



WOMEN IN PRISON



**A Review of the Conditions in Member States of the
Council of Europe**

Executive Summary

The Quaker Council for European Affairs

Produced by the Quaker Council for European Affairs (QCEA)

The report (of which this paper forms the executive summary) is based on 3 years' research through questionnaires to governments, prison staff and prisoners, through prison visits, and through desk-based research.

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The report appears in three parts:

- Executive Summary
- Part 1 - Comparative Review of Conditions for Women in Prison in the Member States of the Council of Europe - based on the questionnaire and desk-based research in the main
- Part 2 - Thirteen country reports - available on the Quaker Council for European Affairs (QCEA) website in pdf (www.quaker.org/qcea) or on request from info@qcea.org

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Executive Summary and Recommendations

Introduction

In 2004, the Quaker Council of European Affairs (QCEA), Brussels and the Quaker United Nations Office, Geneva (QUNO - Geneva) embarked on a joint project to gather information on women in prison. The role of QCEA was to gather data on the conditions of women in prison in the member states of the Council of Europe. This report gives the results and makes recommendations to the European institutions and their member states on ways in which conditions for women in prison can be improved.

The QCEA and QUNO-Geneva decision to work on this theme was motivated by the recognition of a number of issues which were highlighted in a statement made on behalf of Friends World Committee for Consultation (FWCC) at the 12th Meeting of the United Nations Crime Prevention and Criminal Justice Commission, 13-22 May 2003. Below is an excerpt from that statement:

‘In general, prison regimes are devised for male prisoners and tend to ignore the particular problems of women prisoners who are a small (though growing) proportion of people held in prison.

- (a) Because of their smaller numbers, there tends to be a lack of rehabilitation and training programmes and health care specifically for women’s needs;
- (b) a large majority of women in prison have one or more children under 16 years old for whom they are the primary carers, so that these children suffer as a result of their mother’s imprisonment;
- (c) due to the small number of prisons for women, they tend to be imprisoned further from their homes and visiting arrangements are more difficult for the families of women prisoners than for men;
- (d) proportionate to the need, there are far too few resources for pregnant and nursing women prisoners; for instance, prison places in which babies can remain with their mothers;
- (e) the number of women who are imprisoned is rising, and part of the increase is due to women being held in foreign countries who have been coerced or deceived into carrying drugs.

All of these problems are exacerbated for women who are held in custody awaiting trial, often for long periods of time.’

While some issues discussed affect both men and women prisoners, others have more severe implications for women prisoners, often because, prior to imprisonment, they were the primary carers for their children. Women prisoners frequently come from deprived social backgrounds and may have experienced childhood abuse and domestic violence. These factors may contribute towards the high prevalence of drug and/or alcohol abuse and mental illness among women prisoners which require specialised attention.

Throughout our research it has become clear that custodial sentences are not effective or appropriate for many women. The experience of imprisonment can have damaging effects for both mothers and their children and can exacerbate mental health issues or problematic drug or alcohol addiction among women in prison. Although we have not covered alternatives to imprisonment in detail (which may be covered in a future report), we recommend that member states seriously consider alternatives to imprisonment when sentencing women, especially when they pose no danger to the public and/or have young children. As is stated in the recently revised 2006 European Prison Rules ‘no one shall be deprived of liberty save as a measure of last resort’.

Part One of the report gives the results of the questionnaires sent out to member states together with desk-based research. Part Two is a compilation of country reports, four of which include findings from prison visits undertaken by QCEA. These reports contain more information on the thirteen countries concerned: Denmark, Estonia, France, Germany,

Ireland, Italy, Latvia, Norway, Romania, the Russian Federation, Scotland, Sweden and the United Kingdom (England and Wales only).

Existing Safeguards and Standards

Standards such as the UN Standard Minimum Rules for the Treatment of Prisoners and the International Covenant on Civil and Political Rights have provisions governing the treatment of prisoners. The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child safeguard the rights of women and children, and in some cases are applicable to women and children in prison.

The European Prison Rules of the Council of Europe exist to protect the rights of prisoners in member states. They have been recently revised and set out non-binding rules and guidelines in the main areas of prison service for member states.

Whilst QCEA recognises that it may be difficult to meet many of the needs of women prisoners due to lack of resources, and not because of lack of awareness or good intentions, we do not believe that this is a valid reason for not meeting those needs. We therefore welcome Rule 4 of the European Prison Rules which states that 'prison conditions that infringe prisoners' human rights are not justified by lack of resources'. The 2006 revision of the European Prison Rules includes a new section on women. Although the section is short, QCEA welcomes it as a move towards meeting the specific needs of women prisoners.¹

The Council of Europe's Council for Penological Co-operation is entrusted with 'the task of re-examining the European Prison Rules every five years, or more frequently, when the case law of the European Court of Human Rights or the CPT² reports so require. When necessary, the Committee of Ministers will take measures to up-date the European Prison Rules.'³

The Council of Europe's Commissioner for Human Rights visits member states, often visiting their prisons as well as other institutions, in order to conduct an evaluation of the human rights situation. The reports are presented to the Council of Europe's Committee of Ministers and Parliamentary Assembly. They are subsequently published and widely circulated in the policy-making and NGO community as well as in the media.

