

Places of Deprivation of Liberty and Gender

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Acknowledgements

DCAF, OSCE/ODIHR and UN Women would like to express their gratitude to the many individuals who contributed to this project. These include the participants in the review workshop which took place in December 2018 in Geneva, and the individuals who reviewed and provided input into drafts of this Tool: Sharon Critoph and Nuridin Nurakov; Brad Orchard and Lara Kristina Wilkinson (UN Women); and Megan Bastick, Anna-Lena Schluchter, Lorraine Serrano and Callum Watson (DCAF). Particular thanks go to Marta Ghittoni of DCAF for her co-ordination of the production of the Toolkit.

The author would additionally like to thank the many experts from all over the world who kindly gave their time to be interviewed during his research for this Tool and provided links to important and valuable resources.

DCAF acknowledges the support of Switzerland, Sweden and UK DfID in the production of this Toolkit.

Published in Switzerland by the Geneva Centre for Security Sector Governance (DCAF).

DCAF Geneva
PO Box 1360
CH-1211 Geneva 1
Switzerland

Design: Alice Lake Hammond (alichel.co)

Cover photo: The Inter-American Commission on Human Rights visits a women's prison in Támara, Honduras, 2018 © Francisco Proner/ Farpa.

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Cite as: DCAF, OSCE/ODIHR, UN Women (2019) "Places of Deprivation of Liberty and Gender", in *Gender and Security Toolkit*, Geneva: DCAF, OSCE/ODIHR, UN Women.

ISBN 92-9222-477-8

This Toolkit was published with the support of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). Its content does not necessarily reflect the policy and position of OSCE/ODIHR.

DCAF, OSCE/ODIHR, UN Women Gender and Security Toolkit

This Tool is part of the DCAF, OSCE/ODIHR, UN Women *Gender and Security Toolkit*, which comprises nine Tools and a series of Policy Briefs.

Tools:

1. Security Sector Governance, Security Sector Reform and Gender
2. Policing and Gender
3. Defence and Gender
4. Justice and Gender
5. Places of Deprivation of Liberty and Gender
6. Border Management and Gender
7. Parliamentary Oversight of the Security Sector and Gender
14. Intelligence and Gender
15. Integrating Gender in Project Design and Monitoring for the Security and Justice Sector

Policy Briefs:

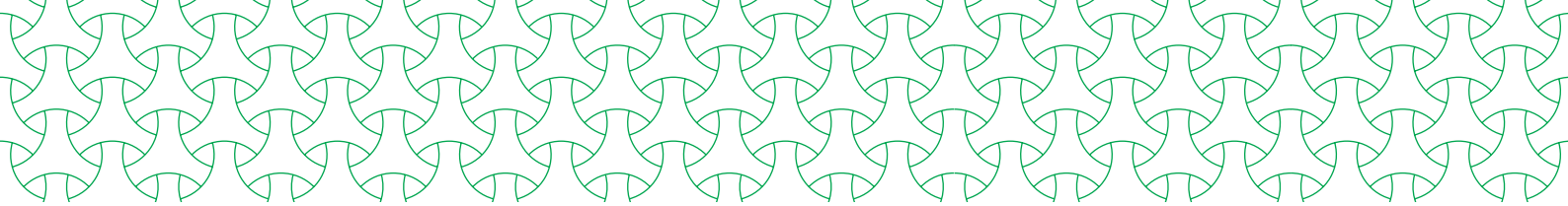
The 2030 Agenda for Sustainable Development, the Security Sector and Gender Equality
 A Security Sector Governance Approach to Women, Peace and Security
 Gender, Preventing Violent Extremism and Countering Terrorism
 Gender and Private Security Regulation

Additionally, a Compendium of International and Regional Laws and Instruments Related to Gender Equality and the Security and Justice Sector is available online.

The *Gender and Security Toolkit* builds upon the DCAF, OSCE/ODIHR, UN-INSTRAW *Gender and Security Sector Reform Toolkit* that was first published in 2008. The following Gender and Security Sector Reform Tools can be used alongside this Toolkit:

8. National Security Policy-Making and Gender
9. Civil Society Oversight of the Security Sector and Gender
11. Security Sector Reform Assessment, Monitoring and Evaluation and Gender
12. Gender Training for Security Sector Personnel
13. Implementing the Women, Peace and Security Resolutions in Security Sector Reform

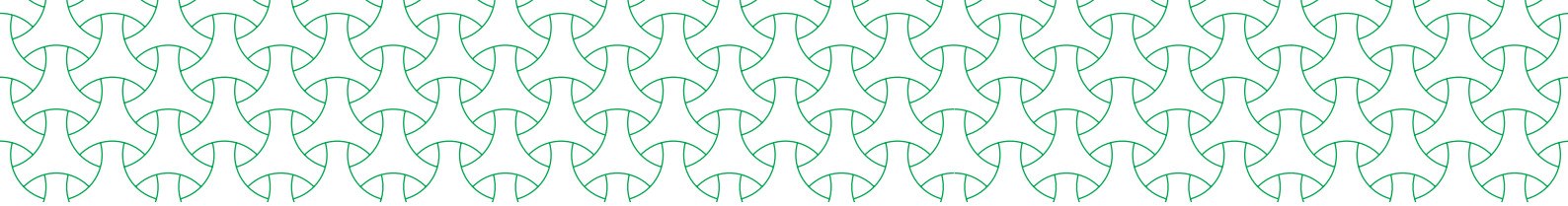




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Acronyms

APT	Association for the Prevention of Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
DCAF	Geneva Centre for Security Sector Governance
LGBTI	lesbian, gay, bisexual, transgender and intersex
NGO	non-governmental organization
NPM	National Preventive Mechanism
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PAHO	Pan-American Health Organization
PPO	Prisons and Probation Ombudsman
PRI	Penal Reform International
SGBV	sexual and gender-based violence
UN	United Nations
UNODC	UN Office on Drugs and Crime
WRNA	women's risk need assessment





1. Overview

1.1 Why gender?

Places of deprivation of liberty* have typically been created to maintain a secure environment to hold individuals separate from the general population. Policies to uphold human rights, improve rehabilitation efforts or contribute towards strengthening mental health have only come afterwards, if at all. The physical infrastructure, policies and practices have traditionally assumed that those held within places of deprivation of liberty are a homogeneous group of heterosexual adult males from the most prevalent ethnic, cultural and religious groups in that region. Where efforts have been made to improve conditions or meet needs, there has been an additional assumption that treating everyone the same means that everyone has been treated equally. However, there is a growing acknowledgement that different groups of people deprived of their liberty have different needs, and therefore justice reforms are needed to ensure that all people are treated with dignity and respect.^

Where places of deprivation of liberty have made provisions for women and girls, these are often applied within a male-oriented framework and do not integrate a gender perspective, which would highlight the specific needs of groups other than adult males and would also diversify the way of working with men. The traditionally male-dominated spaces of justice institutions usually facilitate a very narrow conception of masculinity, which can perpetuate violence and isolation for many. Men and boys in such environments who do not identify with or conform to the outwardly “macho” displays of the culturally expected projections of masculinity are exposed to risk of violence.

In addition, there is greater awareness that specific policies and practices are required to maintain the safety, dignity and equal participation of lesbian, gay, bisexual, transgender and intersex (LGBTI) detainees and prisoners.

Working with women and girls

Women and girls constitute a vulnerable group in prisons, as well as outside, due to gender inequality. Although there are considerable variations in their situations in different countries and in the reasons for and intensity of their vulnerability and corresponding needs, several factors are common to most, including:

- ◆ challenges faced in accessing justice on an equal basis with men and boys in many countries, as well as in accessing education and labour opportunities
- ◆ disproportionate victimization from sexual or physical abuse and gender-based discrimination prior to imprisonment

* This Tool uses the definition in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 4: “Deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.”

^ For a broader discussion of gender and justice reform see Tool 4.

Image: Members of local commissions monitoring places of detention during a study visit to Penitentiary 13 in Chisinau, Moldova, 2013 © OSCE.

- ◆ a high level of mental healthcare needs, often as a result of sexual and gender-based violence (SGBV)*
- ◆ high levels of drug or alcohol dependency
- ◆ the extreme distress imprisonment causes, which may lead to mental health problems or exacerbate existing mental disabilities
- ◆ sexual abuse and violence in prison
- ◆ a high likelihood of having caring responsibilities for children and others
- ◆ having gender-specific healthcare needs that cannot be met adequately
- ◆ stigmatization, isolation and abandonment by their families, including after release.

Working with men and boys

Men are the majority group in almost all situations of deprivation of liberty throughout the world. While institutions built to house them have assumed that the population would be men, the gendered pathways that lead men and boys to be deprived of their liberty have almost never been considered and the gendered demands on men are overlooked (see section 2.2 for greater detail on “gendered pathways”). For example, prison regimes tend to be adversarial in nature, aligning staff against prisoners, which can perpetuate issues with authority and promote a narrow version of aggressive masculinity. Equally, there tends to be little purposeful design to maintain and facilitate positive paternal relationships with children, although of course exceptions do exist.

Reasons for thinking about the gender demands and needs of men and boys include:

- ◆ working with men and boys to reduce and eliminate SGBV throughout society, which is committed vastly more by men and boys, although not exclusively
- ◆ acknowledgement that men and boys also face physical and sexual violence, both before and after entering places of deprivation of liberty
- ◆ focusing on men as fathers and involving them positively in their children’s lives
- ◆ exploring and facilitating the expression of and identification with a diverse set of masculinities that provide alternatives to the stereotypical, prevalent, narrow conceptions of masculinity
- ◆ understanding the particular gendered pressures and responsibilities that influence the offending and effective rehabilitation of men and boys.

Working with transgender people

Very little research has been conducted with transgender, gender-fluid and gender non-conforming communities in places of deprivation of liberty. In some countries a third gender is officially recognized in law, while in others the concept is a complete taboo. There is increasing recognition that state justice systems need to improve the policies and processes related to these communities to ensure their safety, dignity and equality of opportunity.

Reasons for applying a gender perspective to working specifically with transgender individuals include the following.

- ◆ Gender-specific needs that are often not adequately met when transgender individuals are placed in institutions of their birth sex and not their self-identified gender.
- ◆ The challenges transgender people face in many countries in accessing justice on an equal basis with others, and especially with men.
- ◆ The need to understand the differing needs of transgender men and transgender women, as well as those who are gender-fluid and gender non-conforming, within the context of the justice system.

* For the purpose of this Toolkit, the phrase “sexual and gender-based violence” is used to refer to all harmful acts inflicted upon someone because of normative assumptions about their gender. SGBV is an umbrella term for any harmful act that is perpetrated against a person’s will and is based on socially ascribed (gender) differences between females and males. The nature and extent of specific types of SGBV vary across cultures, countries and regions. Examples include sexual violence, including sexual exploitation/abuse and forced prostitution; domestic violence; trafficking; forced/early marriage; harmful traditional practices such as female genital mutilation; honour killings; widow inheritance; and homophobic and transphobic violence.

Sources: UN Women (2019) “Gender equality glossary”, trainingcentre.unwomen.org/mod/glossary/view.php?id=36 (accessed 17 October 2019); OHCHR (2011) “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity”, report of the UN High Commissioner for Human Rights, UN Doc. A/HRC/19/41, 17 November, para. 20.

- ◆ Disproportionately high levels of exposure to verbal, emotional and physical violence prior to and during imprisonment.
- ◆ High levels of mental health needs associated with external causes. Many transgender individuals experience or have experienced gender dysphoria, and the extreme distress of imprisonment may lead to mental health problems or exacerbate existing mental disabilities.
- ◆ High rates of suicide and self-harm in places of deprivation of liberty.
- ◆ High rates of HIV and other sexually transmitted infections.
- ◆ High levels of substance use, including alcohol.
- ◆ Negative consequences of self-administered substances for body modification, and complications from poorly performed sex reassignment interventions.
- ◆ Difficulty in accessing relevant hormone treatments.
- ◆ Sexual and reproductive health issues.
- ◆ Stigmatization, isolation and abandonment by their families, including after release.¹

Working with children and young people

The above points can all apply to children, adolescents and young adults deprived of their liberty, yet there may be further age-related gender considerations.

- ◆ As adolescence is a time of rapid change and growth, a child deprived of its liberty at age 12 is likely to have very different needs to those detained at age 17.
- ◆ Age and the boundary deemed the distinction between childhood or adolescence and adulthood are understood differently across different cultures. Usually the boundary is at a specific age, e.g. 18 years, meaning that a young person can be moved to an adult institution overnight, yet may still require many of the supports provided for those at juvenile facilities.
- ◆ Education about puberty and sexual maturation should be provided where relevant, with access and appropriate introduction to sanitary products and sexual health advice.
- ◆ Girls can often face greater issues in accessing formal education, and this should be provided to them on an equal footing with boys.
- ◆ Young people may face pressure or coercion from older detainees.
- ◆ Specific support may be needed for young LGBTI people, who might face additional stigma and fear repercussions of revealing their sexual orientation or gender identity and expression.

1.2 Why now?

A decade has passed since the DCAF, OSCE/ODIHR, UN-INSTRAT Tool on “Penal Reform and Gender” was published as part of the *Gender and Security Sector Reform Toolkit*. A period of ten years is sufficient time to reflect on new and emerging good practices, how successes in increasing gender equality have been achieved, and persistent challenges.

Many pieces of important national and international legislation have been passed relating to gender equality, as well as key UN standards with specific directives for places of deprivation of liberty. The most significant of these are listed below.

- ◆ *The UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)*. Adopted by the UN General Assembly in December 2010, the Bangkok Rules were created with the explicit intention to fill a clear absence of standards providing for the specific characteristics and needs of women offenders and prisoners.

The 70 rules give guidance to policy-makers, legislators, sentencing authorities and prison staff to help them to reduce the imprisonment of women and meet the specific needs of women if they are imprisoned. The rules cover admission procedures, healthcare, humane treatment, search procedures and treatment of children who accompany their mothers into prison.*

- ◆ *The UN Standard Minimum Rules for the Treatment of Prisoners.* The Standard Minimum Rules for Prisoners were first adopted in 1957, but, in recognition of the major developments in human rights and criminal justice, in 2015 they were revised and adopted as the Nelson Mandela Rules (hereinafter the Mandela Rules).

The Mandela Rules are often regarded by states as the primary source of standards relating to treatment in detention, and are the key framework used by monitoring and inspection mechanisms in assessing the treatment of prisoners.^

Since the introduction of these international standards, states, institutions and civil society throughout the world have made efforts to interpret them and implement them in practice. This Tool reflects on some of this progress to date, and offers a further vision for the future.

1.3 Audiences for this Tool

This Tool is designed to be used by all actors working in connection with people who have been deprived of their liberty. These include policy-makers, legislators, institutional managers, front-line staff, members of non-governmental organizations (NGOs) and others.

The main focus of the Tool is related to deprivation of liberty within criminal justice facilities, although much of the content presented here may also be relevant to the deprivation of liberty in other settings, such as administrative detention, military detention centres, immigration centres and refugee camps.

1.4 Outline of this Tool

Section 2 sets out in more detail why integrating a gender perspective is important in places of deprivation of liberty. The section begins with key definitions related to the topic, and includes discussion of non-binary understandings of gender and the importance of understanding intersectionality. Finally, the section highlights how integrating a gender perspective can help places of deprivation of liberty to achieve their goals, as well as to have a positive effect beyond their own institutions.

Section 3 provides a vision of what places of deprivation of liberty would look like if they successfully integrated a gender perspective into their policies and practices. Nine key features are illustrated. This section can be used to evoke and inspire change in places of deprivation of liberty.

Section 4 offers some specific steps that can be taken to integrate a gender perspective effectively within places of deprivation of liberty. While no country has completely integrated a gender perspective across all aspects of places of deprivation of liberty, there are increasing examples of pockets of good practice from across the globe.

Guidance is structured to promote action at three key stakeholder levels.

- 1) *National/state-level policy-makers:* those able to set and reform the policy agenda.
- 2) *Institutional operations and leadership:* those able to make direct reforms within places of deprivation of liberty.
- 3) *Civil society:* how partnership with this group is an important factor in achieving long-term, sustainable reform.

* The full text of the Bangkok Rules is found in UN General Assembly (2010) "United Nations rules for the treatment of women prisoners and non-custodial measures for women offenders", UN Doc. A/65/229, 21 December.

^ The full text of the Mandela Rules is found in UN General Assembly (2015) "United Nations Standard Minimum Rules for the Treatment of Prisoners", Vienna: UNODC.

