



Submission to the UN Special Rapporteur on Health

On the impact of the COVID-19 pandemic on certain aspects of the right to sexual and reproductive health of women deprived of liberty

10 June 2021

Submitting organisations:

1. The International Drug Policy Consortium is a global network of 191 non-government organizations that advocate for drug policy reform to advance social justice and human rights.
2. Corporación Humanas Colombia is a centre for studies and feminist political action, formed by an interdisciplinary team of women that works from an intersectional approach in the promotion and protection of the human rights and gender justice of girls, young women, and adult women in the national, regional, and international spheres.
3. Penal Reform International is a non-governmental organisation working globally to promote criminal justice systems that uphold human rights for all and do no harm. We run practical human rights programmes and support reforms that make criminal justice fair and effective, non-discriminatory, and protect the rights of disadvantaged people.

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Introduction: Women deprived of liberty facing multiple layers of discrimination

1. The International Drug Policy Consortium (IDPC), Corporación Humanas Colombia, Penal Reform International (PRI) welcome the opportunity to submit this paper to the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (the ‘Special Rapporteur’) concerning the impact of the COVID-19 pandemic on certain aspects of the right to sexual and reproductive health of women deprived of liberty.
2. As of 2020, an estimated 741,000 women were incarcerated across the world.¹ From 2000 to 2020 the number of women deprived of liberty increased by a shocking 59%, while the male prison population is estimated to have risen by 20% between 2000 and 2017.² In the last 10 years, the increase in female prison population has concentrated in Asia (by 50%), in Africa (by 24%), and in Central and South America (by 19%)³. The disproportionate impact of harshly punitive drug laws on women has played a critical role in this alarming trend: in countries like Peru or the Philippines, where the number of women in prison has more than doubled in the last 20 years, approximately 60% of women in prison have been incarcerated for drug offences.⁴
3. Approached through the intersectionality lens and the non-discrimination principles adopted by the Special Rapporteur in her 2021 Strategic Priorities of Work⁵, evidence shows that incarcerated women face multiple layers of stigma, discrimination, and oppression. Women are in contact with the criminal justice system because of discrimination and deprivation,⁶ including through poverty⁷, lack of education,⁸ and physical and mental abuse⁹ by partners and relatives. In the few countries where data is available, it is clear that black, indigenous and other women of colour are disproportionately represented in prisons.¹⁰ Evidence also shows that punitive drug laws, which disproportionately target women, also target them on the basis of their race and ethnicity¹¹, or their status as migrant¹².
4. The world’s prison systems have been built by, and for, men. Women are estimated to constitute only 6.9% of the global prison population¹³, and are frequently incarcerated in small annexes of prisons for men. Under international human rights law, States must ensure that women deprived of liberty have access to adequate, affordable, and good quality sexual and reproductive health services and information, without discrimination, and equal to those in the community. However, in practice women’s rights and needs are frequently deprioritised, or ignored.
5. Drawing on several examples, including a comprehensive report on the situation of women deprived of liberty in Colombia written by Corporación Humanas Colombia (see **Annex** for its original version in Spanish and an automated translation to English), this submission will outline how States’ responses to the COVID-19 pandemic have impacted on the sexual and reproductive rights of women deprived of liberty. While this could be approached from many perspectives, we mostly focus on a particular issue: the lack of access to menstrual health products for women, such as sanitary towels, also known as period poverty. In this as in many other issues, the COVID-19 pandemic exacerbated a series of rights violation and inequities that were already deeply ingrained before the pandemic.

Background: International standards on the right to sexual and reproductive health of women deprived of liberty

6. The right to sexual and reproductive health is an integral part of the right to health enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights.¹⁴ Sexual and reproductive health care, goods, and information must be available in adequate numbers, physically accessible, affordable, made available without discrimination, and of good quality.¹⁵
7. Article 12 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) commits States to ensure equal access for men and women to health care services, and to provide women with ‘appropriate services in connection with pregnancy, confinement, and the post-natal period’. The CEDAW Committee has made clear that, when discharging their obligations under this article, States should ensure universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services.¹⁶
8. Women who are incarcerated in a prison, or in a different place of detention, have had their right to liberty temporarily restricted, but their right to sexual and reproductive health remains intact. According to the UN Committee on Economic, Social and Cultural Rights, women deprived of liberty, ‘given their additional vulnerability by condition of their detention (...), are also groups that require the State to take particular steps to ensure their access to sexual and reproductive information, goods, and healthcare’.¹⁷
9. The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (known as the ‘Bangkok Rules’), which were adopted in 2010 by the UN General Assembly in a unanimous vote of all UN Member States, lay down a series of important rules concerning the right to sexual and reproductive health of women deprived of liberty. These include:
 - a. the obligation to provide facilities and materials required to meet women’s specific hygiene needs, including sanitary towels provided free of charge, and disposal arrangements for blood-stained articles (Bangkok Rule 5)¹⁸;
 - b. the obligation to diagnose and provide appropriate treatment for sexual health diseases as early as possible (Bangkok Rule 6);¹⁹
 - c. the duty to provide gender-specific treatment and care equal to that in the community (Bangkok Rule 10)²⁰;
 - d. the obligation to provide preventive health-care measures and education on HIV/AIDS (Bangkok Rule 17), which should include consideration for the provision of condoms,²¹ and for breast and gynaecological cancer (Bangkok Rule 18), as well as for other conditions like painful menstruation²²;
 - e. the right to receive conjugal visits (Bangkok Rule 27); and
 - f. additional specific rules for women who are pregnant, breastfeeding, or with children in prison (Rules 48-52).