In the area of existing safeguards and standards, the Quaker Council for European Affairs recommends that:

- 1. Member states of the Council of Europe ensure that the revised European Prison Rules are implemented immediately.**
- 2. At each re-examination of the European Prison Rules, the Council for Penological Co-operation aims to strengthen existing provisions and add any others that will encourage member states to improve conditions for women in prison.**
- 3. At least one prison holding women be visited during each inspection carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the Council of Europe's Commissioner for Human Rights. Specific sections on women in prison should be included in the relevant reports by the CPT and Commissioner for Human Rights.**

Background

Women prisoners face different challenges and have different needs from male prisoners. Because prisons are designed for men, who form the majority of the prison population, many of the fundamental needs of women prisoners are not met. The rights of the children

¹ More information can be found in QCEA's The European Prison Rules: A Gender Critique, available on our website at <http://www.quaker.org/qcea/>

² Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

³ Reply from the Committee of Ministers, adopted at the 974th meeting of the Ministers' Deputies (27 September 2006), to Parliamentary Assembly Recommendation 1747(2006) on the European Prisons Charter

of women who are imprisoned are also an important consideration, though one which requires further in-depth research.

The number of women in prison in Europe is growing. In many countries, this growth has been substantial: in Cyprus there has been an increase of 410% in the ten year period from 1994 to 2003. Many children are either being separated from their mothers or are spending their early childhood with them in prison.

Because the majority of prisoners are male:

- ◆ There is a lack of data and information available on issues surrounding women in prison.
- ◆ There are fewer women's prisons (both for women awaiting trial and convicted women) which means that women are held further away from home, weakening family ties.
- ◆ Women with diverse needs and different offending histories are held together. This can mean unsuitable security classifications and regimes may be used and women awaiting trial may be held together with women who have been convicted.
- ◆ It is especially hard for minority groups such as female juveniles and women who are foreign nationals to have their specific needs addressed.

Women prisoners' physical, mental and emotional needs differ from those of men. Women can have different needs relating to problems such as substance addiction, mental health, anger management, a history of psychological, physical or sexual abuse. It is also important that ways be found of helping them to maintain family ties. Women's health care and hygiene needs differ from those of men and prisons may not be able to offer adequate maternity care. Women are at higher risk of self-harm and suicide. They may respond differently to security regimes and require less harsh forms of physical restraint.

Data availability

In order to obtain a factual basis for comparing the conditions relating to the imprisonment of women across Europe, QCEA sent out a questionnaire to the then forty-five member states of the Council of Europe. Twenty-eight countries, the UK (England and Wales only) and the region administered by the UN of Kosovo responded. Although this represents almost two thirds of the member states, and is a significant achievement considering resource limitations and other constraints, it means that a comparison across all member states is not possible.

For those countries which did respond, answers were not always provided to all the questions and a common answer was that the data or statistics were not available. As many of those answering were civil servants from within national ministries of Justice (or the equivalent) this represents a serious problem.

One area where there was a particular lack of data was that relating to the children of imprisoned parents. Without such data it is impossible for the authorities to check and ensure that children are being properly cared for and protected and to ensure that proper alternative care arrangements are made.

In order to design a policy and carry out any necessary changes which meet the needs of women in prison and their children, gender disaggregated, comprehensive and current data must be collected systematically and made readily available on all aspects of the criminal justice process.

In the area of data availability, the Quaker Council for European Affairs recommends that:

4. **Member states collect information on all aspects of crime and imprisonment and that a gender breakdown be made of all data and the statistics should be made publicly available.**

5. **Member states record the number, ages and location of the prisoner's children and the children's carer immediately upon arrival of the prisoner at the prison (regardless of whether the prisoner is male or female and that such statistics be publicly available).**
6. **The Council of Europe requests gender disaggregated data from all member states in terms of sentenced prisoners and those awaiting trial.**

The female prison population

Women make up only a small percentage of the total national prison populations in Europe - less than 10% in 2003 in all the countries where data was obtained. Despite the relatively small percent of the prison population, the number of women prisoners in many European countries has been increasing. This makes it imperative to take steps to meet the needs of women in prison.

Because of their low numbers, there are fewer prisons holding women, and consequently women may be imprisoned far away from their homes and communities. This can have serious implications for visiting and preserving strong family ties can be a particular problem for women when they have been the sole carers of their children prior to imprisonment.

Women in prison may also face unintentional discrimination with regard to access to work, education and training facilities because of their small numbers.

