



## Where We Stand Position Paper: Criminal Justice Systems

Revised March 2024

### Position Summary:

- The criminal justice system continues to discriminate women in different ways to men, and women and girls – across criminal justice systems – have less access to quality justice in general;
- Pathways of offending and incarceration remain gendered, often due to multiple intersecting forms of discrimination experienced by women and girls;
- Reintegration processes must be improved for all women and girls by ensuring appropriate social and financial support and opportunities are readily available immediately upon release from prison. Priority must be placed on the mental and physical wellbeing and health of all women and girls throughout the reintegration process, especially where children have been separated from their mothers.

### Where Things Stand:

Soroptimist International continues to call attention to the fact that, despite reports dating back two decades calling for reform, gender-based discrimination in the criminal justice system continues to disproportionately affect women and girls. This discrimination creates significant obstacles to achieving access to quality justice for women and girls, whether they are victims, witnesses, alleged offenders or prisoners.

As noted by the CEDAW Committee, gender-based discrimination is based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, all of which adversely impact on the ability of women to gain access to justice on an equal basis with men (CEDAW Committee, General Recommendation 33, para. 8).

Key challenges range from discriminatory criminal laws and procedures and a lack of gender diversity among criminal justice professionals, to gender bias, stereotyping, stigma and impunity. Criminal justice systems also still tend to focus on the needs of a predominantly male population of offenders and prisoners, although the global number of women and girls in prison is growing at a faster rate than men. Women and girls are susceptible to criminal activities given their lower socio-economic positions, less access to financial and social capital, and subjection to numerous forms of stigma and discrimination. They are often guilty of petty, minor, and non-violent crimes.



Despite these persisting challenges, some steps have been taken to make the criminal justice system more receptive to the needs of all women and girls who find themselves within the system as victims. These measures taken include the establishment of inclusive and supportive environments for vulnerable women and girls to report crimes of gender-based violence and seek justice through the establishment of women-specific police stations. This type of safe space can also help to foster a culture of empowerment and support for the women and girls affected.

### **Where things need to go...**

While women and girls often relate to criminal justice systems as victims of crime, recent trends continue to illustrate that a growing number are featuring as suspects, accused, and prisoners. It is crucial that States and their criminal justice systems consider the influence of family and community dynamics on women's and girls' criminal involvement. Social structures and cultural norms may contribute to their vulnerability or act as barriers to seeking help.

States and their criminal justice system must also consider the ways in which pathways of offending and incarceration are gendered: many women are in prison as a direct or indirect result of the multiple layers of discrimination and deprivation experienced at the hands of their husbands, family and the community. States and their criminal justice system may also need to address the strong correlation with prior violence and abuse or coercion into crime by an abuser or a person of influence such as the violence involved in human trafficking.

States and their criminal justice system must also consider any mitigating evidence which shows a woman's or girl's exposure to extreme, traumatic events which can cause or contribute to borderline personality disorder, anti-social personality disorder, substance abuse, and symptoms of post-traumatic stress disorder, which are directly relevant to violent behaviour and often lead to imprisonment.

States must eliminate discriminatory constitutional provisions, laws, regulations, procedures, customs and practices that are based on traditional gender stereotypes (CEDAW Committee, General Recommendation 33, para. 21) as well as address stereotyping and gender bias in the justice system and its particularly harmful impact on women (CEDAW Committee, General Recommendation 33, para. 26).

Finally, States and their criminal justice systems must consider the mitigating circumstances behind women committing a criminal offence. This includes offences which are often closely linked to poverty and often as a means of survival to support their family. Notably, in many cases a large majority of women and girls in conflict with



the criminal law do not pose a risk to society and their imprisonment does not help, but instead hinders their social integration. Reports demonstrate the alarming physical and mental health impacts that incarceration can have on women and girls. This can be due to the intentional overmedication of women and girls by prison officials, a significant lack of mental health support, and a lack of basic hygiene supplies to ensure that women's basic health needs are met. Some groups face additional layers of discrimination by the criminal justice systems, including but not limited to indigenous persons and persons with disabilities. It is therefore essential that States and their criminal justice systems recognise the intersectionality of women's experiences. Women and girls often face overlapping forms of discrimination which can further contribute to their vulnerability.