10. While touching on several of these obligations, this submission mostly focuses on the obligation to meet women's specific sanitary and hygiene needs (Bangkok Rule 5), including through the provision of sanitary towels, which UNODC considers to be 'of particular importance'²³. It has been argued that the lack of provision of healthcare, products and information to manage menstruation is a particularly blatant example of the impact of prison systems on the bodies of women deprived of liberty.²⁴
11. On several occasions, the CEDAW Committee has urged States to ensure the provision of adequate access to health care and personal hygiene items for women in places of detention (see Concluding Observations on Moldova (2020)²⁵, Ethiopia (2019)²⁶, or Paraguay (2017)²⁷), often referring to the Bangkok Rules. Additionally, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considers that the failure to provide basic articles relating to the management of menstruation can amount, in itself, to degrading treatment²⁸.

COVID-19 response measures in places of detention, and their impact on women's right to sexual and reproductive health (Questions 1 & 3).

Measures to respond to COVID-19 in places of detention

12. Prisons and other places of detention are an extreme-risk environment for COVID-19, due to their closed, cramped, overcrowded and unsanitary conditions, which render social distancing and other prevention interventions impossible. As of May 2021, at least 548,489 people deprived of liberty had tested positive for the virus, and at least 3,968 deaths have been recorded as related to the virus²⁹, though both figures are likely to be a gross underestimate.
13. Data on the impact of the pandemic in prison remains gender blind – already an indicator of the lack of attention paid to women's needs in the response to the pandemic,³⁰ and in places of detention.
14. At the outset of the pandemic, several UN entities, human rights experts, and civil society called for the decongestion of prisons as a measure to reduce the spread of the virus³¹. Between March and June 2020, 109 countries announced measures to address prison overcrowding, but their impact in practice has been small. It is estimated that the global prison population was reduced by less than a 6%³², through early releases, often through sentence commutation, pardons, diversions to home arrest, and release on bail/parole. Furthermore, women deprived of liberty were only explicitly targeted by decongestion measures in 20% of these countries. Examples of countries having specifically targeted women include the UK, Rwanda and Zimbabwe, which all committed to release women imprisoned with their children. (It is worth noting that, in the UK, by June 2020 only 16 out of the 70 women under consideration had been released).³³
15. For many States, the preferred way to address the pandemic in the carceral system has been to establish severe restrictions of movement within prisons themselves, as well as restricting severely the interaction and contact between prisons and the community.³⁴ In what has been

sometimes called ‘a lockdown within a lockdown’³⁵, prisons have been cut off from the external world, by suspending external visits from families and partners,³⁶ and by denying access to prison by external services, including health care. In some cases, measures to stop the delivery of products within prisons were also adopted. In many countries in Europe, Americas and Oceania, prison authorities put in place cell-based isolation mechanisms that in practice entailed prolonged solitary confinement for people deprived of liberty, at a time for months.³⁷

Impact on the right to sexual and reproductive health of women deprived of liberty

16. These restrictive measures have come at a cost for the right to sexual and reproductive health of women deprived of liberty, particularly where its fulfilment relied on informal support (i.e. money, or direct supply of products) brought in by families, or by civil society organisations that have been denied access to prisons since the start of the pandemic.
17. In this section we provide a few examples of how restrictive measures have impacted the rights to sexual and reproductive health of women deprived of liberty. The number of examples is limited, as we lack comprehensive data about the sexual and reproductive health of women deprived of liberty – both before and after the pandemic. The examples are merely meant to give a sense of a range of violations that are likely to be more widespread, and systematic.
 - a. Interruption of supplies of hygiene and sanitary products. In many countries, the ban on external visits to prison has meant that people deprived of liberty did not have access anymore to a supply of basic items on which they relied, including food, clothes, or money.³⁸ In some cases, this also meant that women had no access to basic hygiene products, such as sanitary towels and other products to manage menstruation.
 - In **India**, before the pandemic women deprived of liberty generally relied on visits by family members or NGOs for their monthly supply of sanitary pads. This was disrupted when visits by outsiders including family and NGOs were stopped to respond to the virus.³⁹
 - In **Kenya**, the charities that would normally supply sanitary towels and other hygiene products were banned from delivering them as a measure to prevent the spread of the virus in prisons.⁴⁰
 - In **Mexico**, before the pandemic access to sanitary towels and other hygiene products already relied on external supply of products or money by family members⁴¹ (according to some reports, a pack of sanitary pads could be acquired within prisons at a cost of between 35 to 50 pesos, i.e. approx. 1.70 to 2.50 USD). After the outset of the pandemic and the ban on external visits, activist characterised the approach to this issue as ‘complete oblivion’⁴².
 - Similarly, in **Colombia** the report by Corporacion Humanas Colombia (see Annex A) points out that before COVID-19 intimate hygiene products such as sanitary towels were not provided for free by the government, but they had to be bought within prisons, or supplied by families. At the start of the pandemic, the government immediately banned

