., A Framework for an Effective National Response (2006).
- 189 Such as pharmaceutical interventions, for example, opioid substitution therapy (OST).
- 190 Artz et al. (2012), pp. 63, 64.
- 191 *Ibid.*, p. 64.
- 192 'Mental health' is defined as a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community (World Health Organization).
- 193 For example according to a study conducted by the Bureau of Justice Statistics in 2002 and 2004. See UNODC Handbook (2014), p. 9.
- 194 Artz et al. (2012), p. 167.
- 195 Lei et al. (2014), p. 10.
- 196 Penal Reform International, Armenia and Georgia (2013), p. 18
- 197 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 18
- 198 Penal Reform International, Jordan and Tunisia (2014, p. 16).
- 199 Penal Reform International, Jordan and Tunisia (2014, p. 28).
- 200 American Civil Liberties Union, Worse than Second Class (2014).
- 201 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 22.
- 202 CBC News, Prisoners given powerful drugs off-label, allegedly to 'control behaviour', 14 April 2014.
- 203 WHO Regional Office for Europe, Health in Prisons (2007).
- 204 Special Rapporteur on violence against women, A/68/340 (2013), footnote 119.
- 205 Canadian Association of Elizabeth Fry Societies (2013).
- 206 Bingham and Sutton (2012).
- 207 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.
- 208 Penal Reform International, Jordan and Tunisia (2014), p. 28.
- 209 Penal Reform International, Armenia and Georgia (2013), p. 18.
- 210 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
- 211 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.
- 212 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 (1998), p. 67.
- 213 Special Rapporteur on violence against women, United States of America, E/CN.4/1999/68/Add.2, paras. 55, 58.
- 214 Penal Reform International, Guidance Document (2013), p. 62, footnote 209.
- 215 Australian Human Rights Committee (2012); and Amanda George, Strip Searches (1993), p. 211.
- 216 UN Committee on the Elimination of Discrimination Against Women, CEDAW/C/49/D/23/2009 (2011).
- 217 Mweetwa, Zambia (2013).
- 218 Penal Reform International, Guidance Document (2013), p. 61, footnote 208.
- 219 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 are carrying out searches of women prisoners in some countries, and the Standard Minimum Rules do not include any explicit guidance on body searches.
- 220 World Medical Association, Statement on Body Searches of Prisoners (2005). It states, inter alia, that physicians should not participate in a prison's security system and that searches should not be conducted by physicians who will subsequently provide medical care to the prisoner.
- 221 American Civil Liberties Union, Briefing Paper (2012).
- 222 Special Rapporteur on violence against women, Occupied Palestinian Territory, E/CN.4/2005/72/Add.4 (2005).
- 223 Special Rapporteur on violence against women, A/68/340 (2013), para. 57.
- 224 Provided to Amnesty International by Chicago Legal aid to incarcerated mothers, December 1998, and printed in Amnesty International, Not part of my sentence (1999).
- 225 There is no universally agreed definition of solitary confinement, but authoritative sources such as the Istanbul statement on the Use and Effects of Solitary Confinement and the Special Rapporteur on Torture have described it as the 'physical (and social) isolation of individuals who are confined to their cells for 22-24 hours a day.' See Special Rapporteur on torture, A/66/268 (2011), paras. 57-58.
- 226 Grassian, (2003), pp. 124-156; Shalev (2008).
- 227 See Special Rapporteur on torture, A/66/268 (2011).
- 228 American Civil Liberties Union, Worse than Second Class (2014).
- 229 Counter Current News (2014).
- 230 UNODC Handbook (2014), p. 47.
- 231 See for example Artz et al. (2012), p. 52.
- 232 The Corston Report (2007), p. 18.
- 233 Lei et al. (2014), p. 27.
- 234 Amnesty International, Ghana (2012), p. 28.
- 235 UNODC, Afghanistan (2007), p. 47. Bangkok Rule 43 recognizes that visits are an important prerequisite to ensuring women prisoners' mental well-being and social reintegration.
- 236 Artz et al. (2012), pp. 189, 191.
- 237 Ashdown and James (2010), p. 132.
- 238 Bangkok Rule 44, conscious of the fact that a significant proportion of women in prison have experienced violence and may not wish to be visited, emphasises that women prisoners should be consulted on who is allowed to visit them.
- 239 Currie (2012), p. 16.
- 240 Subcommittee on Prevention of Torture, Brazil, CAT/OP/BRA/1.en (2012), para.118.
- 241 New York Times, Afghan Prison's Invasive Searches of Female Visitors Stir Fear of Slipping Rights' 16 March 2012; Human Rights Watch, Afghanistan: End Invasive Searches of Women Visiting Prison, 20 March 2012.
- 242 A conjugal visit is a scheduled period in which a prisoner can spend time with a visitor in private, usually their spouse or long-term partner. These visits help to maintain a couple's intimate bond, including their sexual relationship. The couple usually spends the visit in a small unit, which contains, at a minimum, a bed, a shower and other sanitary facilities.
- 243 Organisation Mondiale contre la Torture (2004), para. 123.
- 244 Standards relating to children of imprisoned parents, other than in the Bangkok Rules, have been developed by the African Committee on the Rights and Welfare of the Child, General Comment No. 1 (2014) and Committee on the Rights of the Child, Day of General Discussion (2011). See <http://acerwc.org/the-committees-work/general-comments/gc-no1-on-article-30-of-the-african-charter-on-the-rights-and-welfare-of-the-child/>.
- 245 Cornell Law School's Avon Global Center for Women and Justice et al. (2013), p. 5.
- 246 Penal Reform International, Submission (2011).
- 247 *Ibid.*
- 248 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).
- 249 Special Rapporteur on violence against women, A/68/340 (2013), para. 80.