Women prisoners awaiting trial

International standards state that people should not be imprisoned while awaiting trial, except as a measure of last resort. However, our data shows that many women prisoners are imprisoned while awaiting trial. From the countries that responded to our questionnaire, the percentage of women awaiting trial out of the total women prison population varied between 7% and 60%. A long period may be spent awaiting trial and this can be very disruptive for the families of imprisoned mothers.

In some countries, there is a difference in the conditions for prisoners awaiting trial and those who have already been sentenced. For example, work and education opportunities may be limited or denied for those awaiting trial. In addition, there may be more stringent conditions attached to visits and opportunities for visits to prisoners awaiting trial and this may impact negatively on children and women prisoners who have been the sole carers of children prior to imprisonment.

Minority groups

Foreign national women prisoners

Foreign national prisoners face particular challenges. In the countries which answered the questionnaire, foreign national prisoners account for between 0% and 75% of the total women prisoner population. Common difficulties may be faced by both male and female foreign national prisoners, such as problems relating to language and misunderstandings surrounding the customs and cultures of the host country.

Foreign national women prisoners may be either resident or non-resident in the country where they are imprisoned. Both groups face particular difficulties. Foreign national women who are not resident in the country of imprisonment may often be very far away from their children and families, causing them anguish and anxiety. Their children may not have the financial means to come and visit them and phone calls may be prohibitively expensive for both the mother and her children. If the children are too young to read and write, then communication via letters is not an option. Many women foreign nationals in prison are there for drug smuggling and may have left their children in the temporary care of friends or family, expecting to return in a few days. Resident foreign national women can face deportation when they have completed their sentence, which means further separation from their families.

Female juveniles

International standards state that adults and juveniles should be imprisoned separately. 'Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. The penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.'⁴

The number of female juveniles in prison within the women prison population is low. This means that, in reality, juveniles and adult female prisoners are sometimes accommodated in the same sections. This may result in juveniles being in regular contact with women who have a long history of crime. On the other hand while this situation is not ideal, it may sometimes be the only way that individual juveniles can avoid isolation and have access to educational opportunities.

For example, juveniles are sometimes held with adults in Norway. Although separating pre-trial adults and juveniles in prison happens in the majority of European countries, the Norwegian penitentiary authorities maintain that given the small number of juvenile detainees and the fact that they serve such short sentences, holding juveniles separately would entail a de facto isolation.⁵

In the area of women awaiting trial and minority groups, the Quaker Council for European Affairs recommends that:

7. **Member states ensure that women who are the sole carers of young children are not imprisoned while awaiting trial, except in circumstances where there is a real risk of re-offending, of absconding or of interfering with witnesses.**
8. **Member states fully research the different conditions which exist for prisoners held awaiting trial and those who have already been sentenced. Efforts need to be made to ensure that conditions for prisoners who have not yet been found guilty of a crime are as favourable as possible. In the case of restrictions which adversely affect the families of prisoners, such as restrictions on visits, prisons must be as flexible as possible.**
9. **Every effort is made by member states to ensure that foreign national prisoners are given all the information they need about prison life in their own language.**
10. **Prison authorities are sensitive to the particular needs of foreign national prisoners in relation to language and cultural differences. In particular, the needs of foreign national women whose children are in other countries must be fully considered and met wherever possible. For example, in the first instance, the prison must help foreign national women to contact their homes to let their family know what has happened.**
11. **Prison authorities ensure that foreign nationals are given help in contacting their consular authorities.**
12. **Member states ensure that prison inspectors monitor the provisions made for female foreign national prisoners.**
13. **Member states ensure that female juveniles are imprisoned separately from adult females. However, if this would lead to fewer opportunities for education than if they are imprisoned together, safeguards should be put in place so that juveniles do not mix with women with serious long-term criminal histories.**

⁴ International Covenant on Civil and Political Rights, Article 10(2) b

⁵ Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on his visit to Norway, 2-4 April, 2001, for the Committee of Ministers and the Parliamentary Assembly, Office of the Commissioner for Human Rights, Council of Europe, 19 September 2001

Crimes for which women are imprisoned

In most countries, women are in prison for non-violent, property or drug offences.⁶ Results from QCEA's research agree with this conclusion.

In the area of crimes for which women are imprisoned, the Quaker Council for European Affairs recommends that:

- 14. Member states ensure that alternatives to custodial sentences are sought for crimes such as petty theft and motoring offences when the prisoner constitutes no danger to the general public.**

Use of custodial sentences and length of sentence

The question of whether custodial sentences are necessary goes further than this study. However, because of the impact which imprisonment has on the individuals concerned and on their families, this question has to be addressed.

Along with this question, there is then the issue of the length of prison sentence and of whether sentence length is a factor in contributing to positive outcomes. Particularly where women are the sole carer of children, this raises serious concerns.

There are, of course, alternatives to imprisonment. These include non-custodial community service sentences and restorative justice approaches. In this study we have not considered either in any detail, but we consider this a necessary area for further study.

