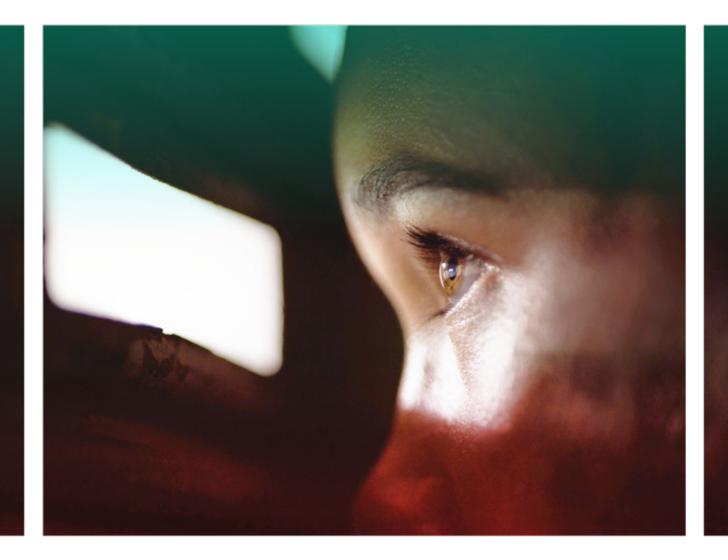






From poverty to punishment

Examining laws and practices which criminalise women due to poverty or status worldwide



From poverty to punishment: Examining laws and practices which criminalise women due to poverty or status worldwide

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Contents

Foreword	04
EXECUTIVE SUMMARY	05
Introduction	12
The feminisation of poverty	13
Methodology	14
International and regional standards and principles	15
PART 1:	
Criminalisation of life-sustaining activities	17
Laws or offences that specifically, or disproportionately, criminalise women due to poverty	
Criminalisation of petty theft	18
Criminalisation of begging	19
Criminalisation of women working in informal economies	20
Criminalisation of debt and non-payment of fines	21
Criminalisation of homelessness	22
Offences of vagrancy, loitering, idleness	23
Criminalisation of drug-related activities	24
PART 2:	
Criminalisation due to status	31
Laws or offences that specifically, or disproportionately, criminalise women due to status	
Crimes against 'honour' or 'morality'	32
Criminalisation of consensual sex outside marriage	32
Blasphemy laws	33
Laws prescribing dress codes	34
Restriction of women's travel and mobility	35
Abortion	36
Witchcraft and sorcery	38
Sexual orientation and gender identity	40
Sex work	41
Suicide and attempted suicide	44
RECOMMENDATIONS	45
Acknowledgements	52

> Click on a chapter above to go to its page.

> From any page in the document, click on the page header to come back to the contents page.

Foreword

by Mary Robinson

Former President of Ireland, former United Nations High Commissioner for Human Rights



As we stand on the cusp of the 30th anniversary of the Beijing Declaration and Platform for Action, this report casts a penetrating light on the often-overlooked plight of women ensnared in criminal justice systems. The staggering rise in the number of incarcerated women – driven by poverty, abuse, and discriminatory laws – demands urgent redress. Behind each statistic lies the story of a woman whose potential has been stymied by inequality and injustice.

During my presidency in Ireland, I made it a priority to reach out to the most marginalised, and it was clear that women in prison were among them. In Ireland, 6th January marks Nollaig na mBan, or Women's Christmas. Each year, I spent it at the Dóchas Centre at Mountjoy Prison, beginning with a priest celebrating mass, then dancing together, and finally, conversation with the women there over a cup of tea. On one visit, after my husband Nick had been in the news for a speeding fine, a woman I had met before joked, "Wasn't Nick in for something too?" Whenever I spent time with the women, I was always reminded of the humanity behind the statistics – these were women full of great humour, intelligence, resilience, and potential.

But the reality is that, around the world, the circumstances leading women into contact with criminal justice systems are not a joking matter. Their imprisonment is too often the result of poverty, abuse, and systemic failures – concerns just as serious, and much more pressing today than when I was making those visits to Mountjoy. The number of women in prison globally has risen dramatically, with data showing that the number of women and girls in prison has grown by almost 60 percent since 2000.

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We must collectively resolve to reform practices that criminalise women for their socio-economic status and vulnerabilities.

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We must collectively resolve to reform practices that criminalise women for their socio-economic status and vulnerabilities, and we must ensure that the voices and experiences of women with lived experience are brought to the forefront of high-level policy discussions, including the upcoming Beijing +30 consultations and other high-level forums on gender equality.

This report, co-authored by Penal Reform International (PRI) and Women Beyond Walls (WBW), serves as a clarion call to international bodies, governments, and civil society to prioritise gender-responsive alternatives to imprisonment and invest in community-based support systems. It is only through such transformative actions that we can hope to dismantle the systemic injustices that perpetuate the incarceration of women.

By adopting a people-centred and human rights-focused approach, we can build justice systems that heal rather than harm and that truly embody the principle of leaving no one behind.

Executive summary

Overview

Globally, the number of women who are criminalised and imprisoned is rising at an alarming rate. Data published in February 2025 shows that more than 733,000 women and girls are estimated to be in prison worldwide. The female prison population has increased by 57 percent since 2000. The number of women going to prison is growing at a faster rate than that of men. Due to challenges in obtaining accurate information and the systemic lack of prioritisation of this issue, the true scale of the issue is likely to be significantly underreported. Thousands more women – and their children, whether detained alongside them or left behind – are impacted by the well-documented harms of involvement with the criminal justice system.

Despite its rapid growth, women's detention is largely overlooked in policy-making and high-level forums on women's rights. In 2021, research by Women Beyond Walls revealed that initiatives supporting incarcerated women and girls are critically underfunded, with 70 percent of 34 organisations across 24 countries receiving no funding from women's rights or human rights donors. This lack of prioritisation and resources hinders efforts to reduce women's incarceration globally. In the rare instances where imprisoned women are considered in policy conversations, they are often reduced to their caregiving roles, marginalising those who do not fit this stereotype and exposing them to harsher penalties, stigma, and policy neglect, which exacerbates their vulnerabilities and makes their struggles invisible.

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The global female prison population is estimated to have increased by 57 percent since 2000. The number of women going to prison is growing at a faster rate than that of men.

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To address the criminalisation and imprisonment of women, there is an urgent need to gain a more detailed understanding of the causes. This report published by Penal Reform International and Women Beyond Walls, both members of the Global Campaign to Decriminalise Poverty and Status, examines some of the laws and practices across the world that, while not explicitly targeting women, disproportionately criminalise them due to poverty, their vulnerability and/or their status as a woman.

Poverty is not gender-neutral, and women are overrepresented amongst the poor, resulting in the criminalisation of poverty having an excessive impact on women. The report also exposes how gender discrimination and patriarchal norms target women due to their socially constructed status as women, with laws and practices that disproportionately or differently impact them due to their gender, such as restrictions on reproductive rights or sexuality.

Full references for the findings and data in this executive summary can be found in the report.

Findings

Laws and policies criminalise women for life-sustaining activities and acts of survival

In all regions, women in situations of poverty and vulnerability are being criminalised for actions taken to sustain themselves and their families.

Petty theft

Most countries criminalise petty theft (the act of stealing something of little value) under gender-neutral legislation. Yet, women, who are overrepresented among the poor and as primary caregivers for children or other family members, face disproportionate criminalisation and sometimes imprisonment as a result. For example, in **England and Wales**, shoplifting – or 'theft from shops' – accounted for 40 percent of women's prison sentences of less than six months in 2023, compared to just 22 percent of men's. This report highlights similar trends in countries such as **Sierra Leone**, **Chile**, and **Japan**.

Begging

Several countries retain or have introduced laws that criminalise begging, including **Denmark**, **Ireland**, **Serbia**, and **Thailand**. Women who live in marginalised communities and/or are discriminated against based on their ethnicity are more likely to resort to begging to survive economically and, therefore, are particularly at risk of criminalisation under such laws. In **Uzbekistan**, out of the 5,000 people punished for begging under a 2018 law, 4,000 were women.

The informal economy

Working in the informal economy puts women at heightened risk of criminalisation, as authorities use various laws to criminalise this type of work – despite it being a means of survival for many women supporting their families. Women are overrepresented in the informal sector, particularly in low- and middleincome countries, working as street vendors, seasonal agricultural workers, and domestic workers.

Without labour protections or social benefits like pensions or health insurance, women in informal sectors often endure low wages, unsafe conditions, and sexual harassment. Many countries impose restrictions on street vending, which harms marginalised women, particularly those with limited educational opportunities. The report highlights the impact of such criminalisation on Black and migrant women in many countries, including **Brazil**, **Colombia**, **Kenya**, **South Africa**, and the **US**.

Hear her story

In **Indonesia**, in 2016, the police raided the house of Remita Sinaga, a 60-year-old woman, in Aceh province where 70 bottles of alcohol were found. Mrs Sinaga was charged with selling alcohol to her neighbours, an act punishable under Acehnese Qanun Jinayat – a set of criminal laws derived from Sharia (Islamic) law specific to that province. Even though Mrs Sinaga was not Muslim, the law was applicable to her due to a legal change. She was sentenced to 30 public lashes, eventually receiving 28 lashes, on the grounds she had already been imprisoned for nearly two months at the point of sentencing.

Debt or non-payment of fines

In many countries, women are criminalised for debt or non-payment of fines, in violation of international law. Women face more significant challenges than men in accessing formal and informal financial institutions and credit networks. Women sometimes have no right to own assets, exacerbating their financial vulnerability. Also, the feminisation of poverty results in women facing various forms of debt. In Egypt, an estimated 20-25 percent of women in prison are so-called indebted women - termed 'aharemat' - which can attract a sentence of between three and 16 years in prison. In England and Wales, around a third of prosecutions of women in 2019 were for non-payment of a TV licence. In **Ireland**, 5.7 percent of all female prison committals in 2022 were for non-payment of court-ordered fines, more than double the comparable figure for males (2.5 percent).

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Women are criminalised for debt or non-payment of fines, in violation of international law.

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Hear her story

Grace, a woman on government support with a child living with disabilities in **England**, was prosecuted for non-payment of a TV licence. Her TV was unusable after being damaged by her son, who had been diagnosed with autism. Already struggling financially to make ends meet with the cost of her son's care and fearing a larger fine from a trial, she pleaded guilty and left court in tears with a significant fine.

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Often-vague laws are frequently used to target women seen as violating prescribed gender norms.

Vagrancy, loitering and idleness

Arbitrary targeting of vulnerable groups is common under colonial-era vagrancy, loitering and idleness laws. Women who face intersectional discrimination – including those experiencing homelessness, engaging in sex work or informal economies, or living with psychosocial and intellectual disabilities – are particularly affected. These often-vague laws are frequently used to target women seen as violating prescribed gender norms. In countries like **South Africa**, they are used to fine sex workers, while in some West African countries, women are frequently arrested for simply being outside at night. The report documents how these laws are used against women in countries such as **Sri Lanka**, **Sierra Leone**, **Kyrgyzstan** and **Indonesia**. Several international and regional bodies have criticised vagrancy laws, finding them incompatible with human rights standards.

