

A NEGLECTED SECTOR: WOMEN IN CONFLICT WITH THE LAW (WICL)

Heavily clothed in a personal protective equipment (PPE) suit and handcuffed, detained community organizer Reina Mae Nasino could only extend her fingers to touch the casket of her three-month-old baby. As armed policemen and jail guards surrounded her, no one—not even her family—could comfort the grieving mother as her daughter, who succumbed to complications arising from pneumonia, was being laid to rest. Nasino was denied a temporary release from a congested prison that could have allowed her to breastfeed her baby and take care of her. Even if they could be together in jail, there were no clean lactation and childcare facilities where she is incarcerated. Could the death of the baby have been prevented if the justice system had considered the distinct needs of women in conflict with the law (WICL)? Would the baby still be alive if clean lactation and childcare facilities were available in the jail where Nasino was being detained?

This issue of the *Intersect Quick Facts* aims to draw attention not only to women deprived of liberty such as Nasino but also to WICL who are often seen as offenders or law breakers and thus less deserving of assistance that will make the balance of justice level for them as well. With data from government, we hope to make visible the situation of women making up a minority of the population in conflict with the law. Also explored here are the challenges faced by women throughout the criminal justice continuum and examples of interventions that could help them secure their rights and gain access to justice.

AUTHORS

Jazmene P. Basit
Gerald M. Nicolas
Marvee Anne M. Ramos

EDITOR

Anna Marie A. Karaos

LAYOUT DESIGNER

Gerald M. Nicolas

WHY TALK ABOUT WICL?

The criminal justice system is one societal institution in which disparities between women and men run deep. Being “historically... designed by men for men,” it often overlooks the needs of women suspected and accused of committing crimes as well as those sent to jail to pay for said crimes. However, women in conflict with the law tend to be involved in offenses that are not violent and do not pose a risk to public safety and security. Without disregarding women’s capacity to participate in criminal activities, it is important to understand their lived circumstances that led them to commit crimes.

A report by the UN Special Rapporteur on violence against women, its causes, and consequences, notes that underlying the pathways leading to the incarceration of women include:



**experiences of
prior violence
and abuse**



**coercive threats
to commit
criminal acts**



**poverty and
economic
abuse**



**imprisonment
for “moral”
crimes**

STRENGTHENING WICL'S ACCESS TO JUSTICE: SOME EXAMPLES

Some countries have adopted alternative or restorative forms of rendering justice to WICL. These may be considered for possible application in the Philippines so as to mitigate the existing discrimination being suffered by women under the prevailing justice system.

COSTA RICA

For women proven to be in vulnerable situations (e.g., from a poor family, caring for children, elderly, with disability) and convicted of trafficking drugs inside prisons, alternatives to imprisonment, such as home detention, probation, and release with electronic monitoring, are allowed.

RUSSIA

The court may postpone and then reduce or cancel the sentence of a pregnant woman or a mother with children below 14 years old if the crime she committed is punishable by imprisonment for more than five years for "grave and especially grave crimes."

JAPAN

Through the "Marguerite Action", the government increased the number of female officers in women's prisons by promoting their reemployment and promotion into administrative positions and improving their training, among others. The outcome of these commitments would be improved conditions in institutions housing women in conflict with the law.

INDIA

The government established more correctional homes for women in conflict with the law. In these facilities, pregnant women are provided with needed services, and children of detained mothers go to school and receive vaccination and special nutrition programs.

BRAZIL

To improve their management skills, prison staff undergo training in specialized schools established by the Ministry of Justice and Federal Prison Department. Postgraduate courses on prison management with a gender perspective are also available.

ARGENTINA

Women in conflict with the law are allowed by law to serve their sentences at home under house arrest if they have caring responsibilities for children under five years old or for family members with disabilities.

PHILIPPINES

Special dormitories are provided in the Correctional Institution for Women for WICL with various conditions or needs. The Department of Social Welfare and Development (DSWD) supervises a mother's ward or nursery area for those who are pregnant, just gave birth, or have children less than one year old. WICLs with drug-related cases are assigned to a therapeutic community. A psychiatric ward is designated for PDLs with mental illness, while PDLs with disability or are above the age of 60 stay in a special dormitory.

SOURCES: UN WOMEN, UNDP, UNODC, AND OHCHR 2018; AND MANGAWIT 2021

REFERENCES

- Buan, Lian. 2020. "The role they failed to play: How courts let down Baby River." Rappler, 12 October. <https://www.rappler.com/nation/how-courts-let-down-reina-mae-nasino-baby-river> (accessed 17 February 2021).
- _____. 2020. "Human rights lawyer want SC to fire Manila judge in baby River case." Rappler, 20 November. <https://www.rappler.com/nation/human-rights-lawyers-want-supreme-court-fire-manila-judge-reina-mae-nasino-baby-river-case> (accessed 17 February 2021).
- _____. 2020. "After judge, activist sues jail and police guards for torture in baby River case." Rappler, 2 December. <https://www.rappler.com/nation/activist-reina-mae-nasino-sues-jail-police-guards-for-torture-baby-river-case> (accessed 17 February 2021).
- Mangawit, Virginia. 2021. Women in Conflict with the Law: Imprisonment Stage. PowerPoint presentation given at the "Webinar on Human Rights and Access to Justice of Women in Conflict with the Law: During Imprisonment Phase", 1 March.
- Patag, Kristine Joy. 2021. "Chief justice says SC 'tried its best' in case of jailed activist Reina Mae Nasino." Philippine Star, 23 October. <https://www.philstar.com/headlines/2020/10/23/2051778/chief-justice-says-sc-tried-its-best-case-jailed-activist-reina-mae-nasino> (accessed 17 February 2021).
- UN Women, UNDP, UNODC, and OHCHR. 2018. A Practitioner's Toolkit on Women's Access to Justice Programming - Module 4: Women in Conflict with the Law. New York: United Nations.

ACKNOWLEDGMENT

This publication was produced under the *Delivery of Women's Legal Literacy and Access to Justice Services in the Philippines Project* of the Partnership of Philippine Support Service Agencies (PHILSSA), an implementing partner of UN Women.



FUNDED BY



JOHN J. CARROLL INSTITUTE ON CHURCH AND SOCIAL ISSUES

The present moment is crucial. The work to be done is urgent.

2/F Benigno Mayo Hall
Social Development Complex
Ateneo de Manila University
Loyola Heights
Quezon City

Email
Tel
Fax
Web
Facebook

jjcisci@gmail.com
(632) 8426.6001 ext. 4655 to 4668
(632) 8426.6070
www.jjcisci.org.ph
www.facebook.com/JJCICSI