The growth and development of restorative justice processes and practices throughout Europe show that there are more effective ways of meeting the needs of victims, offenders and the community than the traditional criminal court systems.

The findings in this study about the background and problems of women offenders indicate that there could be particular benefits from family group conferencing and circle sentencing. The majority of women offenders are the mothers of children under 16 years old and are generally the sole or main carers. By enabling victims, the women offenders, their families and the community to meet and agree both on how best to repair the harm and on how to re-integrate the offenders into society and support their children, the outcomes are more likely to stop further offending and reduce the possibility of their children in turn becoming offenders.

The European Union already has a Framework Decision (2001) that *'Each Member State shall seek to promote mediation in criminal cases for offences which it considers appropriate for this sort of measure.'*

In addition the United Nations Economic and Social Council passed guidelines in 2002 on the "Basic principles on the use of restorative justice programmes in criminal matters". In December 2006 the United Nations Office on Drugs and Crime published "A Handbook on Restorative Justice Processes".

The length of the average sentence varies a great deal amongst the different countries who responded to the questionnaire; between several months and seven years. Nevertheless, in many countries, a relatively high proportion of female prisoners appear to serve fairly short prison sentences. It should be borne in mind that a short sentence, for example six months, may be just as disruptive as a longer sentence for a woman prisoner, especially mothers with young children.

In the area of length of sentence, the Quaker Council for European Affairs recommends that:

⁶ Julia Lemgruber, Women in the Criminal Justice System Keynote Speech to the workshop which took place during the Tenth United Nations Congress on the Prevention of Crime and Treatment of Offenders in Vienna, April 2000

15. In all cases, prison is used as a last resort only if no other options are available and that alternative forms of sentencing, including community service orders or similar and restorative justice approaches are considered first.

16. When imprisoning a woman who is the sole carer of children, the judicial authorities of member states are convinced that this sentence is more justifiable than a non-custodial sentence, given the disruption and emotional costs which may ensue to both the mother and child.

General prison conditions

Types of women's prisons

The UN Standard Minimum Rules for the Treatment of Prisoners state that 'men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate'.⁷ The 2006 European Prison Rules state that 'in deciding to accommodate prisoners in particular prisons or in particular sections of a prison due account shall be taken of the need to detain male prisoners separately from female prisoners.'⁸

In its questionnaire sent out to member states, QCEA identified three types of prison where women may be held;

- ◆ women-only prisons;
- ◆ joint male-female prisons; or
- ◆ male prisons with female wings.

A prison for men with a female wing generally means that the prison was not designed with women in mind, and the women are held there because of the lack of purpose-built facilities. Joint male-female prisons are prisons designed to hold both sexes and are more suitable for the purpose of detaining women.

The number, type, geographical location and distribution of national prisons will affect the quality of female prisoners' sentences. Some factors are outlined below.

a) **Location:** Because there are fewer female prisoners there are fewer single sex prisons for women. This means that women who are held in single-sex prisons are more likely to be held long distances from their families and communities than men, making visiting and the maintenance of family ties more difficult. This is especially problematic for women who were the sole carers of dependent children prior to their imprisonment. It also affects other specific categories of female prisoners, for example, juveniles, whose numbers are even smaller.

b) **Shared Facilities:** Women who are detained in prisons which also hold men may be required to share facilities and attend classes with male prisoners. This may not be a suitable environment for women who have experienced abuse or require strict separation from men and/or need to have access to female-based treatment/therapy.

Even in women-only prisons conditions may not be ideal. Women with diverse needs and offending histories are sometimes held together under the same security regime which may be quite inappropriate.

Sometimes women awaiting trial are held with women who have been sentenced.

c) **Specificities of National Policy:** The number and type of prisons in a country is usually a matter of the resources available and practicality, but it may also mirror the penal philosophy of that country, for example, Denmark's use of mixed prisons reflects the concept of 'normalisation' throughout the prison system.

⁷ The Standard Minimum Rules for the Treatment of Prisoners, Rule 8(a)

⁸ 2006 European Prison Rules, Rec(2006)2, Rule 18.8b

Prison staffing

The power imbalance between prisoners and guards together with the closed nature of prisons provide opportunities for harassment, exploitation, abuse, prostitution and rape/indecent assault of female prisoners by staff, both male and female. A large proportion of women prisoners prior to their imprisonment have been abused sexually and many also have mental health problems. If men are employed in positions involving physical contact with such vulnerable women, it is essential that the most stringent safeguards and investigative and disciplinary procedures are in place. For example, the 2006 European Prison Rules state that prisoners can only be searched by staff of the same gender.⁹

In the area of types of women's prisons and prison staffing, the Quaker Council for European Affairs recommends that:

