

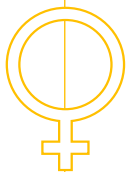
## COVID-19, WOMEN, AND PRISONS: EARLY RELEASE AND NON-CUSTODIAL SENTENCES FOR WOMEN AS AN EFFECTIVE MEANS TO REDUCE COVID-19 IN PRISON POPULATIONS

The COVID-19 crisis has highlighted the dire situation of overcrowded prisons and triggered discussions about alternative sanctions that effectively reduces crime rates and recidivism while ensuring health and safety of the prison population.

The use of imprisonment to address any form of criminal activity has led to severely overcrowded prisons in many countries in Asia. Occupancy levels in prisons often exceed 200% and, in some instances, above 500%.

This puts prisons and other custodial settings, including youth and immigration detention centres, at risk to become epicentres for COVID-19, with populations vulnerable to higher levels of infection due to unavoidable close contact, poor ventilation, and low sanitation standards.

As a result, prisons, detention centres, and their populations are quickly becoming an integral part of public health responses to COVID-19.



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Incarceration rates for women have increased by more than 50% since 2000.

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### WOMEN IN PRISONS

Asia has the highest rates of women prisoners globally, with China, Thailand, Myanmar, and Vietnam recording that women constitute 15% and above of prison populations, compared to the global average of 4%.<sup>i</sup>

These levels are set to increase with incarceration rates for women rapidly growing by more than 50% since 2000, compared to 20% for men.<sup>ii</sup>

Since women in conflict with the law and women prisoners are a minority, gender specific needs are often not taken into consideration during trial or imprisonment.

Many women are incarcerated for non-violent offences, often linked to their survival, rather than violent crimes.

An increasing number of women, globally and in Asia, are incarcerated for drug-related offences. In the Philippines and Thailand, this proportion reaches 53% and 82% respectively.

Women are also targeted for 'morality' offences, such as failing a virginity test, engaging in prostitution, or undergoing an 'illegal' abortion. At least half of women in prison, and nearly all teenage girls in juvenile detention facilities in Afghanistan are charged with 'moral' crimes.

The multiple and intersecting layers of discrimination women face in society, and the impact of limited economic opportunities combined with unpaid care responsibilities, have contributed to women's increased incarceration.

Most women in prison are survivors of violence. In some countries, up to 75% of all women in correction facilities have experienced violence.<sup>iii</sup>

Based on World Health Organisation (WHO) reports, women admitted to prison also have higher rates of mental health issues and substance abuse problems than their male counterparts, often as a result of previous violence and abuse.<sup>iv</sup>

While the majority of women serve sentences for non-violent offences that are based on socio-economic issues, their imprisonment has a long-term negative impact on their lives, including

- Decreased safety during and after imprisonment.
- Deterioration of mental and physical health.
- Decreased economic opportunities after imprisonment.
- Lack of social integration due stigma.
- Long-term impact on their children's development.

## MITIGATING COVID-19 OUTBREAKS IN PRISONS

To mitigate the risk of COVID-19 outbreaks in prisons and detention centres, states have largely adopted measures to either:

- (i) restrict detainees' movements, activities, and visitors; or,
- (ii) suspend short sentences or order the early release of low-risk detainees.

There remain a number of states that have increased their prison and detention centre populations, including by ordering the detention of people non-compliant with COVID-19 public health and emergency measures, such as lockdowns and curfews, as well as the arrest of individuals for sharing information relating to COVID-19 online.

The WHO released a guide on, "[Preparedness, prevention and control of COVID-19 in prisons and other places of detention](#)," in March 2020, recommending that "Enhanced consideration should be given to resorting to non-custodial measures at all stages of the administration of criminal justice, including at the pre-trial, trial and sentencing as well as post-sentencing stages. Priority should be given to alleged offenders and prisoners with low-risk profiles and caring responsibilities, with preference given to pregnant women and women with dependent children."

## TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES

The UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) outlines guidance for reducing the number of women in prison, as well as how to meet the specific needs of women in cases of imprisonment, including gender-specific health care services, and guidance on pregnant women, breastfeeding mothers, and mothers with children in prison.

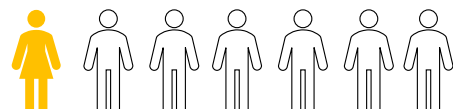
The Bangkok Rules provide for non-custodial measures, including gender-specific options for diversionary measures and pretrial and sentencing alternatives, taking into account the victimization of many women offenders and their caretaking responsibilities.

In addition, reducing incarceration rates during COVID-19 is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which imposes a duty of care on the state to protect prisoners' health.

## RECOMMENDATIONS

To mitigate COVID-19 outbreaks in prisons and other detention facilities and the impact on women, it is recommended that:

- Gender-responsive, non-custodial and community-based alternatives to imprisonment for all women with low-risk profiles be permitted at all stages of law enforcement and criminal justice.
- Gender-responsive reintegration and rehabilitation strategies that address the underlying socio-economic causes for women's conflict with the law be supported.
- Additional consideration be given to women with increased vulnerability, including women who are pregnant or have dependent children, taking into consideration the best interests of the child, women with disabilities, women with physical and mental health concerns, and elderly women.



<sup>i</sup> World Female Imprisonment List, Institute for Criminal Policy Research, 4th edition (2017)

<sup>ii</sup> Global Prison Trends Report 2019

<sup>iii</sup> El 75% de mujeres en prisión ha sido víctima de violencia machista

<sup>iv</sup> World Health Organisation, Health in Prisons (2007)