



**Promoting fair and
effective criminal justice**

Submission to the UN Committee on the Elimination of Discrimination against Women: 58th Session

10 June 2014

Examination of fourth and fifth periodic reports of Georgia

Penal Reform International (PRI)¹ is submitting the following information to the UN Committee on the Elimination of Discrimination against Women (the Committee), in advance of its examination of the combined fourth and fifth periodic reports of Georgia, submitted under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention).

PRI closely follows developments on penal policies and prison conditions in Georgia primarily through its regional office based in Tbilisi. This submission draws on research undertaken by PRI on the situation for women who are in contact with the criminal justice system, whether as suspects, defendants or prisoners.

In May 2013 PRI surveyed 290 out of 444 convicted women prisoners and 21 out of 30 pre-trial detainees in Rustavi #5 Women's Prison. This constituted 70 per cent of Georgia's female prison population at that time. The research team also met with key stakeholders and gathered statistical information from the government. The research report titled, *Who are women prisoners? Survey results from Armenia and Georgia* was published in 2013.²

This submission specifically addresses violence against women, disproportionate sanctions of women convicted of drug-related offences, rehabilitation for women prisoners, prejudices and stereotyped roles for women, health and the right to family life while in prison which relate to Articles 2, 5, 12 and 16 of the Convention. It draws on the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, 2010 (Bangkok Rules)³ recalling Rule 1 of the Bangkok Rules which provides:

¹ Penal Reform International (PRI) is an independent non-governmental organisation with consultative status with ECOSOC that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide.

² Available at www.penalreform.org/resource/women-prisoners-survey-results-armenia-georgia/ in English, Russian and Georgian.

³ The UN Bangkok Rules were adopted by the UN General Assembly unanimously in December 2010; A/RES/65/229. Initiated by the Government of Thailand, the Rules filled a gap in international standards on gender-specific criminal justice systems for women, covering both non-custodial measures and sanctions and prison regimes. For the full text see www.penalreform.org/priorities/women-in-the-criminal-justice-system/international-standards/. For further guidance on the Rules see www.penalreform.org/wp-content/uploads/2013/10/PRI-TIJ-Guidance-Document-on-Bangkok-Rules-October-2013.pdf

Rule 1; Basic Principle

In order for the principle of non-discrimination embodied in rule 6 of the Standard Minimum Rules for the Treatment of Prisoners to be put into practice, account shall be taken of the distinctive needs of women prisoners in the application of the Rules. Providing for such needs in order to accomplish substantial gender equality shall not be regarded as discriminatory.

We hope that the information is useful for the State Party and the Committee in the forthcoming examination.

Article 2

Violence against women

High levels of domestic violence and physical and sexual abuse against women prior to their imprisonment have been documented in countries worldwide.⁴ The 'undeniable link between violence and incarceration, and also the continuum of violence during and after incarceration, is a reality for many women globally' as stated by the UN Special Rapporteur on violence against women, Rashida Manjoo, in her 2013 annual report to the UN General Assembly.⁵ Gender-based violence is the most extreme form of discrimination faced by women, and those who are in prison often have little or no access to justice or the necessary gender-specific services to overcome the physical and psychological impact of it.

Reports indicate that domestic violence is a problem in Georgia but remains vastly underreported because of the shame attached to having been a victim of domestic violence.⁶ For instance comprehensive research carried out in Georgia in 2006 found that a relatively small number of women acknowledged being victims of physical or sexual violence. National research from 2010 found that overall 6.9 per cent of women reported having experienced physical violence;⁷ and from PRI's survey thirteen per cent of women prisoners said that they had experienced domestic violence. Based on this figure the proportion among women prisoners is almost twice as large as that in the general female prison population however is most likely not reflecting the full picture.⁸

Currently there are no procedures or services in place within the criminal justice system in Georgia to address the various needs of women affected by domestic violence. In the penitentiary system no documentation of any history of victimisation of a particular prisoner takes place, nor is this history addressed appropriately. For instance, in the women's prison #5 during the admission process inmates are asked if they have experienced any type of violence or abuse during the detention period in police departments or in pre-trial detention, however no history of victimisation prior to custody is identified or filed.

