



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

OHCHR's thematic
report A/HRC/59/31
14 April 2025



GENDER-BASED VIOLENCE AGAINST WOMEN IN CRIMINAL JUSTICE DETENTION

GENDER-BASED VIOLENCE AGAINST WOMEN IN CRIMINAL JUSTICE DETENTION

OHCHR's thematic report A/HRC/59/31

The report provides an overview of the human rights situation of women in criminal justice detention. It raises the alarm on inadequate prison conditions, prisons often designed for men, and on the prevalence of gender-based violence. In particular, the inadequate access to healthcare services when it comes to women's sexual and reproductive health and rights, and to their mental health and drug treatment is a critical challenge.

According to recent data, the global population of women in prison has been increasing in recent years, with a rise of 60% in female prisoner numbers since 2000, compared to a 22% rise for men¹.

The report explores the pathways that lead women to detention.

Punitive laws

Women are often incarcerated for non-violent offenses linked to poverty or for punitive approaches in response to the drug problem. They are also incarcerated for the criminalization of abortion or sex work and for offences that are either exclusively or disproportionately applied to women, such as sex outside marriage.

35% of incarcerated women are jailed for drug offenses (vs. 19% of men), with Indigenous, migrant, and women of colour facing heightened discrimination, disproportionately policed, arrested and harshly sentenced due to discrimination at all stages of the criminal justice process.

¹ PRI Global Prison Trends Report, 2024, page 8.

Cycle of violence

The report demonstrates how experiences of gender-based violence can lead to homelessness or detention for engaging in life-sustaining activities on the street. It is the lack of access to alternative housing that often prevents women from escaping violence, whether at home or on the street, perpetuating a cycle of violence, poverty and criminalization.

The report outlines the human rights framework that protects women in detention, that includes key human rights instruments, such as CEDAW, ICCPR, ICESCR, CAT and the Bangkok Rules, and calls for its implementation.

Right to liberty

States may deprive persons of their liberty in circumstances established clearly under international human rights law, provided that such deprivation is necessary and proportionate to pursuing a legitimate objective². The Human Rights Committee has recommended that States ensure that detention conditions meet the specific needs of women deprived of their liberty, particularly those who are pregnant or have dependent children, providing them with adequate care and services.

Right to a fair trial

The rights to due process and fair trial are fundamental to ensuring justice and protect-

ing individuals from arbitrary detention. States must also guarantee detainees unhindered, prompt, and adequate access to legal representation of their choice or free legal aid from the outset of detention. Judicial oversight is a critical safeguard to protect the right to liberty. Article 9(4) of the International Covenant on Civil and Political Rights guarantees that individuals who are detained have the right to seek a remedy before a court to challenge the lawfulness of their detention.

Equality and non-discrimination

The principles of equality and non-discrimination, enshrined in international human rights instruments, provide a protective framework for individuals, including women, in situations of detention. This principle is explicitly outlined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women.

Article 3 of the Convention on the Elimination of All Forms of Discrimination Against Women requires states to ensure women's full development and advancement, including in detention and judicial processes, and Article 5 calls for the elimination of gender stereotypes, which often fuel discriminatory practices and gender-based violence, including in prison settings.

² Articles 4, 9 and 12 of the Universal Declaration of Human Rights and in articles 8, 9, 11 and 12 of the International Covenant on Civil and Political Rights.

Freedom from violence

Freedom from violence and the prohibition of torture and ill-treatment are contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights. The Human Rights Committee emphasises that states must take positive measures to ensure that women enjoy equal protection which includes addressing gender-based violence³. In its general recommendations 19 and 35, the Committee on the Elimination of Discrimination against Women noted that, by ratifying the Convention, States had undertaken legal obligations to prevent and eliminate gender-based violence and clarified that gender-based violence is discrimination within the meaning of article 1 of the Convention.