visits, as well the remittance of any products to people deprived of liberty, thus leaving women without access to such products. After several complaints, the government supplied a completely insufficient number of kits, leaving women with as little as a single pack of sanitary towels every 3 months.⁴³ Finally, authorities arranged for the supply of products through a private transport company, but they still have to be paid for by women deprived of liberty or their families, which has led to a black market within prisons (see Annex A, p. 3).

- Lastly, it has been documented that in **Uganda** the funds used to buy sanitary towels before the pandemic were diverted to the acquisition of hand washing materials.

- b. Lack of gynaecological visits. The report by Corporacion Humanas Colombia (Annex A) also shows that, before the pandemic, in **Colombia** gynaecological professionals would visit prisons only once per month, while Papanicolau tests would only take place every 2 or 3 months – which was already not enough to cover the needs of all women deprived of liberty. However, since the outset of the pandemic absolutely no visits have been allowed, in clear breach of Bangkok Rules 5 and 18. Naturally, this has also had a serious impact on the mental health of women, who are worried by the lack of attention and care for their health.

While considering the categories of people deprived of liberty that could be release during the pandemic in **India**, only the states of Punjab and Haryana considered pregnant women. Women as a vulnerable category for release was not considered by most states⁴⁴. This becomes more concerning in light of the fact that, prisons across the country are already faced with a lack of regular visits by gynaecologists and pregnant women are normally taken to the district hospital for check-ups.

- c. Lack of conjugal visits. In **Colombia**, the report by Corporacion Humanas Colombia (Annex A) also shows since the outset of the pandemic women deprived of liberty have been denied to right to intimate conjugal visits, both with people who live in the community, and with people who are already in prison. At the moment of writing this submission, national authorities have not set out any measure to resolve this issue, thus leaving women without conjugal visits for over a year.
- d. Lack of adequate food. In **Colombia**, the report by Corporacion Humanas Colombia (Annex A) also details how, during the first three months of the pandemic, the food supplied to women deprived of liberty was provided raw, or semi-raw, and often in bad state. The specific dietary requirements of pregnant women or women who have given birth were not taken into consideration. In general, the private companies that supply food to prisons have proven to be unreliable, and the government hasn't taken appropriate measures to ensure that they meet the needs of women deprived of liberty.

18. Beyond sexual and reproductive health, the report attached as Annex A also documents how basic sanitation measures to prevent the spread of COVID-19, such as the provision water, soap, or PPE, was deficient; for instance, in many cases the water for washing was 'grey, of bad quality,

and with oxid residues'⁴⁵. Furthermore, the number of toilets and sanitary facilities remained insufficient throughout the pandemic, considering the number of women detained in these prisons.

The pandemic exacerbated existing rights violations

19. The lack of access to sanitary products or knowledge of menstrual hygiene, commonly known as 'period poverty'⁴⁶, was already a frequent feature in prison systems across the world before the pandemic. Thus, the severe restrictions on contacts between prisons and the community brought as a response to COVID-19 has only exacerbated a series of rights violations that were widespread beforehand. Some examples are provided below:
 - a. In **India**, the Commonwealth Human Rights Initiative found that some women deprived of liberty simply did not know that they could obtain free sanitary towels from prison authorities, and continued to buy them from prison canteens, to source them from their families (though they were reluctant to ask male relatives), or to merely resort to using old cloths and rags, thus putting their health at risk. In good part, this was a consequence of the fact that only 18% of all women incarcerated in Indian prisons are in women-only facilities, which means that their needs are deprioritised in comparison to men's.⁴⁷
 - b. Thai law requires all prisons to provide sanitary pads to women in prison free of charge, but does not specify how many. It has been reported that last year women in Chaiphum Prison, in **Thailand**, received only 12 sanitary pads each for the whole year – 10 times less than their usual annual quota. The Department of Corrections says it is allocated only 50-60% of the total budget requested to purchase personal items for women in prison and tries to fill the shortfall with donations from individuals and NGOs, and that women can buy pads from prison commissaries with money they are given by visitors or have earned from prison labour.⁴⁸
 - c. In the **United States**, many states do not provide free menstruation products, and where there is a mandate to supply them for free, the implementation is not smooth. Some of the issues reported include: a lack of adequation to the different ways in which women experience menstruation (i.e. different types of amounts of sanitary towels); having to beg or bargain for extra sanitary towels; or the fact that in some prisons sanitary towels were sold at unaffordable rates.⁴⁹