There is a need to develop specific procedures within the penitentiary system on methods for obtaining information on any history of violence; such procedures should be incorporated in relevant regulations and protect confidentiality principles. Such procedures should be linked to the elaboration of and introduction of a risk and needs assessment

⁴ Commentary to the UN Bangkok Rules, Rule 12.

⁵ Report to the UN General Assembly by Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, 'Pathways to, conditions and consequences of incarceration for women', A/68/340, 21 August 2013, para. 2. available at http://ap.ohchr.org/documents/dpage_e.aspx?si=A/68/340.

⁶ *Stop Violence Against Women*, Project of the Advocates for Human Rights, www.stopvaw.org/Georgia.html

⁷ Prof Marine Chiashvili, Prof Nino Javakhishvili, Assoc. Prof. Luiza Arutiunov, Assoc. Prof. Lia Tsuladze, Ms Sophio Chachanidze, 'National Research On Domestic Violence Against Women In Georgia', Tbilisi 2010.

⁸ Three per cent of women surveyed by PRI in Georgia said that they had been sexually abused once or twice and two per cent of women said that they had been sexually abused many times. As with reports of domestic violence, it is not possible to say whether these proportions reflect reality.

and individual sentence planning for women prisoners and probationers (reforms regarding sentencing planning are currently underway; see below under rehabilitation). This is essential for access to required legal, healthcare and psycho-social services and to contribute to the successful re-entry into society of women offenders.⁹

Disproportionate sanctions of women convicted of drug-related offences

As noted by the UN Special Rapporteur on violence against women¹⁰ currently 'both domestic and international anti-drug policies are a leading cause of rising rates of incarceration of women around the world,' stating that studies have found high rates of women being imprisoned for drug-related offences.

In PRI's research in May 2013 the second most common offence among convicted women, following convictions of fraud at 39 per cent, was drug-related at 29 per cent; however this may have been impacted by the amnesty in 2013. The amnesty law signed on 12 January 2013 resulted in the release of 427 women before the PRI research was conducted and many drug dependent women are reported to have been released during the amnesty.¹¹ For instance in 2011-12, according to research conducted by Harm Reduction International, as many as 34 per cent of women in Georgia were serving sentences for drug related offences.¹²

Georgian drug legislation is one of the strictest in the post Soviet Union countries. Illegal use of drugs without a doctor's prescription (being under influence of drugs or having traces of drugs) leads to both administrative and criminal liability. On first detection, it is considered as an administrative offence that leads to a 500 Georgian Lari (GEL) (approximately US\$300) fine or administrative detention of up to 30 days.¹³ The same offence committed within the same year stipulates criminal liability.¹⁴ Punishment in this case includes a fine (a minimum amount of 2000 GEL – approx. US\$1200) and/or imprisonment up to one year. In general, women engaged in drug offences have poor social backgrounds and in many cases they are victims of different types of violence. Therefore they are more than often unable to find the financial means to pay such fines and this non-payment leads to their arrest. Consequently many are imprisoned for drug use or possession.¹⁵

Article 260 of the Criminal Code of Georgia sets criminal liability for the illegal possession, purchase/storage and/or dealing in drugs and does not distinguish between possession of drugs for the purpose of personal use and dealing. Similar sanctions are applied for resulting in disproportionate sanctions for drug users. For example, for the possession of 0,01gr of heroin for personal use, a person can be sentenced to imprisonment for a period of seven to 14 years, while the same sanction range also applies to the person dealing in drugs.¹⁶

It is said that few women are in prison for high or medium level trafficking but rather work on the 'lowest rungs of the crime ladder',¹⁷ as street dealers or courier mules, transporting

⁹ See Bangkok Rules, Rules 15, 57 and 60.

¹⁰ Report to the UN General Assembly by Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, 'Pathways to, conditions and consequences of incarceration for women', A/68/340, 21 August 2013, para 23.

¹¹ PRI interview with Eka Pachulia, Head of Social Unit, Penitentiary Department of Georgia, 13 May 2013.

¹² E Iakobishvili, Harm Reduction International, 'Cause for Alarm: The Incarceration of Women for Drug Offences in Europe and Central Asia, and the need for Legislative and Sentencing Reform', UK, 2012, p10.

