**Input on issues relating to report on safety and health**

**(WG on discrimination against women)**

“Treating as equal those who are unequal not only leads to further inequality,

it also leads to injustice.” (Baroness Helena Kennedy, UK House of Lords)

**1. Protection from violence**

The link between violence against women and imprisonment is striking.

The available research shows that women have been victims of violence at a shockingly high rate prior to entering prison.

Examples:

- 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.

- In South Africa 67% of the women interviewed in prison 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.

It is important to understand the links between offending and the histories of prior abuse. But also, these experiences result in specific and greater needs of these women once detained.

Some studies have suggested that exposure to traumatic events cause high rates of mental health issues, including post-traumatic stress disorder. For others, abuse led to problem behaviours such as drugs, alcohol and gambling as a way of dealing with their experiences.

Once in detention women prisoners may easily find themselves, yet again, in an environment of abuse and harassment. This can mean insults and humiliations of a sexual nature, sexual exploitation, ‘virginity testing’, being stripped naked, invasive body searches, threats of rape or rape.

Added to the trauma of sexual abuse is the particular stigmatisation of women victims of sexual abuse, the fear of potential pregnancy or of sexual abuse leading to the inability to have children – and in many cultures of having lost virginity. In addition, women are more vulnerable to contracting STIs and urinary tract infections.

Women detainees face violence, including sexual violence from other prisoners, or by staff, and including (sexual) exploitation. Forms of violence include also being 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.

For example, in one country, an investigation into abuse in correctional facilities for women, for example, found the following: Women prisoners “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.”[[1]](#footnote-1)

The Inter-American Commission highlighted the practice in mixed prisons that many of the 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”.[[2]](#footnote-2)

Standards relating to protection from violence include the separation of men and women prisoners (separate institutions with women specific, policies, facilities) and the supervision of female detainees exclusively by female staff (UN Standard Minimum Rules for the Treatment of Prisoners), but also more comprehensive standards in the UN Bangkok Rules.

*CEDAW: Unjustified male surveillance of a woman in a prison amounts to gender-based discriminatory treatment. (Abramova v. Belarus, 27 September 2011, CEDAW/C/49/D/23/200)*

Staff with specific training in working with women prisoners (this is explicit in Rule 33)

**2. Gender-sensitive health-care services/ Different health needs**

* Physiological differences
* Poverty and discrimination
* Victims of violence
* Drugs and alcohol
* Higher risk of contraction with STIs, HIV etc
* Gender-specific health needs
* Mental health issues
* Suicide and self-harm

including preventative care (not just pre- and post-natal care, UN Special Rapporteur on violence against women: "The mere replication of health services provided for male prisoners is (…) not adequate.")

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 physical or sexual abuse, drug use 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.

Another need often overlooked is that health-care for women needs to involve preventative in particular related to cervical and breast cancer (PAP tests or breast cancer screening).

The SMR and the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment already require that a medical screening of all prisoners is undertaken promptly after admission to prison. However, neither standard points to gender-specific issues and typically, if medical examinations on entry are conducted they are “generic” and tend to ignore women’s specific situation, eg are limited to blood and urine tests, chest X-rays and blood pressure checks, but not providing any gynaecological examination or enquire into complications deriving from a woman’s reproductive health history.

Examples:

- In South Africa where research showed that in the medical screening the nurse did not enquire into the women’s reproductive health history or mental health and where offenders reported they did not receive an annual general medical check-up, routine pap smears or mammograms.[[3]](#footnote-3)

- In China, in four facilities surveyed in 2013, medical screening on entry was limited to blood and urine tests, chest X-rays and blood pressure checks, not providing gynaecological examination.[[4]](#footnote-4)

- 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%).

**3. Specialised health-care**

For example, access to substance abuse treatment programmes also is often discriminating against women.