ENDNOTES

- ¹ <https://www.penalreform.org/blog/addressing-the-105000-increase-in-the-global-female/>
- ² [http://fileserv.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://fileserv.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 4.
- ³ <https://www.penalreform.org/blog/addressing-the-105000-increase-in-the-global-female/>
- ⁴ [http://fileserv.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://fileserv.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 4. The data for Peru is from 2014, and the data for the Philippines if from 2017.
- ⁵ A/HRC/47/28.
- ⁶ United Nations Office on Drugs and Crime (UNODC) (2010), *The Bangkok Rules – United Nations Rules for the treatment of women prisoners and non-custodial measures for women offenders with their commentary*, p. 43, [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)
- ⁷ In the USA, 72% of women deprived of liberty had an annual income of under 22,500 USD before their incarceration. See: <https://www.prisonpolicy.org/reports/income.html>
- ⁸ Uprimmy, R. et al (2016), *Women, drug policies, and incarceration: A Guide for Policy Reform in Colombia* (Bogotá: Dejusticia), p. 23, https://www.dejusticia.org/wp-content/uploads/2017/04/fi_name_recurso_866.pdf?x54537
- ⁹ Barzanò, P. (2012), ‘The Bangkok Rules: An international response to the needs of women offenders’, *Resource Material Series* 90: 83, https://www.unafei.or.jp/publications/pdf/RS_No90/No90_11VE_Barzano.pdf
- ¹⁰ See for instance: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Counted%20Out.pdf>, p. 3.
- ¹¹ See, amongst others: UN Committee on the Elimination of all forms of Racial Discrimination (2014), *Concluding observations on the combined seventh to ninth periodic reports of United States of America*, UN Doc. CERD/C/USA/CO/7-9, para. 20, https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD_C_USA_CO_7-9_18102_E.pdf; Hutt, D. (26 July 2019), ‘The Bail Challenge in Southeast Asia’, *The Diplomat*, <https://thediplomat.com/2019/07/the-bail-challenge-in-southeast-asia/>; Drug Policy Alliance (2015), *The Drug War, Mass Incarceration and Race*, https://www.unodc.org/documents/ungass2016/Contributions/Civil/DrugPolicyAlliance/DPA_Fact_Sheet_Drug_War_Mass_Incarceration_and_Race_June2015.pdf
- ¹² [http://fileserv.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://fileserv.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 18.
- ¹³ Walmsley, R. (2018). *World Female Imprisonment List*. London: World Prison Brief.
- ¹⁴ UN Committee on Economic, Social and Cultural Rights (2016), General Comment 22 on the right to sexual and reproductive health, para. 1.
- ¹⁵ A/61/338, para. 17.
- ¹⁶ Committee CEDAW (1999), General Recommendation 24, para. 29.
- ¹⁷ UN Committee on Economic, Social and Cultural Rights (2016), General Comment 22 on the right to sexual and reproductive health, para. 31.
- ¹⁸ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 27.
- ¹⁹ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 28.
- ²⁰ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 31.
- ²¹ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 33.
- ²² [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 33.
- ²³ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 27.
- ²⁴ <https://routesjournal.org/2020/08/15/r2009/>
- ²⁵ CEDAW/C/MDA/CO/6, para. 41.
- ²⁶ CEDAW/C/ETH/CO/8, para. 56.
- ²⁷ CEDAW/C/PRY/CO/7, para. 44.
- ²⁸ <https://rm.coe.int/168077ff14>, p. 4.
- ²⁹ <https://www.jpp.org.pk/covid19-prisoners/>
- ³⁰ <https://cdn.penalreform.org/wp-content/uploads/2021/02/ACHPR-Newsletter-No-14.pdf>, p. 12.
- ³¹ <https://www.who.int/news/item/13-05-2020-unodc-who-unhcr-and-ohchr-joint-statement-on-covid-19-in-prisons->

[and-other-closed-settings](#)

³² <https://www.hri.global/covid-19-prison-diversion-measures>

³³ [http://filesserver.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://filesserver.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 10.

³⁴ See case studies on Colombia and Ireland in: <https://idpc.net/publications/2021/03/prisons-and-covid-19-lessons-from-an-ongoing-crisis>

³⁵ See for instance: <https://www.yorkpress.co.uk/news/18407985.prisoners-view-lockdown-prison/>, <https://netherlandsnewslive.com/corona-and-prisons-a-lockdown-within-a-lockdown-not-being-allowed-to-hug-your-child-thats-very-tough/66581/>

³⁶ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 33.

