

Appendix 27: Women in the criminal justice system (See Article 1 and 15)

Despite its national and international commitments, the CEDAW Committee's previous concluding observations¹ in 2008 and a Universal Periodic Review² recommendation to consider incorporating the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) on the treatment of women prisoners into domestic law, there has been little progress in reducing the inappropriate imprisonment of women and implementing a gender-responsive criminal justice system (CJS). The system needs to be re-designed to break the destructive cycle of women's offending,³ however, the Government removed an amendment that peers in the House of Lords had voted into the Crime and Courts Bill which would have made specific provision for women.⁴

Recommendation:

In addressing the distinct position of girls and women within the criminal justice system, any future strategy must consider the way that gender intersects with other 'protected characteristics' and consult and work with specialist voluntary and community sector organisations to meet the diverse needs of women

The number of women in prison has been reducing slightly, largely driven by falls in the remand population following a change to the Bail Act that raised the threshold for remands into custody. However, there are still far too many women being incarcerated on short sentences for minor offences who are more of a risk to themselves than to the public.

The underlying reasons which lead to men and women offending can be very different and to achieve equality a different and more holistic approach must be adopted for women offenders. Women offenders are much more likely to have experienced domestic and sexual violence, (See General Recommendation 19) to have been in care as children, and to have substance misuse problems; (See Article 12) their offending is often linked to their relationships and many are the full-time carers of children. The proposed women's criminal justice policy unit

¹ CEDAW Committee (2008) *Concluding observations of the Committee on the Elimination of Discrimination Against Women: United Kingdom of Great Britain and Northern Ireland. Forty-first session* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/555/92/PDF/N0955592.pdf?OpenElement>

² Ministry of Justice, Universal Periodic Review <http://www.justice.gov.uk/human-rights/universal-periodic-review> Accessed: 21/04/13

³ Reducing Reoffending Third Sector Advisory Group (2012) *A Report of the Task and Finish Group. Breaking the cycle of women's offending: a system re-design.*

<http://www.clinks.org/publications/reports/rr3-women-tfg>

⁴ Lords Hansard (2013) Public Bill Committee, Crime and Courts Bill, 7th February 2013 Hansard: London

<http://www.publications.parliament.uk/pa/cm201213/cmpublic/crimeandcourts/130205/pm/130205s01.htm>

would have signified movement towards achieving fairer outcomes for women by recognising this⁵ and it is a great detriment that this was not taken forward.

The update to the Offender Management Guidance on working with women offenders⁶ was published in 2012. The practical recommendations outlined in the new Guidance are welcome but wider systemic change is required to bring about a lasting transformation in the treatment of girls and women within the CJS.

We endorse the recommendations of the Offender Management Guide to provide the option of a woman report writer and to use women's community resources and/or designate specific women-only office times. Probation staff require additional training to work effectively with women offenders, perhaps concentrated on a number of female staff who can develop a specialist role in the preparation of pre-sentence reports and the management of women subject to a community sentence or prison licence.⁷ These requirements will have to be carried into the new system being proposed by the Government in Transforming Rehabilitation.⁸

After sustained pressure from voluntary organisations, the Government published a document setting out their 'strategic priorities for female offenders' in March 2013, and established a Ministerial Advisory Board for Female Offenders, which includes representatives from women's NGOs. At the same time the Government is conducting a review of the women's secure estate, which could result in the closure of a women's prison. This would be welcome as long as it is a closed prison, and the process is carefully managed so as not to cause further distress and disadvantage to women held there.

In 2007 the Corston report⁹ called for strategic and structural changes to drive progress on the women's criminal justice agenda and address the multiple and complex issues of women offenders and those at risk of offending. It advocated a women-centred approach that would include the extension of women's community centres, reservation of custodial sentences for only the most serious and violent offenders posing a risk to the public, and geographically dispersed, small, multi-functional custodial centres for women.¹⁰ Though there has been

⁵ The Law Society Gazette (2012) 'Women's criminal justice policy proposal fails', *The Law Society Gazette*, 21st March 2012 <http://www.lawgazette.co.uk/news/women-s-criminal-justice-policy-proposal-fails>

⁶ National Offender Management Service Women and Equalities Group (2012) *A Distinct Approach: A guide to working with women offenders*. Ministry of Justice: London <http://www.clinks.org/assets/files/PDFs/Holding%20Page%20docs/A%20Distinct%20Approach%20QA%20guide%20to%20working%20with%20women%20offenders%20March%202012.pdf>

⁷ Criminal Justice Joint Inspection (2011) *Thematic Report, Equal but different?: An inspection of the use of alternatives to custody for women offenders*. http://www.hmcpsi.gov.uk/documents/reports/CJJI_THM/OFFM/womens-thematic-alternatives-to-custody-2011.pdf