Women are more vulnerable to contracting sexually transmitted infections (STIs), HIV and hepatitis than men - because of intravenous drug use, sexual abuse and unsafe sexual practices. Women may have been sex workers before their imprisonment – or prostitution may even constitute the offence they are alleged of/ convicted for.

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.

Also includes gender-sensitive HIV treatment.

**4. Mental health-care needs**

Women prisoners have a relatively high rate of mental health issues, often related to experiences of violence.

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.

Imprisonment typically aggravates such conditions. Researchers who focused on mothers noted that parental concerns had a significant impact on women’s experiences of incarceration. The increased stress levels emanate 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.

Examples:

- In Jordan, psychological problems as a consequence of imprisonment was the most commonly identified problem, with women experiencing anxiety (63%), fear (58 %), depression (56%) and loneliness (50%). Yet, only 27% had received treatment for psychological/ psychiatric problems.

- In the US, nearly 75% of incarcerated women have been diagnosed with mental illness, a rate much higher than their male counterparts.[[5]](#footnote-5)

**5. Higher risk of 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.[[6]](#footnote-6)

This has been attributed, in part, to the higher level of mental health problems and substance dependency amongst women prisoners and to the harmful impact of isolation from the community 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.[[7]](#footnote-7)

Certain times were highlighted by interviewees as constituting a heightened risk of self‐harm and suicide: during the first weeks of admission; the period before and after trial; and following a six months’ period of detention.[[8]](#footnote-8)

Bangkok Rule 16: Developing and implementing strategies, in consultation with mental health-care and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and specialised support to those at risk shall be part of a comprehensive policy of mental health care in women’s prisons.

**6. Hygiene in detention**

The lack of access of women detainees to hygiene products for women prisoners is a typical and crucial concern in all regions of the world, jeopardising the dignity and also the health of women prisoners.[[9]](#footnote-9) Yet, more often than not access to hygiene products depends on women having the means to purchase such items themselves, or on NGOs providing them.

(Bangkok Rule 5 requires facilities and materials to meet women’s specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.)

There is also a link with violence against women: 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. Prisoners often submit to sexual advances as the only means to secure assistance or protection, or submit to sexual advances in exchange for basic supplies or better treatment. This can be the result of limited availability of hygiene products and lack of rules for their dissemination, which prison staff may exploit to supply their “favorites”, usually those willing to pay cash or with sex – as reported in a range of countries.

**7. Security measures in prison**

a) Body searches - particular vulnerability of women prisoners

Strip searches and invasive body searches in particular are a sensitive issue for all prisoners, no doubt, but it is even more so for women.

A prisoner described: “After every visit, we are 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. When we do urines it's even worse, we piss in a bottle in front of them. It's degrading and humiliating.”

Given the women’s anatomy and socialization, they perceive body searches as particularly humiliating, obviously even more so if undertaken by the opposite sex, and the high rate to which women have been subject to abuse prior to being imprisoned prompts the risk of retraumatisation.

While body searches may be necessary in some circumstances, the specific impact on women should be borne in mind when assessing if they are necessary and proportionate and if the way in which they are conducted respects the dignity of the person.

Bangkok Rules 19, 20 and 21:

* Women prisoners’ dignity and respect are to be protected during personal searches.
* They should be carried out by women staff
* who have been trained in appropriate searching methods and;
* in accordance with established procedures
* alternative screening methods should be developed and applied wherever possible

b) Over-classification

Smaller female prison populations mean there are usually fewer women’s prisons which often results in women all being held at the most restrictive security categorization because the population is not large enough to be split into different establishments for different categories of prisoner.

Higher levels of security often lead to greater risks as contact between prisoners and with the outside world become more restricted.