Homelessness

Homelessness is criminalised through a range of laws prohibiting squatting or activities such as camping, sleeping or erecting shelter, drinking or cooking in a public space or begging. There is a clear link between gender-based violence, homelessness, and criminalisation. Women often become homeless due to violence and, once homeless, face higher rates of sexual assault, harassment, and humiliation than men. Women leaving prison are particularly vulnerable to homelessness, often facing abuse, social exclusion, and worsening health conditions. Without safe housing options, many women leaving prison risk and are forced to choose between situations where they will face violence or sleeping rough. In **Uruguay** and other countries, the inadequate support for women leaving prison has contributed to rising homelessness among formerly imprisoned women.

12 Harsh drug laws are driving the increase in women's imprisonment

Drug policies

Women are disproportionately impacted by harsh drug policies, and this is compounded for women who are racialised, Indigenous, LBTIQ+ and/or living in poverty. A higher proportion of imprisoned women are sentenced for drug-related offences (35 percent) than men (19 percent). In some Latin American and Asian countries, this figure rises to between 50 and 80 percent.

Policies implemented under the so-called 'War on Drugs', coupled with patriarchal assumptions around gender roles, increase women's likelihood of being subjected to criminal proceedings, pretrial detention, and longer prison sentences compared to men. Women also encounter significant disparities and heightened obstacles in accessing non-custodial sentences and alternatives to imprisonment.

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Women are disproportionately impacted by harsh drug policies.

Many women entering the drug trade often find themselves as primary caregivers in vulnerable contexts, such as poverty, abuse or coercion, leading them to resort to illicit means to support their families. Women in vulnerable situations are more likely to be targeted for both human and drug trafficking. However, these factors are typically not taken into consideration when it comes to the criminal process.

Hear her story

In 2016, Caterina, a 36-year-old Venezuelan woman, was sentenced in Hong Kong to 25 years in prison after failing to convince a jury that she was forced to serve as a drug carrier, transporting cocaine inside her body. Caterina stated she was kidnapped in Brazil after responding to a fake job advertisement. She said she was repeatedly raped, and her family was threatened until she agreed to travel to Hong Kong. Caterina was pregnant before the kidnapping and gave birth to a child in prison. According to a lawyer who has assisted Caterina, defence lawyers face the issue that while Hong Kong acknowledges the problem of human trafficking, it does not have laws prohibiting it. As a result, prosecutors, judges, and juries rarely consider whether the drug carrier is actually a victim of human trafficking. Women who use drugs are subject to criminalisation in many countries. For example, in the **US**, laws specifically target pregnant people who use drugs. The fear of legal consequences deters them from seeking necessary healthcare and drug treatment. Many world leaders and UN experts have called for drug consumption to be treated as a public health concern rather than a criminal one and called for decriminalisation. Many women who use drugs are overrepresented among those who experience gender-based violence and poverty.

IN some countries, women are criminalised for acts or behaviours relating to 'honour' or 'morality' or cultural beliefs

In some countries, women and girls are prosecuted for acts or behaviours that are deemed to violate entrenched gender norms. So-called 'morality' prosecutions affect women disproportionately as they revolve around women's clothes or behaviour, reinforcing the deep-rooted societal discrimination women face compared to men.

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Women and girls are prosecuted for acts or behaviours that are deemed to violate entrenched gender norms. **99**

Adultery or extramarital sex

Consensual sexual intercourse outside of marriage, such as adultery or extramarital sex, remains criminalised –albeit sometimes under limited circumstances– in countries such as **Pakistan**, **the Philippines**, **Indonesia**, and **Morocco**.

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In many countries, laws or regulations restrict women's choices about their dress or appearance.

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Dress or appearance

In many countries, laws or regulations restrict women's choices about their dress or appearance. These include banning or limiting the wearing of certain attire or vice versa, requiring a particular attire, typically on the grounds of religion. For example, so-called 'burqa bans' in Europe have led to the criminalisation of women in the **Netherlands**, **Denmark**, **Austria**, **Bulgaria**, **Belgium**, and **France**.

Travel and mobility

Additionally, some laws or regulations restrict women's travel and mobility in several countries in the Middle East and North Africa, including **Afghanistan**.

Witchcraft and sorcery

Several countries in different regions retain witchcraft and sorcery-related offences. Women who are deemed not to fulfil expected gender stereotypes, such as childless women or widows and persons with albinism, are particularly vulnerable to witchcraft accusations. In **Ghana**, fewer men are accused of witchcraft, and those who are often continue to live amongst their community without facing the same mistreatment or exclusion as women.

04 Women are criminalised due to their sexuality, gender identity, reproductive or mental health status

In many countries, women are criminalised based on their sexuality, gender identity, reproductive health, and mental health status. Laws and policies that criminalise aspects of women's lives in these areas reinforce systemic discrimination, restrict bodily autonomy, and expose them to violence. These laws disproportionately impact women from marginalised backgrounds, including queer women, sex workers, and those from low-income or racialised communities. Their criminalisation can lead to police violence and increased vulnerability to abuse.

Sex work

Although sex work involves consensual adult sexual services for financial remuneration, it is still criminalised in many countries. Criminalisation models vary with countries like Malaysia entirely prohibiting sex work, while others adopt the Nordic model, like France, Ireland, and Canada, which criminalises buyers rather than sellers. However, this approach can still result in police harassment and financial instability. There are increased risks for sex workers, especially migrant women, who also face the threat of deportation, greater barriers to legal protection, and unsafe working conditions. In contrast, decriminalisation in New Zealand and parts of Australia has improved rights and safety for sex workers, though stigmatisation remains an issue. Additionally, while some individuals are trafficked for sexual exploitation, the conflation of sex work with trafficking has led to harmful policies that criminalise sex workers and expose them to violence. This report documents testimonies of abuse by law enforcement against sex workers during police raids in **Thailand**, Canada, and India.

Private, consensual same-sex sexual activity

LGBTQI+ individuals continue to be criminalised in many countries, with laws punishing same-sex relationships as well as gender expressions and identities that diverge from heteropatriarchal norms. Private, consensual same-sex sexual activity remains illegal in 63 countries, with 12 imposing or permitting the death penalty in their laws, including **Iran**, **Saudi Arabia**, and **Somalia**. At least 40 countries specifically criminalise consensual sexual conduct between women. Many countries also enforce laws against 'crossdressing' or 'impersonation,' specifically targeting transgender individuals. Where genderqueer identities are not legally recognised, transgender people are often placed in prisons that correspond to their sex assigned at birth, increasing their exposure to violence.

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At least 40 countries specifically criminalise consensual sexual conduct between women.

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In addition to the direct criminalisation of same-sex relationships and genderqueer identities, lesbians, bisexual women, and transgender individuals face disproportionate legal scrutiny. In the **United States**, lesbian and bisexual women are arrested at rates four times higher than those of heterosexual women, constituting a third of the female prison population despite representing only 3.4 percent of the general population. Black transgender women encounter exceptionally high rates of arrest and imprisonment. In prison, queer individuals experience heightened risks of violence and sexual abuse.

Abortion

The global trend towards liberalising abortion laws has led to over 60 countries expanding access; however, there are currently 15 countries where abortion is prohibited without exceptions, with varying severity in penalties for individuals seeking abortions and those assisting in the procurement of one. There have also been setbacks on abortion rights in recent years, notably in the **United States**, where the overturning of Roe v. Wade has disproportionately affected low-income and racialised women and **Poland**, where stringent abortion laws render the country one of the most repressive in Europe.

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There are currently 15 countries where abortion is prohibited without exceptions.

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Hear her story

A Polish woman, Izabela Sajbor was denied an abortion following a diagnosis of foetal abnormality. Later, to comply with the strict law, doctors delayed medical intervention, waiting for the foetus's heart to stop beating before performing a caesarean section, leading to Izabela's death at age 30. Before dying, Izabela sent a text to her mother: "The doctors can't help as long as the foetus is alive thanks to the anti-abortion law. A woman is like an incubator".

Women in countries with restrictive abortion laws face prosecution and imprisonment. In **El Salvador**, women experiencing obstetric emergencies have been convicted of aggravated homicide and sentenced to decades in prison. In **Brazil**, Black and low-income women are disproportionately targeted for prosecution over abortion, while proposed legislation could equate abortion after 22 weeks with homicide, even in cases of rape. In **Rwanda**, according to a NGO report published in 2021, around a quarter of all women in the country's prisons had been convicted for obtaining an abortion.

The criminalisation of abortion has severe health consequences, leading to unsafe procedures and maternal mortality. Women in **Haiti** and **Honduras**, where abortion is banned, experience maternal mortality rates three times higher than the global average. In **Uganda**, women have been imprisoned after miscarriages, as authorities suspect them of inducing abortion. The UN has classified the denial of life-saving reproductive care as a form of gender-based violence and, in extreme cases, a gender-based arbitrary killing.

Suicide and attempted suicide

Despite increasing recognition of mental health as a critical public health issue, suicide and attempted suicide remains a criminal offences in 25 countries. Legal ambiguity exists in 27 additional countries, leaving individuals vulnerable to prosecution after surviving suicide attempts. Research has shown a strong correlation between gender-based violence and suicidality in women, yet instead of receiving support, many are punished for attempting to end their own lives. This results in a cycle of double punishment – women first endure violence and then face criminal consequences when their distress leads to a suicide attempt.

Ghana, **Guyana**, and **India** have recently decriminalised suicide, aligning with recommendations from the World Health Organization. However, criminalisation remains common in regions with patriarchal legal systems that punish women for failing to conform to gendered expectations.

15 There is an urgent need for more gender-disaggregated data and analysis

A key challenge that emerged from this study is the lack of gender-disaggregated data and limited research from a gender-responsive focus. There is also a lack of participatory research that has involved women and girls impacted by the justice system. This report provides a global overview to ignite conversations, collaborations, further research, and reform efforts. We acknowledge its gaps and limitations, not least due to a lack of information.

Promising practices

The report highlights positive incremental steps that are being taken to address the harmful impact of these laws and practices, such as:

- In 2018, the High Court of Delhi in India decriminalised begging following a petition filed by Aashray Adhikar Abhiyan, a shelter rights campaign group.
- In Washington DC, US, the Street Vendor Advancement Amendment Act was passed in 2023. The Act decriminalises street vending without a licence and introduces several provisions, including creating new vending zones that allow vendors to participate in the self-management of the street.

- In 2019, Western Australia repealed its laws on imprisoning people for unpaid fines. However, the law still allows for exceptions under 'strict circumstances' if a warrant is issued directly by a magistrate.
- In 2024, the ECOWAS Community Court of Justice found Sierra Leone's loitering laws to be discriminatory against people in poverty and vulnerable situations, in particular marginalised women.
- In British Colombia, Canada, the First Nationals Justice Council (BCFNJC) is running a pre-charge diversion program in Prince George to help Indigenous people avoid the justice system by addressing issues like mental health, addiction, and housing insecurity. BCFNJC also operates
 15 Indigenous Justice Centres in British Columbia, offering culturally relevant support for women through its 'Aunties' program.

- In Ottawa, Canada, a 2022 pilot program diverted over 200 people facing minor charges, such as petty theft, to support services instead of prosecution.
- In 2015, South Korea's Constitutional Court struck down a 60-year-old statute outlawing adultery under which violators faced up to two years in prison.
- In December 2024, Belgium became the first country to grant sex workers full employment rights, following advocacy from rights groups and the Union of sex workers. The law provides rights to formal contracts, social security benefits, maternity leave, and pensions, among other protections.
- In 2022, Pakistan abolished the punishment for attempted suicide, eliminating colonial-era laws and demonstrating a commitment to prioritising mental health support and suicide prevention over punishment.