More general guidance on implementing the Mandela Rules is given in OSCE/ODIHR and PRI (2018) "Guidance document on the Nelson Mandela Rules: Implementing the United Nations Revised Standard Minimum Rules for the Treatment of Prisoners".

Examples of good practice are given from all over the world, covering contexts from the global South and North, in countries with considerable resources and those with few, and from contexts where the state has complete control over the justice systems and those where the state has partial control of places of deprivation of liberty, such as in conflict or post-conflict situations.

Section 5 provides a sample checklist that can be adapted by places of deprivation of liberty or monitoring bodies to assess integration of a gender perspective.

Section 6 lists other useful resources.

1.5 How to use this Tool

Examples are not presented here to be purely replicated, but to inspire thought about what is possible and what can be implemented in various situations. Each country and even regions within countries have very specific political, economic and social contexts, and any example presented should be appreciated as a positive effort within that specific country and not necessarily as something that would work as well in another situation.

Readers thinking about how to mainstream a gender perspective in their own setting should fully reflect on their own local context and operationalize the guidance in a manner which suits that specific country context, basing development and progress on local-level, context-specific research and evidence. It is recommended that discussion takes place with community groups that represent the target populations of the reforms envisioned. It is also important to speak to those with specific, gendered, lived experience of deprivation of liberty related to your interest group. Ongoing context-specific evaluation of implemented policies and procedure will aid the achievement of sustainable reform.

Endnotes

1. Pan-American Health Organization, John Snow Inc. and World Professional Association for Transgender Health (2014) "Blueprint for the provision of comprehensive care for trans persons and their communities in the Caribbean and other anglophone countries", Arlington, VA: John Snow, p. 88.



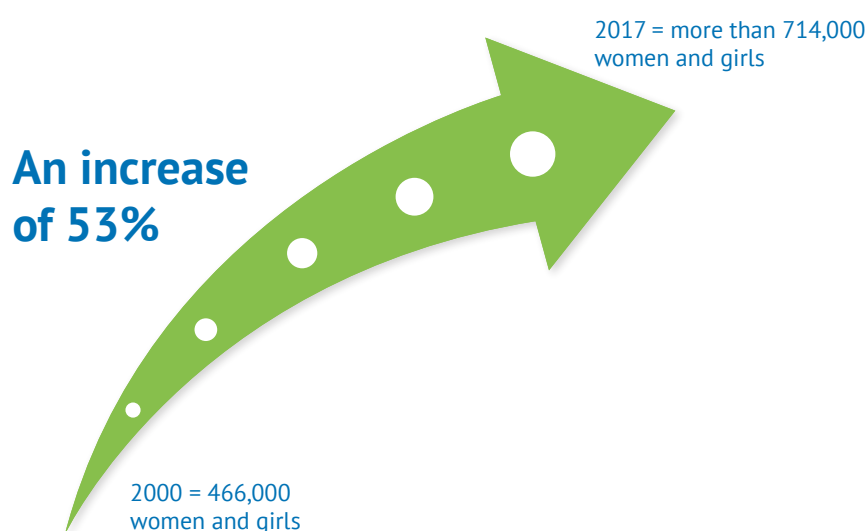
2. Why are promoting gender equality and integrating a gender perspective important in places of deprivation of liberty?

This section introduces the current context of the changing prison population and some key terms pertaining to gender. The second part, from section 2.6, highlights the advantages and importance of integrating a gender perspective specifically for places of deprivation of liberty.

2.1 Current populations

The global prison population is approximately 93.1 per cent male, and the global prison infrastructure, programming and philosophy have developed almost exclusively around this group. However, the female prison population is currently growing at a higher rate than the male population: as Figure 1 shows, since the year 2000 the numbers of women and girls in prison have increased by approximately 53 per cent, from 466,000 to more than 714,000.¹

Figure 1: Increase in female prison population



* For information on how to reduce the female prison population by reforming legislation and practice see UNODC (2014) *Handbook on Women and Imprisonment*, Vienna: UN Office on Drugs and Crime, pp. 103–128.

With the rapid growth in the female prison population there is an acknowledgement and realization that more needs to be done to take into consideration the different needs of women and girls, which are not fulfilled by the generalized system in which many women find themselves.

Image: Children share school supplies they received from the International Security Assistance Force at the Kabul Female Prison and Detention Center, Afghanistan, 2011 © U.S. Air Force/Sgt. Nestor Cruz.

2.2 Gendered pathways to crime and recidivism

Research known as the “pathways perspective” has shown that the initial routes to crime and recidivism for women tend to differ from those for men; hence these pathways are discussed as “gendered”.² This perspective suggests that there are biological, psychological and social realities that are specific to the experience of women. It is important to note the different pathways of women and men so that places of deprivation of liberty can best understand the needs of their populations and help them to avoid recidivism.

The bulk of the research in this area comes from North America and Western Europe, and has consistently shown that “criminally involved women have life histories plagued with physical and sexual abuse, poverty, and substance abuse”.³ Other studies have suggested that “men’s experiences shaped by masculine expectations (i.e., physically dominating financial provider) directly influence their distinct pathways to crime”.⁴

Each country and even different populations within countries are likely to reveal different gendered pathways to crime and recidivism, and therefore local research should always be carried out to understand the local context.*

Broadly speaking, it has been found that globally women in prison are more likely:

- ◆ to be survivors of SGBV, including intimate partner and domestic violence
- ◆ to be the primary caregiver to young children
- ◆ to experience mental health issues.⁵

Non-binary gender identities^

This Tool largely focuses on binary understandings of gender, where people are defined as either women or men. This is almost exclusively how people are recorded in justice-related institutions across the world. However, because gender is a social construction, there are individuals who do not identify with the normative gender they were assigned at birth, as well as those who do not identify with either female or male normative conceptions of gender.

This Tool therefore also highlights areas of good practice relating to taking account of individuals’ sexual orientation, gender identity or gender expression, and encourages policy-makers and practitioners to consider non-binary understandings of gender when formulating policy and in everyday practice.

2.3 Gender mainstreaming and integrating a gender perspective

Gender mainstreaming (or “mainstreaming a gender perspective”) was defined by the United Nations in 1972 as:

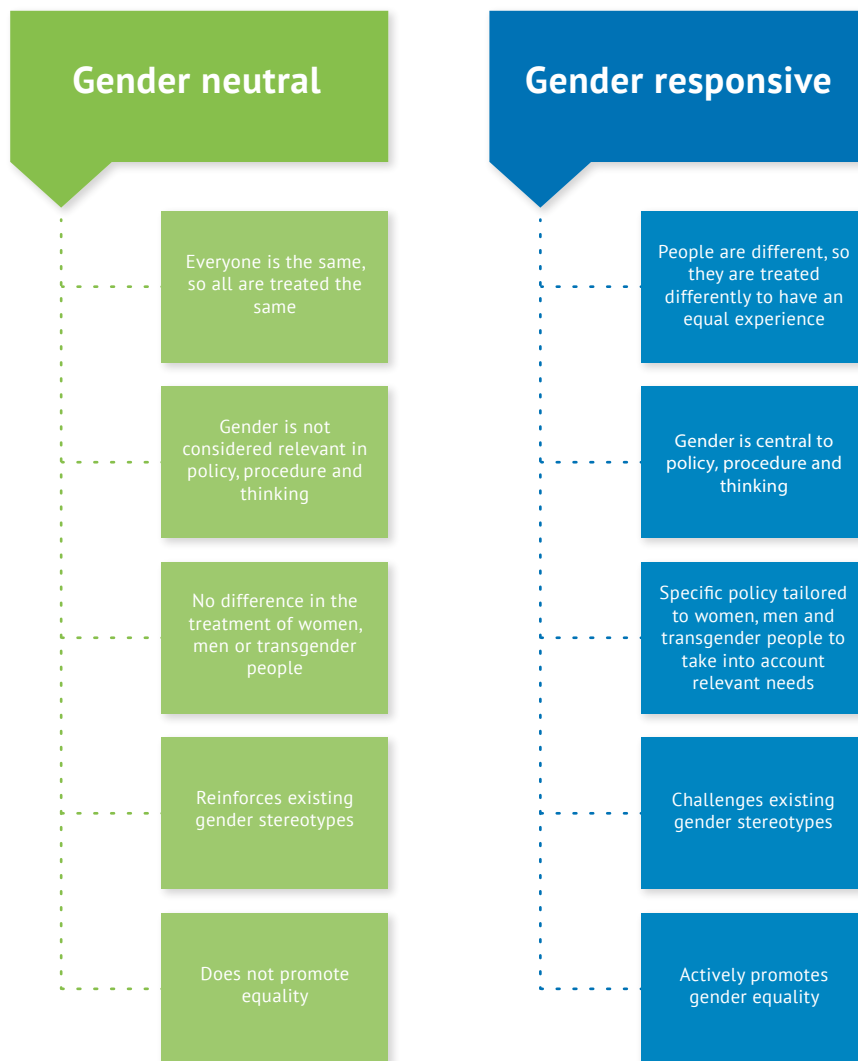
... the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.⁶

Gender mainstreaming can thus be understood as developing, evaluating and improving the process of making and implementing policy to incorporate a gender perspective in all aspects.

* For information on characteristics of female prisoners from different regions see PRI’s “Who are women prisoners?” series.

^ For more discussion of these gender concepts see Tool 1, “Security Sector Governance, Security Sector Reform and Gender”.

Figure 2: Key differences between a gender-neutral approach and approaches that integrate a gender perspective



This Tool uses the similar but more inclusive concept of “integrating a gender perspective”. A *gender perspective* is a way of seeing or analysing which looks at the impact of gender on people’s opportunities, social roles and interactions. This way of seeing is what enables one to carry out gender analysis and subsequently to mainstream a gender perspective into any proposed programme, policy or organization.⁷ Integrating a gender perspective should occur alongside measures actively designed to promote gender equality.

One assumption to avoid is that by treating everyone the same, regardless of their gender, they are therefore being treated equally. This “gender-neutral approach” can be seen in policy and procedure where gender is not mentioned or is ignored. It results in a tendency to treat women offenders not equally, but in the same way that men are treated.⁸

However, groups with different needs must be treated differently to achieve equality in terms of opportunity and resources. Figure 2 highlights key differences between a gender-neutral approach and approaches that integrate a gender perspective – also referred to as gender-inclusive, gender-responsive or gender-sensitive approaches.

Research shows that gender-responsive interventions are more effective (see Box 1).

Box 1: US study of gender-neutral versus gender-responsive interventions

Researchers in the USA analysed the results of a large variety of studies to examine whether interventions for women offenders are effective in reducing recidivism, as well as whether gender-responsive and gender-neutral interventions differ in their effectiveness. The results, which reflected the experience of nearly 22,000 women, showed that women who participated in correctional interventions had greater odds of community success than non-participants. The studies of highest quality demonstrated that gender-responsive interventions were significantly more likely to be associated with reductions in recidivism.

Source: R. Gobeil, K. Blanchette and L. Stewart (2016) "A meta-analytic review of correctional interventions for women offenders: Gender-neutral versus gender-informed approaches", Criminal Justice and Behavior, 43, pp. 301–322.

2.4 Sexual orientation, gender identity and gender expression

International human rights law mandates that people must be protected from discrimination and violence on the basis of their sexual orientation or gender identity or expression.⁹ However, people who identify as LGBTI or queer still suffer from systematic violations of their rights all over the world and face discrimination in places of deprivation of liberty – both as those deprived of their liberty and as those working within the institutions. In more than 70 countries same-sex sexual relationships are criminalized, and in eight of these countries the penalty is death.¹⁰

The UN Special Rapporteur on Torture highlighted that LGBTI people have reported higher rates of sexual, physical and psychological violence:

... both within the criminal justice system and in other contexts such as immigration detention, medical establishments and drug rehabilitation centres. Criminal justice systems tend to overlook and neglect their specific needs at all levels. Transgender persons tend to be placed automatically in male or female prisons or wards without regard to their gender identity or expression.¹¹

Authorities should always consider an individual's gender identity and expression when allocating and categorizing people deprived of their liberty. The Special Rapporteur's report goes on to say that:

Fear of reprisals and a lack of trust in the complaints mechanisms frequently prevent lesbian, gay, bisexual and transgender persons in custody from reporting abuses. Their placement in solitary confinement or administrative segregation for their own "protection" can constitute an infringement on the prohibition of torture and ill-treatment. Authorities have a responsibility to take reasonable measures to prevent and combat violence against lesbian, gay, bisexual and transgender detainees by other detainees.¹²

In 2006, in response to well-documented patterns of abuse, a group of international human rights experts met in Yogyakarta, Indonesia, to outline a set of international principles relating to sexual orientation and gender identity and expression. These principles provide a comprehensive set of standards that supplement efforts of international law to protect people from discrimination and violence.*

It is important to be aware that the term LGBTI covers several distinct and different sexual orientations and gender identities. Each identity or group will have different difficulties and needs while being held in or working in places of deprivation of liberty, and even individuals within one of these identities may not have the same difficulties and needs. For example, a transgender woman may require different support than a transgender man or a lesbian woman. Equally, two transgender women may have different needs from each

* See the Yogyakarta Principles and Yogyakarta Plus 10 Principles pertaining to rights of persons of diverse sexual orientations and gender identities and expressions. While the Yogyakarta Principles do not constitute binding law, they are distilled from the text and legal interpretation of a number of international human rights treaties which are binding on signatory state parties.

other and feel safer in different environments. Transgender children may also have different needs to transgender adults and to each other.[^]

Women who have sex with women and men who have sex with men

In some cases specific sexual orientations develop in places of deprivation of liberty but do not translate into changes in a person's sexual orientation once released. In some single-sex institutions detainees live in same-sex relationships as a survival or protection mechanism and/or as a means of maintaining sexual relations, but do not identify as "lesbian" or "gay". These groups have particular needs, for example condoms and checks for sexually transmitted infections, even though they may also maintain romantic relationships with heterosexual partners outside the facility.

2.5 Intersectionality

Ways in which a person's gender can affect the way they are treated, the conditions they experience and the needs and responsibilities that they feel are outlined above. However, it is important to be awake to the fact that people can experience multiple forms of discrimination. For example, women are not a homogeneous group: multiple personal characteristics and contextual circumstances can and do combine to intensify and perpetuate exclusion and marginalization. "Intersectionality" is a concept coined by Kimberlé Crenshaw as "a way of framing the various interactions of race and gender in the context of violence against women of color".¹³ It is now used more widely as a way to define how expectations connected to gender interact with other societal markers, such as ethno-religious background, age, social class, sexual orientation, marital status, race, ethnicity and disability, placing people in different positions of power and privilege, discrimination and exclusion (see Box 2).

Box 2: Intersectionality

The idea of intersectionality seeks to capture both structural and dynamic consequences of the interaction between two or more forms of discrimination or systems of subordination. It specifically addresses the manner in which racism, patriarchy, economic disadvantage and other discriminatory systems contribute to creating layers of inequality that structure the relative positions of women and men, and ethnic and other groups. Moreover, it addresses the way that specific acts and policies create burdens that flow along these intersecting axes, contributing actively to create a dynamic of disempowerment.

Source: UN Division for the Advancement of Women, Office of the High Commissioner for Human Rights (OHCHR) and UN Development Fund for Women (UNIFEM) (2000) "Gender and racial discrimination. Report of the Expert Group Meeting", 21–24 November, Zagreb, Croatia.

Both the UN Special Rapporteur on Torture and the Subcommittee on Prevention of Torture have noted that detention facilities have a culture that maintains a strict hierarchy, and those at the bottom of the hierarchy, including LGBTI persons, typically suffer double or triple discrimination.¹⁴

It is common for the staff of a place of deprivation of liberty to be drawn from ethnic and religious majorities. This can often mean that either via a lack of understanding of minority group culture or via (conscious or unconscious) discriminatory views, issues of gender equality can be complicated further through ethnic and/or religious discrimination.