³⁷ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 32.

³⁸ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 33.

³⁹ <https://www.news18.com/news/opinion/opinion-menstrual-hygiene-in-indian-prisons-needs-attention-period-2696461.html>

⁴⁰ <https://cdn.penalreform.org/wp-content/uploads/2021/02/ACHPR-Newsletter-No-14.pdf>, p. 12.

⁴¹ <https://www.eluniversal.com.mx/nacion/reclusas-improvisan-toallas-sanitarias-con-trapos-y-calcetines>

⁴²

https://www.reforma.com/aplicacioneslibre/preacceso/articulo/default.aspx?_rval=1&urlredirect=https://www.reforma.com/exigen-menstruacion-digna-en-prisiones/ar2144986?referer=--7d616165662f3a3a6262623b727a7a7279703b767a783a--

⁴³ See case study on Colombia and Ireland in: <https://idpc.net/publications/2021/03/prisons-and-covid-19-lessons-from-an-ongoing-crisis>

⁴⁴ <https://humanrightsinitiative.org/download/Responding%20to%20the%20Pandemic%20Prisons%20&%20Overcrowding%20Vol%201.pdf> p.43

⁴⁵ Annex, p. 2.

⁴⁶ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 22.

⁴⁷ <https://www.penalreform.org/blog/period-poverty-in-prisons-ensuring-menstrual-hygiene-and/>

⁴⁸ <https://www.reuters.com/article/us-thailand-prison-women-trfn-idUSKBN2861HT>

⁴⁹ See for instance: <https://routesjournal.org/2020/08/15/r2009/>; <https://periodaisle.com/blogs/all/the-hidden-impact-of-period-poverty-in-prisons>



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Background: International standards on the right to sexual and reproductive health of women deprived of liberty

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7. Article 12 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) commits States to ensure equal access for men and women to health care services, and to provide women with ‘appropriate services in connection with pregnancy, confinement, and the post-natal period’. The CEDAW Committee has made clear that, when discharging their obligations under this article, States should ensure universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services.¹⁶
8. Women who are incarcerated in a prison, or in a different place of detention, have had their right to liberty temporarily restricted, but their right to sexual and reproductive health remains intact. According to the UN Committee on Economic, Social and Cultural Rights, women deprived of liberty, ‘given their additional vulnerability by condition of their detention (...), are also groups that require the State to take particular steps to ensure their access to sexual and reproductive information, goods, and healthcare’.¹⁷
9. The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (known as the ‘Bangkok Rules’), which were adopted in 2010 by the UN General Assembly in a unanimous vote of all UN Member States, lay down a series of important rules concerning the right to sexual and reproductive health of women deprived of liberty. These include:
 - a. the obligation to provide facilities and materials required to meet women’s specific hygiene needs, including sanitary towels provided free of charge, and disposal arrangements for blood-stained articles (Bangkok Rule 5)¹⁸;
 - b. the obligation to diagnose and provide appropriate treatment for sexual health diseases as early as possible (Bangkok Rule 6);¹⁹
 - c. the duty to provide gender-specific treatment and care equal to that in the community (Bangkok Rule 10)²⁰;
 - d. the obligation to provide preventive health-care measures and education on HIV/AIDS (Bangkok Rule 17), which should include consideration for the provision of condoms,²¹ and for breast and gynaecological cancer (Bangkok Rule 18), as well as for other conditions like painful menstruation²²;
 - e. the right to receive conjugal visits (Bangkok Rule 27); and
 - f. additional specific rules for women who are pregnant, breastfeeding, or with children in prison (Rules 48-52).

10. While touching on several of these obligations, this submission mostly focuses on the obligation to meet women's specific sanitary and hygiene needs (Bangkok Rule 5), including through the provision of sanitary towels, which UNODC considers to be 'of particular importance'²³. It has been argued that the lack of provision of healthcare, products and information to manage menstruation is a particularly blatant example of the impact of prison systems on the bodies of women deprived of liberty.²⁴
11. On several occasions, the CEDAW Committee has urged States to ensure the provision of adequate access to health care and personal hygiene items for women in places of detention (see Concluding Observations on Moldova (2020)²⁵, Ethiopia (2019)²⁶, or Paraguay (2017)²⁷), often referring to the Bangkok Rules. Additionally, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considers that the failure to provide basic articles relating to the management of menstruation can amount, in itself, to degrading treatment²⁸.

COVID-19 response measures in places of detention, and their impact on women's right to sexual and reproductive health (Questions 1 & 3).