Conclusions and recommendations

The findings contained in this report demonstrate that, for too long the criminal justice system has been used to address issues related to poverty, mental health, abuse and marginalisation. In some instances, it has been weaponised to target women or disproportionately impact women. It is critical to reevaluate, reform and reimagine justice systems and move from an approach based on punishment to one rooted in community, care and support which research shows produce much better outcomes for women and their children.

To steer action, the report includes action-oriented recommendations to guide policymakers and others to address the criminalisation of women due to poverty or status.

01. DATA collection should be prioritised, including participatory research and resourcing for further in-depth research on this overlooked issue. A focus on several parts of the world where little data or analysis is available publicly should be prioritised (including the Caribbean, Middle East, and North African regions).

- **02. UNDERSTAND** how laws and policies affect women disproportionately so that evidence-based, community-led solutions are adopted instead of criminalisation.
- **03. DECRIMINALISE** laws that violate international law and human rights standards and accompany such legal reforms with awareness-raising and engagement initiatives to remove stigma and gender-based discrimination.
- **04.CENTRE** the leadership of community-led organisations and experts, including women with lived experience, in any reform efforts. Their insights should inform reform initiatives, research initiatives and service improvements.
- **05. AVOID IMPRISONMENT**, criminalisation and prosecution while law reforms are ongoing to decriminalise offences which exclusively or disproportionately impact women due to poverty or status. Rather, criminal justice systems should adopt a range of measures to mitigate the impacts of such laws.

See page 45 for further detailed recommendations on the issues addressed in this report.

Introduction

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Over 733.000 women are estimated to be in prison worldwide.

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Across the world, the number of women who are criminalised and imprisoned is growing at an alarming rate. Data published in February 2025 shows that more than 733,000 women and girls are estimated to be in prison worldwide. The female prison population has increased by 57 percent since 2000.¹ This increase is despite the adoption in 2010 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),² which encourages non-custodial options to reduce the number of women in prison. It is also notable that the number of women going to prison is growing at a faster rate than that of men.³

Poverty, abuse, discriminatory laws, and punitive drug policies are the key drivers behind the alarming increase in women's imprisonment, as acknowledged by the Bangkok Rules. Due to challenges in obtaining accurate data and a lack of prioritisation of this issue, the available data is likely to be under-representative, with many more thousands of women and their children (detained with them or left behind) impacted by the well-documented harms of involvement with the criminal justice system.

The issue of women's detention is rarely factored into policy-making decision spaces. A campaign co-ordinated by Women Beyond Walls highlighted how the issue of women's imprisonment is excluded from high-level forums on women's rights, such as the Generation Equality Forum, the UN Commission on the Status of Women, and Women Deliver.⁴ Furthermore, its 2021 research demonstrated how work with and for imprisoned women and girls is critically underfunded. Of 34 organisations interviewed from 24 countries across five continents, 70 percent did not receive funding from women's rights or human rights donors.⁵

This lack of global prioritisation and funding critically hampers essential work needed to reduce the imprisonment of women and girls worldwide.

In the rare instances where imprisoned women are considered in policy conversations, they are often reduced to their caregiving roles and/or mothers a narrative that simplifies their diverse experiences and marginalises those who do not fit this image. This narrow perspective is harmful, as it risks penalising women who defy societal gender expectations. For example, with harsher sentencing, greater stigma, and exclusion from policy and public debate.⁶ The failure to prioritise the unique needs of all women in contact with the criminal justice system further exacerbates their vulnerability, leaving the harms they endure largely invisible in data, discourse, and decisionmaking spaces.

To address the increase of women's imprisonment, there is an urgent need for a more comprehensive understanding of the causes. Specifically, it is essential to expose and address both the ineffectiveness and the injustice of criminalising and imprisoning women for behaviours that, in many instances, should not be criminalised - especially when these behaviours are survival strategies resulting from women's economic and social marginalisation, or when women are punished for defying patriarchal norms.

To contribute to addressing this knowledge gap, this report – published by Penal Reform International and Women Beyond Walls, both members of the Global Campaign to Decriminalise Poverty and Status examines some of the laws and practices worldwide that result in women being criminalised due to situations of poverty and vulnerability. It also exposes gender discrimination and patriarchal norms that target women based on their socially constructed roles and status, with laws and policies that disproportionately affect them. These measures often reinforce harmful stereotypes and disproportionately affect women by imposing restrictions on their autonomy, such

^{1.} Fair, H., & Walmsley, R. (2025). World female imprisonment list (6th ed.). Institute for Crime & Justice Policy Research.

^{2.} Penal Reform International. (2020, December 10). Addressing the 105,000 increases in the global female prison population, ten years after the Bangkok Rules were adopted. 3. Fair, H., & Walmsley, R. (2025). World female imprisonment list (6th ed.). Institute for Crime & Justice Policy Research.

^{4.} Women Beyond Walls. (2023, July 17). Women's rights forums should be inclusive of all.

^{5.} Cordua, I., & Mahtani, S. (2021). Forgotten by funders. Women Beyond Walls.

Philippe, A. (2020). Gender disparities in sentencing: The role of offense type and societal norms. University of Bristol.

as limiting reproductive rights or regulating their sexuality. Such practices perpetuate inequality and deny women the agency to make decisions about their lives, reinforcing systems of control and marginalisation. To drive meaningful change and steer action, the report includes action-oriented recommendations to guide policymakers and other stakeholders in addressing the criminalisation of women due to poverty or status.

There is an urgent need for greater prioritisation, investment, and bold solutions to tackle the long-overlooked injustice faced by women who are criminalised due to poverty or gender discrimination. A system-wide approach is necessary, encompassing legal reforms and changes in prosecutorial and sentencing practices. Increased investment is needed in meaningful alternatives to criminalisation and imprisonment, and a critical shift from a punitive approach to one that prioritises support services and community-based approaches.

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There is an urgent need for greater prioritisation, investment, and bold solutions to tackle the long-overlooked injustice faced by women who are criminalised due to poverty or gender discrimination.

The feminisation of poverty

Poverty is not gender-neutral, and women are overrepresented amongst the poor. Therefore, the criminalisation of poverty has a disproportionate impact on women. Globally, in 2022, an estimated 383 million women and girls lived on less than USD 1.90 a day, compared to 368 million men and boys⁷. However, the actual gendered poverty gap is likely much wider. These figures assume that economic resources are shared equitably within households. In reality, economic disparities often persist within households due to unequal distribution of power and opportunities between men and women, accumulating over a woman's lifetime.⁸ UN Women reported that in 2022, in all regions of the world, poverty rates among women were higher than among men in at least one poverty threshold.⁹ Moreover, women's poverty has been exacerbated by multiple crises, including rising levels of armed conflict, the COVID-19 pandemic, and the increasing cost of living crisis.¹⁰

Research confirms that poverty is a root cause of women's imprisonment, with many being convicted of minor, petty crimes driven by economic necessity.¹¹ The findings in our report consistently show this to be the case. For example, the Prison Policy Initiative reported in 2024 that in the **United States**, over a quarter of women (26 percent) held in state prisons in 2016 had experienced homelessness in the year before the arrest that led to their imprisonment – a higher rate than among men (16 percent).¹² Similarly, women in the United States are more likely than men to be unemployed in the month before their arrest – only 47 percent of women in state prisons were employed during that period, compared to 62 percent of men.¹³

In **Sierra Leone**, in 2019, a survey of women in prison found that 54 percent of respondents were illiterate, and 71 percent reported that before going to prison, they could only afford one or two meals a day.¹⁴

Poverty not only results in women being driven into the justice system, but also affects their ability to access justice. It is well-established that those who cannot afford a lawyer, bail, or a fine are more likely to end up in pre-trial detention or be convicted. Given the feminisation of poverty this is a key issue for women.

In the **United States**, research shows that many women held in pre-trial detention remain there because they cannot afford to pay cash bail, and most of them have minor children.¹⁵ In **Mexico**, a 2022 study of women held in a prison in Ecatepec found that 10 percent of women in detention for minor offences were detained because they were unable to cover fines, bail, or reparation costs, rather than for reasons of public safety.¹⁶

^{7.} UN Women. (2022). The gender snapshot 2022.

^{8.} Azcona, G., & Bhatt, A. (2023, March 6). Poverty is not gender-neutral. SDG Action.

^{9.} Azcona, G., & Bhatt, A. (2022, February 1). Poverty deepens for women and girls, according to latest projections. UN Women.

^{10.} Wenham, C. (2020). The gendered impact of the COVID-19 crisis and post-crisis period. European Parliament.

^{11.} Penal Reform International & Thailand Institute of Justice. (2023). Global prison trends 2023.

^{12.} Kajstura, A., & Sawyer, W. (2024, March 5). Women's mass incarceration: The whole pie 2024. Prison Policy Initiative.

^{13.} Maruschak, L.M., & Snell, T.L. (2023). Just the stats: Employment of state and federal prisoners prior to incarceration, 2016. Bureau of Justice Statistics.

^{14.} Cordua, I. (2020). Women wahala na prison: Causes and consequences of women's imprisonment in Sierra Leone. The Cyrus R. Vance Centre and International Justice and Advocaid.

^{15.} Sawyer, W., & Wagner, P. (2024, March 14). Mass incarceration: The whole pie 2024. Prison Policy Initiative.

Vega, A. F. (2022, June 22). Las mujeres presas por falta de recursos económicos. MVS Noticias. <u>mvsnoticias.com/entrevistas/2022/6/22/las-mujeres-presas-por-falta-</u> de-recursos-economicos-556544.html

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Poverty not only results in women being driven into the justice system, but also affects their ability to access justice.

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Criminalisation of women due to poverty or status has a devastating on their children, especially as the majority of women imprisoned are primary caregivers. At least 19,000 children are imprisoned with a parent – mostly their mothers¹⁷ – and countless others are left in the community, often living in poverty, while their mother is in prison.

Methodology

This report is based on desk-based research, including responses from a survey of key stakeholders and members of the Global Campaign to Decriminalise Poverty and Status, and the International Network of Formerly Incarcerated Women. These responses were verified and supplemented by desk research and follow-up interviews.

A key challenge that arose in this research was the lack of gender-disaggregated data and limited gender-responsive research. There is also a lack of participatory research available that has involved women and girls impacted by the justice system.

Throughout the report, we seek to centre the voices and experiences of women with lived experience of the laws and policies analysed, by featuring their stories. This report provides a global overview, aiming to ignite conversations, collaborations, further research, and reform efforts. We acknowledge its gaps and limitations, not least due to the lack of information. We recommend greater prioritisation of data collection, participatory research and resourcing for further in-depth research on this overlooked issue. Specifically, there is a need for more information from the Caribbean and the Middle East and North Africa regions, where security sector information is often difficult to obtain.

A note on terminology

While this report focuses on women, we recognise that intersectional factors – including racialisation, age, gender expression, gender identity, sexual orientation – play a role in compounding disadvantage and discrimination. Where disaggregated data was available, these factors were considered in the analysis.

When using 'women', we are referring to all women. We distinguish 'trans women' from 'cisgender women' only when these characteristic compounds the discrimination they face. In all other cases, when we discuss women's experiences, we generalise to all women who experience disadvantage because of heteropatriarchal norms.