⁸ Ministry of Justice (2013) *Transforming Rehabilitation: A revolution in the way we manage offenders* <https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation>

⁹ Corston, J. (2007) *A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the Criminal Justice system*. Home Office: London <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>

¹⁰ Corston, J. (2007) *A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the Criminal Justice system*. Home Office: London <http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf/>

some progress, many of the damaging effects identified by Corston – for example, the disproportionately harmful impact of prison on women and their children and the futility of short custodial sentences – remain ingrained in the system. Voluntary sector organisations can play important brokerage roles within police and court diversion schemes and the use of such approaches, including small budgets to spot purchase personalised services for women at risk, have considerable potential and should be piloted more widely. Community Payback orders should consider placements with local women’s organisations where appropriate and available. We would like to know what steps are being taken to reduce the numbers of women still being sent to prison for minor offences and what further steps are being taken to implement the recommendations of the Corston report. The Government has consulted on its proposed changes to probation services but does not appear to be taking the opportunity to embed women-specific services into the system.¹¹

The impacts on women in the CJS include:

- **Women are held in higher security conditions than required:**

The men's prison estate is divided into four security categorisations, there are only two security categorisations for women: Open and Closed. There are 4,422 prison places for women in England and Wales; there are just two open prisons with a capacity of only 228.¹² Women are still more likely than men to be incarcerated for non-violent offences - 68% of women are in prison for non-violent offences, compared with 47% of men¹³ and in 2012, 58% of women entering prison under sentence had been sentenced to six months or less, a rise of 8% from the previous year.¹⁴ 70% of women entering prison each year in the UK do so on remand awaiting trial and less than half of those on remand who are found guilty receive a custodial sentence.¹⁵ The cost and social implications of the current system are huge – it is estimated that imprisoning mothers for non-violent offences carries a cost to children and the State of more than £17m over a ten year period.¹⁶ More than 17,000 children are forcibly separated from their mothers every year in England and Wales as a result of imprisonment. It is estimated that two babies are born in England’s prisons every week but the information is not collected centrally. There are 12 women's prisons in Britain, but just seven have mother and baby units with only 69 places available.¹⁷

¹¹ Ministry of Justice (2013) *Transforming Rehabilitation: A revolution in the way we manage offenders* <https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation>

¹² Prison Service, Prisons in England and Wales <http://www.justice.gov.uk/contacts/prison-finder>
Accessed: 14/04/13

¹³ All Party Parliamentary Group on Women in the Penal System (2011) *Women in the penal system: Second report on women with particular vulnerabilities in the criminal justice system.* http://d19y|po4aovc7m.cloudfront.net/fileadmin/howard_league/user/pdf/Publications/Women_in_the_penal_system.pdf

¹⁴ Prison Reform Trust (2012) *Bromley Briefing Prison Factfile, June 2012*. PRT: London <http://www.prisonreformtrust.org.uk/Portals/0/Documents/FactfileJune2012.pdf>

¹⁵ Prison Reform Trust (2012) *Reforming Women’s Justice: Reducing the imprisonment of women* <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Womenleaflet.pdf>

¹⁶ Lawlor, E., Nicholls, J. and Sanfilippo, L. (2008) *Unlocking Value: How we all benefit from investing in alternatives to prison for women offenders*. New economics foundation: London <http://neweconomics.org/publications/unlocking-value>

¹⁷ Travis, A. (2011) ‘Prison leaves 17,000 children separated from their mothers’, *The Guardian*, 30th September 2011 <http://www.guardian.co.uk/society/2011/sep/30/prison-17000-children-separated-mothers>

We would like to see a commitment to downsize the women's prison estate and, in anticipation of the cost savings generated by prison closure, to make parallel investments in a whole system re-design to break the destructive cycle of female offending that is proving so costly in human, social and economic terms.¹⁸ There must be recognition that for women who do not pose a serious risk of harm to the public, there is always an alternative to custody. We reinforce the recommendation of the Women's Justice Task Force that, as a last resort where remaining in the home is impossible, women-specific, family-friendly bail accommodation is needed in every local area.¹⁹

Recommendation:

There is a need to re-orientate strategic thinking about how to address offending by women, to prevent the harm caused to their families and the intergenerational harm exacerbated by imprisonment of mothers

- **The lack of accredited women-specific programmes in prison:**

There is only one accredited women-specific behaviour programme available, the CARE Programme²⁰ and this is only delivered in one prison at present. The limited access to this programme and the lack of other women-specific programmes mean that women are not getting rehabilitative programmes that are needed to satisfy the Parole Board causing them to be held in custody for longer than may be necessary.