- 17. Member states conduct research into how the size and locations of prisons holding women affect women prisoners and their families and the relative advantages and disadvantages of each place in relation to relevant factors (education and work opportunities, drug treatment schemes, visiting opportunities). Having identified these advantages and disadvantages, everything must be done to maximise the opportunities available for women prisoners at each prison and to ensure that women prisoners are given the same opportunities as male prisoners.**
- 18. Judicial authorities and social services decide together on which prison is most suitable for each prisoner, taking into account the needs of women prisoners and their children.**
- 19. Member states ensure that male prison guards do not hold positions involving physical contact over female prisoners and do not supervise female prisoners when they are likely to be in a state of undress.**
- 20. Member states put in place safeguards to protect female prisoners from all forms of abuse including gender-specific abuse, violence or exploitation from other prisoners or staff within the prison or during transit.**

Health care in prison

Health care for women prisoners

Women prisoners have different health needs from male prisoners. Furthermore, as many women prisoners come from deprived parts of the community, the health care they receive in prison may be the first occasion in which they have received such attention, and may be superior to care available for them outside of prison.

Existing research indicates that women prisoners are more likely to be suffering from certain mental illnesses, addiction to hard drugs and a tendency to self-harm than male prisoners. In-depth and conclusive investigation needs to be done across Europe on these differences.

Pregnancy

Pregnant women prisoners require specialised resources and attention, in respect of diet, exercise, clothing, medication and medical care. Prison is not an easy place to be pregnant and the inflexibility of a prison regime is incompatible with the needs and care of a pregnant body. It is more difficult to catch up on missed sleep and missed meals and hard to take baths or showers as frequently as required.

It may be difficult for the prison to transport prisoners to health care checks and scans, ante-natal classes and post-natal care. Ante-natal and post-natal care may not be seen as medical priorities by poorly resourced and security-conscious prison staff. It may be difficult for a prisoner to see a midwife. Alerting staff to a medical problem, even the onset of labour, may be difficult, particularly at night. In addition, the stress of imprisonment

⁹ 2006 European Prison Rules, Rec(2006)2, Rule 54.5

can impact negatively on the progression of a pregnancy. Restraining pregnant women in the same way as other women prisoners may endanger both the woman and the foetus.

Birth

International standards state that prisoners should give birth in an ordinary hospital outside of the prison.¹⁰ This is important to ensure that the mother and child have access to the best medical care and equipment.

In addition, ‘measures of physical restraint should never be used on women in labour, during transport to hospital or during delivery unless there are compelling reasons for believing that they are dangerous or likely to abscond at that time. In cases where a woman poses a significant and realistic threat to the safety of others, all other methods of ensuring security shall be attempted before physical restraints are used.’¹¹ ‘Nevertheless, from time to time, the CPT encounters examples of pregnant women being shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations and/or delivery. Such an approach is completely unacceptable, and could certainly be qualified as inhuman and degrading treatment. Other means of meeting security needs can and should be found.’¹²

Babies

Babies and young children who are living in prison with their mother also require specialised health care.

Mental illness

Many prisoners suffer from mental illnesses, with some research suggesting that women may be more likely to suffer from certain mental illnesses than men.

In general, prisoners with severe mental health disorders or psychiatric problems should not be sent to prison, but cared for within specialised institutions.

The International Commission of Jurists reports that:

‘Mental depression and psychological symptoms are widespread among the prison population and even higher among the female population and the lack of adequate medication and counselling constitutes a severe shortcoming.’

The World Health Organisation states that ‘gender bias occurs in the treatment of psychological disorders. Doctors are more likely to diagnose depression in women compared with men, even when they have similar scores on standardized measures of depression or present with identical symptoms’ and that ‘female gender is a significant predictor of being prescribed mood altering psychotropic drugs’. It is likely that such stereotyping may well happen to the same extent, if not more, within the prison environment.

Although there may be a tendency for women in prison to be inaccurately diagnosed as having mental illness, it seems implausible that this is the sole explanation for the discrepancy in figures between rates of women’s mental illness on the inside and those on the outside. Women may enter prison with existing mental health problems. On the other hand, mental health problems might be brought on by imprisonment and the stress of leaving children on the outside.

¹⁰ 1957 UN Standard Minimum Rules for the Treatment of Prisoners, Rule 23(1); 2006 European Prison Rules, Recommendation Rec(2006)2, Rule 34.3

¹¹ Human rights and vulnerable prisoners, Penal Reform International cited in ‘Women in prison: a commentary on the Standard Minimum Rules for the Treatment of Prisoners’, Bastik M, the Quaker United Nations Office Geneva: <http://www.guno.org/>

¹² 10th General Report on the CPT’s Activities (1999) including a section on Women deprived of their liberty paragraph 27: <http://www.cpt.coe.int/en/docsannual.htm>

Drug and alcohol addiction

Prisoners are more likely to be suffering from drug/alcohol addiction than in the community at large. Fowler estimates that 75% of women entering European prisons are problematic drug and alcohol users (2002).¹³ Existing research also indicates that women prisoners are more likely to be addicted to harder drugs than male prisoners.

Treatment programmes for substance abuse for women-only should be available.