By 'cisgender' we mean people whose gender identity aligns with the biological sex they were assigned at birth. However, we recognise that gendered experiences are not necessarily binary. We use 'genderqueer individuals' for those whose gender identity is non-binary or fluid.

We use 'queer' and 'LGBTQI+' interchangeably because both serve as shorthand, umbrella terms that include those whose sexual orientation deviates from heterosexuality or monosexuality (as opposed to bisexuality) and those whose gender identity or expression does not conform with binary cisgender identities. When referring to sexual orientation, we use 'lesbian' and 'bisexual', although we recognise that there are many other sexual orientations that women may experience.

We have adopted the term 'criminal justice system' but recognise that some advocates are adopting 'criminal legal system' given the injustices these systems often perpetuate.

When referring to 'discrimination', we mean any unfair treatment or arbitrary distinction based on a person's race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin, or other status.

The report findings are accurate at the time of publication in early 2025.

^{17.} Nowak, M. (2019, July 11). Global study on children deprived of liberty. United Nations.

International and regional standards and principles

International and regional binding and soft-law standards underscore the right to equality and non-discrimination. This principle is enshrined in the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).¹⁸

In 2010, all UN member states unanimously adopted the **United Nations Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)**.¹⁹ These represent the first international standard on the treatment of women in detention and gender-responsive non-custodial measures. They build upon the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)²⁰ and the UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules).²¹

The Bangkok Rules addressed a long-standing gap in standards relating to women's specific needs within the criminal justice system, highlighting how historically prisons and criminal justice responses have been designed for the majority-male population. The Rules acknowledge the history of violence, trauma and marginalisation underlying many women's with the criminal justice system. They recommend the use of alternatives to imprisonment and investment in tackling the underlying causes of women's contact with the criminal justice system.

Various international and regional bodies have also adopted principles highlighting the link between poverty and imprisonment, recommending the decriminalisation of offences and investment in community solutions:

The 2021 United Nations System Common Position on Incarceration²² constitutes the common framework for United Nations support to Member States, reflecting a 'One UN' approach. It reiterates that:

'Incarceration therefore disproportionately affects and impacts the segments of society that are living in poverty or are marginalised.'

Relevant UN Bangkok Rules

Rule 57: 'Gender-specific options for diversionary measures and pretrial and sentencing alternatives shall be developed within Member States' legal systems, taking account of the history of victimization of many women offenders and their caretaking responsibilities.'

Rule 60: 'Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide care for children and women-only services.'

For analysis, guidance on implementation, and practice examples, see the Guidance Document on the UN Bangkok Rules.²³

It also explains:

When poverty and insufficient access to social, health and legal aid services for the disadvantaged are combined with policies aimed at being 'tough on crime' and systemic forms of discrimination (e.g., based on race, ethnicity, sex or gender), the result is the overrepresentation of minority and marginalised groups among prisoners, many of whom are charged with petty and nonviolent offences. The time spent in prison is likely to aggravate unemployment, homelessness and poverty, thereby feeding a vicious cycle of deprivation and exclusion.'

The Common Position further notes that people may be detained for 'apostasy or so-called 'moral crimes', many of them linked to discrimination against women and lesbian, gay, bisexual, transgender or intersex persons.'

^{18.} United Nations. (1979). Convention on the elimination of all forms of discrimination against women (CEDAW).

^{19.} United Nations. (2010). United Nations rules for the treatment of women prisoners and non-custodial measures for women offenders (Bangkok Rules).

^{20.} United Nations. (2015). United Nations standard minimum rules for the treatment of prisoners (Nelson Mandela Rules).

^{21.} United Nations. (1990). United Nations standard minimum rules for non-custodial measures (Tokyo Rules).

^{22.} United Nations. (2024). UN system common position on incarceration.

^{23.} www.penalreform.org/resource/guidance-document-on-the-bangkok-rules

In 2017, the African Commission on Human and Peoples Rights (ACHPR) developed **Principles on the Decriminalisation of Petty Offences**.²⁴ It stated that the enforcement of these laws perpetuates the stigmatisation of poverty by mandating a criminal justice response to what are essentially socio-economic issues. Furthermore, it noted that the criminalisation of petty offences reinforces discriminatory attitudes against marginalised persons.

In 2023, the International Commission of Jurists developed the **8 March Principles** for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty.²⁵ The Principles provide guidance to mitigate the detrimental human rights impact of misapplied criminal laws.

^{24.} African Commission on Human and Peoples' Rights. (2018, October 25). Principles on the decriminalisation of petty offences in Africa.

^{25.} International Commission of Jurists. (2023). The 8 March Principles for a human rights-based approach to criminal law proscribing conduct associated with sex, reproduction, drug use, HIV, homelessness, and poverty.

Criminalisation of life-sustaining activities

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Photo: Woman in Cameroon exchanges money for goods. Women Beyond Walls.

PART 1

Criminalisation of life-sustaining activities

LAWS OR OFFENCES THAT SPECIFICALLY, OR DISPROPORTIONATELY, CRIMINALISE WOMEN DUE TO POVERTY

Criminalisation of petty theft

Across the world, countries criminalise petty theft (stealing something that does not have high value). Though legislation is gender-neutral, it often disproportionately impacts women in vulnerable situations who steal to survive and support their families.²⁶

For example, in **Uganda**, in 2024, theft accounted for 33 percent of minor offences committed by women, the majority of whom have children and live in poverty.²⁷ Furthermore, in **Sierra Leone**, research in 2020 found that most of the women in prison at the time of the study were poor and often the primary earners for large households. Many of the women reported stealing small sums of money to provide for their families. Among the economic or petty crimes, they were accused or convicted of, larceny was the most common. Some reported receiving harsh and disproportionate punishments. For instance, one woman said that she had been sentenced to four years in prison after stealing a radio and 650,000 Leone (around USD 65) from her cousin. This contrasts with serious crimes, such as corruption, where the person convicted usually pays a fine and avoids imprisonment.28

Chile has the second-largest women's prison population in South America, making up 8.4 percent of the total prison population.²⁹ Most women are in prison for drug-related or property offences, in a context of poverty, driven either by self-preservation or the necessity to support dependents. There are multiple cases of women being criminalised for so-called *hurto famélico* – theft out of hunger.³⁰

Hear their stories

One case involved a woman who had given birth eleven days earlier and stole goods worth 24,499 Chilean pesos (about USD 425) from a supermarket to feed her baby. Despite the circumstances, a judge sentenced her to 30 days in prison, with the only consideration being an order for her to have her own space at night because she was postpartum.³¹

In another case, a woman was charged with theft for stealing two bags of powdered milk.³² Her lawyer argued that she stole out of necessity because she urgently needed to feed her two sons and her granddaughter, requesting that any fine be waived and replaced with community service, as she could not afford to pay the fine. Despite this, the court ruled that community service could not be given due to her previous criminal record, instead imposing a fine to be paid in instalments.³³

In **Japan**, theft is one of the leading causes of women's imprisonment. In 2022, 51 percent of newly imprisoned women were convicted of theft. Among older women, the percentage is even higher – of the 333 older women imprisoned in 2022, 84 percent were convicted of

One of the research challenges was the lack of up-to-date gender-disaggregated data on this issue. Furthermore, many countries do not break down data on property offences.
 Data provided to PRI.

^{28.} Cordua, I. (2020). Women wahala na prison: Causes and consequences of women's imprisonment in Sierra Leone. The Cyrus R. Vance Centre and International Justice and Advocaid.

Red Acción Carcelaria. (2023). Privación de libertad de mujeres en Chile: Algunos aspectos relevantes. Informe Red Acción Carcelaria 2022. accioncarcelaria.org/wp-content/uploads/2023/05/Privacion-de-Libertad-de-Mujeres-en-Chile-1.pdf

Tapia Garrido, N.A. (2020). Pobreza y criminalidad Femenina. Proposición de una eximente de responsabilidad penal para mujeres que en situación de pobreza cometen delitos contra la propiedad. Universidad de Chile. repositorio.uchile.cl/bitstream/handle/2250/179003/Pobreza-y-criminalidad-femenina-proposicion-de-una-eximentede-responsabilida-penal-para-mujeres-que-en-situacion-de-pobreza-cometen-delitos-contra-la-propiedad.pdf

^{31.} 9° Juzgado de Garantía de Santiago. (2006) RUC Nº 0600199752-k, RIT Nº 2393-2006. Poder Judicial de Chile.

^{32.} Juzgado de Garantía de San Bernardo. (2007) RUC Nº 0700764848-5, RIT Nº 6958-2007. Poder Judicial de Chile

^{33.} Human Rights Watch. (2024, November 15). Human Rights Watch's submission to the Office of the United Nations High Commissioner for Human Rights.

theft.³⁴ Similarly in **Northern Ireland**, theft accounted for 30 percent of women's offences, according to 2018 statistics.³⁵

In **England and Wales**, shoplifting, or theft from shops, accounted for 40 percent of women's prison sentences of less than six months in 2023. This compares to just 22 percent for men. Nearly two-thirds (64 percent) of prison sentences given to women in 2023 were for less than six months, despite widespread recognition that short prison sentences are both harmful and ineffective. ³⁶

In response to this, an NGO, Level Up, explained, "If a mother is shoplifting in order to feed her children, the appropriate state intervention should be to take away her poverty – not her liberty. A short sentence in prison is enough time to lose your home and even your children if there is nobody to take care of them. There is no justice in sending poor women to prison just to make them even poorer once they come out."³⁷

Promising practices

In Ottawa, **Canada**, a diversion programme directs people involved in minor crimes toward support programmes or restorative justice initiatives instead of prosecuting them. During a one-year pilot programme in 2022, more than 200 people were diverted to support programmes for charges such as theft under CAD 5000.³⁸

The BC First Nations Justice Council (BCFNJC) is piloting a pre-charge diversion program in Prince George, **Canada**, in collaboration with Indigenous communities and local service providers. The program aims to prevent vulnerable Indigenous people from entering the justice system by addressing underlying issues such as mental health, addiction, and housing insecurity. BCFNJC runs 15 Indigenous Justice Centres located across British Columbia. These centres have an 'Aunties' program, where staff provide culturally relevant support to women.

Criminalisation of begging

Several countries retain or have introduced laws that criminalise begging, including **Denmark**, **Ireland**, **Serbia**, and **Thailand**.³⁹ Women who live in marginalised communities or facing discrimination based on ethnicity are more likely to resort to begging for survival, making them particularly vulnerable to criminalisation under such laws.

In **Uzbekistan**, a 2018 law criminalised begging. That same year, more than 5,000 people in the country's capital city were identified as 'beggars' and sent to 'rehabilitation centres' – of whom 4,000 were women.⁴⁰ The punishment for begging begins as an administrative punishment for the first offence, then escalates to 240 hours of compulsory community service, to one year of imprisonment.⁴¹

In **Denmark**, a 2017 law criminalised *intimidating* begging, which includes begging on pedestrian streets, in front of supermarkets, on public transport, or at a train station. It has been reported that many Roma, including women, have been criminalised under this law.⁴²

Even when begging is decriminalised, there are exceptions. For example, in **Belgium**, while begging was decriminalised by law in 1993, 305 of the country's 581 municipalities have regulations on the practice, 253 of which contain problematic provisions which violate human rights, according to the League of Human Rights (LDH). The LDH and other NGOs lodged a complaint with the Council of Europe's European Committee of Social Rights, calling for full recognition of the right to beg in Belgium and for the abolition of criminal penalties or administrative fines imposed on people who beg for a living.⁴³ Similarly in **France**, begging was decriminalised in 1994. However, begging in groups, 'aggressively,' or with a dangerous animal remains punishable by six months of imprisonment and a fine of EUR 3,750.⁴⁴

41. Kun.Uz. (2021, March). Beggars fined 8 million soums in Jan-Feb 2021. <u>kun.uz/en/49937407</u>

^{34.} Ministry of Justice (Japan). (n.d.). Prison statistics data. hakusyo1.moj.go.jp/jp/70/nfm/excel/4-8-2-3.xlsx, hakusyo1.moj.go.jp/jp/70/nfm/images/full/h4-7-2-4.jpg

^{35.} Crone, E. (2018). The Northern Ireland prison population 2017/18. Research and Statistical Bulletin 26/2018. Department of Justice (Northern Ireland).