Recommendation:

Implement long-term funding for a national network of women-only support services for women on community sentences and women leaving prison. The wider set of services needed by girls and women at risk of offending or who have entered the CJS in relation to their health and mental wellbeing, housing, education, training, employment and childcare needs etc., should be delivered through joined up local commissioning that responds to their distinctive needs and risk factors. Commissioners across sectors must recognise the value generated by Women's Community Centres as sites for defusing escalating chaos in women's lives and providing a holistic community-based response

- **Disproportionately high rates of self-harm in women's prisons:**

Women are ten times more likely than men to harm themselves in prison and despite being 5% of the prison population, women accounted for a third of all incidents of self-harm across the prison estate in 2012.²¹ The Equality and Human

¹⁸ Reducing Reoffending Third Sector Advisory Group (2012) *A report of the Task and Finish Group. Breaking the cycle of women's offending: a system re-design.*

<http://www.clinks.org/publications/reports/rr3-women-tfg>

¹⁹ Prison Reform Trust (2011) *Reforming Women's Justice: Final report of the Women's Justice Taskforce*

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women's%20Justice%20Taskforce%20Report.pdf>

²⁰ Women in Prison (2011) 'Care Programme goes live in HMP Foston Hall with Women in Prison advocate', *Women in Prison website*, 18th August 2011

http://www.womeninprison.org.uk/news_show.php?id=63

²¹ Ministry of Justice (2011) *Safety in Custody 2010 England and Wales*. Ministry of Justice: London.
<http://www.justice.gov.uk/downloads/statistics/prison-probation/safety-custody-2010.pdf>

Rights Commission²² has reported that the Government may be breaching the right to life through its failure to protect individuals from harm they cause to themselves in State custody.²³ The Commission highlighted the disproportionate rate of self-harm amongst women prisoners. (See Article 12)

- **Inappropriate behaviour by male prison staff:**

The Chief Inspector of Prisons reported that in HMP Holloway:

“Some [women] reported unwanted attention from male staff, which they did not believe was appropriately dealt with and they had little confidence that anyone in authority would listen to them. They were disconcerted about male night staff observing them through hatches. Given the life experiences of many women prisoners, these reports were a particular concern. Some male staff were under investigation for alleged inappropriate behaviour, but senior managers said it was often very difficult to get conclusive evidence, even when they had identified concerns about specific individuals.”²⁴

An acting prison governor was jailed for five years in 2011 following a conviction for misconduct in a public office after a three year ‘relationship’ with a prisoner in which he *“demanded the frightened inmate perform a sex act on him, saying: ‘It’s an order.’”²⁵*

- **Indefinite incarceration of women with mental illness:**

UK law provides for a sentence of indefinite Imprisonment for Public Protection (IPP), the sentencing judge will give a minimum tariff which must be served in prison. There is no maximum length to an IPP sentence. In 2010 there were 3,173 prisoners (men and women) on IPP sentences above their tariff.²⁶ Almost 80% of women serving IPP sentences are convicted of arson which is an indicator of serious mental illness and self-harm.²⁷ We would like the procedures for the breach of community sentences to be re-examined and updated to reduce the number of women with chaotic lifestyles being imprisoned for non-compliance.

²² Equality and Human Rights Commission (2012) *Annual Report and Accounts 1 April 2011–31 March 2012*. EHRC: London. <http://www.equalityhumanrights.com/about-us/corporate-reporting/annual-reports/>

²³ Equality and Human Rights Commission (2012) *Human Rights Review 2012*. EHRC: London. <http://www.equalityhumanrights.com/human-rights/our-human-rights-work/human-rights-review/>

²⁴ HM Chief Inspector of Prisons (2011) *Report on a full unannounced inspection of HMP Holloway 15 – 23 April 2010*. HM Prisons Inspectorate: London, para. 2.35.

http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/prison-and-yoi-inspections/holloway/Holloway_2010_rps.pdf

Her Majesty's Inspectorate of Prisons is an independent inspection body which has a coordinating function for the UK's National Preventative Mechanisms under the Optional Protocol to the UN Convention Against Torture

²⁵ BBC News (2011) 'Downview sex case prison governor jailed', *BBC News*, 18th July 2011 <http://www.bbc.co.uk/news/uk-england-14192215>

²⁶ Commons Hansard (2011) *House of Commons Debate, HC, 29 March 2011, c234W*. Hansard: London.