Measures to respond to COVID-19 in places of detention

12. Prisons and other places of detention are an extreme-risk environment for COVID-19, due to their closed, cramped, overcrowded and unsanitary conditions, which render social distancing and other prevention interventions impossible. As of May 2021, at least 548,489 people deprived of liberty had tested positive for the virus, and at least 3,968 deaths have been recorded as related to the virus²⁹, though both figures are likely to be a gross underestimate.
13. Data on the impact of the pandemic in prison remains gender blind – already an indicator of the lack of attention paid to women's needs in the response to the pandemic,³⁰ and in places of detention.
14. At the outset of the pandemic, several UN entities, human rights experts, and civil society called for the decongestion of prisons as a measure to reduce the spread of the virus³¹. Between March and June 2020, 109 countries announced measures to address prison overcrowding, but their impact in practice has been small. It is estimated that the global prison population was reduced by less than a 6%³², through early releases, often through sentence commutation, pardons, diversions to home arrest, and release on bail/parole. Furthermore, women deprived of liberty were only explicitly targeted by decongestion measures in 20% of these countries. Examples of countries having specifically targeted women include the UK, Rwanda and Zimbabwe, which all committed to release women imprisoned with their children. (It is worth noting that, in the UK, by June 2020 only 16 out of the 70 women under consideration had been released).³³
15. For many States, the preferred way to address the pandemic in the carceral system has been to establish severe restrictions of movement within prisons themselves, as well as restricting severely the interaction and contact between prisons and the community.³⁴ In what has been

sometimes called ‘a lockdown within a lockdown’³⁵, prisons have been cut off from the external world, by suspending external visits from families and partners,³⁶ and by denying access to prison by external services, including health care. In some cases, measures to stop the delivery of products within prisons were also adopted. In many countries in Europe, Americas and Oceania, prison authorities put in place cell-based isolation mechanisms that in practice entailed prolonged solitary confinement for people deprived of liberty, at a time for months.³⁷

Impact on the right to sexual and reproductive health of women deprived of liberty

16. These restrictive measures have come at a cost for the right to sexual and reproductive health of women deprived of liberty, particularly where its fulfilment relied on informal support (i.e. money, or direct supply of products) brought in by families, or by civil society organisations that have been denied access to prisons since the start of the pandemic.
17. In this section we provide a few examples of how restrictive measures have impacted the rights to sexual and reproductive health of women deprived of liberty. The number of examples is limited, as we lack comprehensive data about the sexual and reproductive health of women deprived of liberty – both before and after the pandemic. The examples are merely meant to give a sense of a range of violations that are likely to be more widespread, and systematic.
 - a. Interruption of supplies of hygiene and sanitary products. In many countries, the ban on external visits to prison has meant that people deprived of liberty did not have access anymore to a supply of basic items on which they relied, including food, clothes, or money.³⁸ In some cases, this also meant that women had no access to basic hygiene products, such as sanitary towels and other products to manage menstruation.
 - In **India**, before the pandemic women deprived of liberty generally relied on visits by family members or NGOs for their monthly supply of sanitary pads. This was disrupted when visits by outsiders including family and NGOs were stopped to respond to the virus.³⁹
 - In **Kenya**, the charities that would normally supply sanitary towels and other hygiene products were banned from delivering them as a measure to prevent the spread of the virus in prisons.⁴⁰
 - In **Mexico**, before the pandemic access to sanitary towels and other hygiene products already relied on external supply of products or money by family members⁴¹ (according to some reports, a pack of sanitary pads could be acquired within prisons at a cost of between 35 to 50 pesos, i.e. approx. 1.70 to 2.50 USD). After the outset of the pandemic and the ban on external visits, activist characterised the approach to this issue as ‘complete oblivion’⁴².
 - Similarly, in **Colombia** the report by Corporacion Humanas Colombia (see Annex A) points out that before COVID-19 intimate hygiene products such as sanitary towels were not provided for free by the government, but they had to be bought within prisons, or supplied by families. At the start of the pandemic, the government immediately banned

visits, as well the remittance of any products to people deprived of liberty, thus leaving women without access to such products. After several complaints, the government supplied a completely insufficient number of kits, leaving women with as little as a single pack of sanitary towels every 3 months.⁴³ Finally, authorities arranged for the supply of products through a private transport company, but they still have to be paid for by women deprived of liberty or their families, which has led to a black market within prisons (see Annex A, p. 3).

- Lastly, it has been documented that in **Uganda** the funds used to buy sanitary towels before the pandemic were diverted to the acquisition of hand washing materials.

- b. Lack of gynaecological visits. The report by Corporacion Humanas Colombia (Annex A) also shows that, before the pandemic, in **Colombia** gynaecological professionals would visit prisons only once per month, while Papanicolau tests would only take place every 2 or 3 months – which was already not enough to cover the needs of all women deprived of liberty. However, since the outset of the pandemic absolutely no visits have been allowed, in clear breach of Bangkok Rules 5 and 18. Naturally, this has also had a serious impact on the mental health of women, who are worried by the lack of attention and care for their health.