^{36.} Ministry of Justice. (United Kingdom). (2024). Criminal justice statistics quarterly: December 2023. Outcomes by Offence Tool.

^{37.} Oppenheim, M. (2023, October 15). Surge in number of women being jailed as overcrowding crisis grips prisons. The Independent. www.independent.co.uk/news/uk/ home-news/women-prison-shoplifting-short-sentences-b2429367.html

CBC News. (2023, October 12). Ottawa police make pre-charge diversion program permanent. <u>www.cbc.ca/news/canada/ottawa/ottawa-police-new-program-crime-charge-diversion-1.7058374</u>

For example, Denmark, England and Wales, Ireland, Serbia, Thailand: United Nations General Assembly. (2024, June 26th). Breaking the cycle: ending the criminalization of homelessness and poverty. Human Rights Council, Call for input, June 2024.

^{40.} Radio Free Europe/Radio Liberty. (2018, December 14). Uzbek lawmakers criminalize begging.with fines or jail time. www.rferl.org/a/uzbek-lawmakers-criminalize-begging-with-fines-or-jail-time/29656585.html

^{42.} Bachlakova, P. (2024, March 4). Denmark's tough laws on begging hit Roma women with few other options. Al Jazeera. www.aljazeera.com/features/2024/3/4/denmarkstough-laws-on-begging-hit-roma-women-with-few-other-options

^{43.} Walker, L. (2023, November 28). 'Often unavoidable': Organisations call for right to beg to be enshrined in law. The Brussels Times. www.brusselstimes.com/814371/oftenunavoidable-organisations-call-for-right-to-beg-to-be-enshrined-in-law

^{44.} Fondation Abbé Pierre & Avocats Sans Frontières. (2024, December 19). Homeless not guilty: Combating the criminalisation and stigmatisation of homeless people. Avocats Sans Frontières. Article 312-12-1 of the French Penal Code.

Hear her story

In Switzerland, a Roma woman, Violeta-Sibianca Lăcătuş, was convicted for begging. Her case was heard in the European Court of Human Rights. The Court examined Geneva's blanket ban on begging and its impact on Ms. Lăcătuş, who was unable to find work and had resorted to begging for money. She was subsequently fined and imprisoned for non-payment of fines. The Court noted that Ms. Lăcătus came from an extremely poor family, was illiterate, unemployed, and received no social benefits. Therefore, as begging was her exclusive means of survival, the Court determined that she 'had the right, inherent in human dignity, to be able to express her distress and to try and satisfy her needs by begging." ⁴⁵ The Court held that Geneva's outright ban on begging in public places violated Article 8 of the European Convention on Human Rights suggesting that certain means of survival are encompassed under the Article's protection of 'private life.'

However, despite this judgement, many cantons in Switzerland retain a partial ban on begging. $^{\rm 46}$

There are global moves to decriminalise begging, including through the African Commission on Human and People's Rights. Its Principles on the Decriminalisation of Petty Offences in Africa instruct governments to: 'Ensure that laws which criminalise the status of a person or their appearance are decriminalised, in particular, laws that criminalise life-sustaining activities in public places.'

Promising practice

In 2018, the High Court of Delhi in **India** decriminalised begging following a petition filed by Aashray Adhikar Abhiyan, a shelter rights campaign group. India has no federal law on begging and destitution, but about 20 states had adopted the Bombay Prevention of Begging Act (1959). Before the ruling, police could arrest people for begging, and they could be sentenced to up to 10 years' detention in 'beggar shelters'.

Although the law was rarely enforced, campaigners stated that it was often used to harass both people who beg and homeless migrants who came to New Delhi to work in construction. The judges ruled: 'Begging is their last resort to subsistence.' 'Criminalising begging is a wrong approach to deal with the underlying causes of the problem and violates the fundamental rights of some of the most vulnerable people."⁴⁷ In 2021, the Supreme Court of India issued a judgment refusing to ban begging and remove people who beg from public places in Delhi. The Court stated: 'No person would like to beg unless he/she is forced to do so because of poverty ... The only solution to this socio-economic problem is their rehabilitation and giving them education and employment."⁴⁸

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Criminalising begging is a wrong approach to deal with the underlying causes of the problem and violates the fundamental rights of some of the most vulnerable people.

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Criminalisation of women working in informal economies

Working in the informal economy puts women at risk of criminalisation. Authorities have used various laws and policies at their disposal to sanction people working in informal economies, although this type of work is often undertaken by women who are usually trying to provide for their families.

The information available on informal economies suggests that women make up a disproportionate number of people working in the informal sector.⁴⁹ This is especially true in low- and middle-income countries, where most women engaged in paid work are in the informal economy. These roles are varied, including street vendors, seasonal agricultural workers, and domestic workers. Working in the informal economy often leaves women without the protection of labour laws or social benefits such as pensions, health insurance, or paid sick leave. They routinely work for lower wages and in unsafe conditions, facing risks such as sexual harassment.⁵⁰

Tens of millions of women and girls around the world are employed as domestic workers in private households. Of the 75.6 million domestic workers worldwide, 76 percent are women.⁵¹ They commonly face widespread abuses, from low wages and long working hours to physical

^{45.} Lăcătuș v Switzerland, No. 14065/15(Eur. Ct. H.R.2021).

^{46.} Swissinfo.ch. (2023, April 6). Swiss court upholds Basel begging ban. www.swissinfo.ch/eng/swiss-politics/swiss-court-upholds-basel-begging-ban/48422136

^{47.} Dhillon, A. (2018, August 21). 1t's their last resort': Delhi High Court decriminalises begging. The Guardian. www.theguardian.com/global-development/2018/aug/21/itstheir-last-resort-delhi-high-court-decriminalises-begging

^{48.} Mahapatra, D. (2021, July 28). Can't take elitist view to ban begging: Supreme Court. The Times of India. timesofindia.indiatimes.com/india/cant-take-elitist-view-to-ban-begging-supreme-court/articleshow/84809917.cms

^{49.} Ortiz-Ospina, E., Tzvetkova, S., & Roser, M. (2024). Women's employment. Our World in Data

^{50.} UN Women. (n.d.). Women in informal economy.

^{51.} Mangwanda, J. (2024, November 25 0). Fact sheet 29: Sub-national governance and the plight of women working in public spaces in South Africa. Dullah Omar Institute.

and sexual violence. Approximately 81 percent are in informal employment, which limits their access to rights and protection.⁵²

Children and migrant domestic workers are often the most vulnerable to criminalisation, and in some cases, detention.⁵³ The 'kafala' (sponsorship) legal system, operating in several countries including **Bahrain**, **Kuwait, Qatar, Saudi Arabia**, and **Lebanon**, defines the relationship between employers and migrant workers' employment and immigration status. The many thousands of women who are migrant workers under this system are at high risk of criminalisation due to their precarious situations.⁵⁴

Survival or economic need drives women to work in the informal sector. In **Kenya**, many women have been arrested for brewing alcohol without a licence, which is an offence under the Alcoholic Drinks Control Act 2012. Women are over-represented in arrests for this offence.⁵⁵ Research by PRI in 2016, which involved interviews with 96 formerly imprisoned women, found that 36 percent of the women interviewed were convicted of such offences. The women said they brewed and sold alcohol without a licence to support their families. They were able to generate income and care for their children simultaneously , as they brewed and sold from their homes. Additionally, they were able to obtain ingredients on credit and pay the supplier after selling the alcohol.⁵⁶

Hear her story

In **Indonesia**, in 2016, the police raided the house of Remita Sinagaa, a 60-year-old woman, in Aceh province where 70 bottles of alcohol were found. Mrs Sinaga was charged with selling alcohol to her neighbours, an act punishable under Acehnese Qanun Jinayat – a set of criminal laws derived from Sharia (Islamic) law specific to that province. Even though Mrs Sinaga was not Muslim, the law was applicable to her due to a legal change. She was sentenced to 30 public lashes, eventually receiving a reduced punishment of 28 lashes, on the grounds she had already been imprisoned for nearly two months at the point of sentencing.⁵⁷ Several countries also have restrictions on street vending, which disproportionately impact women. Selling products in public spaces is a common way for marginalised women, particularly those with limited educational opportunities, to earn an income. In **Brazil**, for example, policies restricting street vending reportedly target marginalised groups, such as women, Black people, and transgender people, while also exposing them to mistreatment by law enforcement officials.⁵⁸ In **Colombia**, women of African descent who are street vendors face economic violence, including police harassment, destruction or confiscation of their goods, and the imposition of unjustified fines, which violate established regulations. These practices worsen women's socio-economic vulnerability and hinder their ability to secure resources and basic rights.⁵⁹

In Kenya, 2022 research by the International Commission of Jurists Kenya and the NGO Clean Start found that many women were arrested for petty offences, such as 'hawking' (selling food or items in public spaces). Restrictions on 'hawking' are covered by city by-laws and often enforced by City Council Officers. A sizable majority of the women criminalised under such by-laws, who were interviewed for the study, were sole breadwinners for their families. Most women who earn a living from 'hawking' are particularly vulnerable to other offences, such as 'loitering with the intention to cause a nuisance through prostitution.⁶⁰ Participatory research documented how women engaged in 'hawking' are more vulnerable to harassment, extortion and solicitation of bribes. Many find themselves forced to pay bribes to avoid harassment or detention when unable to pay cash bail.⁶¹ Women 'hawkers' also face challenges accessing justice. For instance, they often lack legal advice before court appearances and have limited knowledge of their legal rights. The arrests of hawkers are more likely to occur on Fridays, leading to prolonged detention in holding cells over the weekend. Most of these women cannot pay fines and consequently serve time in prison.62

Mangwanda, J. (2024, November 25). Fact sheet 29: Sub-national governance and the plight of women working in public spaces in South Africa. Dullah Omar Institute.
 For example, see Amnesty International. (2021, April 15). Saudi Arabia: Dozens of Sri Lankan women wrongfully detained for months due to abusive kafala system.

www.amnesty.org/en/latest/news/2021/04/saudi-arabia-dozens-of-sri-lankan-women-wrongfully-detained-for-months-due-to-abusive-kafala-system-2
 For example, see International Labour Organization.(n.d.). Domestic workers in Arab states. www.amnesty.org/negions-and-countries/ilo-arab-states/areas-work/domestic-workers-arab-states

Wanyonyi, E. (2022). Re-thinking the bars: Access and administration of justice for women who commit petty offences. The Kenyan Section of the International Commission of Jurists.

^{56.} Penal Reform International & Kenya Probation and Aftercare Service. (2016). Community service and probation for women: A study in Kenya.