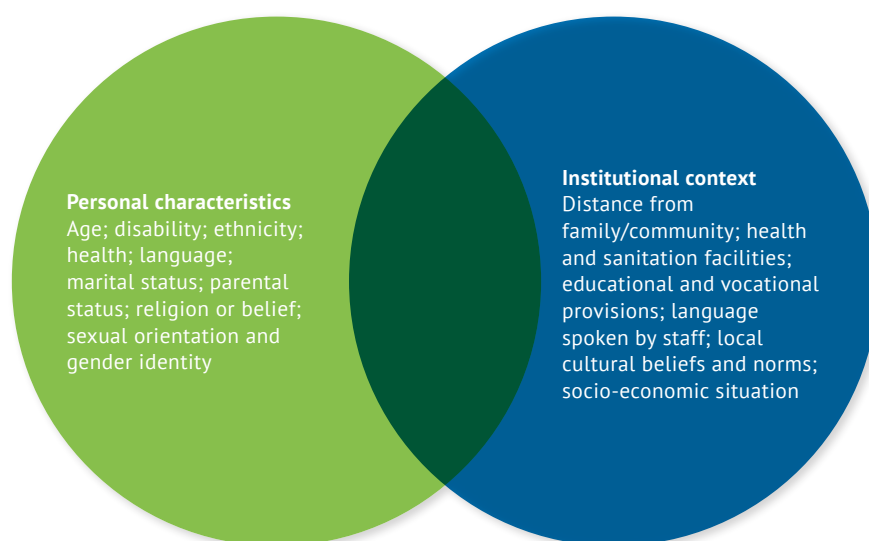
In addition, there are contextual circumstances that can heighten the level of discrimination, such as socio-economic situation, geographical remoteness, whether the individual can

[^] For a more detailed discussion of terminology around LGBTI and diverse sexual orientation and gender identity see Tool 1, "Security Sector Governance, Security Sector Reform and Gender".

read, whether the person owns property, or whether there are strong traditional ideas about gender roles. For example, a woman from a low socio-economic background held in a place of deprivation of liberty with a culture of deeply entrenched traditional notions of gender will have a very different experience to a woman who has access to large resources and is held within an institutional culture that facilitates freedom around gendered behaviour.

Figure 3 identifies how some personal characteristics can overlap with the contextual circumstances of different places of deprivation of liberty and thus cause greater levels of discrimination and suffering.*

Figure 3: Personal characteristics and institutional contexts that can cause multiple layers of discrimination



2.6 Gender and the aims of places of deprivation of liberty

Adopting a policy of integrating a gender perspective has many benefits for the effective running of places of deprivation of liberty and will aid in the achievement of mandated tasks of such institutions.

Ability to meet responsibilities in law

Places of deprivation of liberty have a duty of care to all those who are held in, work in or visit them to prohibit cruel, inhumane and degrading punishment or treatment and to ensure that everyone is treated with respect and dignity. Women, men and transgender women and men require different approaches in order to receive fair and just treatment. Therefore, for places of deprivation of liberty to adhere to their duty of care and meet requirements in formal and soft law, a gender perspective is imperative.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the global charter of women's rights. Ratified by 189 countries, CEDAW provides the basis for realizing equality between women and men by ensuring women's equal access and equal opportunities in all spheres of economic, social, cultural, political and civil life. By ratifying or acceding to CEDAW, states commit themselves to undertake a series of measures to end discrimination against women in all forms, including to:

- ◆ incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women

* For a detailed list of groups particularly vulnerable to SGBV if authorities do not take proper measures to address their needs and ensure their safety, see OSCE/ODIHR (2019) *Preventing and Addressing Sexual and Gender Based Violence in Places of Deprivation of Liberty: Standards, Approaches and Examples from the OSCE Region*.

- ◆ establish tribunals and other public institutions to ensure the effective protection of women against discrimination
- ◆ ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

Although the implementation of gender equality policies must be localized and interpreted specifically for each state's context, the underlying imperative must remain, regardless of that context. No matter whether places of deprivation of liberty are situated in a high-resource context, a conflict, a post-conflict context or a situation recovering from a humanitarian disaster, women, girls and transgender people are at increased risk of violence and discrimination across all these settings.¹⁵

Ensuring equality of opportunity for staff

As well as those detained within places of deprivation of liberty, staff of different genders can have different experiences. In some cases this discrimination is structural and assumed to be the norm, where women do not have the same access to professional development opportunities and promotion. In other cases there is direct and overt discrimination, where women and LGBTI staff working in institutions for men face open harassment, abuse and discrimination from male prisoners and colleagues.

Women are often disproportionately overrepresented in low-ranking positions and areas where there is no opportunity to advance; this can result in them leaving. Additionally, women are more likely to leave an institution if there is no support to combine work with family responsibilities, or if they are experiencing sexual harassment or discriminatory attitudes and policies.¹⁶ Integrating a gender perspective into relevant policies will allow for such discrimination to be challenged, overcome and prevented from occurring in the first place.

Improving safety and security

Gendered forms of human rights violations that take place within places of deprivation of liberty can be diminished or avoided by integrating a gender perspective. Places of deprivation of liberty may be secure, but there is a question over whether they also keep people safe.¹⁷

By expanding the concept of “security” to include multiple forms of “gendered safety” (see Box 3 for examples) and by adhering to the provisions in the Bangkok Rules, places of deprivation can be both safe and secure.

Improving organizational effectiveness

The needs and pathways in the justice system are observably different for women and men, as discussed throughout this Tool. Women require different conditions and different kinds and levels of support, and places of deprivation of liberty have the responsibility to meet these needs. Integrating a gender perspective across all mandated tasks means that places of deprivation of liberty will have a better understanding of the populations they are responsible for and will be better able to meet their needs.

There are several mandated tasks related to searching and supervising women and girls which should not be carried out by male staff in places of deprivation of liberty. It therefore makes operational sense that there are sufficient female staff to work safely in these environments, with their needs met, to ensure the safety, needs and dignity of the women and girls.

Box 3: Multiple forms of gendered safety

Physical safety can be defined as the absence of any kind of violence (e.g. physical, emotional, sexual or verbal), including suicidality and self-destructive behaviour; freedom from substance abuse and other addictions; healthy and safe sexual behaviour; the avoidance of unnecessary risks; and maintaining good health practices.

Psychological safety is equally critical, and is defined as the ability to feel safe, to rely on one's own ability to self-protect against any destructive impulses coming from within oneself or deriving from other people, and to keep oneself out of harm's way.

Social safety describes the sense of feeling safe with other people. Creating a safe social environment requires a shift in perspective away from viewing only the individual and towards viewing the individual in context, so that all the chaotic, impulsive and painful feelings of the individual can be safely contained and defused. A strict emphasis on the individual is exchanged for the work of creating and sustaining a well-bounded structure within which all the therapeutic interactions can safely take place.

A *morally safe environment* is one where staff can work with a sense of integrity because their view of what is right is supported by the institution and management, and power holders do not abuse their power. For those held in the institution, it allows an ongoing ethical dialogue and space to explore what is right and wrong in order to grow.

Source: Sandra L. Bloom, "The sanctuary model", *Health Management and Policy*, Dornsife School of Public Health, Drexel University, sanctuaryweb.com/Home.aspx (accessed 17 October 2019).

2.7 Positive contributions of a gender-responsive approach beyond places of deprivation of liberty

Places of deprivation of liberty are just as much part of society as hospitals and schools, yet because the public have limited access to them, they can often be seen as being separate from society. Those leaving places of deprivation of liberty can find themselves with greater levels of mental health problems, addiction or debt, difficulties finding work and issues with acceptance from family and stigma. What happens inside justice institutions can have a lasting effect on individuals, and positive work within them can have an impact far beyond the gates and walls.

Opportunity to address SGBV

SGBV is a society-wide problem across all cultures. By integrating a gender perspective into programmes addressing offending behaviour, by understanding antisocial masculinities that can lead to violence and by exploring pro-social or alternative masculinities, places of deprivation of liberty can make a contribution towards reducing SGBV.* Understanding what works to reduce SGBV can lead to better government choices through informed policy-making. Such an approach can also have an impact on prison staff attitudes, which have been highlighted as a problem area in research noting high rates of SGBV within correctional officer behaviours.¹⁸

Impact on children

The Convention on the Rights of the Child is the most widely ratified international human rights instrument. How primary caregivers are treated, where they are detained and the contact they have with their children all have an impact on the best interests of the child.

Policies and practices that take into consideration the gendered responsibilities of detainees and prisoners, such as the fact that many women are primary caregivers to children, are a strength of adopting a gender perspective. Maintaining close proximity between incarcerated mothers and their children is important for the mental health of both mothers

* Behaviour change programmes and domestic violence perpetrator programmes are discussed in Tool 2, "Policing and Gender".

and children, and also ensures the rights of the child. For example, the forcible separation of a child from its parents in Europe impacts on the child's rights under Article 8 of the European Convention on Human Rights.¹⁹ Equally, policies that take into consideration the gendered responsibilities of men as fathers (especially where they are the primary caregiver, but even where this is not the case) are an important part of mainstreaming a gender perspective. It can sometimes be forgotten that transgender women and men can be parents, and policies to ensure they are able to maintain relationships with their children are equally as important.

Global goals*

At present the most notable and high-profile international goals are the Sustainable Development Goals (SDGs). The declaration of the SDGs in 2015 was the universal agreement to implement the Agenda of Sustainable Development by 2030. The agenda includes 17 SDGs, with aspirations at every level of society to ensure that “no one will be left behind”.²⁰

In reality, women, girls and LGBTI people, as well as many men and boys, in places of deprivation of liberty *are* often “left behind”, and more needs to be done to take into consideration the specific needs of these groups and reduce the systematic and structural discrimination they face. When women's rights are protected through effective justice systems, pathways are created for inclusion, poverty reduction and sustainable peace.²¹

SDG 5 is dedicated to improving gender equality. SDG 16 addresses the justice sector, with Target 16.3 measuring the extent to which the rule of law and equal access to justice for all are being promoted. Achieving these SDGs manifestly requires implementing a gender perspective within places of deprivation of liberty. SDGs 2, 3 and 6 addressing hunger, health, and water and sanitation are also relevant to places of deprivation of liberty. In some prisons food and medicine are only available if friends and family bring them to the prisoners. In times of famine, disease outbreak or drought, detainees are often overlooked. In shared facilities women may only receive food and water after the men are finished, and where there are separate facilities the scarcity of available spaces for women means that they are often held far from family and thus are unable to receive vital food and medicine.²²

Achieving SDG 1 (“End poverty in all its forms everywhere”) also has a close connection to women's imprisonment: the “feminization of poverty” has been highlighted as a cause of the global increase in women prisoners,²³ so SDG 1 should be pursued within places of deprivation of liberty. Penal Reform International argues that reforms in prisons which incorporate the Bangkok Rules “have the potential to break the cycles of poverty among women and ensure that they are not left behind”.²⁴

Overlooking the places of deprivation of liberty when assessing any country's progress against the SDGs ignores the true effect of these institutions, and certainly will not match the aspiration that *no one will be left behind*.

SDG 5

Achieve gender equality and empower all women and girls.

SDG 16

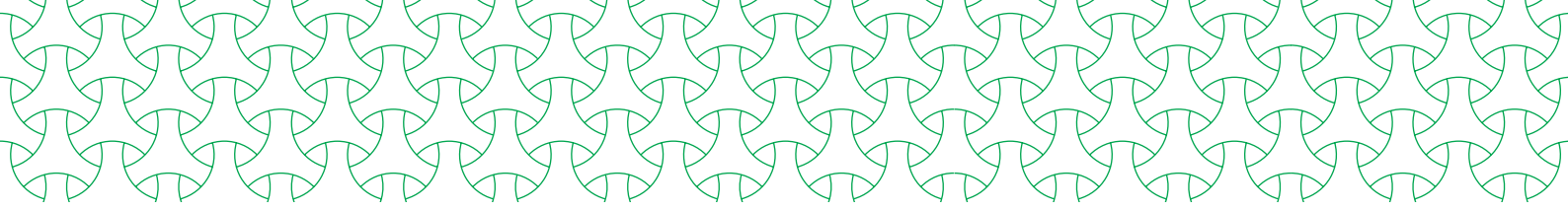
Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

* For more on SDGs see the Policy Brief on “The 2030 Sustainable Development Agenda, the Security Sector and Gender Equality”.

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3. What would places of deprivation of liberty that advance gender equality and integrate a gender perspective look like?

Significant strides have been taken in many places around the world over the last ten years in terms of integrating a gender perspective in places of deprivation of liberty. However, there remains much that can be improved. This section describes a vision of what a place of deprivation of liberty that *does* integrate a gender perspective would look like, and sets out nine key features.¹

The Bangkok Rules offer specific guidance for places of deprivation of liberty on adopting a gender perspective. Relevant rules are highlighted in this section.

3.1 United acknowledgement that gender makes a difference.

From national-level policy-makers and politicians, through security sector management, to front-line staff, there is an awareness and acknowledgement that women, men, boys, girls and people with transgender identities all have different needs and require approaches specific to those needs.

For example, there is acknowledgement that there are differences in terms of:

- ◆ gendered pathways
- ◆ substance misuse
- ◆ mental health, trauma and mental illness
- ◆ physical health needs
- ◆ parenting responsibilities
- ◆ levels of risk within places of deprivation of liberty and to the community
- ◆ responses to supervision, custody and behaviour programmes.

Policy and practice in places of deprivation of liberty are not created based on adjustments made to existing gender-neutral or male-focused policies, but are fundamentally rethought and developed for each group based on their specific needs and in consultation with those groups.

3.2 Positive institutional environments based on safety, respect and dignity are actively promoted

Places of deprivation of liberty that integrate a gender perspective actively promote a positive environment. There will be acknowledgement that many people who find themselves in such institutions have experienced traumatic situations, and the environments they are confined in can either perpetuate the negative effects of these or can aid progress.

Image: Women in El Pastor prison in Bogotá, Colombia, paint a mural to educate their fellow inmates about transmission of tuberculosis, 2015 © Pan American Health Organization.

Those working with women are aware of the gendered pathways leading many women to be deprived of their liberty, and they often include a history of emotional, physical and sexual abuse. Policy and practice actively avoid creating an environment for further abuse, and care is taken to prevent triggering previous trauma or perpetuating mental health issues.

Those working with men are aware of the pressures on men and boys to display narrow versions of masculinity, and how these may have informed their gendered pathways to the institution. Management are aware that such gendered pressures may continue to inform men's behaviour, which can lead to negative consequences for safety and growth. Places of deprivation of liberty actively promote alternative versions of masculinity and provide space for healthy expressions of masculinity.

Those working with people with transgender identities are aware of the difficulties of experiencing gender dysphoria, and how these may have informed their pathways to places of deprivation of liberty. An approach which actively promotes a non-judgemental environment where people are able to self-identify without fear of reprisal or ridicule is actively promoted by places of deprivation of liberty.

All people in places of deprivation of liberty feel safe and able to make a confidential complaint, without reprisal, and the process is carried out in an objective and timely manner with feedback to the complainant. Protection measures take into account the additional threats to female, transgender and other LGBTI prisoners during investigations, and those who have been subjected to sexual abuse receive appropriate medical care, counselling and legal aid (see Bangkok Rules, Rule 25).

3.3 A gender perspective is integrated at all levels and in all available training opportunities

Induction training is presented with gender as a core perspective for all levels of management and front-line or uniformed staff, as well as non-operational staff. Existing staff take part in specific training to mainstream a gender perspective, and the leadership of institutions actively promotes the importance of the training and leads by example. Implementing a gender perspective is appreciated as being part of the core business of the place of deprivation of liberty, and is not seen as a paper exercise.

Places of deprivation of liberty assess applicants for their willingness and ability to work in specific environments, for example a women's facility that is run with a gender perspective integrated throughout its policies and practices. Training focuses separately on working with women, working with men and working with people with transgender identities. Where children are allowed to stay with their mothers in prison, awareness-raising on child development and basic training on the healthcare of children is provided, so staff can respond appropriately in times of need and emergencies (see Bangkok Rules, Rule 33).

Female staff members have equal access to positions of power and responsibility within places of deprivation of liberty, and do occupy these positions. This is echoed at higher levels of power, where there is an appropriate gender balance in decision-making departments.

3.4 People are categorized appropriately and accommodated in safe locations

All individuals in places of deprivation of liberty are accommodated in spaces that are both safe and actively promote well-being, recovery and/or rehabilitation. Where families are deprived of their liberty together, such as in some immigration centres and refugee camps,*

* Immigration detention is also discussed in Tool 6 on "Border Management and Gender".

there are spaces where they are accommodated together and able to maintain the family unit. As deprivation of liberty in these settings is not related to a criminal offence, detainees are not automatically assessed as posing a risk. As far as possible, all aspects of regular family life are protected.

Separate and secure accommodation and sanitation facilities are provided for single women, and prevent access of men. They are staffed by women, and include space for children to be cared for safely. In all cases water is regularly and readily accessible, especially for those taking care of children, those involved in cooking and those who are pregnant, breastfeeding or menstruating (see Bangkok Rules, Rule 5).