¹³ Code of Administrative Offences of Georgia, Article No. 45.

¹⁴ Criminal Code of Georgia, Article No. 273.

¹⁵ N. Kvavilashvili, K. Pilauri, 'Illicit Drug Use in Prisons of Georgia', The Georgian Centre for Psychological and Medical Rehabilitation of Torture Victims (GCRT), p3-4.

¹⁶ *Ibid.*, p6.

¹⁷ Giacomello, C., 'Women, drug offenses and penitentiary systems in Latin America' (International Drug Policy Consortium, 2013)

drugs into prisons or across borders. The offences committed by women are generally non-violent and involve relatively small amounts of drugs.¹⁸ The nature of their involvement in the drug business means that women can be easily targeted by law enforcement and are particularly vulnerable to arrest. Despite the severe punishments they face if convicted for their crimes, they are expendable and easily replaced by criminal networks and so their imprisonment, even in vast numbers, has little or no impact on the drug trade.

Articles 271 and 272 of the Criminal Code provide that consumption of drugs (including marijuana) is punishable by imprisonment for up to 1 year for repeated use. Article 260 provides that if a person possesses a certain amount of marijuana, it is punishable by imprisonment up to 11 years which is clearly a disproportionate sentence considering that the same Code (Article 111) envisages 1 to 3 years imprisonment for murder committed in the state of 'sudden, strong agitation'. Given this severe policy which disproportionately impacts women, PRI welcomed the announcement in May 2013 that Georgia was considering reducing the penalties applicable to some drug related offences, in particular to the use of marijuana. However since then there has been no progress to this end.

Recognising the disruption that imprisonment causes for children and families, the UN Special Rapporteur on violence against women stressed that many drug offences for which women are imprisoned 'may be more appropriately handled by a community-based system of welfare and social support'.¹⁹ This recommendation is in line with the Bangkok Rules which provide that non-custodial interventions, such as therapy or counselling, should be provided for female offenders, to address the leading causes of their offending behaviour and take into account the need to provide childcare and women-only services.²⁰

Rehabilitation

While various rehabilitation programmes²¹ have been operating for women inmates by NGOs these programmes are usually short term and depend on donor funding, with no long term government-funded programmes in place as noted by the Head of the National Preventative Mechanism Unit of the Ombudsman's Office.

There is much need for more long-term state funded input to education, training and rehabilitation programmes in the women's prison, which could be conducted in partnership with organisations of civil society (in line with the Bangkok Rules, Rule 46). Such a need is particularly acute in the case of women who are serving long sentences, including life sentences, not only to prepare them for eventual release but also to protect their mental health.

NGOs that are running rehabilitation programmes²² have very limited funds, which are usually not sufficient to undertake research and needs assessments among women

¹⁸ Iakobishvili, E., 'Cause for Alarm: The Incarceration of Women for Drug Offences in Europe and Central Asia, and the need for Legislative and Sentencing Reform', International Harm Reduction Association, 2012.

¹⁹ UN Economic and Social Council (1999) Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 1997/44. UN Document E/CN.4/1999/68/Add.2.

²⁰ Bangkok Rules, Rule 60.

²¹ List of issues and questions in relation to the combined fourth and fifth periodic reports of Georgia, Addendum, Replies of Georgia, CEDAW/C/GEO/Q/4-5/Add.1, 23 January 2014, para 72.

²² Many NGOs provide rehabilitation programmes and have been useful in helping women prisoners' social reintegration and improving their mental health. As observed by the director of the Programme for the Rehabilitation and Re-socialisation of Former Prisoners, such programmes appear to have improved women's motivation and resources to build a new life following release. Some prisoners who had been trained by the NGO 'Women in Business' for example had found employment in the private sector or started their own businesses.

prisoners. Proper assessments should be undertaken by the prison administration for each prisoner, preferably during the admission stage which includes an assessment of rehabilitative needs.

Articles 2 and 5

Prejudices and stereotyped roles for women

Gender roles result in a particular stigma attached to women in prison, and while spouses regularly support their husbands in prison and upon release as a matter of course, reciprocally women tend to be shunned by their spouse - and often even the whole family - if they are detained. See also below on contact with families.