Hasan, N. (2016, April 12). Indonesia: Acehnese man, woman caned 100 times for adultery. Benar News. www.benarnews.org/english/news/indonesian/caningreport-04122016165339.html

^{58.} Information supplied to Penal Reform International and Women Beyond Walls in October 2023.

^{59.} ILEX Acción Jurídica. (2024, April 30). Informe al Foro Permanente sobre los afrodescendientes. <u>www.ohchr.org/sites/default/files/documents/issues/racism/intdecade/cfi-ga-79/subm-2024-sg-implementation-cso-ilex-accion-juridica.pdf</u>

^{60.} Wanyonyi, E. (2022). Re-thinking the bars: Access and administration of justice for women who commit petty offences. The Kenyan Section of the International Commission of Jurists.

^{61.} International Commission of Jurists Kenya. (2024). Sub-national governance and the plight of women working in public spaces: A focus in Kenya.

^{62.} International Commission of Jurists Kenya. (2024). Sub-national governance and the plight of women working in public spaces: A focus in Kenya.

Hear her story

Emma was charged with 'hawking' without a licence in Nairobi, Kenya when selling small products to support her children. She was arrested and detained overnight in a police cell and taken to court the next day, where she was sentenced to three months in prison or a cash bail of KSh 10,000 (around USD 100) for 'hawking' without a licence. She said that no one explained anything to her or listened to what she had to say. She explained that she was unable to obtain a licence due to the cost. She spent another night in the police cell and then was taken to the Women's Maximum Prison. Her children were left in a vulnerable position and had to stay with a friend. Emma was released after three days when a friend was fortunately able to pay the bail fee. After her release from prison, she struggled to provide for her family. She was supported by the organisation Clean Start, which runs a training programme for women to develop construction and manufacturing skills.63

Similarly, in **South Africa** women working in the informal sector are often discriminated against because of their poverty and perceived status by the general public and law enforcement officials. There is an over-reliance of the criminal justice system to address the socio-economic challenges of these women.⁶⁴

Criminalisation disproportionately affects vulnerable populations, such as migrant women. In some US states, where street vending without a licence is criminalised, migrant women face an increased risk of deportation or loss of immigration status.⁶⁵

Hear her story

In 2022, a news report highlighted the story of Maria Falcon, who was arrested in Brooklyn, New York, **US**,for selling fruit from a cart in the subway. She was given a summons for unlicensed general vending. Maria stated that she had been trying to find other jobs but was turned down. Additionally, obtaining a permit was difficult due to its high cost and the limited number of permits available. There was a cap on the number of permits, resulting in a long waitlist.⁶⁶

Promising practice

In Washington DC, **United States**, after five years of campaigning by the organisation, DC Street Vendors, the Street Vendor Advancement Amendment Act of 2023 was passed, providing a blueprint for regulatory transformation and city investments in public spaces and street vendors. The Act decriminalises street vending without a licence, reduces licence costs from more than USD 2,000 to less than USD 300, forgives vending fines and unpaid sales tax dating back to 2010, and creates new vending zones that allow vendors to participate in the self-management of the street.⁶⁷

Criminalisation of debt and non-payment of fines

In many countries, debt or non-payment of fines is criminalised, although this violates international law, namely Article 11 of the International Covenant on Civil and Political Rights, which states: 'No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.'⁶⁸

Debt often disproportionately impacts women, and there are many cases of their criminalisation and even imprisonment for owing money.

There are numerous factors as to why women end up in debt that they cannot repay. Women face greater challenges than men in accessing financial institutions and credit networks, both formal and informal.⁶⁹ In some cases, women have no right to own assets, exacerbating their financial vulnerability. Additionally, the feminisation of poverty results in women facing various forms of debt, compounded by laws and practices that criminalise it.

In **Uganda**, as of June 2024, there were an estimated 518 debtors in prison, including 120 women, though the figure changes monthly. In 2019, only 43 women in prison were recorded as debtors.⁷⁰

In **Egypt**, an estimated 20 to 25 percent of women in prison are indebted women – termed 'gharemat' – which can attract sentences ranging from three and 16 years.⁷¹ Women in Egypt take out loans for various reasons, including paying for costly weddings for their children, acting as 'guarantors' for their relatives' debts (which they later default on), or borrowing to support their families in cases of illness among family members.

- 67. Beloved Community Incubator. (2023, April 4). Street vending has been decriminalized in DC.
- **68.** United Nations. (1966). International Covenant on Civil and Political Rights.

70. Info provided to Penal Reform International, June 2024.

^{63.} Clean Start Africa. (n.d.). How a petty offence arrest led to the impoverishment of Emma. https://cleanstartafrica.org/reports

^{64.} Mangwanda, J. (2024, November 25). Fact sheet 29: Sub-national governance and the plight of women working in public spaces in South Africa. Dullah Omar Institute.
65. Pileri, J. (2021). Who gets to make a living? Street vending in America. Georgetown Immigration Law Journal, 36: 215–259.

^{66.} Bauman, A. (2022, May 9). Street vendor advocates say enough is enough after woman is arrested in NYC subway station for selling fruit. CBS News. <u>www.cbsnews.com/</u> newyork/news/street-vendors-say-enough-is-enough-after-woman-is-arrested-in-nyc-subway-station-for-selling-fruit

^{69.} The World Bank. (n.d.). Using digital solutions to address barriers to female entrepreneurship.

^{71.} FDHRD Research & Studies Unit. (2021). Phenomenon of indebted women in Egypt.

Hear her story

One case reported in the press in **Egypt**⁷² involved a divorced mother of five children. She was sentenced to three years of imprisonment after failing to repay a debt of around EUR 1,200, which she had taken to finance her daughter's wedding.

Research in Sierra Leone in 2020 revealed that debt was a common cause of women's imprisonment. The two most common petty offences women are charged with are fraudulent conversion and obtaining goods/ money by false pretence - both offences under the Larceny Act 1916, a colonial-era law still in force. These offences require deliberate and fraudulent intent. However, according to civil society organisations, these offences are largely misunderstood, and have been overextended to criminalise almost any instance of debt, regardless of intent. Some of the women in prison in Sierra Leone reported that, encouraged by the police, they admitted before a judge to owing someone money without understanding that they were pleading guilty to maliciously defrauding their accuser. A number of these women, mostly petty traders and the breadwinners of their households, were in prison for taking small loans for business purposes but ended up using the money to settle unforeseen domestic obligations, such as food, medicines, or hospital bills for their children and families.73

Hear their stories

'I have eight children and sometimes it was just impossible to take care of them all. So, I borrowed some money from a friend but when I couldn't pay back, she turned me in to the police. I am so worried. Who will make sure that my children go to school and are well fed?'

- A woman interviewed in prison, Sierra Leone

Saptieu, a petty trader in **Sierra Leone** owed her supplier around USD 600 for goods taken on credit. Unable to pay, and despite being seven months pregnant, she was reported to the police and arrested. The supplier did not pursue a civil claim or a mediated payment plan. Instead, Saptieu was charged with fraudulent conversion and sentenced to 12 months imprisonment or a fine of around USD 125. The NGO AdvocAid intervened, and her husband was able to raise the necessary funds to secure her release within a week.⁷⁴ Non-payment of fees imposed by state bodies is another area where women can be disproportionately criminalised and imprisoned. In **England and Wales**, around one-third of prosecutions of women in 2019⁷⁵ were under the Communications Act 2003, which makes the installation or use of a television without a licence a criminal offence. (The annual licence fee is around GBP 170). In 2020, 75 percent of such prosecutions were against women, despite women accounting for around 50 percent of licence fee holders.⁷⁶ One reason prosecutions for non-payment of the TV Licence disproportionately impact women is that they are more likely to be at home during the day – due to caretaking responsibilities – and therefore more likely to open the door to those following up on possible evasion cases.

Hear her story

Grace, a woman on government support with a child living with disabilities in **England**, was prosecuted for non-payment of a TV licence. Her TV was unusable after being damaged by her son, who who had been diagnosed with autism. . Already struggling financially to make ends meet with the cost of her son's care and fearing a larger fine from a trial, she pleaded guilty and left court in tears with a significant fine.⁷⁷

In some countries, women can face imprisonment if they do not pay court-ordered fines. Women who are already in vulnerable situations should not be penalised with a "poverty penalty" because they cannot afford to pay a fine. Such fines push women and their families further into poverty.

In **Ireland**, 5.7 percent of all prison committals for women in 2022 were for non-payment of court-ordered fines, which was more than double the comparable figure for men. (2.5 percent).⁷⁸

In 2019, Western **Australia** repealed its laws on imprisoning people for unpaid fines, though the law still allows for exceptions under "strict circumstances" if a warrant is issued directly by a magistrate. This reform came five years after an Indigenous woman died in custody after being detained due to her inability to pay fines totalling AUD 3,622. The NGO Sisters Inside had been advocating for abolition of the law and raising funds for detained women who could not pay their fines.⁷⁹

^{72.} Equal Times. (2023, March 8). En prison pour dettes, des milliers de femmes sont doublement victimes de la pauvreté en Égypte. www.equaltimes.org/en-prison-pourdettes-des-milliers

^{73.} Cordua, I. (2020). Women wahala na prison: Causes and consequences of women's imprisonment in Sierra Leone. The Cyrus R. Vance Centre and International Justice and Advocaid.

^{74.} Howarth, J. (2016, March 30). Imprisoned for debt? AdvocAid says it is time to reform the Larceny Act 1916. AdvocAid.

^{75.} Ministry of Justice, England and Wales. (2019). Statistics on women and the criminal justice system.

^{76.} Threipland, C. (2022). TV licence prosecutions discriminate against women. Centre for Crime and Justice Studies.

^{77.} Casey, T., & Sakande, N. (2020). Decriminalising TV licence non-payment consultation response. APPEAL.

^{78.} Irish Prison Services. (2023). Annual Report 2022.

^{79.} Wahlquist, C. (2019, September 25). Western Australia repeals laws on jailing for unpaid fines. The Guardian. www.theguardian.com/australia-news/2019/sep/25/wa-repeals-laws-on-jailing-for-unpaid-fines

Promising practice

In **Spain**, many women receive administrative sanctions related to behaviour in public spaces, such as drinking alcohol in public. Many are socially and economically vulnerable and cannot afford to pay the fines. Article 53 of the Spanish Criminal Code provides that failure to pay a fine can result in imprisonment. If the women are willing, Metzineres, a cooperative which provides support to women who use drugs, can apply to have the fines substituted for community service at Metzineres and adapt the community service to the women's needs. In one case, a woman avoided 51 days' imprisonment due to the inability to pay a fine through this community service substitution at Metzineres.⁸⁰

In the **United States**, court fees and fines can have a severe impact on women, particularly those who are unemployed. In some jurisdictions, measures have been introduced to promote 'meaningful and effective ability-to-pay determinations' to mitigate this situation. These include universal discretion to waive fines and fees, standardised waivers (which can include automatic reductions or alternatives to fines) based on a defendant's financial circumstances, timely ability-to-pay hearings (generally at sentencing), and comprehensive evaluations of ability to pay, which include medical debt, childcare, and transportation costs.⁸¹

Regardless of who is criminalised, most court-related costs, including fines, fees, and bail, are shouldered by women – often female family members of the imprisoned individual. This is especially true for women of colour.