Instead, regular and individual risk and needs assessments should be conducted, in particular of individuals who may be particularly vulnerable (amongst them women) taking into account the risks they pose and the risks they face. These assessments and consideration of the level of safety and security should take into account different triggers for emotional abuse and coercion and control (including transactional, exploitative sexual contact as well as sexual abuse in which there is not even notional consent.)

c) Solitary confinement

Solitary confinement is damaging to the (mental) health of all detainees, but has a particularly damaging effect on women, arising from their prior histories of abuse, mental ill-health, the role of relationships and the particularly high risk of self-harm and suicide among women.

Solitary confinement and segregation should not be used as responses to self-harm or attempted suicide, a therapeutic response is needed. Regardless of whether the use of segregation is intended as a punishment or not is will be experienced as a punishment worsening the mental distress triggering this behaviour.

Bangkok Rule 22 explicitly prohibits the use of solitary confinement or segregation as a disciplinary measure for pregnant women, women with infants and breastfeeding mothers.

Because of the potential physical dangers and devastating impact on wellbeing and mental health of women and their children.

d) Use of instruments of restraint

Restraints used in prisons are for the most part designed with male prisoners’ physical build in mind and may therefore be particularly painful or damaging to women. Moreover, there are specific circumstances, such as during pregnancy, in which restraints are more dangerous when used on women.

The use of restraints on women while pregnant, during birth and immediately after substantially increases the risk of harm to their health. Yet, shackling of women who are pregnant, even during delivery and shortly after child-birth is still common in some countries.

Some examples of the health effects of restraints as highlighted in an Opinion by the American College of Obstetricians and Gynaecologists in 2011)

* Shackling increases the risk of falls and decreases the woman’s ability to protect herself and the foetus if she does fall.
* Prompt and uninhibited assessment for vaginal bleeding during pregnancy is important. Shackling can delay diagnosis, which may pose a threat to the health of the woman or the foetus.
* Shackling interferes with normal labour and delivery

Rule 24 Bangkok Rule therefore prohibits the use of restraints on women during labour, birth and immediately after, recognising the common practice in some countries to restrain women while they are giving birth – despite medical dangers and the fact there is no risk of escape at this time.

e) Restrictions of family contact imposed by prison administration on security grounds

Contact with family members, especially children, is crucial in supporting the rehabilitation of female prisoners. Bangkok Rule 23 therefore prohibits limiting family visits, especially with prisoners’ children. It is also a safeguard against violence and abuse.

The European Prison Rules totally prohibit family contact restrictions as a disciplinary sanction for all prisoners (Rule 60.4).

1. US Department of Justice, Justice Department Releases Findings Showing That the Alabama Department of Corrections Fails to Protect Prisoners from Sexual Abuse and Sexual Harassment at the Julia Tutwiler Prison for Women, 22 January 2014 [↑](#footnote-ref-1)
2. Report of the Inter-American Commission on Human Rights on the Situation of Persons Deprived of Liberty in Honduras, 18 March 2013, OEA/Ser.L/V/II.147 Doc. 6, paras. 91-93. [↑](#footnote-ref-2)
3. Artz. L., et al. (2012), p. 47. [↑](#footnote-ref-3)
4. Cheng Lei, et al. (2014), p. 37 [↑](#footnote-ref-4)
5. American Civil Liberties Union, Worse than Second Class: Solitary Confinement of Women in the United States, 2014 [↑](#footnote-ref-5)
6. WHO Regional Office for Europe, Health in Prisons: a WHO Guide to the Essentials in Prison Health, EUR/07/5063925, 2007; WHO Regional Office for Europe, Women’s health in prison. [↑](#footnote-ref-6)
7. Rashida Manjoo, (A/68/340), footnote 119. [↑](#footnote-ref-7)
8. PRI Survey in Armenia and Georgia (2013), p. 18. [↑](#footnote-ref-8)
9. See European Committee for the Prevention of Torture (CPT): has held that the failure to provide basic necessities such as sanitary pads can amount to degrading treatment in violation of international law. CPT Standards, 2006 Edition, Extract from the 10th General Report, CPT/Inf (2000) 13, para. 31. [↑](#footnote-ref-9)