The physical architecture of places of deprivation of liberty is conceptualized and constructed with a gender perspective, creating spaces which promote feelings of positive well-being and facilitate recovery and rehabilitation. Women are housed within small communities, in structures specifically engineered with women of their security classification in mind (see Box 4). They are not held in higher security settings than necessary or housed in spaces which are additions to or converted areas of male facilities.

Places of deprivation of liberty employ specific risk assessment tools that centre around a gender perspective and acknowledge the generally lower risk posed by women to others. Those making decisions around categorization and allocation to specific locations do so within a gender framework which acknowledges, in accordance with the Bangkok Rules, the importance of locating parents close to their children and the particularly harmful effects of isolation on women caused by high-security measures (see Bangkok Rules, Rule 41).

Transgender women and men are allocated to an institution after discerning whether they would feel safer and more able to thrive in a female or male establishment. All transgender women and men are able to participate fully in the institutional regime, without fear of their safety or discrimination.

Places of deprivation of liberty employ specific needs assessment tools which establish important aspects of women's backgrounds and inform sentence planning, including history of mental, physical and sexual violence, history of mental health issues and substance abuse, and current parenting and other caring responsibilities (see Bangkok Rules, Rule 4).

There is acknowledgement from staff and systems that a greater level of need does not necessarily equate to a high level of risk or threat. People with mental healthcare needs are accommodated in locations that are not needlessly restrictive, as there is awareness that such actions can exacerbate mental health problems, which occur at a higher rate in detained female populations (see Bangkok Rules, Rule 41).

Box 4: Accommodation for women in Canada

In 2000 a maximum-security prison for women in Kingston, Ontario, was the only federal institution for women offenders in Canada. All federal women offenders, regardless of security level, were housed at this prison. Key recommendations of a report by the Task Force on Federally Sentenced Women included closing the prison and opening "regional institutions and an Aboriginal healing lodge where women-centered programming would be available" (Barrett et al., 2010: 6).

As a result of the government acting on these recommendations, today the infrastructure is entirely different and employs a gender-responsive approach. Accommodation is broadly divided into three classifications.

1) Women who are classified as minimum or medium security level live in housing units with communal living areas, where they are responsible for daily needs such as cooking, cleaning and laundry. There is a mother–child programme at each women offender facility.

2) Women who are classified as minimum or medium security level with mental health needs and/or cognitive limitations are accommodated in housing units called “structured living environments”. Staff with specialized mental health training provide assistance and supervision. Interventions, structured skills groups and daily activities are provided. Women with additional mental health needs are accommodated at Correctional Service of Canada’s national treatment centres.

3) Women classified as maximum security are accommodated in secure units, where high-level intervention and supervision are provided by specialized staff. Some of these women also have mental health needs and receive specific interventions, including dialectical behaviour therapy and modular intervention.

In addition, the Correctional Service of Canada has agreements with several local psychiatric units, and provides a purpose-built “healing lodge” for aboriginal women. The lodge is guided by a “vision” developed by elders during the planning process, and therefore has the acceptance of the community.

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3.5 Policies, practices and programmes promote healthy connections to children, family members, significant others and the community

Places of deprivation of liberty embrace the positive influence that comes with the connection of detainees and prisoners with their families. In both policy and practice, institutions promote an approach that emphasizes and facilitates connection with family and the community, and especially with their children.

Staff in places of deprivation of liberty are aware of the central importance of contact with children to many parents’ lives, whether those parents are women, men or transgender men and women. Institutions therefore facilitate contact with children, primarily via in-person visits, but also in as many other forms as possible, including telephone, video link, email, letters, etc. Programmes promote healthy positive relationships with the local community, and recognize the gendered pathways to incarceration of women who have previously experienced interpersonal violence.

There is awareness throughout the detention system that many women are left by husbands and partners when they spend time in places of deprivation of liberty (whereas men are comparatively more often supported by partners), and therefore policies are designed to ensure women can stay connected to their families as much as possible to minimize and avoid stigma and isolation.

Detainees are always consulted as to who is allowed to visit them, including which direct family members. This is especially considered in the case of children who may have experienced abuse and for women, in light of the fact that many women disproportionately experience domestic violence (see Bangkok Rules, Rule 44).

There are no (non-security-related) restrictions placed on who is able to visit a detainee, and LGBTI detainees are able to receive visits from their partners without discrimination. Detained children (even adults) of same-sex parents are able to receive visits from both parents, and recognized non-blood-related parents are treated on an equal footing with blood-related parents.

Those working with men appreciate the cultural expectations felt by many men to protect and provide for partners, children and wider families, and understand that their inability to fulfil this responsibility while they have lost their liberty can lead to mental health problems and perpetuate antisocial behaviour. Programmes with men in places of deprivation of liberty facilitate ways for them to remain involved in family and community life, and focus on parenting and fatherhood to build skills and facilitate healthy father–child relationships.

3.6 Comprehensive, integrated and culturally relevant physical and mental healthcare is offered

There is an acknowledgement that populations deprived of their liberty often include people with a wide range of physical and mental health problems at a higher rate than in the general population,² and the physical constraints of the surroundings can perpetuate issues such as communicable diseases and trauma.

Places of deprivation of liberty cater for the specific health and sanitation needs of women, and specialized medical staff are fully trained in providing culturally appropriate care and treatment relevant to the populations held. The standard of and access to healthcare are at least of the standard provided in the broader community.

Juvenile female detainees have access to age-specific and gender-specific programmes and services, such as counselling for sexual abuse or violence. They receive education on women's healthcare and have regular access to gynaecologists, similar to adult female prisoners. Pregnant juvenile female detainees receive support and medical care equivalent to that provided for adult female detainees, with the additional awareness that they may be at greater risk of health complications during pregnancy due to their age (see Bangkok Rules, Rules 38 and 39).

Substance-misuse and offending-behaviour programmes are designed and delivered for each specific gender, acknowledging the gendered pathways that may have led the individual to that point. Trauma-informed treatment programmes, psychological care and counselling are provided, taking into account prior victimization and abuse, the special needs of pregnant women and women with children, and detainees' diverse cultural backgrounds (see Bangkok Rules, Rule 15).

3.7 Equality of opportunity to improve socio-economic status is achieved via gender-responsive strategies

Female detainees (including children and juveniles) have equal access to education and vocational training as is available to male detainees of the same age (see Bangkok Rules, Rule 37). Education is a balanced and comprehensive set of options which take account of the gender-appropriate needs of women and girls (see Bangkok Rules, Rule 42).

Places of deprivation of liberty provide programmes flexible enough to respond to the needs of pregnant women, nursing mothers and women with children, as well as those who have psychosocial support needs. Childcare facilities or arrangements are provided to enable women prisoners with children to participate in prison activities.

Programmes are designed to coach and enable women and men to live financially independent and stable lives, and focus on skills acquisition. Programmes are not based on traditional gendered roles, but rather on viable options to make money in the detainee's community (see Bangkok Rules, Rule 42).

3.8 A system of comprehensive and collaborative community services and oversight is in place

Places of deprivation of liberty work closely with civil society, including NGO and charity partners, to give support to all those rejoining communities and provide regular oversight and monitoring of conditions and treatment. Partnerships are made with organizations that specialize in working with women and girls, recognizing that there are specific needs both in monitoring places of deprivation of liberty and in managing reintegration. Organizations that work with men implement gender-responsive processes to understand the gendered needs and responsibilities of men and boys as they rejoin the community.

Continuity of support is maintained throughout people's transition from places of deprivation of liberty to the community. Holistic, culturally sensitive plans are provided for each individual. Plans acknowledge the concerns and difficulties that can arise during this process, especially where there may be issues related to stigma, family abandonment and reconnection with children – all of which are challenges faced most often by women, but can also be experienced by men.

3.9 A gender perspective is integrated into oversight and evaluation through regular and representative internal and external inspections

Independent organizations, including but not limited to national human rights institutions and ombuds institutions, regularly have access to and monitor the treatment and conditions of those held in places of deprivation of liberty, and provide gender-responsive recommendations and advice for improvement.

Organizations monitoring institutions detaining women and girls include a high proportion of female members, and interviews with female detainees are carried out exclusively by female members of staff (see Bangkok Rules, Rule 25). Oversight bodies and those conducting inspections have staff members with expertise in working with transgender women and men in places of deprivation of liberty, and continue to provide guidance for an improved understanding of how to provide a gender-responsive approach.

Responsible government departments are made aware of the recommendations of the monitoring institutions, and a senior member of the department is assigned responsibility for ensuring places of deprivation of liberty act on the recommendations. Parliamentary oversight includes the provision of gender-balanced teams to conduct monitoring visits. Institutions also conduct their own regular internal audits, and evaluate their performance against recommended actions.

Endnotes

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4. Guidance for advancing gender equality within places of deprivation of liberty

While section 3 sets out the vision, this section offers some specific steps that can be taken to integrate a gender perspective and advance gender equality in places of deprivation of liberty. It focuses upon three key stakeholder levels among state actors.

1. National/state-level policy-makers: those able to set and reform the policy agenda.
2. Institutional operations and leadership: those able to make direct reforms within places of deprivation of liberty.
3. Civil society: partnership with this group is an important factor in achieving long-term, sustainable reform.

While no country has completely implemented a gender perspective across all aspects of places of deprivation of liberty, there are increasing examples of good practice from across the globe, some of which are shared below.

4.1. Guidance for state/national involvement

Legislative changes

To facilitate positive reform on gender equality, legislation lays the groundwork. Places of deprivation of liberty interpret and implement the law at their local level. Legislation is not a prerequisite, as there are cases where institutional managers or even front-line staff have created initiatives to improve access to justice for various groups without it. However, by far the strongest and most sustainable route to reform is by introducing legislation.

Policy-makers and legislators do not have to start from scratch. Internationally agreed *soft law* already exists in the shape of UN standards and regional agreements and protocols. For example, several countries have incorporated the entirety of the UN Bangkok Rules into their own state constitutions. Other countries have looked at specific guidance from these rules and adapted their own legislation. Two examples are described in Box 5.*

Points to remember

One size does not fit all. Avoid copying and pasting reforms from elsewhere; instead, develop reform with local knowledge and evidence

* For more information on how to reduce the female prison population by reforming legislation and practice see UNODC (2014) *Handbook on Women and Imprisonment*, Vienna: UNODC, pp. 103–128.

Penal Reform International has created a free online e-course designed to assist practitioners in applying the UN Bangkok Rules, <http://penalreform-elearning.org/>.

Image: Narathiwat prison staff discuss a water project with delegates of the ICRC, Thailand, 2009 © ICRC / Kanya Chimroylarp.

Box 5: Albania's law reform on gender-based violence

Albania's legal framework initially required only the strict separation of women and men in places of deprivation of liberty, and that female prisoners were to be solely supervised by female staff. In 2014 legislation was improved to include the state's responsibility to prevent gender-based violence under a non-discrimination clause. The changes, which were informed by the Bangkok Rules, also grant immediate protection for all survivors of gender-based violence and individualized treatment and healthcare based on gender-specific needs, including those based on sexual orientation and gender identity.

Peruvian protocol addresses the diverse needs of women

In 2016 the National Penitentiary Institute of Peru adopted a protocol on "Comprehensive care and penitentiary treatment for prosecuted or sentenced women in correctional facilities and post penitentiary service" (*"Atención integral y tratamiento penitenciario para mujeres procesadas o sentenciadas en establecimientos penitenciarios y medio libre"*). Informed by the Bangkok Rules, this protocol recognizes the diverse populations within places of deprivation of liberty, including indigenous women, women who do not speak Spanish, foreigners, elderly women, women with disabilities, LGBTI people, women infected with HIV or other chronic illnesses, women with mental health problems, pregnant women and women who live with children under three years of age. It emphasizes the importance of meeting the needs of these diverse groups, as well as the need to partner with other government departments and NGOs to finance, monitor and provide services for women in places of deprivation of liberty. The protocol also introduces greater specificity over procedures for body-cavity searches and the situations in which they may or may not take place.

Sources: OSCE/ODIHR (2019) Preventing and Addressing Sexual and Gender-based Violence in Places of Deprivation of Liberty: A Compilation of Standards, Approaches and Examples from the OSCE Region, Warsaw: OSCE/ODIHR; Maria Eva Dorigo (2016) "Peru has adopted a protocol for the treatment of women in prison based on the UN Bangkok Rules", Penal Reform International blog post, 5 August, www.penalreform.org/blog/peru-has-adopted-a-protocol-for-the-treatment/ (accessed 17 October 2019).

Political and public backing

Support from political actors and the public for progressive reform can be difficult to achieve, but it is vital that those in leadership positions acknowledge gender differences and support policies and practices to reduce discrimination and promote gender equality.

Both human and financial resources should be allocated to create women-centred, men-centred and LGBTI-centred strategies and services. Designating high-level administrative positions for oversight of management, monitoring and ongoing improvement will also help to provide the structure for sustainable change, as well as sending the message that gender differences are important and need to be acknowledged.

To understand the context in any specific state, leaders should commission a comprehensive assessment of the current situation of the detained population's experience of places of deprivation of liberty; this should investigate and highlight their gendered needs and lead to a regularly monitored action plan.*

Policy should be developed that underlines the importance of physical and emotional safety and actively avoids procedures that can lead to retraumatization. Procedures for reporting and investigating claims of misconduct should be clear to all, with open and transparent completion.

One way to combine the efforts of those in favour of improving integration of a gender perspective can be arranging regional summits with likeminded institutions, organizations,

* See section 5 for a sample institutional self-assessment checklist.

Gender assessment and integrating gender in assessment are also discussed in Tool 15, "Integrating Gender in Project Design and Monitoring for the Security and Justice Sector".

departments and individuals. Another strategy is to highlight places of deprivation of liberty which do implement a gender perspective, and gain public and political support by demonstrating the value gained (see Box 6). Ongoing monitoring of the institutions is important to ensure highlighted establishments maintain a high level of performance.

Box 6: Leadership and national-level approach in Thailand

As one of the driving forces behind the establishment of the Bangkok Rules, the government of Thailand and subsequently the Thailand Institute for Justice have shown leadership internationally in the promotion of the rights of women in contact with the justice system. This focus and investment have led to the funding and design of gender-responsive programmes throughout the Association of Southeast Asian Nations region and beyond. In particular, Her Royal Highness Princess Bajrakitiyabha Mahidol of Thailand has used her prominent position to promote the rights of women in prison, both within her own country and globally, by presenting regularly at international conferences and UN events.

Sustained support for a gender-responsive approach has led to the introduction of a countrywide initiative in Thailand called the Model Prisons Project. This government initiative encourages prison management to implement the Bangkok Rules and then assesses them against stringent criteria, with the status of a “model prison” being awarded where there is significant evidence that a gender perspective has been adopted.

In 2017 four prisons were awarded this model prison status, bringing the total to ten prisons within Thailand. Demonstrating the areas of attention within the project, Ayutthaya Provincial Prison, a large female wing in a male prison, was evaluated as having outstanding programmes in the following:

- ✦ care of pregnant women and dependent children in prison
- ✦ hygiene of mothers and children
- ✦ preparation for release
- ✦ education – with a specific “learning centre”
- ✦ psychological support – with a specific “happy centre”.

Source: Thailand Institute of Justice (2017) “Bangkok Rules training”, training.tijbangkokrules.org/ (accessed: 17 October 2019).

Internal oversight and data collection

It is vital that as well as introducing gender-responsive policies, states maintain regular monitoring of the implementation of agreed standards and take action to improve the situation if the results show a low standard of performance. Such monitoring can take the form of internal inspection or audit teams. Inspections are not only about failures; they should identify good practice which can be used elsewhere as a model.¹ Regular data monitoring and parliamentary monitoring visits are important.² Government departments can consider the findings of inspections and data monitoring in combination with data from independent organizations (detailed in section 4.3).

Internal oversight is a safeguard for those deprived of their liberty, but can also benefit staff working within the institutions. Inspections are a means of unearthing and investigating any allegations of mistreatment of prisoners or otherwise improper behaviour by staff; they are also a way of protecting staff against unjust allegations. Moreover, inspections can be a means to give credit to staff who are doing their work in a professional and gender-responsive manner.²

* Integrating gender in parliamentary oversight is discussed further in Tool 7.

See also DCAF, OSCE/ODIHR, OSCE (2014) “Integrating a gender perspective into oversight of the security sector by ombuds institutions & national human rights institutions”.