The collateral consequences of an inability to pay fines and fees can be particularly devastating for women, who disproportionately bear the burden of caring for children and family members. One such impact is the suspension of a driving licence and in these cases women with dependent family members must then choose between providing for their families or risking further criminalisation by driving with a suspended licence.⁸²

Hear her story

In the **US** state of Missouri, Samantha Jenkins⁸³ experienced significant hardship due to her inability to pay a single traffic ticket, resulting in 19 arrests and a total of 67 days in prison. Initially, during her first court hearing, the judge placed her on a payment plan to pay USD 1800 in fines and fees. At that time, Jenkins had recently been released from prison and was unemployed. Despite this, she managed to make payments for the first four months. However, she was unable to fulfil the payment obligation for the fifth month. Consequently, upon missing the deadline, the judge issued a warrant for her arrest, leading to time in prison. In 2015, Ms Jenkins was the lead plaintiff in *Jenkins v. City of Jennings*, a class-action lawsuit, where the judge ruled in her favour and approved a landmark settlement for 2,000 members of the class -action lawsuit, mostly Black and living in poverty.⁸⁴

Promising practice

In 2023, the **California** Legislature passed the 'Families Over Fees Act,' a comprehensive statute eliminating 23 categories of criminal legal system fees, including fees for public defenders and court-appointed counsel, arrest and booking fees, parole and probation supervision fees, home detention fees, certain electronic monitoring fees, fees for work release and work furlough programs, and more. The legislation also declared all outstanding balances on previously assessed fees in these categories uncollectible and appropriated to USD 65 million annually for five years to compensate counties for lost revenue.⁸⁵

Criminalisation of homelessness

Data available on homelessness suggests that women make up a relatively small proportion of people experiencing 'visible' homelessness, i.e. in public spaces. However, numbers are on the rise. For example, in **England**, the number of women experiencing homelessness was reported to have increased by 88 percent between 2011 and 2021,⁸⁶ In **Spain**, women now make up an estimated 18 percent of people experiencing homelessness – a significant increase.⁸⁷ Furthermore, the prevalence of women who experience homelessness is consistently underestimated in official figures, largely due to the high risk of violence, as they tend to shelter in

^{80.} Information provided to Women beyond Walls.

^{81.} Office for Access to Justice. (2023). Fines & fees. U.S. Department of Justice.

^{82.} Fines and Fees Justice Center. (n.d.). People v. Duenas.

Chandler, T., and Story, B. (2018, February 20). A debtor's prison: Court fees and minor fines are leading to debilitating cycles of incarceration in the US. Fines & Fees Justice Centre.

^{84.} U.S. District Court for the Eastern District of Missouri. (2017, February 13). Jenkins v. City of Jennings.

^{85.} Office for Access of Justice. (2023). Fines & Fees. U.S. Department of Justice.

^{86.} Cruz Roja Española. (2022, December). Exclusión social. La discriminación y la vulnerabilidad social de las personas en exclusión residencial atendidas por Cruz Roja (Boletín sobre vulnerabilidad social, No.29). Shelter, Fobbed Off: The Barriers Preventing Women Accessing Housing and Homelessness Support, and The Women-centred Approach Needed to Overcome Them, December 2021.

^{87.} Schofield, M. (2021). Fobbed off: The barriers preventing women accessing housing and homelessness support, and the women-centred approach needed to overcome them. Shelter.

hidden locations. Among other consequences, the lack of data results in limited gender-responsive responses and the exclusion of women from crucial support services.⁸⁸

There is often a complex interplay of factors that lead women to become homeless or without stable shelter, including poverty, inequality, gender-based violence, substance use, inadequate healthcare, lack of affordable housing, and systemic discrimination.⁸⁹

A study looking at **South Africa**'s housing policy, revealed that women, particularly those who are economically disadvantaged and heading households, face systemic barriers to accessing housing. Women in informal or rural settings are also disproportionately affected by forced evictions.⁹⁰ Homelessness tends to disproportionately affect minorities and other traditionally excluded groups. African Americans in the **United States** constitute more than 50 percent of homeless families with children.⁹¹ People who have migrated are also overrepresented among people experiencing homelessness in many countries.⁹²

In many cases, people experiencing homelessness face arrest and detention, with little consideration of their vulnerable position. A 2024 report by the UN Special Rapporteur on the right to adequate housing detailed how homelessness and poverty are criminalised through a range of laws prohibiting squatting or activities such as camping, sleeping or erecting shelter, drinking or cooking in a public space, or begging. The Special Rapporteur reiterated the link between gender-based violence, homelessness and criminalisation, and recommended 'gender-responsive, alternative and adequate housing for women and girls' who have experienced such violence.⁹³

In **Uganda**, the Kampala Capital City Child Protection Ordinance (2022) criminalises child loitering, vending, and street trading in public places. The law specifically targets homeless people, particularly women and their children.⁹⁴

Social exclusion is often a root cause of people becoming homeless, including for women, although this is not always considered in responses. In **Spain**, various activities related with homelessness are criminalised, such as camping on public roads and spaces, installing structures or vehicles without specific authorisations, and sleeping in public spaces during the day or night. While police discretion 'in cases of social exclusion' is allowed, instances of arbitrary police action persist, resulting in sanctions against women in extremely vulnerable social situations.

A 2022 report by the Red Cross in **Spain** detailed how women experiencing homelessness face heightened vulnerabilities, including higher rates of sexual assault (21 percent), harassment (20 percent), and humiliation (35 percent), alongside greater social exclusion and deteriorating health compared to their male counterparts. It found that only 15 percent of those experiencing discrimination report incidents to authorities.⁹⁵

Studies from various contexts have shown that women leaving prison or those in contact with criminal justice systems are particularly vulnerable to homelessness.⁹⁶ Where there is a lack of safe accommodation for women facing violence, women leaving prison often risk returning to their abusers, finding themselves in new situations of abuse, or sleeping rough.

In **Uruguay**, for example, violence experienced whilst in prison, coupled with poor post-release support systems, has resulted in increased homelessness among women who have been in prison. ⁹⁷

Offences of vagrancy, loitering, idleness

Vagrancy, loitering, and idleness laws are usually characterised by vague and excessively broad definitions. With historical origins in colonialism, where such laws were used by colonial ruling elites as tools to control local populations, the ambiguous nature of these laws continues to facilitate their exploitation by law enforcement, contributing to exacerbating cycles of discrimination, abuse, and poverty.⁹⁸

The absence of specificity concerning criminalised conduct or required criminal intent grants law enforcement substantial discretion. This discretion empowers authorities to determine what activities are deemed criminal, often resulting in the arbitrary and discriminatory application of these laws.⁹⁹

The arbitrariness of penalties is demonstrated in inconsistent sanctions for similar offences. For example, in the **Caribbean**, the punishment for vagrancy laws can range from a prison sentence of one month in

For example, see St Mungo's. (n.d.). New research reveals women experiencing homelessness are often hidden from help. <u>www.mungos.org/news/women-and-rough-sleeping-report-released</u>

^{89.} For example, see Amnesty International. (2022). An obstacle course: Homelessness assistance and the right to housing in England.

Chenwi, L., & McLean, K. (2009). A woman's home is her castle? Poor women and housing inadequacy in South Africa. South African Journal on Human Rights, 25, no. 3, 517-536
 National Alliance to End Homelessness. (2025). Homelessness and racial disparities.

^{92.} International Centre for Migration Policy Development. (2024). The link between homelessness and migration: MC2CM thematic learning report.

^{93.} United Nations Human Rights Council. (2024). Breaking the cycle: Ending the criminalization of homelessness and poverty. (A/HRC/56/61/Add.3)

^{94.} Information from PRI's Regional Programme for Sub-Saharan Africa.

^{95.} Cruz Roja Española. (2022). Exclusión social. La discriminación y la vulnerabilidad social de las personas en exclusión residencial atendidas por Cruz Roja. Boletín sobre vulnerabilidad social, 29.

^{96.} For example see Warren, J., & Ford, N. (2024, November 13). 'A bail house wasn't a safe place for a female'. BBC News. www.bbc.com/news/articles/c8xp1kjrnz8o

^{97.} Ciapessoni, F. (2019). La prisión y después. Violencia, reingreso y situación de calle. Revista de Ciencias Sociales, 32(45).

^{98.} Cordua, I., & Bangura, J. (2020). Have prisons learnt from COVID-19? How the world has reacted to the pandemic behind bars. Antigone.

^{99.} For more analysis on such laws see: International Commission of Jurists. (2024, October 22). Practitioners Guide October 2024.

Saint Lucia, ten months or a fine of the equivalent of around USD 10 in Guyana to one year in Saint Vincent and the Grenadines. 100

Arbitrary targeting of already vulnerable groups is common under vagrancy, loitering, and idleness laws, including women who face intersectional discrimination, such as those experiencing homelessness, those engaged in sex work or informal economies, and individuals with psychosocial and intellectual disabilities.¹⁰¹

Several international and regional bodies have criticised vagrancy laws, finding them incompatible with human rights standards. The UN Human Rights Committee has clarified that vagrancy laws may violate people's right to liberty and security.¹⁰²

Furthermore, in 2020 the African Court on Human and Peoples' Rights declared that such laws are incompatible with human rights as set out in various regional instruments, including the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. It affirmed that states have a positive obligation to repeal or amend their vagrancy laws. The Advisory Opinion was requested by the Pan African Lawyers Union (PALU).¹⁰³ The Court agreed and reiterated that 'many poor and marginalised women across Africa earn a living by engaging in activities that put them at constant risk of arrest under vagrancy laws."

It went on to say:

'By sanctioning the arrest of poor and marginalised women on the ground that they have "no means of subsistence and cannot give a satisfactory account" of themselves, vagrancy laws undermine Article 24 of the Women's Protocol.¹⁰⁴

In **Uganda**, the Constitutional Court delivered a landmark ruling in 2022, ruling those provisions forming part of the country's 'rogue and vagabond' laws unconstitutional. The relevant provisionscriminalised people presumed to be 'suspected persons or reputed thieves' without visible means of subsistence, or those found in public places under circumstances suggesting illegal intent. Loitering laws were the subject of a court decision in 2024 concerning **Sierra Leone** in which the ECOWAS Community Court of Justice found them to be discriminatory against people in poverty and vulnerable situations. The Court ordered the state to amend, modify, or repeal its loitering laws to comply with its obligations under the African Charter on Human and Peoples' Rights. The case was brought by AdvocAid and IHRDA, which highlighted the disproportionate impact of loitering laws on marginalised women.¹⁰⁵

Offences like loitering are often used as a form of moral regulation, targeting cis and trans women deemed to violate prescribed gender norms.¹⁰⁶ In many countries, including **South Africa**, these laws are used to fine sex workers because prosecuting them for other crimes would be more difficult, given the victimless nature of the offence and the difficulty in finding witnesses willing to cooperate.¹⁰⁷ Instances of women being arrested for merely being outdoors at night are not uncommon in countries in **West Africa**.¹⁰⁸ In **Sri Lanka**, the UN Working Group on Arbitrary Detention reported in 2017 that 175 women were detained, mostly under vagrancy laws.¹⁰⁹

In **Indonesia**, although there are no national law explicitly criminalising individuals who do not conform to heteronormative or binary gender norms, several district-level regulations specifically restrict women and trans women on the grounds of upholding morality and religious values. For example, Article 24 Regional Regulation of the City of Sungai Penuh No. 2 of 2013 on Public Order prohibits "women and trans women roaming around at night between 23.00 and 05.00 in the morning, except for interests that do not conflict with legal norms, religious norms, customary norms, and moral norms."¹¹⁰

Since 80 percent of all sex workers worldwide are women,¹¹¹ the criminalisation of petty offences such as idleness or vagrancy disproportionately exposes women to criminalisation, and the risk of abuse by law enforcement, as frequently reported. (*Also see 'Criminalisation of sex work'*). There have been cases where stops and searches have escalated into incidents

^{100.} African Policing Civilian Oversight Forum (APCOF), Freedoms Collective, & Caribbean Center for Human Rights. (2025). Decriminalising public space governance: The role of the police. [Forthcoming report].