- 250 Penal Reform International, Submission (2011).
- 251 Rule 58 Standard Minimum Rules.
- 252 See Standard Minimum Rules 63 and 67-69.
- 253 Ashdown and James (2010), p. 130.
- 254 Penal Reform International/ Association to Prevent Torture (2013), p. 9.
- 255 Australian Human Rights Commission (2012).
- 256 Report from East Asia-Pacific Regional Meeting, UNODC/JSDO/ BKEGM/2013/1 (2013), para. 39.
- 257 Artz et al. (2012), p. 46.
- 258 There is a heightened risk of mental illness and infection rates for tuberculosis, HIV and hepatitis B and C can be up to a hundred times higher in prisons than in the outside community (International Centre for Prison Studies, Guidance Note: Improving Prison Health Care, January 2005). The TB rate in prisons in Europe in 2002 was 84 times higher than in the general population (UNODC/WHO Europe, Good governance (2013), pp. 1, 2).
- 259 Suicide attempts are more prevalent compared to women outside of prison, and compared to men in pre-trial detention. (See for example WHO/ ISAP, Preventing suicide in jails and prisons, 2007)
- 260 Lei et al. (2014), p. 10
- 261 Special Rapporteur on violence against women, A/68/340 (2013), para. 68.
- 262 See for example *ibid.* and Report of the Special Rapporteur on the right to education, A/HRC/11/8 (2009), para. 51.
- 263 Subcommittee on Prevention of Torture, Benin, CAT/OP/BEN/1 (2001), para. 277.
- 264 New Hampshire Advisory Committee to the US Commission on Civil Rights, (2011), see also The Guardian, Discrimination against women in prison keeps them going back, 4 January 2013, <http://www.theguardian.com/commentisfree/2013/jan/04/discrimination-women-prison-recidivism>.
- 265 *Ibid.*
- 266 Special Rapporteur on the right to education, A/HRC/11/8 (2009), para. 12.
- 267 *Ibid.*, para. 51.
- 268 Artz et al. (2012), p. 61.
- 269 The Corston Report (2007).
- 270 Artz et al., p. 61.
- 271 Penal Reform International, Armenia and Georgia (2013), p. 20.
- 272 Artz et al. (2012), p. 59.
- 273 See for example Artz et al. (2012), p. 59.
- 274 Penal Reform International, Armenia and Georgia (2013), p. 20.
- 275 Report of the Special Rapporteur on the right to education, A/HRC/11/8 (2009), para.49; Special Rapporteur on violence against women, A/68/340 (2013), para. 67.
- 276 Penal Reform International, Jordan and Tunisia (2014, p. 31).
- 277 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 20.
- 278 Penal Reform International, Armenia and Georgia (2013), p. 20
- 279 *Ibid.*
- 280 Special Rapporteur on violence against women, A/68/340 (2013), para 73.
- 281 *Ibid.*, para 75.
- 282 UNODC, Afghanistan (2007), p. 34.
- 283 Penal Reform International, Kazakhstan and Kyrgyzstan (2014), p. 22.
- 284 The Corston Report (2007), p. 3.
- 285 Special Rapporteur on violence against women, A/68/340 (2013), para 70.
- 286 Penal Reform International, Armenia and Georgia (2013), p. 20.
- 287 Penal Reform International, Jordan and Tunisia (2014, pp. 19, 31).
- 288 Special Rapporteur on violence against women, A/68/340 (2013), para 71.
- 289 *Ibid.*, para 71.
- 290 *Ibid.*, para. 69.
- 291 US Department of Justice (2014).

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We promote alternatives to prison which support the rehabilitation 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.

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