### **Fundamental Action:**

**Soroptimist International** urges governments to:

- Implement with immediate effect the 'Bangkok Rules' which govern the treatment of women and girls in prisons;
- Ensure that domestic criminal justice systems respect, protect, and fulfil the human rights of all women and girls;
- Recognise that many women and girls in the criminal justice system have been sexually, mentally or physically abused, have untreated health diagnoses, or are suffering with substance misuse, and roll out programmes accordingly;
- Review laws and sentencing to increase community-based sentences in appropriate cases, as these have been shown to be more effective for women and girls in reducing re-offending rates;
- Eliminate all forms of physical and mental violence against women and girls in prison, including but not limited to physical abuse, harassment, and rape;
- Realise women's and girls' human rights by guaranteeing access to educational opportunities, including digital and financial education in the criminal justice system for increasing life choices;
- Finance the refurbishment or rebuilding of prisons to meet the specific needs of all women and girls;
- Legislate that pregnant prisoners give birth in a medical facility and ensure that infants are not taken away from their mothers;
- Uphold women's roles as mothers and caregivers by removing overly restrictive rules on visitation; and
- Improve reintegration processes for all women and girls back into society by investing in quality guidance programmes, including through the provision of education, skills training, and paid work opportunities; as well as continued mental and physical health support.



## **Additional Action:**

Soroptimist International will continue to:

- Work with local communities to develop solutions that address the causes of women's and girl's offending to reduce the growing numbers of women and girl in prisons;
- Encourage prison reform to provide a level of care, service, and understanding which is designed to rehabilitate and empower, not denigrate, neglect, and ignore;
- Advocate for legal and policy reforms that consider the gendered nature of offending. This may involve addressing discriminatory laws and ensuring that criminal justice policies are inclusive and considerate of women's and girl's specific circumstances;
- Advocate for the realisation of the human rights of all women and girls in criminal justice systems, including through arrest and custody, pre-trial detainment, trial, sentencing, and in prisons;
- Champion women's and girl's access to formal, non-formal, and informal educational opportunities in prisons;
- Address shortcomings in release and reintegration programmes, including but not limited to the lack of continuity/follow up on release and a lack of support services and programmes which offer mental and physical health care, safe housing, and social and financial support for all women and girls leaving the criminal justice system; and
- Recognise and address the fact that criminal justice systems were designed by and for historically patriarchal societies and are the site of many forms of structural violence against women and girls, ensuring that women and girls have equal access to quality justice, including but not limited to quality representation and correct legal information.

## **Where Soroptimist International Stands:**

Soroptimist International:

- **Uses quality education**, including digital and financial education, as a tool both to address the underlying causes which drive women and girls into criminal activities and as a tool to help women and girls rebuild their lives, including by providing educational opportunities to women and girls in prisons;



- **Empowers** women and girls in prisons with confidence and skills to rebuild their lives and ensure that any human rights violations are immediately addressed and rectified; and
- **Enables** women and girls leaving prisons to reintegrate into society by providing social and financial support and opportunities, eliminating all forms of physical and mental violence against women and girls in prisons, and ensuring that the human rights of all women and girls are respected, including their health issues and avoiding the separation of children from their mothers.

### Sources:

- United Nations General Assembly (2011) *A/RES/65/229: Resolution adopted by the General Assembly on 21 December 2010, 65/229. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*. Available at: [Bangkok\\_Rules\\_ENG\\_22032015.pdf \(unodc.org\)](#) (Accessed: January 2024).
- United Nations Office on Drugs and Crime (2014) 2nd ed., *Handbook on Women and Imprisonment, Criminal Justice Handbook*. Vienna: United Nations Office on Drugs and Crime. Available at: [women\\_and\\_imprisonment\\_-\\_2nd\\_edition.pdf\(Review\) - Adobe cloud storage](#) (Accessed: January 2024).
- United Nations Office on Drugs and Crime (2019) *Crime Prevention & Criminal Justice: Module 9 – Gender in the Criminal Justice System; Topic 1 – Gender-based discrimination and women in conflict with the law*. Available at: <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-9/key-issues/1-gender-based-discrimination-and-women-in-conflict-with-the-law.html> (Accessed: January 2024).
- United Nations Office on Drugs and Crime (2019) *Crime Prevention & Criminal Justice: Module 9 – Gender in the Criminal Justice System; Topic 2 – The vulnerabilities of girls in conflict with the law*. Available at: <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-9/key-issues/2-the-vulnerabilities-of-girls-in-conflict-with-the-law.html> (Accessed: January 2024).