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110329/text/110329w0002.htm#11032984002100>

²⁷ HM Chief Inspector of Prisons and HM Chief Inspector of Probation (2008) *The indeterminate sentence for public protection: A thematic review*. Criminal Justice Joint Inspection: London http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmiprobation/joint-thematic/IPP_report_final_2-rps.pdf

The approach to girls and women at risk must have, at its core, a strategy for responding to the overwhelming levels of abuse and violence that girls and women at risk of offending report. This should include links with the Home Office Violence Against Women and Girls strategy.²⁸ (See General Recommendation 19)

Probation Trusts, and the contracted services that will partially replace them under the Government's Transforming Rehabilitation programme, must work with other agencies to promote the provision for mental health assessment and divert women from custody into specialist services best suited to their needs. Trusts should also ensure that women are screened for substance misuse issues and work with community organisations and local health partners who can provide help to women with substance misuse problems. We would like to know what steps are being taken to improve mental health services for women in prison, and to divert women with mental health problems away from custody into therapeutic care.

The Government have embarked on a process of closing women's prisons, which is welcome if it is linked to other measures that will improve access to community sentencing for women and appropriate support services.²⁹ However, there is evidence that prison closures lead to women being incarcerated further from their home and family ties, therefore further reform is needed.³⁰

Recommendation:

The Government must ensure that the impact of funding and service cuts on women in low income and/or single-parent households are rigorously monitored and assessed, to avoid perpetuating poverty-related offending
(See Article 13)

The failure of the Government to meet the specific needs of women in the CJS is more acute for some minority groups, including older women.³¹ Long-term prisoners tend to age ten years more than their biological age³² and there remains a gap between policy and practice. For example, no specific reference was made to older prisoners in the Government's recent plans for criminal justice reform. There are also severe problems in regard to access to appropriate, adequate healthcare and in-patient treatment whilst receiving healthcare – for example, shackling in hospital following operations. There is also less access to work and association because prisons are not designed for older inmates. This has a significant impact on the mental and physical health of older women and limits

²⁸ Home Office (2010) *Call to End Violence against Woman and Girls*. HM Government <http://www.homeoffice.gov.uk/publications/crime/call-end-violence-women-girls/vawg-paper?view=Binary>

²⁹ Ministry of Justice (2009) *A Report on the Government's Strategy for Diverting Women Away from Crime* http://www.unlock.org.uk/userfiles/file/IAG/Ministry%20of%20Justice_%20Women%20away%20from%20crime%20.pdf

³⁰ Townsend, M. (2012) 'Women's prisons in desperate need of reform, says former governor', *The Observer*, 11th February 2012 <http://www.guardian.co.uk/society/2012/feb/11/women-prisons-urgent-reform-needed>

³¹ Wahidin A (2011) 'The older women in prison: Issues and Challenges, Women in the criminal Justice System'. A speech made at 13th Annual Conference for the Association for Criminal Justice Research and Development.

³² Response to freedom of information enquiries to the Home Office prison service in 2011.

their opportunities for successful rehabilitation and preparation for release and resettlement.³³

Case study:³⁴

*"I walk along corridors unseen, invisible to the young.
My hair loses its purchased gold and steely grey replaces the once careful disguise.
It declares its independent hue. It is a colour worn here by very few. The furrows on
my brow, matching lines under my eyes – over-fifties age ten years inside this
place....."*

'Being over fifty, inside' from a writer in residence project working with older women in prison.

More also needs to be done to address the distinct needs of girls, and all agencies involved in addressing youth violence and offending must take a gendered approach to understanding needs.

Black and ethnic minority women are over-represented in the prison population, comprising 21% of women in prison in March 2013.³⁵ This disproportionality receives little attention and the reasons for it are under-researched and need further attention.

Recommendations:

- **As part of the Government's Strategy on Gangs and Serious Youth Violence effective profiling of girls and women in gangs should be undertaken and appropriate interventions embedded in every project**
- **The Government's strategy on women offenders should identify the reasons for the over-representation of black and ethnic minority women in prison and take steps to tackle this**

³³ Sclater, E. (2012) *NGO Thematic Shadow Report: Older Women's Rights in the United Kingdom*. Older Women's Network, Europe and National Alliance of Women's Organisations
<http://thewomensresourcecentre.org.uk/wp-content/uploads/olderwomensrightsukNGOthematic.pdf>

³⁴ The poem is from an older woman in prison who participated in a 'writer in residence' project in 2011 in Sclater, E. (2012) *NGO Thematic Shadow Report: Older Women's Rights in the United Kingdom*. Older Women's Network, Europe and National Alliance of Women's Organisations
<http://thewomensresourcecentre.org.uk/wp-content/uploads/olderwomensrightsukNGOthematic.pdf>

³⁵ Ministry of Justice (2013) *Criminal Justice Statistics Quarterly Update to September 2012*
<https://www.gov.uk/government/publications/criminal-justice-statistics--2>