Twelve per cent of the women PRI surveyed in Georgia said that they were stigmatised by their families or communities. The family had broken up in 18 per cent of cases, and 13 per cent of women said that their children had ended up on the street and three per cent said that their children had been taken away.

Article 12: Substance dependencies and mental health

Health

Treatment for health problems was identified by 48 per cent of women PRI surveyed as the most important support they could receive to help them with reintegration upon release from prison.

When PRI met the Head of the National Preventive Mechanism (NPM) Unit of the Ombudsman Office of Georgia in May 2013 they had stated that 90 per cent of complaints from women were about health related issues, including in particular in relation to drug dependence. It was stated that many women in prison had a low social status; they were drug dependent and had other medical problems before they entered prisons.

Substance dependencies

According to the Head of the NPM Unit, drug dependence was a serious problem among women prisoners, who had used various drugs (mostly injecting) before imprisonment. These women did not have access to doctors or counselling before imprisonment, because of their low social and economic status and they could not access treatment during imprisonment either. For years there had been no healthcare staff or counsellors to help drug dependent women in prison. As of May 2013 a methadone detox programme was available in two men's prisons, but was not implemented in the women's prison.²³ According to recent information both the planned Methadone programme and post-treatment rehabilitation scheme are yet to be launched in the women's prison.

Peoni, one of the NGOs which has worked in the women's prison in Georgia for many years told PRI that many women prisoners had asked Peoni for rehabilitation for substance dependency, and that after their release they had come to Peoni's offices to receive consultations. Peoni added that based on observations during their work in

²³ Tbilisi No. 8 and Kutaisi No. 2 penitentiary establishments for men. The programme Program operating in these prisons is different from the one in civil sector, namely it is not a maintenance program (treatment with the stable doses of substitution medication during a long period of time) but rather a 2-month methadone detoxification when patients are treated with decreasing doses of medication during this period leading to a completion of the programme. The methadone programme is designed for opioid dependence and is not effective in other types of dependence (for example: dependence on amphetamines/methamphetamines). *Illicit Drug Use*, p. 9

prisons, many women were substance dependent and almost all the substance dependent prisoners were victims of domestic violence inflicted by their husband's family or their own family (see above on violence against women).

Many women who had been dependent on drugs or alcohol prior to their imprisonment had become dependent on psychotropic substances in prison. PRI received a number of reports about the abundant use of psychotropic substances, which were used to pacify and control prisoners throughout the prison system, under the previous administration. Women received prescriptions for psychotropic drugs from psychiatrists and sometimes they obtained such drugs informally via staff.

The State Party's Reply stated that there are only 2 drug dependent female inmates in the women's prison No.5,²⁴ and few women responded that they had a substance dependence in PRI's survey in May 2013 (4 per cent stated they have a drug dependence and only one per cent an alcohol dependence). However this almost certainly does not reflect the actual level of drug dependence among female offenders in Georgia. Firstly, as mentioned above the amnesty in late 2012 reportedly involved the release of many women prisoners who were drug dependent, and it may have changed again since then. Furthermore the low figures from PRI's research may also be a consequence of under-reporting by the women, perhaps due to the shame and stigma that may be associated with drug and alcohol dependence. Furthermore drug use is a criminal offence in Georgia as explained above and the women surveyed may not have wanted to draw attention to themselves.

Access to harm reduction programmes and psychological services are essential. Tanadgoma, a NGO, found in 2007 that 23 per cent of women prisoners were injecting drug users prior to imprisonment and that 74 per cent of them shared needles.

It is clear that the lack of knowledge on the number and impact of substance dependent female prisoners, the absence of gender-specific, or even standard treatment programmes, coupled with particular difficulties they face after release put women at a high risk of reoffending, while continuing with their substance abuse. Screening at admission should include a screening for substance dependency by qualified health specialists to ensure that appropriate treatment and care is provided.

Mental health

It is generally recognised that imprisonment has a negative impact on the mental health of both men and women, however women are typically disproportionately affected by the separation from children and communities.