¹ For monitoring with a particular focus on LGBTI detainees see Association for the Prevention of Torture (2018) *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, Geneva: APT.

Unless comprehensive statistics related to gender are gathered on a regular basis, there is no way of fully appreciating the size of any problem. This is not only an issue of accuracy, but also because certain people are rendered invisible, and the discrimination and inequality that they experience pass unnoticed.

It is imperative that states collect statistics at the national and institutional levels on an array of topics, and specifically disaggregate these data by gender. The data should be collated monthly at a minimum and analysed regularly, with the findings feeding into policy-making. Such data should be collected and analysed in collaboration with organizations representing the population groups in question and those with lived experience within places of deprivation of liberty. Responsibility for oversight of a specific strategy to promote a gender-responsive approach should lie with a government body with the power to ensure that recommendations are implemented and evaluated.

Although not an exhaustive list, governments should require individual institutions to collate gender-disaggregated information on:

- ✦ staffing (in post, promotions and leavers), including at senior levels
- ✦ staff participation in training opportunities
- ✦ SGBV (prisoner on prisoner, prisoner on staff, staff on prisoner, staff on staff)
- ✦ complaints (submitted and upheld)
- ✦ use of force and/or restraint
- ✦ use of segregation or solitary confinement.

As with all aspects of working with people in places of deprivation of liberty, the staff group making up the internal inspection teams should reflect the diversity of the population which they monitor. Extra efforts should be made to reach out to groups that are less likely to report SGBV, and these groups will differ with context. By way of example, a report of the Office of the UN High Commissioner for Human Rights highlighted the barriers to people who are LGBTI reporting crimes against them:

Victims are often reluctant to report their experiences for fear of extortion, breach of confidentiality or reprisals. In addition, prejudicial and inexact categorization of cases results in misidentification, concealment and underreporting. Failure to investigate, prosecute and punish violations when reported also contributes to incomplete assessments of the scale of violence.³

In terms of collecting data, estimates of the prevalence of SGBV can be derived from different sources, including surveys conducted among detainees or former detainees, official administrative records, and complaints submitted by detainees/prisoners to monitors, civil society organizations, domestic courts or international bodies. Different states have differing definitions of SGBV, and different methodologies mean that data are difficult to compare between states. However, the driving force for the collection of data should be to look inwards and understand the local context, and what can be reformed to improve gender equality. See Box 7 for an example of a regular SGBV data collection process.*

* For more information on reporting and underreporting of SGBV prevalence see OSCE/ODIHR (2019) *Preventing and Addressing Sexual and Gender-based Violence in Places of Deprivation of Liberty: A Compilation of Standards, Approaches and Examples from the OSCE Region*.

For more on how monitoring bodies can improve their work with transgender prisoners see Association for the Prevention of Torture (2018) *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, Geneva: APT.

Box 7: Data collection for contextual understanding in the USA

After an influential report by Human Rights Watch in 2001 highlighted the endemic problem of prison rape and sexual slavery in US prisons, the Prison Rape Elimination Act was passed in 2003.

A specific recommendation of the Human Rights Watch report was that the National Institute of Corrections “should make an effort to collect, maintain and disseminate data relating to prisoner-on-prisoner sexual abuse”, in recognition of the fact that no national-level data were collected (Human Rights Watch, 2001, Section III: Recommendations to the National Institute of Corrections). The Prison Rape Elimination Act mandated the national Bureau of Justice Statistics to “carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape”, and thus the Survey of Sexual Violence was created (Rantala, 2018: 4).

Regular monitoring of the data facilitated a better understanding of sexual violence in prisons and led to further recommendations being made. In 2013 the Survey of Sexual Violence was renamed the Survey of Sexual Victimization, to move further in line with national standards developed as a result of the Prison Rape Elimination Act. Definitions were updated and questions about inmate-on-inmate sexual harassment were added. Demographic information was widened to include transgender and intersex categories.

Data gathered from the surveys continue to feed into policy-making. The Bureau of Justice Statistics uses uniform definitions for each sexual act and investigative outcome. Each sexual act is classified by the type of perpetrator (i.e. inmate or staff) and type of act. Some examples of data collected on sexual victimization in places of detention include:

- ✦ percentage of prisoners reporting one or more incident of sexual victimization by another prisoner since admission
- ✦ percentage of prisoners reporting one or more incident of sexual victimization by a staff member since admission
- ✦ data disaggregated and analysed by gender (female/male/transgender) and ethnicity
- ✦ data on those in both short-term detention facilities (jails) and long-term centrally managed detention facilities (prisons).

Sources: Human Rights Watch (2001) “No escape: Male rape in U.S. prisons – Summary and recommendations”, www.hrw.org/reports/2001/prison/report1.html#_1_6 (accessed 17 October 2019); R. R. Rantala (2018) “Sexual victimization reported by adult correctional authorities, 2012–2015”, July, Washington, DC: Bureau of Justice Statistics of the US Department of Justice.

4.2. Guidance for places of deprivation of liberty

Staff selection and ongoing training

While in some countries places of deprivation of liberty for women do have men working directly with the women and managing the institution, the Mandela Rules (Rule 81) are clear that a female institution should be led by a woman and there are certain areas of the establishment which men should not enter. This has implications for recruitment of staff. Some countries have introduced targets and quotas for the number of female staff required.

Training for staff has historically been the same whether the staff member is due to be deployed to a place of deprivation of liberty detaining women or men, and staff could be moved between such institutions without any further training. Some states have introduced specific training for working with women in detention as being mandatory before deployment to work with women (see Box 8). This approach is important, because it asks the staff member to think from the outset (or fundamentally rethink, if they are being redeployed to a women’s facility from a men’s facility) about what it means to work with

women in places of deprivation of liberty, rather than apply the same or assumed practices that are applied to working with men in these contexts.

Box 8: Women-centred training in Canada

The Correctional Service of Canada highlights recruitment and training as key components of its strategy related to women offenders, including the following.

- ✦ Prison staff are recruited to work in either women's or men's prisons. The officers have the same classification and pay grade, but cannot deploy from a male estate to a female estate without specific women-centred training.
- ✦ Specialized components or unique positions for women's prisons include primary workers (correctional officers specific to women offender institutions) and behavioural counsellors (an intervention role specific to women offender institutions).
- ✦ Staff who work with women offenders are required to participate in "women-centred training" to develop knowledge specific to working with female offenders. This training lasts one to eight days, depending on the role of the staff member. The objectives of the training are for participants to demonstrate an understanding of women offender issues and demonstrate their ability to:
 - ✦ set boundaries, mediate and problem solve
 - ✦ recognize the right balance between empowerment and the safe and secure reintegration of women offenders
 - ✦ work from a trauma-informed perspective.

Source: A. Nolan, A. Harris and D. Derksen (2017) "An assessment of the Women-Centered Training Orientation Program", Research Report R-385, Ottawa, ON: Correctional Service of Canada.

As well as training staff to implement gender policies with the populations they supervise, applying a gender perspective to their own experiences and opportunities as staff members is important. In some places of deprivation of liberty, staff networks represent the interests of specific groups, such as female staff, LGBTI staff and staff from ethnic minorities or with disabilities. Where groups are given the time and space to discuss issues related to their situation, individuals may feel more comfortable to express their concerns openly and without reprisal, and these concerns can be raised as a collective to the managing authority.

Equally, creating prisoner or detainee forums can be a constructive way within individual places of deprivation of liberty to hear the concerns of those detained there. More specifically, it can help staff to gain a regular and improved understanding of concerns related to intersectional forms of discrimination and vulnerability. For example, holding a regular "older prisoners' forum" in a men's prison, or a discussion group for women with disabilities, will allow the institution to have a better understanding of particular gendered concerns that may otherwise be overlooked.

Infrastructure and accommodation

Many places of deprivation of liberty have been built in previous eras; many are ex-colonial buildings or converted from buildings meant for other purposes. In the vast majority of cases the institutions that house people temporarily or for extended periods of time have not been built with the gendered needs and responsibilities of women or men in mind (see Mandela Rules, Rule 11).

There are several common mistakes made by those constructing new facilities, some of which are highlighted in Box 9.⁴

Box 9: Common mistakes in prison management

- ✦ Using unnecessary security measures compared to the actual risk posed by prisoners, thereby reducing prisoners' quality of life.
- ✦ Mixing too many categories of prisoners within one prison. As a result, prison staff will find it challenging to achieve complete separation.
- ✦ Locating prisons in remote/unsuitable areas. Prisoners are often separated from their families and potential community resources that can assist in their rehabilitation and resettlement.
- ✦ Lack of hygiene facilities and drinking water in cells.
- ✦ Not incorporating facilities for vulnerable prisoners and those with special needs, such as mothers with babies and prisoners with disabilities.
- ✦ Making non-contact visits the default visiting arrangement, and preventing prisoners from having physical contact with their families.
- ✦ Not having sufficient infrastructure to support the rehabilitation of prisoners

Female prisoners are often placed in institutions that were built for male prisoners, or held in annexed parts of male establishments. Taking into consideration the differences in women's pathways, needs and responsibilities highlighted throughout this Tool, specific choices should be made when planning and constructing places of deprivation of liberty for women and girls. Key points to consider include the following.⁵

Appropriate logistics*

- ✦ Locate in close proximity to community service providers so that positive linkages with family and formal support systems can be initiated or maintained during incarceration, with continuity upon release.
- ✦ The facility design should provide opportunities for fostering positive relationships that support emotional healing and positive self-esteem, which is important for all, but critical for prisoners with trauma histories.
- ✦ Localized small housing units are advisable, but any larger institutions should be configured to provide a more intimate scale. This can be achieved by developing smaller housing-unit "clusters" within the building or a campus setting with housing-unit cottages that operate on a smaller scale.⁶

See Mandela Rules, Rules 28 and 29.

Non-threatening intake and admission

Initial admission into a facility is a particularly stressful time for those deprived of their liberty, and can be felt even more intensely by women and men who have experienced trauma or ill treatment at the hands of authorities. A specific aim to reduce anxiety and ensure dignity should be incorporated when designing spaces that receive new admissions. Examples of good practice include the following.

- ✦ Use open seated waiting areas, rather than holding cells.
- ✦ Ensure interview rooms maintain privacy, to facilitate an environment where the new detainee or prisoner will be more likely to disclose important but sensitive information.
- ✦ Search areas should balance security necessities with visual privacy.
- ✦ Showers and changing areas must be out of direct view of other detainees and shielded in a manner that provides privacy without compromising necessary supervision. A partial screen that reveals head and feet can accomplish this when positioned correctly.

* For in-depth specific guidance on prison infrastructure, including details on mother-and-baby units, see UNOPS (2016) *Technical Guidance for Prison Planning*, Copenhagen: United Nations.

Some prisons have introduced a “first-night centre” with specially trained staff available to reduce stress as far as possible, so that new prisoners are kept separate from the rest of the population for the first night, when people often feel suicidal. See Box 10 for a slightly different model used in Albania.

See Mandela Rules, Rule 24.

Box 10: Waiting commission and positive environment in Albanian places of deprivation of liberty

In both pre-trial and prison settings, a “waiting commission” admissions team determines the needs of each detainee or prisoner. The policy is applied to women and men, but is more thorough for female prisoners. This multidisciplinary admissions committee is made up of a psychologist, social worker, medical doctor and security representative, with each writing a plan for the individual’s welfare, highlighting signs of anxiety, depression and other mental health issues.

Ali Demi women’s prison is set within an old military barracks, yet it has been transformed into an attractive low-security prison with a village-like atmosphere. There are green spaces and, as it is a low-security facility, the doors are never locked. The compound is decorated tastefully and with colour, and the women can decorate their dormitories and the communal spaces with self-made furnishings and pictures. There is also a counselling room, a dining room and a library with computers and space for studying.

Source: T. Rytter, J. Baker and Dignity (Danish Institute against Torture) (2014) “Conditions for women in detention: Needs, vulnerabilities and good practices”, Copenhagen: Dignity.

Housing units that support relationships and promote a positive sense of self

Smaller houses that facilitate supportive relationships are preferable, and multilevel units should be avoided. Large dayrooms should be broken up into smaller groupings, either by initial design or by subsequent arrangement of furniture. Where facilities are harsh and distressing, they can limit the recovery and affect the mental stability of those being held there. Such settings can perpetuate and aggravate existing mental health conditions and “heighten vulnerability and increase the risk of self-harm and suicide”.⁷

Accommodation should feel as normal as possible. Natural light, colour, sound-attenuating materials, carpeting, upholstery, moveable furniture, wooden doors, texture and even houseplants are some of the physical characteristics of normative design which do not require large amounts of resources and can be cheaper than usual prison design. Outside spaces should feel calming and facilitate regular unstructured reflection time by being placed close to the housing unit. Larger outdoor areas should have some greenery, and should be able to accommodate active and relaxed recreational activities and exercise.

Pre-trial detention and initial contact

Pre-trial detention can be a particular time of risk. The institutions which detain people while they are waiting for trial and before they have been found guilty differ between countries. Some countries have specific facilities, such as remand centres or jails; some use detention at police facilities; and in others detainees are held in the same buildings or even the same cells or dormitories as convicted prisoners.

In comparison to those who have been convicted, people held in pre-trial detention often experience worse conditions and treatment. “Torture, overcrowding, and disease are rampant. Even in developed countries, so few resources are dedicated to pretrial detention that access to food, healthcare, a bed, or exercise is severely constrained.”⁸ Pre-trial detainees are also less likely to be segregated by age and gender, leading to greater risk of harm.⁹

It is therefore of huge importance that institutions holding people awaiting trial and authorities responsible for questioning detainees embrace a gender perspective and apply the concept to all areas of policing.*

New approaches to integrating a gender perspective have recently been piloted with people deprived of liberty while in custody for initial questioning and during pre-trial assessment and detention (see Box 11).

Box 11: Implementing a gender perspective during pre-trial assessment in Kenya

Context analysis

To provide a strong understanding of the specific situation in Kenya for women in contact with the justice sector, the Kenya Probation and Aftercare Service partnered with Penal Reform International to complete a detailed contextual analysis.

On the basis of this context analysis report, the Kenya Probation and Aftercare Service was able to identify several areas of possible improvement. It decided to focus on pre-trial assessment as one of the areas that could have the greatest impact.

Adaption of tools and approach

During the pre-trial stage, probation officers interview defendants deprived of liberty in police stations, at court and in prison to provide a report and recommendations to the court. The guidance for conducting these interviews and the assessment tools used to gain information from the accused were deemed to be gender neutral and to overlook the needs and responsibilities of women.

The tools and guidance were redesigned to be gender responsive by explicitly gathering information about women's health and sanitation needs, and their parental and other care-related responsibilities. For example, previously a female defendant would not have been asked about the consequences for her children if she was to be found guilty, or whether she was pregnant, as her questioning was the same as that for men.

Probation officers were also trained in the importance of the Bangkok Rules and a more open questioning style, which allowed the women interviewed to feel more at ease and divulge information about their situation and the context surrounding their alleged offence.

Impact

The new methods allowed for greater information collection. Magistrates reported a significant increase in the quality of reports, which included relevant mitigating factors that allowed them to decide on non-custodial sentences more often. Probation officers also noted that the gender-responsive approach allowed them to build better working relationships with the female defendants, which meant they could give improved recommendations for women's rehabilitation. An additional unforeseen positive impact was that probation officers started to take the same gender-responsive approach to male defendants. This led to an improved understanding of and recommendations for men, which took into consideration the specific needs and responsibilities of the individual.

Source: O. P. Khan (2018) "Introducing a gender-sensitive approach to pre-trial assessment and probation: Evaluation of an innovation in Kenya", Probation Journal, 65, pp. 184–200.

* See Tool 2 for guidance on integrating a gender perspective in policing.

Other useful resources include DCAF, OSCE, OSCE/ODIHR (2014) "Integrating gender into internal police oversight" and UN Women (2015) "Module 3: Justice and policing", in *Essential Services Package for Women and Girls Subject to Violence: Core Elements and Quality Guidelines*, New York: UN Women, UNFPA, WHO, UNDP and UNODC.