Disease in prisons

Tuberculosis, hepatitis and HIV/AIDS are a risk in overcrowded prisons. Universally prisoners' rates of HIV are higher than in the general population.¹⁴ HIV positive women risk passing the disease onto their babies and unborn children. Women's high rates of drug addiction mean they may be more likely to be exposed to the risk of catching HIV through sharing needles.

Hygiene

QCEA welcomes the rule in the European Prison Rules which states that 'special provision shall be made for the sanitary needs of women.' Often this is not the case. Even if they are made available, in some cases women have to buy such items for themselves.

Older women in prison may go through the menopause while imprisoned. All efforts should be made to ensure that any medical and/or psychological needs are identified and met at this time.

Women who are menstruating or going through the menopause need regular daily showers. They should also be able to change their bed linen very regularly.

Confidentiality

The revised European Prison Rules state that: 'When examining a prisoner the medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to observing the normal rules of medical confidentiality.'¹⁵

Seeing a doctor in the presence of guards means that violence towards and abuse of prisoners by guards is less likely to be reported by the prisoner. The presence of a guard also breaks doctor/patient confidentiality. The 2006 European Prison Rules gives the doctor a central role in the prevention of human rights abuses in custodial settings.

If it is absolutely necessary for guards to be present, women prisoners should never have to see a doctor in the presence of a male guard.

In the area of prison health care, the Quaker Council for European Affairs recommends that:

- 21. Member states ensure that prisons should take care to diagnose men and women according to the same standards when it comes to mental illness.**
- 22. Member states ensure that persons with severe mental health disorders are not sent to prison, but are cared for within other specialised institutions.**
- 23. Member states ensure that upon arrival to prison, all prisoners are screened for mental health disorders. If a prisoner is undergoing treatment before imprisonment,**

¹³ Cited in 'Health Care Needs of Women in Prison: The Gap Between Policy and Implementation', MacDonald M, presentation at 'What Works with Women Offenders: The Gap Between Policy and Implementation: Lessons from Other Countries on Dealing with Drug Related Offenders', June 2005: <http://www.uce.ac.uk/crq/moragpubs.htm>

¹⁴ 'HIV Prevention for Prisoners: A Public Health and Human Rights Imperative', Interights Bulletin, A Review of the International Centre for the Legal Protection of Human Rights, p 55, ISSN 0268-3709 2004 Volume 15, No. 2

¹⁵ 2006 European Prison Rules, Rec(2006)2, Rule 42.3

then that treatment must continue for as long as necessary while the prisoner is serving her/his sentence.

24. Member states ensure that throughout a prisoner's sentence she/he is monitored for signs of depression or other mental illnesses. Particular attention must be paid to vulnerable groups such as women prisoners.
25. Member states ensure that further research is done on the types and prevalence of different mental disorders affecting women in prison. Resources to treat such disorders should be made available.
26. Member states ensure that prison policies and programmes for women in the area of health care exist and that they are specifically tailored to their needs.
27. Member states ensure that the health care needs of minority groups of women prisoners, such as pregnant, breast-feeding, post-natal and older women are identified and met.
28. Member states ensure that, whenever possible, prisoners are allowed to see a doctor on their own and not in the presence of guards or other prison staff and that male guards are never present when women prisoners are consulting a doctor or nurse.

Family matters

Mothers in prison

The effects of women's imprisonment on their family are generally more serious than the effects of male imprisonment. This is not adequately recognised by the criminal justice system.

In sentencing, the rights of the children of women prisoners are often not taken into account although there are two ways in which a prison sentence can change the lives of children of a woman prisoner who is a mother:

1. The child or children may be left on the outside and either looked after by their father, other relatives or friends of the family or else taken into state care.
2. Babies or young children may live with their mothers in prison, hopefully in specialised Mother and Baby Units (MBUs).

Babies in prison

Some women may spend part of a pregnancy in prison and give birth while still serving their sentence. The bonding of an infant with her/his primary carer is essential for her/his long term emotional development and should be given high priority.

If mothers give birth while serving their sentence, or are imprisoned when they have a baby or young child, that baby or young child may come into the prison to live with them. The resources and facilities available to mother and babies in prison varies, but usually consist of accommodation within a specialised Mother and Baby Unit (MBU). Toys are sometimes provided for the children and the mother may have more freedom in terms of staying in an unlocked room, having access to a kitchen in which she can prepare food for the child etc. Because of the small number of women in prison who have children living with them, the number of MBUs is low, meaning that a mother may be imprisoned a long way from the rest of her family. This creates problems regarding prison visits and maintaining contact with any older children in the family.

The age up until which babies or young children can reside in prison with their mothers varies considerably across Europe. In the United Kingdom (England and Wales), women can keep their baby with them until the age of nine months if they are imprisoned in closed prisons. In Latvia, the age of separation is four years. The separation of mother and child

can be a very traumatic experience for them both. Some countries try and make the separation process as gradual as possible, in order to ease the pain and trauma of separation.