While considering the categories of people deprived of liberty that could be released during the pandemic in **India**, only the states of Punjab and Haryana considered pregnant women. Women as a vulnerable category for release was not considered by most states⁴⁴. This becomes more concerning in light of the fact that, prisons across the country are already faced with a lack of regular visits by gynaecologists and pregnant women are normally taken to the district hospital for check-ups.

- c. Lack of conjugal visits. In **Colombia**, the report by Corporacion Humanas Colombia (Annex A) also shows since the outset of the pandemic women deprived of liberty have been denied to right to intimate conjugal visits, both with people who live in the community, and with people who are already in prison. At the moment of writing this submission, national authorities have not set out any measure to resolve this issue, thus leaving women without conjugal visits for over a year.
- d. Lack of adequate food. In **Colombia**, the report by Corporacion Humanas Colombia (Annex A) also details how, during the first three months of the pandemic, the food supplied to women deprived of liberty was provided raw, or semi-raw, and often in bad state. The specific dietary requirements of pregnant women or women who have given birth were not taken into consideration. In general, the private companies that supply food to prisons have proven to be unreliable, and the government hasn't taken appropriate measures to ensure that they meet the needs of women deprived of liberty.

18. Beyond sexual and reproductive health, the report attached as Annex A also documents how basic sanitation measures to prevent the spread of COVID-19, such as the provision water, soap, or PPE, was deficient; for instance, in many cases the water for washing was 'grey, of bad quality,

and with oxid residues'⁴⁵. Furthermore, the number of toilets and sanitary facilities remained insufficient throughout the pandemic, considering the number of women detained in these prisons.

The pandemic exacerbated existing rights violations

19. The lack of access to sanitary products or knowledge of menstrual hygiene, commonly known as 'period poverty'⁴⁶, was already a frequent feature in prison systems across the world before the pandemic. Thus, the severe restrictions on contacts between prisons and the community brought as a response to COVID-19 has only exacerbated a series of rights violations that were widespread beforehand. Some examples are provided below:
 - a. In **India**, the Commonwealth Human Rights Initiative found that some women deprived of liberty simply did not know that they could obtain free sanitary towels from prison authorities, and continued to buy them from prison canteens, to source them from their families (though they were reluctant to ask male relatives), or to merely resort to using old cloths and rags, thus putting their health at risk. In good part, this was a consequence of the fact that only 18% of all women incarcerated in Indian prisons are in women-only facilities, which means that their needs are deprioritised in comparison to men's.⁴⁷
 - b. Thai law requires all prisons to provide sanitary pads to women in prison free of charge, but does not specify how many. It has been reported that last year women in Chaiphum Prison, in **Thailand**, received only 12 sanitary pads each for the whole year – 10 times less than their usual annual quota. The Department of Corrections says it is allocated only 50-60% of the total budget requested to purchase personal items for women in prison and tries to fill the shortfall with donations from individuals and NGOs, and that women can buy pads from prison commissaries with money they are given by visitors or have earned from prison labour.⁴⁸
 - c. In the **United States**, many states do not provide free menstruation products, and where there is a mandate to supply them for free, the implementation is not smooth. Some of the issues reported include: a lack of adequation to the different ways in which women experience menstruation (i.e. different types of amounts of sanitary towels); having to beg or bargain for extra sanitary towels; or the fact that in some prisons sanitary towels were sold at unaffordable rates.⁴⁹

