



Women deprived of their liberty

*Extract from the 10th General Report of the CPT,
published in 2000*

Preliminary remarks

21. In certain of its previous general reports, the CPT has set out the criteria which guide its work in a variety of places of detention, including police stations, prisons, holding centres for immigration detainees, psychiatric establishments and detention centres for juveniles.

Naturally, the Committee applies the above-mentioned criteria in respect of both women and men who are deprived of their liberty. However, in all Council of Europe member States, women inmates represent a comparatively small minority of persons deprived of their liberty. This can render it very costly for States to make separate provision for women in custody, with the result that they are often held at a small number of locations (on occasion, far from their homes and those of any dependent children), in premises which were originally designed for (and may be shared by) male detainees. In these circumstances, particular care is required to ensure that women deprived of their liberty are held in a safe and decent custodial environment.

In order to highlight the importance which it attaches to the prevention of ill-treatment of women deprived of their liberty, the CPT has chosen to devote this chapter of its 10th General Report to describing some of the specific issues which it pursues in this area. The Committee hopes in this way to give a clear indication to national authorities of its views regarding the manner in which women deprived of their liberty ought to be treated. As in previous years, the CPT would welcome comments on this substantive section of its General Report.

22. It should be stressed at the outset that the CPT's concerns about the issues identified in this chapter apply irrespective of the nature of the place of detention. Nevertheless, in the CPT's experience, risks to the physical and/or psychological integrity of women deprived of their liberty may be greater during the period immediately following apprehension. Consequently, particular attention should be paid to ensuring that the criteria enunciated in the following sections are respected during that phase.

The Committee also wishes to emphasise that any standards which it may be developing in this area should be seen as being complementary to those set out in other international instruments, including the European Convention on Human Rights, the United Nations Convention on the Rights of the Child, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women and the United Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment.

Mixed gender staffing

23. As the CPT stressed in its 9th General Report, mixed gender staffing is an important safeguard against ill-treatment in places of detention. The presence of male and female staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention.

Mixed gender staffing also allows for appropriate staff deployment when carrying out gender sensitive tasks, such as searches. In this context, the CPT wishes again to emphasise that persons deprived of their liberty should only be searched by staff of the same gender and that any search which requires an inmate to undress should be conducted out of the sight of custodial staff of the opposite gender.

Separate accommodation for women deprived of their liberty

24. The duty of care which is owed by a State to persons deprived of their liberty includes the duty to protect them from others who may wish to cause them harm. The CPT has occasionally encountered allegations of woman upon woman abuse. However, allegations of ill-treatment of women in custody by men (and, more particularly, of sexual harassment, including verbal abuse with sexual connotations) arise more frequently, in particular when a State fails to provide separate accommodation for women deprived of their liberty with a preponderance of female staff supervising such accommodation.

As a matter of principle, women deprived of their liberty should be held in accommodation which is physically separate from that occupied by any men being held at the same establishment. That said, some States have begun to make arrangements for couples (both of whom are deprived of their liberty) to be accommodated together, and/or for some degree of mixed gender association in prisons. The CPT welcomes such progressive arrangements, provided that the prisoners involved agree to participate, and are carefully selected and adequately supervised.

Equality of access to activities

25. Women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc.) on an equal footing with their male counterparts. As the Committee mentioned in its last General Report, CPT delegations all too often encounter women inmates being offered activities which have been deemed “appropriate” for them (such as sewing or handicrafts), whilst male prisoners are offered training of a far more vocational nature.

In the view of the CPT, such a discriminatory approach can only serve to reinforce outmoded stereotypes of the social role of women. Moreover, depending upon the circumstances, denying women equal access to regime activities could be qualified as degrading treatment.

Ante natal and post natal care

26. Every effort should be made to meet the specific dietary needs of pregnant women prisoners, who should be offered a high protein diet, rich in fresh fruit and vegetables.

27. It is axiomatic that babies should not be born in prison, and the usual practice in Council of Europe member States seems to be, at an appropriate moment, to transfer pregnant women prisoners to outside hospitals.

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.

28. Many women in prison are primary carers for children or others, whose welfare may be adversely affected by their imprisonment.¹

One particularly problematic issue in this context is whether - and, if so, for how long - it should be possible for babies and young children to remain in prison with their mothers. This is a difficult question to answer given that, on the one hand, prisons clearly do not provide an appropriate environment for babies and young children while, on the other hand, the forcible separation of mothers and infants is highly undesirable.

29. In the view of the CPT, the governing principle in all cases must be the welfare of the child. This implies in particular that any ante and post natal care provided in custody should be equivalent to that available in the outside community. Where babies and young children are held in custodial settings, their treatment should be supervised by specialists in social work and child development. The goal should be to produce a child-centred environment, free from the visible trappings of incarceration, such as uniforms and jangling keys.

Arrangements should also be made to ensure that the movement and cognitive skills of babies held in prison develop normally. In particular, they should have adequate play and exercise facilities within the prison and, wherever possible, the opportunity to leave the establishment and experience ordinary life outside its walls.

Facilitating child-minding by family members outside the establishment can also help to ensure that the burden of child-rearing is shared (for example, by the child's father). Where this is not possible, consideration should be given to providing access to creche-type facilities. Such arrangements can enable women prisoners to participate in work and other activities inside the prison to a greater extent than might otherwise be possible.

¹ Cf. also Recommendation 1469 (2000) of the Parliamentary Assembly of the Council of Europe on the subject of mothers and babies in prison.

Hygiene and health issues

30. The Committee also wishes to call attention to a number of hygiene and health issues in respect of which the needs of women deprived of their liberty differ significantly from those of men.

31. The specific **hygiene** needs of women should be addressed in an adequate manner. Ready access to sanitary and washing facilities, safe disposal arrangements for blood-stained articles, as well as provision of hygiene items, such as sanitary towels and tampons, are of particular importance. The failure to provide such basic necessities can amount, in itself, to degrading treatment.

32. It is also essential that the **health care** provided to persons deprived of their liberty be of a standard equivalent to that enjoyed by patients in the outside community.

Insofar as women deprived of their liberty are concerned, ensuring that this principle of equivalence of care is respected will require that health care is provided by medical practitioners and nurses who have specific training in women's health issues, including in gynaecology.

Moreover, to the extent that preventive health care measures of particular relevance to women, such as screening for breast and cervical cancer, are available in the outside community, they should also be offered to women deprived of their liberty.

Equivalence of care also requires that a woman's right to bodily integrity should be respected in places of detention as in the outside community. Thus, where the so-called “morning after” pill and/or other forms of abortion at later stages of a pregnancy are available to women who are free, they should be available under the same conditions to women deprived of their liberty.

33. As a matter of principle, prisoners who have begun a course of treatment before being incarcerated should be able to continue it once detained. In this context, efforts should be made to ensure that adequate supplies of specialist medication required by women are available in places of detention.

As regards, more particularly, the contraceptive pill, it should be recalled that this medication may be prescribed for medical reasons other than preventing conception (e.g. to alleviate painful menstruation). The fact that a woman's incarceration may - in itself - greatly diminish the likelihood of conception while detained is not a sufficient reason to withhold such medication.