Some countries have different practices in place to ensure that women with babies and young children are not sentenced to a prison sentence in the first place.

The Council of Europe Parliamentary Assembly Recommendation 1469(2000) on Mothers and Babies in Prison recommends, among other things, that member states: **develop and use community-based penalties for mothers of young children and avoid the use of prison custody and recognise that custody for pregnant women and mothers of young children should only ever be used as a last resort for those women convicted of the most serious offences and who represent a danger to the community.** The Quaker Council for European Affairs fully endorses these recommendations.

Children separated from their mothers

When imprisoned mothers have been the sole carers of children, separation from their mothers is usually more traumatic than if the father is incarcerated. Women prisoners are also more likely to lose custody of their children. Research has shown that if family ties are maintained, the chances of prisoners re-offending upon release are lowered, so it is important to take measures to try to preserve these ties.

Registering details of prisoners' children is *not* part of the reception procedure in many countries. Some prisoners may not disclose this information voluntarily for fear of their children being permanently taken away from them. As a result, governments are unable to make social provision or policies which address the problem of children with incarcerated parents.

Researchers have found that the effects of parental imprisonment can be serious. Studies of prisoners' children consistently report that 'children experience a range of psychosocial problems during the imprisonment of a parent, including: depression, hyperactivity, aggressive behaviour, withdrawal, regression, clinging behaviour, sleep problems, eating problems, running away, truancy, poor school grades and delinquency.'¹⁶ Furthermore, 'parental separation can be experienced as desertion or abandonment, which can compound distress for children.'¹⁷ Member states should ensure that the rights and needs of the prisoner's child(ren) are taken into account when sentencing.

In the area of family matters, the Quaker Council for European Affairs recommends that:

- 29. Member states ensure that women with dependent children are not given a prison sentence wherever possible and are given the opportunity of serving a non-custodial punishment. *See also recommendations 7, 14 and 15.***
- 30. Member states ensure that where mothers are imprisoned, they can be reassured that their children are receiving suitable care and that they will be able to be reunited with them on release. It is thought that this would result in more women registering their children.**
- 31. Member states ensure that prison regimes and facilities are flexible enough to meet the requirements of pregnant women, breast-feeding mothers and prisoners whose children are with them.**

¹⁶ 'Parental Imprisonment: Effects on Boys' Antisocial Behaviour and Delinquency Through the Life-Course', Murray J, and Farrington D, Institute of Criminology, University of Cambridge, Journal of Child Psychology and Psychiatry, 2005, p 1

¹⁷ 'The Effects of Imprisonment on Families and Children of Prisoners', Murray J, 'In The Effects of Imprisonment', Liebling A & Maruna S, Willan Publishing, 2005, p 450

32. Member states implement Council of Europe Parliamentary Assembly Recommendation 1469(2000) on Mothers and Babies in Prison. Reports on progress in this area should be made available to the Committee of Ministers of the Council of Europe through the Council for Penological Co-operation.
33. Member states ensure that the situation where children are living in prison with their mothers is avoided if at all possible and alternative measures to custodial sentences are given to mothers with young children or pregnant women who are due to give birth while serving their sentence. *See also recommendation 26.*
34. Member states ensure that in situations where babies and young children who are in prison with their mother have to be separated from her, that this is done gradually, so that the process is as painless and non-threatening as possible.

Prison visits

The length and frequency of visits to which prisoners are entitled varies from prison to prison and country to country. It may also depend on whether the prisoner is awaiting trial or is sentenced. The countries that responded to our questionnaire said prisoners were entitled to visits of length and frequency varying from 'no limit on the frequency of visits' (for convicted prisoners) to just half an hour per month.

Women prisoners should have the right to decide who is allowed to visit them in prison.

Many visitors travel a long way to spend a relatively short time actually visiting. Visitor centres should be provided at all prisons to provide a safe, welcoming environment.

Visits from children

Because of the small number of prisons holding women, children may travel long distances to visit their mother. For children of non-resident foreign national prisoners the distance and cost of travel may be prohibitively expensive. Any children who *are* able to visit their mother may encounter an unwelcoming environment, as visiting someone in prison can often involve searches, sniffer dogs and other security measures that are both intimidating and frightening for young children.

In some countries, there are small apartments available in or near the prison for mothers and visiting children where they can spend time together, often overnight.

Conjugal visits

Some countries allow conjugal prison visits, where a room or small apartment is available for use by the prisoner and their partner. Sometimes the visits can cover a few days and often contraception is available. Some countries prohibit such visits because there are laws or practices in place which mean that all visits need to be observed by prison staff.

In some prisons, conjugal visits are available to men prisoners, but not to women prisoners. Prisons often have criteria which the partner or spouse has to fulfil before a conjugal visit is permitted (e.g. to have been married or together for a certain amount of time).