In PRI's survey of women prisoners in May 2013, six per cent of the women said that they had had psychological or psychiatric problems before imprisonment; close to one third of women said that their psychological or psychiatric problems had started in prison; ten and eight per cent of women, respectively, said that their problems had got worse in prison. Only 16 per cent of women had received any treatment for psychological or psychiatric problems.

The Association of Professional Psychologists said that the most common problems among women prisoners were high levels of anxiety, damaged communication skills, resulting, in particular, in the inability to deal with conflict, as well as the additional psychosocial support needs of the many substance dependent women. There were also cases of psychopathy. The Association explained that most women came from problem families and most had lost their partners, husbands and children. They had lost the sense of their basic role of being a 'woman', which they found very hard to deal with.

²⁴ CEDAW/C/GEO/Q/4-5/Add.1, para 71.

The Global Initiative on Psychiatry (GIP) who provides psycho-social and psychiatric support to all women in pre-trial detention, described the high anxiety felt by women in this period of imprisonment. The most common mental health problems encountered among women in pre-trial detention were insomnia, high levels of anxiety, depression, phobias, psychosomatic complaints, major depressive episodes, personality disorders, post-traumatic stress disorder and psychosis. Certain times were described as particularly significant in terms of heightened risk of mental health problems, risk of self-harm and suicide, including during the first weeks of admission. Another period of high risk was prior to being transferred to the sentenced prisoners' part of the prison, if convicted, and in particular fear of being transferred to the block where high security prisoners were held.

Despite the high level of mental healthcare needs, women's access to psychologists and psychiatrists has been very limited or non-existent during the previous administration in Georgia. Current steps under the new administration are working towards more comprehensive treatment. Feedback from Ministry of Corrections on research carried out by PRI (commissioned by UN Women in late 2013) shows that the number of visits/consultations of psychiatrists and psychologists to women prisoners increased, however is not yet sufficient to fully address the mental health needs or psychological assistance for this group.

Article 16: Family life

As there are a small number of women prisoners in Georgia there is only one prison facility for convicted women (Prison #5 in Rustavi), which also has a wing for prisoners in pre-trial detention. Female inmates who are arrested in West Georgia are held in a separate wing of Kutaisi #2 male prison but are transferred to Prison #5 when convicted. This means that many women prisoners are held further away from their homes and communities than men.²⁵ This has an impact on the frequency and amount of visits women prisoners can receive from families who often have to travel long distances which is unaffordable for many.

This discrimination is compounded by the fact that women have an even stronger need for regular contact with their families, especially their children. When such contact cannot be maintained women's mental wellbeing can be damaged and their prospects for social reintegration undermined (see Bangkok Rules, Rule 26).

Maintaining contact with family and children

Of the 290 prisoners PRI surveyed, 238 were mothers (with a total of 486 children between them). Women prisoners are particularly impacted by the separation from their children and families, and in cases where visits are difficult (as exemplified above), telephone communication is even more important and sometimes the only way women prisoners can maintain contact with family.

The rules surrounding the use of phone cards mean that it is a heavy financial burden for the families of the prisoners (as most women inmates rely on their families and relatives for financial support during imprisonment), resulting in a negative impact on the women prisoners' mental health and re-socialisation.

Regulations for women inmates provide for the possibility of 5 phone calls per month with a duration of 15 minutes each, and as a form of incentive for good behaviour, limitless number of phone calls with a duration of 15 minutes at their own expense. In practice convicted women prisoners can enjoy an unlimited number of phone calls at their own

²⁵ See Bangkok Rules, Rule 4.

expense (the phone services are provided by a private company). Seventy percent of women surveyed indicated they would like to have easier access to phone cards as they explained each phone card, which they can buy in a prison shop, costs 5 GEL and allows for only 3 calls of 15 minutes per month. Purchasing several cards a month to maintain proper contact with their families is not affordable for the majority of women prisoners.

Visits from children

Women prisoners who have children in foster care face difficulties in organising for social workers of the Social Service Agency to bring their children to attend family visits. Although a number of NGOs provide this type of assistance, the State Party should ensure that women are visited by their children regardless of the child's situation in line with Rule 26 of the Bangkok Rules:

Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.