In terms of initial entry into the prison system, interviews with women prisoners have found that the two issues causing them most concern upon admission are arranging care for children left outside and search procedures, which they find to be degrading.¹⁰ While each individual's situation will be different with regards to making arrangements for their children's care, those who have been primary caregivers up until that point should be given the means to communicate with the necessary parties during the entry process, to ensure the safety of their dependants. It may be possible to allow for a delayed sentence, to enable caregivers to make suitable alternative arrangements for dependants. (See the "Visits and community contact" section below for more information on communication with the outside world.) The interviews also highlighted the need for well-trained staff working from a gender perspective, as well as "for comprehensive medical screenings, and screenings for abuse, and for an atmosphere and process that attempts to reduce stress and orient women in ways that they understand".¹¹

Transfer

Movement of people between places of deprivation of liberty, such as between police stations, courts, prisons, hospitals, etc., can be a time of risk. Transfer is often overlooked as a point in procedures that requires a gender-responsive approach. Women (including transgender women) can face heightened risk when transferred together in the same vehicle with men, and can be exposed to verbal, physical and sexual violence.¹² Female and male detainees should always be transferred separately. As with staffing in institutions, female prisoners should only be escorted by female staff throughout the transfer process.

The Bangkok Rules note that restraints should only be used during transfer where completely necessary. Nonetheless, "in some countries body restraints, such as shackles, are used on pregnant women during transfers to hospitals, gynaecological examinations and birth".¹³

Staff conducting transfers are sometimes from different or private organizations* that do not fall under the staffing of the main institutions and therefore do not receive the same training. It should thus be ensured that all staff conducting transfers are appropriately trained in implementing a gender perspective. This aspect of deprivation of liberty should receive the same attention with regards to monitoring and inspection as all others.

Searching

Searches can be humiliating for all people subjected to them. However, the additional factors of male-dominated power relations and socialized ideas about the female body, as well as the greater likelihood of previous experience of SGBV as a woman, mean that the impact of searching women is more profound and more likely to trigger previous trauma.

Specific guidelines should be devised and implemented from a gender perspective to avoid humiliation and reduce the risk of ill treatment at this vulnerable time. Policies should take into consideration the cultural and religious diversity within the target population, and make reasonable adjustments to ensure all individuals can comply with security procedures while maintaining their dignity and without experiencing discrimination. Institutions should consult directly with minority ethnic and religious groups to come to an understanding about what is culturally appropriate, rather than applying the same procedure to everyone.

Male staff should be specifically prohibited from performing any type of personal search on women and girls, including pat-down searches, strip searches and invasive searches. Searches of women should be carried out away from the presence and sight of men. Pregnant women and girls should never be subjected to vaginal searches, and management should ensure that there are a sufficient number of trained female staff members available to carry out searches of female detainees or prisoners.¹⁴

* For guidance on ensuring appropriate gender training of staff contracted from the private sector see this Toolkit's Policy Brief on "Gender and Private Security Regulation".

Physical searches can be a time of increased risk of discrimination and ridicule for LGBTI individuals. A specific policy related to the needs of people of diverse sexual orientation and gender identity should be developed and implemented from a gender perspective (see Box 12). It is important that searching of transgender and intersex individuals is not decided on the basis of their sex at birth, current legal documentation or any assumed preference, but that individuals are consulted about whether they would feel more comfortable being searched by a female or male member of staff.*

Box 12: Scotland's guidance on searching transgender prisoners

The Scottish Prison Service has issued a series of short films designed to provide guidance to prison staff on searching transgender prisoners. The films demonstrate a promising practice, in that they outline issues around the arrival of a transgender prisoner and make it clear why a gender-responsive approach is so important. The series includes separate films to demonstrate the search of a trans man and a trans woman; these were produced in conjunction with the Scottish Trans Alliance and the Equality Network.

The Scottish Prison Service Gender Identity and Gender Reassignment Policy stipulates that people in custody should be body searched in accordance with their wishes. The person in custody must be asked which sex they wish to be searched by, their answer recorded and the body search conducted accordingly.

Source: E. M. Wright, P. Van Voorhis, E. J. Salisbury and A. Bauman (2009) "Lessons from the NIC/UC Gender-Responsive Classification Project"; Women, Girls & Criminal Justice, 10(6), pp. 81–96.

Risk and needs assessment

As discussed throughout this document, female detainees and prisoners are considerably different from male detainees and prisoners, yet these differences are frequently overlooked when applying tools to understand risk and need. Instead, assessment tools often designed decades ago for application to men are applied to women with little or no change.

Areas in which women and men commonly differ and which should be taken into consideration when assessing risk and need include:¹⁵

- ◆ background characteristics
- ◆ the offences that bring them to prison
- ◆ the danger they pose to prison security
- ◆ their specific gendered needs and responsibilities
- ◆ the factors that led them to be deprived of their liberty.

Specific tools, such as the women's risk need assessment (WRNA), should be used to assess the needs and risk of female detainees (see Box 13).

Great caution should be taken when making decisions on allocation to places of deprivation of liberty for transgender individuals. In every case the individual should be consulted on where they would feel most safe, and decisions taken on their placement and protection should be taken with their informed consent.¹⁶

In many cases the decision on where to allocate transgender individuals is based purely on the individual's determined sex at birth. As noted by the Subcommittee on the Prevention of Torture, "the absence of appropriate means of identification, registration and detention leads in some cases to transgender women being placed in male-only prisons, where they are exposed to a high risk of rape, often with the complicity of prison personnel".¹⁷

See Mandela Rules, Rule 7(a).

* For more guidance on searching see Bangkok Rules 19–21 and OSCE/ODIHR and PRI (2018) *Guidance Document on the Nelson Mandela Rules: Implementing the United Nations Revised Standard Minimum Rules for the Treatment of Prisoners*. The guide covers topics including ensuring safety and security and respecting human dignity and privacy; specific protections for strip and body-cavity searches; record keeping; and women, LGBTI individuals and children.

Box 13: Women's risk need assessment

Developed in the USA, WRNAs are actuarial risk assessment tools delivered from a gender perspective and created to account for women's risk factors, or criminogenic needs, associated with recidivism and future misconduct. Actuarial risk assessments are numerical scoring tools used to help correctional agencies classify offenders, and consequently place them in appropriate custody levels and relevant treatment programming based upon their predicted risk for misconduct or reoffending. WRNAs were developed in response to the call for strategies that consider the specific needs of women through trauma-informed approaches.

The process of conducting a WRNA involves a case file review, a semi-structured interview, a written survey and a case management treatment plan. There are three versions of the WRNA, for women entering prison, pre-release and on probation. In addition, the WRNA includes factors that research has shown to be effective at predicting women's and men's recidivism; for example, past and current substance abuse, criminal history, employment and financial stability, educational strengths and needs and antisocial attitudes.

WRNAs have been successful at predicting recidivism, showing the effectiveness of assessing women in this way. Specifically, items on the WRNA showed statistically significant positive correlations with measures of reincarceration, technical violations, new arrests and new convictions.

The WRNA tool has now been rolled out in multiple jurisdictions across the USA. Other states including the Czech Republic, Namibia, Singapore and Switzerland have investigated how the WRNA can be applied to their specific contexts.

Sources: University of Cincinnati (2010) "Women's risk factors and their contributions to existing risk/need assessment"; Criminal Justice and Behavior, 37(3), pp. 261–288; B. Boppre and E. J. Salisbury (2016) "The women's risk needs assessment: Putting gender at the forefront of actuarial risk assessment"; blog post, Penal Reform International, 12 April, www.penalreform.org/blog/womens-risk-needs-assessment-putting-gender-forefront-actuarial/ (accessed 17 October 2019).

Health

Overall, as well as having higher rates of mental health issues than the general population, prisoners are at increased risk of all-cause mortality, suicide, self-harm, violence and victimization.¹⁸ It is therefore vital that persons deprived of their liberty maintain access to healthcare at least to the standard available in their community.

There are clearly many additional health considerations for places of deprivation of liberty working with women and girls, yet these are often overlooked or ignored. Box 14 lists some good practices in relation to supporting women's physical and mental health. Moreover, both the Mandela Rules and the Bangkok Rules make clear statements on the treatment of women and girls while pregnant, during giving birth and in a post-natal context.

See Mandela Rules, Rule 48(2).

Many people who are detained will have ongoing health concerns and treatments. It is therefore extremely important that any detention, however temporary, does not undermine an individual's ability to receive treatment. The Pan-American Health Organization (PAHO) has identified HIV treatment as a particular concern, and this should be fully integrated into the primary healthcare of the detaining institution.¹⁹

Box 14: Promising initiatives in the management of women's physical and mental health in Australia

- ✦ Development of a national set of health indicators for prisoners, including specific measures for women, such as the proportion who report being pregnant.
- ✦ Establishment of a dedicated facility for women with complex psychological issues.
- ✦ Provision of timely and relevant health screening, e.g. breast checks and cervical screening, and introduction of ultrasound clinics and dedicated drug-free units.
- ✦ Measures to meet specific nutritional needs of pregnant and lactating women.
- ✦ Availability of drop-in health services and provision of a broad range of onsite medical services, including general nursing, GPs, psychiatrists, dentists, opticians, podiatrists, mental health nursing and pharmacotherapy.
- ✦ Health promotion programmes, for example smoking cessation, diabetes prevention and heart health, as well as provision of information on blood-borne diseases.
- ✦ Provision of pharmacotherapy treatments for prisoners upon release.
- ✦ Efforts to ensure treatment for existing healthcare needs are transitioned into the community, and liaison with community healthcare networks is promoted.
- ✦ Measures addressing needs of special groups, e.g. indigenous or older women.

Source: Lorana Bartels and Antonette Gaffney (2017) "Good practice in women's prisons: A literature review", Technical and Background Paper No. 41, Canberra, CT: Australian Institute of Criminology, p. 50.

The PAHO notes that a lack of gender-mainstreamed policy protecting transgender people in prison increases their vulnerability while restricting their access to appropriate care. Specific needs of transgender persons related to gender affirmation are often dismissed as purely "cosmetic" concerns with no relationship to health. Special attention is needed to ensure transgender people receive the healthcare they require: for example, it is important that transgender people who are in the process of receiving hormonal treatment continue to have access to hormones, including supervision by appropriately trained medical staff and medical care to address the potential health effects of hormone therapy. Persons who have undergone surgical modification of their bodies should have access to adequate care. Persons who have not undergone treatment but seek to do so while incarcerated should be able to access such procedures through health services provided by prisons.²⁰

Rehabilitation programmes and vocational training

In many locations women and girls do not have the same access to rehabilitation programmes, education or vocational skills training as men and boys. In some cases this means that those with sentence plans are unable to fulfil the criteria that will allow them to be released to the community. It also limits women's ability to find legal and meaningful ways of sustaining themselves financially upon release, compared to those who have been able to access support.

Offending-behaviour and substance-misuse programmes should not just be replicated for women, but fundamentally rethought for what is most appropriate and effective from a women-centred gender perspective. Staff conducting these programmes should be cross-trained in substance abuse, trauma and mental health, and adequate resources must be provided for these services.²¹ Treatment and rehabilitation should be holistic, and recognize that people are likely to face multiple issues that intersect and will affect their reintegration.

As noted in an evaluation of programmes from Australia, this means that:

... assessments and interventions should not be single issue focused. In other words, effective treatment of any one issue is likely to involve treatment of other issues. A woman with a housing problem, for example, may not progress unless issues relating to drug use, an abusive partner and relationships with her children are also addressed.²²

Programmes should be localized and made appropriate for the women, men, boys and girls in that particular context, acknowledging the diversity of cultures within the population and ensuring there are appropriate means to allow all women and girls equal access. Young people should also receive education around puberty and sexual maturation, with access and appropriate introduction to sanitary products and sexual health advice.

Women are generally accused and convicted of economically motivated crimes at a higher rate than men, and many have further caring responsibilities to consider when they leave prison. For example, in China an analysis of the crime statistics found that 67 per cent of men surveyed on pre-trial detention had been accused of an economically motivated crime, but this figure was 87 per cent for women.²³ Research from Argentina found that 85 per cent of the women surveyed were convicted of economic crimes, and of those women, 75.6 per cent were the primary income earners for their households.²⁴ However, in many cases the only vocational training or skills development available is steeped in traditional ideas of what a woman's role should be. The programmes neither challenge gender inequality nor help to provide a viable way for women to develop and succeed in the world of work.

It is therefore of great importance that women receive assistance while in places of deprivation of liberty to give them a viable means of earning money when they rejoin the community (see Box 15).

Box 15: Usable skills development for women in prison in Hong Kong

The Industries and Vocational Training Section of the Hong Kong Correctional Services Department creates a real-world working environment for prisoners. It helps them to develop healthy and responsible working habits while assisting them to practise their useful skills to earn a living. A representative from the Correctional Services Department stated that 80 per cent of female ex-offenders are able to find a job.

Rather than offering training based on gendered expectations, vocational training programmes are available based on the skills and interests of the individual. Examples of training courses include electrical installation, office and commercial practice, and food and beverage services. Courses can lead to exams under external accreditation bodies – such as the City and Guilds and the Construction Industry Council – which do not connect them to the correctional facility and help to avoid stigmatization.

Source: B. Thongmark (2016) "Rehabilitation service: Good practice from Hong Kong Correctional Services Department", Thailand Institute of Justice, TIJ Quarterly, 3, p. 14.

Even where there are programmes available for women in places of deprivation of liberty, access to the programmes or work can be a huge problem for women who have children with them in detention. Some places of deprivation of liberty have enabled women with children in detention to gain access to work, education and respite by finding ways to care for the children while the mother accesses the relevant programmes (see Box 16).

A commonly overlooked issue is that staff working within places of deprivation of liberty have difficulties and responsibilities similar to those of the people whom they supervise, and their living conditions and lack of access to assistance may be similar. Some places of deprivation of liberty have taken this into consideration, and allow staff to use medical

Box 16: Access to programmes for mothers with babies in Georgia

As part of a project to improve services for women in prison who have experienced violence and discrimination and their vulnerable children, in Georgia measures were introduced to allow women with children in prison to access opportunities for self-improvement.

Twice a week a dedicated childminder supervises the children of women in prison, allowing the mothers time to attend rehabilitation and offending-behaviour courses, training or education courses, or for respite or to attend to other important matters. The childminder also provides advice on child development and upbringing. A psychologist from the Georgian Association of Professional Psychologists visits once a week and conducts individual and group sessions. Psychologists said the most notable impact of their work with the target group was that women are given a space for emotional release and expression. The counselling provides them with hope and a feeling that they are not alone, as well as helping them become more self-assured and assertive.

In an evaluation of the project, the mothers interviewed said both the psychologists and the childminder were very helpful. Respondents from the Ministry of Corrections and the National Probation Agency also commended the work of the childminder in allowing mothers time for rehabilitation and looking after their own needs, and mothers commented that they would like this to happen even more.

Source: J. Rice and N. Shatberashvili (2018) "Supporting the improvement of service provision for women offenders who have experienced violence and discrimination and their vulnerable children", London: Penal Reform International, May, p. 17.

or library facilities as well as detainees, although there are usually separate and allotted times. For example, after a daycare centre was introduced in a women's prison in Hyderabad, Pakistan, to allow children to receive schooling and give mothers a chance to engage in other activities, staff expressed their need and desire to have this service available for their children. The prison director listened and consented to the requests. Staff showed no hesitation about their children studying side by side with children of prisoners, and the children are able to play, learn and grow together as a community.²⁵

Where staff believe in and appreciate a project, there is a much greater chance of long-term success. It is thus advisable, where appropriate, to offer assistance to staff, and to apply a gender perspective in doing so.

Visits and community contact

A recent study revealed that prisoners felt the worst depression and lowest sense of morale in prisons where authoritarian structures and negative staff–prisoner relationships were reported, and women felt stigmatized and isolated from caring relationships. The opposite was true when facilities connected prisoners with the outside community, “from NGOs and spiritual organisations to family members and children – and gave them the tools to cope, communicate and prepare for the future”.²⁶ A study in England and Wales suggested that prisoners visited by family or friends are less likely to reoffend (52 per cent) than those who do not receive visits (70 per cent).²⁷

Policies for visits should actively promote family contact and help to create connections to the community. It should never be forgotten that visits, especially with close family members, are not to be regarded as privileges but rather as a basic human right.²⁸

It is important to provide a safe women-only space in prison where prisoners can meet with visitors, as this can “build self-esteem and propel many female prisoners to turn their

life around”.²⁹ As many countries do not have sufficient detention facilities to allow women and girls to be detained close to their local community, many female prisoners lose out on regular contact with family and friends who might otherwise have visited them. Institutional authorities should introduce reasonable adjustments to policies, such as allowing for longer visits when family and friends are able to come, or designating a greater amount of telephone credit to those away from their home community (including foreign nationals). In the Philippines, for example, women can receive visitors for at least three hours during the week and for longer with their children at weekends. Visitors are not restricted to one room but move freely within the communal areas, improving the facilitation of normalized and relaxed relationships.³⁰

It is also important for prison management to facilitate whatever modes of communication are available, such as letter writing, phone calls, video calls, etc., but these modes of communication should never be designated *instead* of in-person visits.