The European Prison Rules state that 'persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody' and that 'life in prison shall approximate as closely as possible the positive aspects of life in the community.'¹⁸ This would then imply that the continuation of consensual sexual relationships is an aspect of life in the community which should be available to prisoners.

In the area of visits, the Quaker Council for European Affairs recommends that:

35. Member states ensure that women prisoners have the right to decide who is allowed to visit them.

¹⁸ 2006 European Prison Rules, Rec(2006)2, Rules 2 and 5

36. Member states ensure that all prisons have visitor centres. Such centres may be particularly beneficial for young children.
37. Member states ensure that prison policies and programmes in the areas of visits and family contact exist and, where necessary, are tailored to the needs of women prisoners.
38. Member states ensure that special efforts are made to allow the children of prisoners to visit the prison and that staff are given training in dealing with visiting children. Any new measures or policies proposed should be analysed for the effects they may have on children visiting the prison and take into account the rights of the child. Security measures imposed around visits must not be intimidating to children.
39. Member states ensure that prisons should provide supervised play areas that allow children to be looked after while their mother and any other visitors can talk privately during the visit if necessary.
40. Member states make conjugal visits available to all prisoners and that contraception is freely available. Prisons which already allow conjugal visits for male prisoners, should also allow them for female prisoners. Conjugal visits should be available to prisoners in same-sex relationships, as well as those in heterosexual relationships.

Education, training and employment opportunities

Women prisoners are often less well educated than male prisoners and may have left school earlier than the age of compulsory schooling.

Prisons may offer a range of educational and work opportunities. Prisons may offer compulsory work or voluntary work (either paid or unpaid). The percentage of women prisoners enrolled on educational programmes varied from 1% to 100% in the countries that responded to our questionnaire.

In single-sex prisons where there are a low number of women, access to education, training and work opportunities may be severely limited. In mixed-sex prisons women may be required to attend classes or work with male prisoners, which may be unsuitable and even threatening for those women who have experienced histories of abuse. As already mentioned opportunities for prisoners awaiting trial and sentenced prisoners may also differ significantly.

In some countries, women prisoners are given traditionally feminine jobs, such as catering or sewing. This is not a problem if there is a market for such skills outside the prison but jobs (within certain obvious parameters) should not be allocated simply because of the sex of the prisoner. In some prisons, women may not be able to work or take education courses because there is no crèche facility in the prison.

In the area of education, training and employment opportunities, the Quaker Council for European Affairs recommends that:

41. Member states ensure that women are given equal access to education, training and work opportunities as male prisoners.
42. Member states ensure that women are given jobs and training which will provide them with skills that they can use on release. Jobs and training should not be allocated to prisoners on the basis of gender.
43. Member states ensure that crèches are made available to mothers with babies or young children in prison with them, allowing them to work or take educational classes if they wish.

Preparation for release

Women leaving prison receive varying degrees of support from the prison and social services. They may face many problems; getting a job, finding accommodation, staying

drug or alcohol free and obtaining custody of children who have been in state care during their imprisonment. Women may find that they are unable to get their children back until they have accommodation, but are unable to get accommodation until they have their children. This makes it very difficult for women to resume normal lives outside of prison, and may be a factor which contributes to re-offending.

In the area of preparation for release, the Quaker Council for European Affairs recommends that:

- 44. Member states make sure that prison policies and programmes are specifically tailored to the needs of women, including those in the areas of resettlement.**
- 45. Member states ensure that the needs of female prisoners upon release, issues such as homelessness, unemployment, workforce discrimination and regaining custody of children are addressed. If social services were previously involved with a prisoner they should be informed that the prisoner is being released.**

Conclusions

As part of this research, and in addition to a number of important findings, we have identified areas for further research: alternatives to custodial sentences, juveniles, women awaiting trial and the effect on their children and families, and the mental health impacts of imprisonment on women.

The Quaker Council for European Affairs urges all member states of the Council of Europe to fully implement the revised European Prison Rules and Recommendation Rec(2006)13 of the Committee of Ministers on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse; the Parliamentary Assembly Recommendation 1469(2000) on Mothers and Babies in Prison as well as all the recommendations made by QCEA in this report.

QCEA commends the Council of Europe for its excellent work on penal matters. At the same time we urge the Council of Europe to resume its collection of community sanctions and measures (SPACE II, last published survey based on 2001 statistics) which was discontinued due to budgetary constraints QCEA urges the Council of Europe to disaggregate SPACE I statistics in terms of gender and in terms of sentenced prisoners and those awaiting trial.

QCEA urges the European Union to include a consideration of women in prison in all areas of their equality work such as education, employment and health care.

QCEA urges that the work done under the European Union Justice and Home Affairs umbrella (which is looking at comparative sentencing amongst the Member States), should consider women as a special category in order to ensure that it is possible to identify any differences in patterns between the sentencing of men and women and because of the serious long-term effect of women's imprisonment on their children and families.

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