Conjugal visits

Although most male prisoners²⁶ have the right to long-term (conjugal) family visits which last up to 23 hours in separate accommodation, since 2006 women prisoners have not had this same right (envisaged as a policy until the end of 2015). Rule 27 of the Bangkok Rules explicitly provides that 'Where conjugal visits are allowed, women prisoners shall be able to exercise this right on an equal basis with men.'

RECOMMENDATIONS

The State Party should address the discrimination faced by women in the criminal justice system as suspects, defendants or prisoners, including by screening their legislation, policies and practices and through the implementation of the UN Bangkok Rules to ensure a gender-sensitive system, in particular by:

- Taking further steps to reduce the imprisonment of women, in line with the provisions of the UN Bangkok Rules (Rules 57 to 61), by using non-custodial measures and sanctions²⁷ instead of imprisonment, wherever possible, as well as by giving power to the courts to consider mitigating factors when sentencing women offenders, taking into account women's history of victimisation and caretaking responsibilities.
- The State Party should address violence experienced by women through paying special attention to the admission procedures and assessing what assistance is needed including access to legal advice, a full medical screening and information on where to seek help (in line with Rule 6 of the Bangkok Rules). Clear procedures should be put in place involving the relevant actors for women prisoners who have experienced violence, both in custody and prior to. Appropriate services should be

²⁶ Except for some high-risk prisoners.

²⁷ **Non-custodial measures** are alternatives to imprisonment for cases of pre-trial detention and include undertakings to appear before the court as and when required; not to interfere with witnesses; periodic reporting to police; submitting to electronic monitoring or curfew and surrender of passports. **Non-custodial sanctions** are an alternative sentence to imprisonment following conviction, including fines, restitution to the victim, a suspended or deferred sentence of imprisonment, community service, or probation and judicial supervision.

provided for women who have been subjected to physical, mental or sexual abuse (see Rule 42 of the Bangkok Rules).

- The State Party should review the relevant legislation and sentencing policies on drug offences, taking into account their discriminatory impact on women.
- Drug use should be approached from a therapeutic rather than criminal point of view (taking into account the increasing international recognition of this approach). In line with the Bangkok Rules the State Party should establish gender-sensitive substance abuse treatment programmes in the community both for crime prevention, as well as for diversion and alternative sentencing purposes.
- Following its pilot with individual sentencing planning for female and life sentence prisoners, gender-sensitive and individualised plans for all women prisoners should be implemented across the system.²⁸
- The State Party should recognise the importance of and provide high quality, individualised psycho-social services, which take a multi-disciplinary approach and do not rely on medication alone. In this context, the training of prison psychologists and social workers should be a priority alongside the training of other staff.
- There is an acute need for drug treatment services in prisons. Methadone treatment programmes should be provided in the women's prison, while acknowledging that this programme is designed for opioid dependence and is not effective in other types of dependence. It is therefore recommended that other, evidence based and gender-sensitive drug treatment programmes are also established in the women's prison.
- It is recommended that a strategy is developed to improve the rehabilitation programmes provided to women prisoners and funding allocated to ensure that the programmes are sustainable and long-term. Such programmes can be conducted in partnership with organisations of civil society. Programmes to build life skills, vocational training and education were particularly high among the support requirements listed by women who participated in PRI's survey in Georgia.
- The need to introduce rehabilitation programmes is particularly acute in the case of women who are serving long sentences, including life sentences, not only to prepare them for eventual release but also to protect their mental health.
- The State Party should develop measures to support women prisoners who face stigma following prison, including by facilitating contact with family and communities in line with the UN Bangkok Rules (Rule 26).
- The State Party should take all appropriate measures to eliminate the discrimination in accessing conjugal visits, telephone contact and visits with children who are in foster care in line with Article 16 of the Convention and the UN Bangkok Rules (Rules 26 and 27).

For more information please contact:

Penal Reform International
60-62 Commercial Street
London E1 6LT
United Kingdom
www.penalreform.org

Penal Reform International
South Caucasus Office
16 Kikodze Street
Tbilisi 0105
Georgia

²⁸ CEDAW/C/GEO/Q/4-5/Add.1, para70.