Preventing and redressing gender-based violence against women in prison is a core element of several of the United Nations Rules for the Treatment of Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). The rules emphasise the need to protect women from gender-based violence and stress the importance of providing physical and mental health care, ensuring safe family visits, and non-custodial measures with essential support for victims.

Forms of gender-based violence in detention

Women in prison can experience various forms of gender-based violence, such as rape, threats of rape, being stripped naked, touching and invasive body searches. They also face psychological violence, which includes verbal harassment, humiliation, and emotional manipulation by correctional officers. Studies indicate that detention personnel may use dehumanising and misogynistic language toward women prisoners.



Photo: UN

³ General comment No. 35 on Article 9.

Factors exacerbating gender-based violence in detention

> Inadequate access to justice in detention

- The Committee on the Elimination of Discrimination against Women has emphasized the importance of legal aid for victims of gender-based violence, urging States to guarantee access to financial assistance and free or low-cost, high quality legal aid, including for women in detention.

> The use of pre-trial detention

- Women held in pretrial detention often face conditions that are worse than those for convicted prisoners, including poor infrastructure and poor service and programme delivery, a lack of gender-specific alternatives and unequal access to non-custodial measures that may be available to male detainees.

> Inadequate monitoring and complaints mechanisms

> Supervision by male staff

> Lack of non-custodial measures

- + In some countries, there are no specific legislative provisions for women in relation to non-custodial measures, in other alternative provisions for women often do not take into account gender-related issues, such as a history of gender-based violence and caregiving responsibilities.

The report highlights protection gaps, but it also captures States' good practices to eradicate gender-based violence in detention:

> national legislation, action plans and policies

> accountability and oversight mechanisms

> non-custodial measures

- + Non-custodial measures should be combined with interventions that address the root causes of women's involvement in the criminal justice system. Such interventions may include vocational courses and counselling for victims of gender-based violence.

> staff recruitment and training

> data collection

The report stresses the crucial importance of rehabilitation and social reintegration policies to support women reintegrate in society and lead a life free from crime and highlights the main challenges for their implementation.

The report zooms in specific groups and their needs, including women with children, pregnant, post-partum and breastfeeding women, lesbian, bisexual and transgender women and foreign nationals.



Conclusions

The report concludes that poverty, discriminatory social norms and gender stereotypes, exposure to violence and conflict, among other factors, increase the likelihood of women being detained. A multi-sectorial approach is needed to address the specific needs and the risk of gender-based violence against women in detention. One key strategy is the use of non-custodial measures.

Strengthening accountability mechanisms, improving detention conditions and providing comprehensive rehabilitation programmes tailored to women's needs are also critical. Such efforts can help break the cycle of violence and empower women to rebuild their lives, ensuring that they receive the support necessary for successful reintegration into society.

Key recommendations for States:

(a) Reforming laws that disproportionately criminalize women for nonviolent or minor crimes, and decriminalize acts protected under international human rights law;

(b) Developing national action plans on the treatment of women in the criminal justice system, including on how to prevent and address gender-based violence. Ensuring the meaningful participation of relevant stakeholders in that process, including women who have experienced detention;

(c) Making non-custodial measures available and accessible for women, giving priority to pregnant women and women with dependent children. Due account should be taken of the history of gender-based violence, socio-economic inequalities, health conditions, caregiving responsibilities and the risk of violence and discrimination in detention;

(d) Ensuring access to comprehensive healthcare, including sexual and reproductive health and rights and mental health. Particular attention should be paid to women with disabilities, as well as pregnant, post-partum and breastfeeding women. Facilitating regular family contact through flexible visitation policies and, to the extent possible, subsidized visitor travel, and ensure child-friendly visitation facilities.

OHCHR stands ready to support national authorities and other stakeholders in the implementation of these recommendations. For more information visit OHCHR's page on gender-based violence at <https://www.ohchr.org/en/women/genderbased-violence-against-women-and-girls> and contact us at: ohchr-wohchr@un.org