ENDNOTES

- ¹ <https://www.penalreform.org/blog/addressing-the-105000-increase-in-the-global-female/>
- ² [http://filesserver.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://filesserver.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 4.
- ³ <https://www.penalreform.org/blog/addressing-the-105000-increase-in-the-global-female/>
- ⁴ [http://filesserver.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://filesserver.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 4. The data for Peru is from 2014, and the data for the Philippines if from 2017.
- ⁵ A/HRC/47/28.
- ⁶ United Nations Office on Drugs and Crime (UNODC) (2010), *The Bangkok Rules – United Nations Rules for the treatment of women prisoners and non-custodial measures for women offenders with their commentary*, p. 43, [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)
- ⁷ In the USA, 72% of women deprived of liberty had an annual income of under 22,500 USD before their incarceration. See: <https://www.prisonpolicy.org/reports/income.html>
- ⁸ Uprimmy, R. et al (2016), *Women, drug policies, and incarceration: A Guide for Policy Reform in Colombia* (Bogotá: Dejusticia), p. 23, https://www.dejusticia.org/wp-content/uploads/2017/04/fi_name_recurso_866.pdf?x54537
- ⁹ Barzanò, P. (2012), ‘The Bangkok Rules: An international response to the needs of women offenders’, *Resource Material Series* 90: 83, https://www.unafei.or.jp/publications/pdf/RS_No90/No90_11VE_Barzano.pdf
- ¹⁰ See for instance: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Counted%20Out.pdf>, p. 3.
- ¹¹ See, amongst others: UN Committee on the Elimination of all forms of Racial Discrimination (2014), *Concluding observations on the combined seventh to ninth periodic reports of United States of America*, UN Doc. CERD/C/USA/CO/7-9, para. 20, https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD_C_USA_CO_7-9_18102_E.pdf; Hutt, D. (26 July 2019), ‘The Bail Challenge in Southeast Asia’, *The Diplomat*, <https://thediplomat.com/2019/07/the-bail-challenge-in-southeast-asia/>; Drug Policy Alliance (2015), *The Drug War, Mass Incarceration and Race*, https://www.unodc.org/documents/ungass2016/Contributions/Civil/DrugPolicyAlliance/DPA_Fact_Sheet_Drug_War_Mass_Incarceration_and_Race_June2015.pdf
- ¹² [http://filesserver.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://filesserver.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 18.
- ¹³ Walmsley, R. (2018). *World Female Imprisonment List*. London: World Prison Brief.
- ¹⁴ UN Committee on Economic, Social and Cultural Rights (2016), General Comment 22 on the right to sexual and reproductive health, para. 1.
- ¹⁵ A/61/338, para. 17.
- ¹⁶ Committee CEDAW (1999), General Recommendation 24, para. 29.
- ¹⁷ UN Committee on Economic, Social and Cultural Rights (2016), General Comment 22 on the right to sexual and reproductive health, para. 31.
- ¹⁸ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 27.
- ¹⁹ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 28.
- ²⁰ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 31.
- ²¹ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 33.
- ²² [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 33.
- ²³ [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok Rules ENG 22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf), p. 27.
- ²⁴ <https://routesjournal.org/2020/08/15/r2009/>
- ²⁵ CEDAW/C/MDA/CO/6, para. 41.
- ²⁶ CEDAW/C/ETH/CO/8, para. 56.
- ²⁷ CEDAW/C/PRY/CO/7, para. 44.
- ²⁸ <https://rm.coe.int/168077ff14>, p. 4.
- ²⁹ <https://www.jpp.org.pk/covid19-prisoners/>
- ³⁰ <https://cdn.penalreform.org/wp-content/uploads/2021/02/ACHPR-Newsletter-No-14.pdf>, p. 12.
- ³¹ <https://www.who.int/news/item/13-05-2020-unodc-who-unaid-and-ohchr-joint-statement-on-covid-19-in-prisons->

[and-other-closed-settings](#)

³² <https://www.hri.global/covid-19-prison-diversion-measures>

³³ [http://filesserver.idpc.net/library/Punitive Drug Laws 10 years undermining the Bangkok Rules.pdf](http://filesserver.idpc.net/library/Punitive_Drug_Laws_10_years_undermining_the_Bangkok_Rules.pdf), p. 10.

³⁴ See case studies on Colombia and Ireland in: <https://idpc.net/publications/2021/03/prisons-and-covid-19-lessons-from-an-ongoing-crisis>

³⁵ See for instance: <https://www.yorkpress.co.uk/news/18407985.prisoners-view-lockdown-prison/>, <https://netherlandsnewslive.com/corona-and-prisons-a-lockdown-within-a-lockdown-not-being-allowed-to-hug-your-child-thats-very-tough/66581/>

³⁶ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 33.

³⁷ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 32.

³⁸ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 33.

³⁹ <https://www.news18.com/news/opinion/opinion-menstrual-hygiene-in-indian-prisons-needs-attention-period-2696461.html>

⁴⁰ <https://cdn.penalreform.org/wp-content/uploads/2021/02/ACHPR-Newsletter-No-14.pdf>, p. 12.

⁴¹ <https://www.eluniversal.com.mx/nacion/reclusas-improvisan-toallas-sanitarias-con-trapos-y-calcetines>

⁴²

https://www.reforma.com/aplicacioneslibre/preacceso/articulo/default.aspx?_rval=1&urlredirect=https://www.reforma.com/exigen-menstruacion-digna-en-prisiones/ar2144986?referer=--7d616165662f3a3a6262623b727a7a7279703b767a783a--

⁴³ See case study on Colombia and Ireland in: <https://idpc.net/publications/2021/03/prisons-and-covid-19-lessons-from-an-ongoing-crisis>

⁴⁴ <https://humanrightsinitiative.org/download/Responding%20to%20the%20Pandemic%20Prisons%20&%20Overcrowding%20Vol%201.pdf> p.43

⁴⁵ Annex, p. 2.

⁴⁶ <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>, p. 22.

⁴⁷ <https://www.penalreform.org/blog/period-poverty-in-prisons-ensuring-menstrual-hygiene-and/>

⁴⁸ <https://www.reuters.com/article/us-thailand-prison-women-trfn-idUSKBN2861HT>

⁴⁹ See for instance: <https://routesjournal.org/2020/08/15/r2009/>; <https://periodaisle.com/blogs/all/the-hidden-impact-of-period-poverty-in-prisons>