See Mandela Rules, Rule 58, for further guidance on “contact with the outside world”.

Women in prison are more likely to have responsibilities as primary caregivers than men. It is especially important that prisoners who are primary caregivers should be given the opportunity to maintain links with their children left behind. Whenever possible, primary caregivers should be allowed to leave prison for short periods to be with their families. When the children visit the prison, as much contact as possible should be allowed, as well as privacy. Visits between primary caregivers and children should always allow physical contact. They should never be closed or non-contact visits with some form of screen or physical barrier separating the participants. If possible the visits should last for a whole day.³¹

Conjugal visits (along with condom availability) remain uncommon, but are provided for in some countries.³² Where they are allowed, the criteria for women to receive conjugal visits are often stringent, e.g. the need to demonstrate good behaviour, that their partner is their husband or a stable partner and that they are free of sexually transmitted infections. Men rarely have to meet such criteria in order to receive conjugal visits.

Same-sex partner conjugal visits are incredibly rare, and further advocacy work is needed in this area (see Box 17).

Box 17: Equality in conjugal visits in Costa Rica

In October 2011 the Supreme Court of Costa Rica ruled in favour of a detainee who had lodged a complaint about discrimination in the rules of the penitentiary system, which stated that “intimate visits” could take place only with a person of a different sex. Homosexual detainees in Costa Rica now have the possibility of intimate visits on an equal basis with heterosexual detainees.

Source: J.-S. Blanc (2015) “LGBTI persons deprived of their liberty: A framework for preventive monitoring”, 2nd edn, London and Geneva: Penal Reform International and Association for the Prevention of Torture, p. 13.

Points to remember

It is important not to assume that a prisoner will want to see every person who comes for visits. For example, women may be visited by previous abusers, and this can cause ongoing or retraumatizing effects.

Always ask the detainee whether she or he wants to receive the visitor, and note specific individuals not to be permitted in advance.

Post-conflict and post-disaster contexts

Particular difficulties arise when a state is recovering from a period of conflict or natural disaster. Allocating resources to places of deprivation of liberty is often low on the government and donor priority list. However, rebuilding infrastructure and recruiting new staff can provide an opportunity to integrate a gender perspective from the foundations up. It is important that the relevant state administrative body accepts the need for detention facilities which keep all women, men, boys and girls safe and healthy and maintain their dignity, acknowledges that differences in approach will be required for different population

groups, and allocates sufficient resources for these purposes. Maintaining safety and security is a priority in such situations, thus providing separate accommodation and sanitation facilities for women and men is vital.

It is important to be aware that sexual violence may have been used during the conflict, and this must be considered when understanding the needs and roles of women and men in post-conflict places of deprivation of liberty. It is very important to ensure that women deprived of their liberty are supervised only by women, and retraumatizing processes such as body searches are kept to a minimum and conducted only when strictly necessary.

The rebuilding of prison infrastructure, systems and processes can sometimes involve international aid agencies and NGOs or foreign government forces. Training for external parties will be required to ensure all those involved are aware of what is culturally appropriate and therefore act with awareness and sensitivity.*

Places of deprivation of liberty outside the criminal justice system

As well as those in prisons and police custody, hundreds of thousands of people across the world are deprived of their liberty in refugee camps, immigration centres and other facilities. There are many similarities between these situations and those within criminal justice places of detention, whether they are formal institutions or temporary structures and collectives. Such similarities include overcrowded accommodation, limited opportunities for work and high levels of stress. Thus integrating a gender perspective in these settings can also help to facilitate gender equality and reform.

In refugee camps, in many contexts women are expected to gather water and firewood. This activity has often exposed them to SGBV attacks by militants, locals and sometimes men and boys from the camp. Initiatives to improve the safety of women and girls in refugee camps have provided access to affordable, reliable, sustainable energy services, reducing the need for women and girls to move to or through areas of risk.³³ However, this can have the negative effect of restricting women's free movement within the camp. Further efforts need to be made with the men and boys of the local communities, military or supervising forces, NGOs and those within the camps to acknowledge SGBV and prevent it. An example of such an effort comes from Jordan (see Box 18).

Box 18: Engaging men and boys in SGBV prevention in Jordan

Located in northern Jordan, Zaartari refugee camp had a population of over 80,000 Syrian refugees. Among the many problems identified as affecting the refugee population were the high levels of SGBV, including domestic violence, early and forced marriage and sexual violence.

In response, Arab Renaissance for Democracy and Development carried out workshops with around 200 men and boys from a cross-section of demographics across the camp. The programme consisted of two workshops of two hours each where small groups would come together. The first was focused on psychosocial support for the men, and the second addressed SGBV.

Participants were asked a range of questions before and after the programme. It was found that the initiative had an impact by:

- ✦ building resilience, e.g. those who felt confident in dealing with psychological distress increased from 55 per cent to 78 per cent
- ✦ increasing understanding of SGBV, e.g. the proportion of men who understood that more women than men are victims of SGBV increased from 57 per cent to 82 per cent.

Source: ARDD-Legal Aid (2016) "Four pillars for engaging men and boys in SGBV prevention in Zaartari refugee camp", Amman: Arab Renaissance for Democracy & Development.

* For more details on gender in post-conflict justice contexts see C. Reiger (2014) *Improving Women's Access to Justice During and After Conflict: Mapping UN Rule of Law Engagement*, New York: UN Women and UNDP; UNDPKO, UNODC and UNDP (2014) "A prison evaluation checklist for post-conflict settings", New York: United Nations; UNODC and US Institute of Peace (2011) *Criminal Justice Reform in Post-Conflict States – A Guide for Practitioners*, Vienna: UNODC.

4.3. Guidance for civil society*

Each country is responsible for the conditions and treatment of all those deprived of their liberty by the state. Many countries outline this responsibility in a “duty of care”. This does not mean, however, that the greater community within any country cannot add important value to the smooth running of and improvements to the justice and security systems that deprive people of their liberty. In fact, NGOs play a number of vital roles, such as providing independent oversight of the treatment and conditions within places of deprivation of liberty, highlighting the needs of vulnerable groups, providing expert knowledge in particular subject areas and capacity building of institutional staff, facilitating offending-behaviour and substance-misuse rehabilitation programmes, and making policy recommendations informed by evidence-based research.

Civil society can therefore aid positive reform and the introduction and evolution of gender perspectives within places of deprivation of liberty, especially where resources are limited for state institutions. Yet this should in no way reduce or negate the responsibility held solely by the state to keep all those in its care safe from harm.

Independent oversight and monitoring

Organizations that provide independent scrutiny of conditions within places of deprivation of liberty and the treatment of the people held therein are a vital cornerstone of any system hoping to ensure sustainable and equitable humane treatment of all such people. Recommendations from independent monitoring and oversight bodies should be fully considered and rendered part of governmental action plans, alongside recommendations from internal inspections (detailed in section 4.1).

The Bangkok Rules highlight the importance of the inclusion of female members in inspection teams to “help ensure that the provision of services addressing women prisoners’ specific needs are properly inspected by a person of the same gender, as well as encouraging the receipt of complaints from women prisoners, who may feel inhibited in coming forward if all members of the monitoring body were to be male”.³⁴

Institutional internal monitoring and auditing systems are important for regular self-evaluation, but assessment from independent sources with expert knowledge provides more objectively reliable results. The Mandela Rules provide for regular monitoring by both internal and external bodies. The UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 33 on women’s access to justice, also calls for the creation of independent organizations to provide oversight.³⁵

There are many different methods of external oversight at the local, national and international levels, including the following.

- ◆ National Preventive Mechanisms (NPM)s: the national component of the preventive system established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. NPMs are mandated to conduct regular visits to all types of places where persons are deprived of liberty. These visits should lead to recommendations to improve the protection of persons deprived of liberty. NPMs can also comment on laws and regulations, and propose reforms. Every year, NPMs publish an annual report on their activities and torture-prevention issues in their country.
- ◆ National human rights institutions or ombuds institutions (see Box 19 for an example).
- ◆ Inspectorates.
- ◆ Independent NGOs.

* For broader guidance on engaging civil society in governance and reform of the security sector see Tool 9, “Civil Society Oversight of the Security Sector and Gender”, in DCAF, OSCE/ODIHR, UN-INSTRAW (2008) *Gender and Security Sector Reform Toolkit*.

Box 19: The Prisons and Probation Ombudsman for England and Wales' independent investigation and recommendations for the care and management of transgender prisoners

The Prisons and Probation Ombudsman (PPO) is an independent organization that investigates deaths and complaints in custody.

The PPO noticed that although historically there had not been many complaints from or deaths of transgender people in custody, the numbers had been rising. In response, the PPO conducted research on the care and management of transgender prisoners, which resulted in a "Learning lessons bulletin".

Lessons learned as a result of speaking directly to prisoners included the following.

- ◆ Allegations of transphobic bullying and harassment should be meaningfully investigated so prisoners have confidence in the process.
- ◆ Officers should have regular, meaningful contact with transgender prisoners; staff should be aware of their vulnerabilities, and challenge inappropriate behaviour.
- ◆ Reasonable adjustments should be made for transgender prisoners to help them to live in their gender role when such adjustments can be made safely without compromising security.

The bulletin was timed to coincide with and complement an official Prison Service instruction to all staff on "The care and management of transgender offenders".

Sources: Prisons and Probation Ombudsman (2017) "Learning lessons bulletin: Transgender prisoners", London: PPO; National Offender Management Service (2016) "The care and management of transgender offenders", London: NOMS.

There is also a less formal, yet still important, way that civil society can be involved in monitoring places of deprivation of liberty. When the community regularly interacts with and enters places of deprivation of liberty in the roles of teachers, healthcare workers and religious and cultural groups, there is a greater chance that the community as a whole will feel that they understand what happens inside places of deprivation of liberty and less chance of impropriety on the part of the prison administration.*

Research and capacity building

In many cases there may be a desire to improve integration of a gender perspective within places of deprivation of liberty, but resources are not available. Civil society organizations may have access to financial, expert knowledge and time resources that are not accessible within state institutions themselves, and partnerships between state and civil society can become invaluable. Many university social science departments have experts who specialize in a variety of topics that can lead to valuable efforts to mainstream a gender perspective, including specialists in gender equality, prison education and rehabilitation, mothers in prison, the experiences of transgender prisoners, strategies to reduce SGBV, prison masculinities, etc.

Equally, there are many national and international NGOs and charities that work across specific thematic areas and can help to pilot new projects, highlight the positive and negative aspects and consequences of different models, and situate reforms in the local context (see Boxes 18, 20 and 21).

* For more information on internal and external inspection and monitoring see A. Coyle and A. Fair (2018) *A Human Rights Approach to Prison Management. Handbook for Prison Staff*, 3rd edn, London: Institute for Criminal Policy Research.

Box 20: Making training accessible for women in Pakistan

Training for prison officers often takes place in a central location where staff from several establishments come together to learn about reforms and exchange ideas and good practice. In Pakistan the Legal Aid Office, a public–private partnership and a project run by the Committee for the Welfare of Prisoners, became aware that female staff consistently missed out on such training. They noted that in some parts of Pakistan it is seen as culturally inappropriate for women to be away from family or stay away overnight. This can lead to female officers missing out on key training opportunities, limiting their professional development and promotion opportunities.

The Legal Aid Office therefore organized localized training in women's prisons in Karachi, Hyderabad, Sikkur and Larkana, so that travel away from home was not necessary and female staff could access the training. The training focused on gender equality, rights under the constitution, probation, parole, prison rules, family law and criminal law procedures.

Source: Legal Aid Office (2019) Lesson Plans 1–9, Karachi: LAO. Documents received in response to direct request for information to Pakistan Legal Aid Office.

Support for long-term progress

Some organizations have found ways of improving the situation for women in the short term and also advocating for long-term improvement of gender equality. Change does not happen overnight, and while this Tool does include examples of simple changes that can have swift effects to improve gender equality in places of deprivation of liberty, changing deeply ingrained beliefs requires a long-term strategy. State and institutional officials need to be engaged in the reform, but civil society can also be a driving force for change in wider reform areas.

Box 21 presents an example of such a long-term effort. This was a combined effort of civil society, prison staff and politicians to introduce legislation to reduce SGBV in prisons.

Box 21: Efforts to reduce prisoner rape in South Africa

A group of three staff members from one prison started a local initiative, called Friends against Abuse, in 2000 in response to their outrage at the normalization of rape at an all-male institution. The group gained support from other local businesses and collectives, and in 2004 took an ambitious plan to the South African parliament. The first-ever parliamentary meeting on the topic of prisoner rape was held. Their ideas received opposition as well as support.

At around the same time Friends against Abuse reached out to Just Detention International (then known as Stop Prisoner Rape), based in the USA. As a result, Just Detention International developed a deep interest in South Africa and worked with local civil society organizations, especially the Centre for the Study of Violence and Reconciliation, which had published ground-breaking research on rape in South African men's prisons. Together the organizations started to work with the Department of Correctional Services to develop strategies to address the problem and raise awareness in parliament and other oversight bodies. The group collaborated with more local and international partners to continue to fight for change and raise awareness.

In 2008 the new Commissioner of Correctional Services held an event to explore and highlight the problem of prisoner rape. The commissioner invited Just Detention International and the Centre for the Study of Violence and Reconciliation to work with the department to address it.

In 2009 the Department of Correctional Services, Just Detention International and the Centre for the Study of Violence and Reconciliation drafted a policy mandating prisons to prevent, detect, respond to and document prisoner rape in correctional facilities. But following leadership changes at the department, the policy approval process was slow and difficult: it was only approved in 2013, after years of civil society Department of Correctional Services advocacy.

In the meantime, Just Detention International founded Just Detention International – South Africa and began a pilot project to test the suggested policies in one prison. It was not until 2017, three years after the pilot project, that the finally approved the rollout of the policy.

Just Detention International – South Africa continues to work with the Department of Correctional Services to support implementation of the policy, and offers training for officers (and staff who offer medical/psychological services, etc.) in:

- ✦ dynamics of sexual abuse and toxic notions of masculinity, misogyny and homophobia
- ✦ gender and sexuality
- ✦ how risk factors interplay with sexual violence
- ✦ trauma and how it manifests among people in detention
- ✦ the importance of compassionate listening versus purely cold security fact finding
- ✦ legal framework – duty of Department of Correctional Services to prevent abuse in places of deprivation of liberty.

Source: Information for this case study was taken from a forthcoming publication kindly provided by Just Detention International – South Africa. It will appear on its website in future: <https://southafrica.justdetention.org/>.

Endnotes

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28. Coyle and Fair, note 1 above.
29. Lorana Bartels and Antonette Gaffney (2017) "Good practice in women's prisons: A literature review", Technical and Background Paper No. 41, Canberra, CT: Australian Institute of Criminology, p. 58.
30. Rytter et al., note 10 above, p. 107.
31. Coyle and Fair, note 1 above, p. 154.
32. R. Bosworth (2018) "Global assessment of the availability of condoms and conjugal visits in prisons: Preliminary results of a global prison survey", Vienna: UNODC.
33. Women's Refugee Commission (2018) "Facts and figures", www.womensrefugeecommission.org/empower/resources/practitioners-forum/facts-and-figures (accessed 14 August 2018); Moving Energy Initiative (2018) "Statement in advance of the launch of the Global Plan of Action for Sustainable Energy Solutions at the UN High Level Political Forum, New York", mei.chathamhouse.org/statement-advance-launch-global-plan-action-sustainable-energy-solutions-un-high-level-political (accessed 17 October 2019).
34. United Nations (2011) "UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)", UN Doc. A/RES/65/229, 16 March, Rule 25(3).
35. UN Committee on the Elimination of Discrimination against Women (2015) "General Recommendation No. 33 on women's access to justice", Convention on the Elimination of All Forms of Discrimination against Women, UN Doc. CEDAW/C/GC/33, 23 July, para. 16(d).



5. Institutional self-assessment checklist

This sample institutional self-assessment is intended as a starting point to assess how a place of deprivation of liberty could better integrate a gender perspective and contribute to gender equality.

The checklist is not an exhaustive set of questions, and should be developed and adapted for any context. Users of this checklist are encouraged to add further points appropriate to how gender is currently dealt with in their institution.*

Other resources to support institutional gender assessment are listed in section 6.

Pillar	No.	Point	Yes/no/partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Gender makes a difference	1.01	Prison management show awareness of the importance of gender equality				
	1.02	Management are aware that treating people the same is not the same as treating people equally, and policies are in place to make reasonable adjustments based on gendered needs				
	1.03	Local research has been completed to understand the gendered pathways to offending of our population(s)				
	1.04	Policy for women and transgender prisoners is not based on adjustments to policy for male prisoners, but fundamentally rethought and developed				
	1.05	Policy is created with input from current detainees and prisoners and/or with those with lived experience of such circumstances				

* Gender assessment and integrating gender in assessment are also discussed in Tool 15, "Integrating Gender in Project Design and Monitoring for the Security and Justice Sector".

Image: In Cueibet Prison, in South Sudan, prisoners speak to UN staff about overly congested cells, not enough food, insalubrious sanitary conditions, a lack of sports or other available outdoor activities, and the absence of possibilities to use their time in prison to learn a new vocation, 2018. © UNMISS / Tonny Muwangala.

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Gender makes a difference	1.06	There is a dedicated policy highlighting the specific needs of women and girls and the approach to working with them				
	1.07	There is a dedicated policy highlighting the specific needs of transgender men and women and the approach to working with them				
	1.08	There is a dedicated policy highlighting the specific needs of men and boys and the approach to working with them				
	1.09	Ongoing focus groups are held with detainees/prisoners about how gender needs can be met				
	1.10	Staff understand the gendered pathways of our population(s)				
	1.11	There are sufficient female and male staff to carry out all tasks while maintaining the safety and dignity of the prisoners				
	1.12	Staff understand and acknowledge the different needs of LGBTI prisoners				
	1.13	Staff understand and acknowledge the different needs of LGBTI staff				
	1.14	LGBTI staff group(s) is/are active and supported by management				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Safe environment	2.01	The regime actively promotes a non-judgemental environment where people can self-identify without fear of reprisal or ridicule				
	2.02	Female prisoners are held in separate facilities with no access to male prisoners				
	2.03	Juvenile prisoners are held in separate areas to adult prisoners				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Safe environment	2.04	The regime promotes alternative versions of masculinity and provides space for healthy expressions of masculinity				
	2.05	Feedback from prisoners indicates that they feel safe and able to make a confidential complaint without reprisal, and the process is carried out in an objective and timely manner with feedback to the complainant				
	2.06	Feedback from staff indicates that they feel safe and able to make a confidential complaint without reprisal, and the process is carried out in an objective and timely manner with feedback to the complainant				
	2.07	Feedback from prisoners indicates equal treatment				
	2.08	Reports from internal and external monitors and inspections indicate equal treatment				
	2.09	Cell and body searches are conducted only when necessary, are proportionate to legitimate security concerns and are only carried out by staff of the same sex as the prisoner				
	2.10	Transgender prisoners are asked if they would feel more comfortable being searched by a female or male member of staff; this preference should be followed in all circumstances other than those with clear security contraindications				
	2.11	Alternatives to intrusive body searches are available, and effectively limit the need for strip or body-cavity searches				
	2.12	Body-cavity searches are only conducted by qualified healthcare staff (at a very minimum by prison staff trained in hygiene, health and safety)				

Pillar	No.	Point	Yes/no/partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Safe environment	2.13	Those who have been subjected to sexual abuse receive immediate appropriate medical care, and subsequent counselling and legal aid				
	2.14	Any allegation or suspicion of ill treatment is promptly reported, investigated and dealt with confidentially				
	2.16	Protection measures consider the additional threats to women, transgender and other LGBTI prisoners during investigations				
	2.17	All cases of SGBV and subsequent action taken by staff are documented				
	2.18	Management have a zero-tolerance policy for staff discrimination, misconduct or ill treatment on the basis of sexual orientation or gender identity				
	2.19	Management follow up on all complaints related to sexual orientation or gender identity misconduct or ill treatment				
	2.20	Female and male prisoners remain separated throughout the transfer process				
	2.21	Prisoners are notified of the reason for their transfer				
	2.22	Conditions of prison transport meet minimum requirements regarding safety, space, ventilation, light, hygiene and nutrition				
	2.23	Women's particular health and sanitation needs should be considered when transporting prisoners between facilities				
	2.24	Female prisoners are only escorted by female staff throughout the transfer process				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Core business and staff training	3.01	Induction training integrates gender as a core perspective for all levels of management and front-line or uniformed staff, as well as non-operational staff				
	3.02	Training focuses separately on working with women, working with men and working with people with transgender identities				
	3.03	Staff receive training about policies for dealing with SGBV				
	3.04	Staff receive training about implementing a trauma-informed approach				
	3.05	Staff receive training about implementing positive staff-prisoner relationships				
	3.06	Staff receive training about gender-informed searching policies, and managers ensure that these are implemented				
	3.07	Where children can stay with their mothers in prison, awareness-raising on child development and basic training on the healthcare of children are provided				
	3.08	Existing staff take part in specific training to mainstream a gender perspective				
	3.09	Ongoing training in integrating a gender perspective is part of staff development				
	3.10	Management actively promote the importance of the training and lead by example				
	3.11	Percentages of the staff population defining as female and male are regularly reviewed				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Core business and staff training	3.12	Ethnic, cultural and religious diversity in the prison population is reflected in the staff				
	3.13	Female staff members have the same access to positions of power and responsibility as their male colleagues				
	3.14	Working practices help staff with caring roles to balance work and personal responsibilities				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Appropriate categorization and accommodation	4.01	Needs and risk assessments are fully gender-informed and have been developed with the local population in mind				
	4.02	Staff are trained in the use of these gender-informed tools and in the importance and advantages of using them				
	4.03	Results of risk and needs assessments are reviewed by a panel on a regular basis				
	4.04	Prisoners who may need special attention or support are proactively identified and assisted on arrival				
	4.05	Prisoners are allocated to the regime with the least restrictive environment necessary				
	4.06	Prisoners' gendered needs are considered when allocating accommodation				
	4.07	Transgender prisoners are asked prior to allocation whether they would feel safer and more able to participate in the regime if they were located in a female or male establishment				
	4.08	Accommodation has been designed to promote health and well-being				
	4.09	Actions have been taken to normalize the accommodation				

Pillar	No.	Point	Yes/no/partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Appropriate categorization and accommodation	4.10	All transgender women and men can participate fully in the institutional regime, without fear of their safety or discrimination				
		<i>Those working with women and girls</i>				
	4.11	Separate and secure accommodation and sanitation facilities are provided for single women, and prevent access of men				
	4.12	Accommodation is supervised by female staff only				
	4.13	Accommodation is purpose built for women, and they are not held in spaces which are additions to or converted from male facilities				
	4.14	Women are housed within small communities, in structures specifically engineered with women of their security classification in mind				
	4.15	Water is regularly and readily accessible, especially for those taking care of children, those involved in cooking and those who are pregnant, breastfeeding or menstruating				
	4.16	Accommodation includes space for children to be safely cared for				
	4.17	Additional adaptations are made to create a healthy environment for pregnant women, breastfeeding mothers and mothers with children				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Promote healthy connections	5.01	Connection with family is facilitated and encouraged in addition to visits, including by telephone, video link, email, letter writing, etc.				
	5.02	Visiting facilities allow for a positive visiting experience, preferably including contact visits, particularly in the case of children				
	5.03	Search/entry procedures for visitors are not degrading, at least as protective as those for prisoners and exclude cavity searches				
	5.04	Where conjugal visits are allowed, female prisoners have equal access as do male prisoners and there is no discrimination on grounds of sexual orientation or gender identity				
	5.05	The restriction or limiting of visits is never used as a punishment for bad behaviour				
	5.06	Prisoners can immediately notify a family member or other designated contact person of their transfer to another institution				
		<i>Those working with women and girls</i>				
	5.07	Staff and management are aware of the centrality of parenting to many women's lives, and facilitate contact primarily via in-person visits				
	5.08	Women are always consulted as to who, including which family members, can visit them				
		<i>Those working with men and boys</i>				
	5.09	Management and staff recognize the responsibility felt by many men to be providers and protectors, and facilitate ways for them to remain involved in family and community life				
	5.10	Programmes focus on parenting and fatherhood to build skills and facilitate healthy father-child relationships				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Comprehensive physical and mental healthcare	6.01	Specialized medical staff are fully trained in providing culturally appropriate care and treatment relevant to the populations held				
	6.02	Trauma-informed treatment programmes, psychological care and counselling are provided, considering prior victimization and abuse, the special needs of pregnant women and women with children, and their diverse cultural backgrounds				
	6.03	A schedule of recreational/ cultural activities is available and implemented to benefit the mental and physical health of prisoners				
	6.04	Substance-misuse and offending-behaviour programmes are designed and delivered for each specific gender, acknowledging the gendered pathways that may have led the individual to that point				
	6.05	Where clothing is provided by the prison, it is adequate to keep the prisoner in good health and is not degrading or humiliating				
	6.06	Certain categories of prisoner are never subjected to solitary confinement, including prisoners with mental or physical disabilities when their conditions are likely to be exacerbated; juveniles; and pregnant women, women with infants and breastfeeding mothers				
	6.07	Transgender prisoners have access to the same level of treatment and medical supplies as they were receiving related to their transition before entering prison				
		<i>Those working with women and girls</i>				

Pillar	No.	Point	Yes/no/partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Comprehensive physical and mental healthcare	6.08	Pregnant juvenile female detainees receive support and medical care equivalent to that provided for adult female detainees, with the additional awareness that they may be at greater risk of health complications during pregnancy due to their age				
	6.09	A physician or public health body specializing in women's healthcare regularly inspects health facilities in prisoner accommodation and advises the prison director				
	6.10	The prison director implements the recommendations of the health visitor, or in case of disagreement refers the matter to a higher authority				
	6.11	Instruments of restraint are never used on women during labour and childbirth or immediately after childbirth				
	6.12	Culturally appropriate sanitary products are provided free of charge to all women and girls				
	6.13	Special health and dietary needs of prisoners are met, including for pregnant or breastfeeding women and girls				
	6.14	Pregnant female detainees receive support and medical care of at least equivalent quality to that provided to the local community				
	6.15	Juvenile female detainees have access to age-specific and gender-specific programmes and services, such as counselling for sexual abuse or violence				
	6.16	Juvenile female detainees receive education on women's healthcare and have regular access to gynaecologists				
	6.17	Professional care by child specialists, including specific healthcare, is offered to children who remain in prison with a parent				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Equality of opportunity to grow	7.01	Selection of vocational training programmes follows actual market needs in the community, and programmes are open to women and men equally				
		<i>Those working with women and girls</i>				
	7.02	Female detainees (including juveniles) have equal access to education and vocational training opportunities that are available to male detainees of the same age				
	7.03	Programmes are available to enable women to live financially independent and stable lives and focus on skills acquisition				
	7.04	Vocational skills training is available beyond the roles traditionally considered as appropriate for women due to gender stereotyping				
	7.05	Education is a balanced and comprehensive set of options, taking account of the gender-appropriate needs of women and girls				
	7.06	Programmes are flexible enough to respond to the needs of pregnant women, nursing mothers and women with children as well as those who have psychosocial support needs				
	7.07	Childcare facilities or arrangements are provided to enable mothers to participate in prison activities				
	7.08	Staff are able to use childcare facilities for their own children				

Pillar	No.	Point	Yes/no/partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Community collaboration	8.01	Holistic, culturally sensitive plans are provided for each individual, acknowledging the concerns and difficulties that can arise during this process, especially where there may be issues related to stigma, family abandonment and reconnection with children, all of which are challenges faced most often by women				
	8.02	Throughout a prisoner's sentence, prison staff assist in establishing or maintaining the individual's relations with post-release service providers				
	8.03	The prison partners with local universities and experts to produce evidence-based recommendations for improvements to policy for their specific populations				
	8.04	The prison partners with expert groups providing parenting skills workshops				
		<i>Those working with women and girls</i>				
	8.05	The institution partners with community groups for women and girls to understand their needs better				
	8.06	The institution partners with community groups for women and girls to plan proactively for resettlement in the community				
	8.07	The institution partners with community groups for women and girls to understand and provide better ongoing support related to survivors of SGBV				
		<i>Those working with men and boys</i>				
	8.08	The prison partners with expert groups providing activities to raise awareness of SGBV and pro-social masculinities				

Pillar	No.	Point	Yes/no/ partially	What can your organization and others do to improve the situation?	Point of responsibility	Action-by date
Oversight and evaluation	9.01	An internal oversight team or department monitors regular gender-disaggregated data				
	9.02	Institution management regularly discuss monitoring data, and act where deemed appropriate				
	9.03	An internal oversight team or department regularly assesses the institution against gender-responsive standards and provides recommendations for improvement				
	9.04	The institution facilitates access to independent monitoring and inspection organizations				
	9.05	The prison director actions the recommendations from external monitoring and inspection organizations; in a case of disagreement the issue is passed to a higher authority				
	9.06	Feedback from external partners and monitors indicates they are able to access the relevant areas, feel safe and can perform their duties in an effective manner				
		<i>Those working with women and girls</i>				
	9.07	Internal and external groups conducting assessments include a high proportion of female members, and interviews with female detainees are carried out exclusively by female members of staff				





6. Additional resources

Guides and handbooks

Association for the Prevention of Torture (2018) *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, Geneva: APT.

Association for the Prevention of Torture and Penal Reform International (2015) “Women in detention: A guide to gender-sensitive monitoring”, Geneva and London: APT and PRI.

DCAF, OSCE/ODIHR, OSCE (2014) “Guidance note on integrating gender into internal police oversight”, Geneva: DCAF, OSCE/ODIHR, OSCE.

DCAF, OSCE/ODIHR, OSCE (2014) “Guidance note on integrating a gender perspective into oversight of the security sector by ombuds institutions and national human rights institutions”, Geneva: DCAF, OSCE/ODIHR, OSCE.

Institute for Criminal Policy Research (2018) *A Human Rights Approach to Prison Management: Handbook for Prison Staff, 3rd edn*, London: ICPR.

OSCE/ODIHR (2019) *Preventing and Addressing Sexual and Gender Based Violence in Places of Deprivation of Liberty: Standards, Approaches and Examples from the OSCE Region*, Warsaw: OSCE/ODIHR.

OSCE/ODIHR and Convention against Torture Initiative (2018) “Providing rehabilitation to victims of torture and other ill-treatment – A practical tool”, Warsaw and Geneva: OSCE/ODIHR and CTI.

OSCE/ODIHR and Penal Reform International (2018) *Guidance Document on the Nelson Mandela Rules*, Warsaw and London: OSCE/ODIHR and PRI.

Penal Reform International (2013) “UN Bangkok Rules on women offenders and prisoners: A short guide”, London: PRI.

Penal Reform International (2017) “Workbook on women in detention: Putting the UN Bangkok Rules on women prisoners into practice”, London: PRI.

UN Women, UNFPA, WHO, UNDP and UNODC (2015) “Module 3: Justice and policing”, in *Essential Service Package for Women and Girls Subjected to Violence*, New York: UN Women.

UN Women (2018) *Practitioner’s Toolkit on Women’s Access to Justice Programming*, New York: UN Women.

Image: Inmates at Coyote Ridge Corrections Center work to grow sagebrush plants, 2015. The sagebrush program is the only job that gets inmates outside working to grow a living thing. Many inmates describe the experience as beneficial to their rehabilitation and a relief to a stressful and tense environment © BLM/Jeff Clark.

UNODC (2008) *Handbook for Prison Managers and Policymakers on Women and Imprisonment*, Vienna: UNODC.

UNODC (2014) *Handbook on Women and Imprisonment*, Vienna: UNODC.

UNOPS (2016) *Technical Guidance for Prison Planning. Technical and Operational Considerations Based on the Nelson Mandela Rules*, Copenhagen: UNOPS.

Articles and reports

OSCE (2017) “Briefing paper: Use of tools of torture in OSCE participating States”, Manchester: Omega Research Foundation.

OSCE/ODIHR and Association for the Prevention of Torture (2016) “2016 annual meeting of NPMs from the OSCE region”, outcome report, Warsaw: OSCE/ODIHR and APT.

OSCE/ODIHR and Convention against Torture Initiative (2016) “Workshop on rehabilitation for victims of torture – Outcome report on discussion and recommendations”, Warsaw: OSCE/ODIHR and CTI.

Penal Reform International and Institutions Publiques de Protection de la Jeunesse (2014) “Neglected needs: Girls in the criminal justice system”, briefing paper, London: PRI and IPPJ.