Muntingh, P., & Petersen, K. (2015). Punished for being poor: Evidence and arguments for the decriminalisation and declassification of petty offences. Dullah Omar Institute.
 United Nations Human Rights Committee. (2014, December 16). General comment No. 35: Article 9 (Liberty and security of person). UN Doc. CCPR/C/GC/35., paras. 22, 40.
 African Court on Human and Peoples' Rights. (2020, December 4). Request for Advisory Opinion by the Pan African Lawyers Union (PALU) on the Compatibility of Vagrancy Laws with the African Charter on Human and Peoples' Rights and other human rights instruments applicable in Africa (No. 001/2018, para. 139).

^{104.} African Court on Human and Peoples' Rights. (2020, December 4). Request for advisory opinion by the Pan African Lawyers Union (PALU) on the compatibility of vagrancy laws with the African Charter on Human and Peoples' Rights and other human rights instruments applicable in Africa (No. 001/2018, para. 139).p

^{105.} Advocaid. (2024, November 7). ECOWAS Court declares Sierra Leone's loitering laws discriminatory and orders repeal.

Poutanen, M. A. (2002). Regulating public space in early-nineteenth-century Montreal: Vagrancy laws and gender in a colonial context. Histoire Sociale/Social History, 35 (69).
 United Nations Office on Drugs and Crime (UNODC) Regional Office for Southern Africa. (2021). An assessment of relevant national laws, policies and practices used to apply non-custodial measures, with a focus on women in conflict with the law.

^{108.} Economic Community of West African States Community Court of Justice. (2008)., Dorothy Chioma Njemanze & 3 Others v Nigeria. Case number: ECW/CCJ/JUD/08/17. See also Pan African Lawyers Union (PALU), University of Miami School of Law Human Rights Clinic (HRC), & Lawyers Alert, Nigeria. (2018). Amicus curiae submission in the matter of a request by the Pan African Lawyers Union (PALU) for an advisory opinion on the compatibility of vagrancy laws with the African Charter on Human and People's Rights and other human rights instruments applicable in Africa (No. 001/2018).

^{109.} United Nations Human Rights Council. (2018). Report of the Working Group on Arbitrary Detention on its visit to Sri Lanka (UN Doc. A/HRC/39/45/Add.2).

^{110.} Lembaga Bantuan Hukum Masyarakat. (2023). In the name of public order: An assessment of the concept and implementation of public order in Indonesia. <u>Ibhmasyarakat.org/wp-content/uploads/2023/05/Buku_Laporan-Asesmen-Konsep-dan-Implementasi-Ketertiban-Umum-di-Indonesia_Inggris_Rev.pdf</u>

^{111.} International Union of Sex Workers. (n.d.). Sex worker statistics. <u>www.iusw.org/sex-worker-statistics/</u>

of sexual assault or serve as a pretext for the police to extort money from sex workers, as illustrated by an investigation into sex work in **Kyrgyzstan**.¹¹²

In **Sierra Leone**, loitering laws are frequently misused by police officers to target and mistreat sex workers.¹¹³ In a documentary, women who have spoken under the condition of anonymity have alleged that law enforcement officials in the country often threaten them with arrests for petty offences, coercing them into providing sexual services or money that the police claim is for bail (although bail is meant to be a free service).¹¹⁴

Hear her story

'The police treat us like slaves. When they catch us, they beat us, drag us, so we have to bail ourselves 150,000, 250,000, 300,000, 400,000 Leones [...] If we don't have money, they have sex with us before they leave us. If we have anything valuable, they take it.¹¹⁵

- A sex worker from a documentary in Sierra Leone

Criminalisation of drug-related activities

The proportion of women in prison sentenced for drugrelated offences is higher than that of men, comprising 35 percent of the global female prison population compared to 19 percent of men, and rising from 50 to 80 percent in various Latin American and Asian countries.¹¹⁶

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The proportion of women in prison sentenced for drug-related offences is higher than that of men, comprising 35 percent of the global female prison population compared to 19 percent of men, and rising from 50 to 80 percent in various Latin American and Asian countries. An increasing number of jurisdictions have decriminalised drug use and possession, and many have also implemented other measures, including more proportionate sentencing. However, some jurisdictions persist in relying on punitive drug policies, despite the increasing body of evidence regarding their ineffectiveness in tackling the root causes of drug-related issues while exacerbating public health challenges, human rights abuses, and systemic inequalities.¹¹⁷

Women are disproportionately impacted by harsh drug policies, and this is compounded for women who are racialised, Indigenous, LBTIQ+ and/or living in poverty. Policies implemented under the so-called war on drugs, coupled with patriarchal assumptions around gender roles, increase women's likelihood of being subjected to criminal proceedings, pretrial detention, and longer prison sentences compared to men.¹¹⁸ Women also encounter significant disparities and heightened barriers in accessing non-custodial sentences and alternatives to imprisonment.¹¹⁹

Promising practice

In April 2020, **Mexico** enacted the Amnesty Law to mitigate the adverse effects of punitive state policies, particularly on vulnerable individuals disproportionately impacted by the 'war on drugs'. The legislation was introduced following advocacy by the Washington Office on Latin America, Equis Justicia para las Mujeres, and other NGOs, aiming to bring justice to marginalised groups, including women and Indigenous peoples, who endure systemic discrimination and violence within the justice system.

As of October 2024, 154 amnesty applications submitted by women and 304 by men had been approved. While the number of men granted amnesty is significantly higher, this reflects both the broader scope of the Amnesty Law and the context of Mexico's penitentiary system. The law is not exclusively focused on women but is designed to address broader patterns of criminalisation affecting historically vulnerable groups. These include, for instance, Indigenous individuals denied access to interpreters during their legal proceedings and those convicted of crimes committed under conditions of extreme poverty or coercion by organised crime groups, family members, or partners.

^{112.} Global Network of Sex Work Projects. (2019). How sex work laws are implemented on the ground and their impact on sex workers.

Cordua, I. (2020). Women wahala na prison: Causes and consequences of women's imprisonment in Sierra Leone. The Cyrus R. Vance Centre and International Justice and Advocaid.

^{114.} AdvocAid Sierra Leone. (2018, December 13). Kolonko [Video]. YouTube. www.youtube.com/watch?v=OfqcNQvQadg

^{115.} Ibid.

^{116.} Office of the United Nations High Commissioner for Human Rights (2023). Human rights challenges in addressing and countering all aspects of the world drug problem. United Nations.

Fernández Ochoa, J. (2024, June 26). Support. Don't Punish campaigners are dismantling the 'war on drugs' and building sustainable alternatives that uphold rights and dignity. International Drug Policy Consortium (IDPC). <u>idpc.net/blog/2024/06/support-don-t-punish-campaigners-are-dismantling-the-war-on-drugs-and-buildingsustainable</u>

^{118.} Inter-American Commission on Human Rights (2023). Women deprived of liberty in the Americas. OAS; Youngers et al. (2023). Women, drug policies, and incarceration: A guide for policy reform in Latin America and the Caribbean. Washington Office on Latin America (WOLA), International Drug Policy Consortium (IDPC), Dejusticia.

Amnesty International. (2019). Human rights and drug policy: A paradigm shift note prepared for the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly.

Despite this broader focus, the law has had a relatively greater impact on women, who constitute only about 5 percent of Mexico's prison population but account for approximately 33 percent of the amnesties granted. This disparity highlights the significant influence of the law on addressing factors that disproportionately affect women, including systemic barriers and vulnerabilities.

Hear her story

Araceli, a seamstress from Oaxaca, **Mexico**, faced a six-year prison sentence after accepting 2,000 pesos (approximately USD 120) to transport 30 kilograms of marijuana to Mexico City. As the sole caregiver for her family, including her mother who required costly surgeries, Araceli met all the eligibility criteria for annesty. With the assistance of Equis Justicia para las Mujeres, she submitted her application to the Amnesty Commission. After two and a half years of waiting, Araceli's application was finally approved, and she regained her freedom in December 2022. Tragically, during her imprisonment and due to inadequate medical care, her mother passed away before they could be reunited.

Importantly, the vast majority of imprisoned women are responsible for caring for family members in vulnerable situations (for example, nearly 90 percent of women in Costa Rica incarcerated for bringing drugs into prison were single mothers), which often contributes to their initial involvement in the drug trade.¹²⁰ However, most jurisdictions fail to collect, let alone disclose, data on family composition prior to imprisonment.¹²¹ This gap is particularly concerning when women are encouraged to plea bargain for reduced sentences, as their cases, along with the underlying vulnerabilities that led them to engage wilfully or by force in illegal markets, often go unheard. This reflects no consideration of the importance of maintaining family and community bonds, the breaching of which can lead to long-term consequences, including a vicious circle of family members of imprisoned women becoming involved with criminal organisations, institutionalised, and further discriminated against.122

Death penalty, drug offences and women

Where the death penalty is used for drug-related offences, women are disproportionately represented, together with other individuals from vulnerable and marginalised groups.¹²³ At least six women were executed in 2023 for drug offences.

In **Malaysia**, a higher proportion of women (95 percent) compared to men (70 percent) are on death row for drug trafficking. Additionally, a larger percentage of women on death row are foreign nationals (86 percent) compared to men (39 percent).¹²⁴ In **Thailand**, 92 percent of women on death row are there for drug offences.¹²⁵ **Singapore'**s laws are also particularly harsh regarding drug offences, mandating the death penalty for trafficking offences exceeding 500 grams of cannabis or 15 grams of heroin.¹²⁶

In 2023, 45-year-old Saridewi Djamani was executed in **Singapore** by hanging for trafficking approximately 31 grams of diamorphine (pure heroin).

Criminalisation of drug possession and consumption

In recent years, 66 jurisdictions in 40 countries have decriminalised drug use and possession of at least one drug.¹²⁷ The need to address drug consumption as a public health issue rather than a criminal one, and calls for decriminalisation, have come from many world leaders and UN experts.¹²⁸

While women constitute a minority of all people who use drugs, they comprise approximately 45 to 49 percent of all people using drugs such as amphetamines, non-medical pharmaceutical stimulants, opioids, sedatives, and tranquillisers.¹²⁹ However, global responses to drug use have predominantly reflected a paternalistic and male-centric perspective¹³⁰ and as a result, treatment services are rarely tailored to women's specific needs, increasing their vulnerability to drug-related health harms. Additionally, women face heightened stigma and discrimination compared to men, causing many to hide their drug use out of fear of arrest or judgment.¹³¹

^{120.} Youngers, C., et al. (2023). Women, drug policies, and incarceration: A guide for policy reform in Latin America and the Caribbean. Washington Office on Latin America (WOLA); International Drug Policy Consortium (IDPC); Dejusticia.

Youngers, C., et al. (2023). Women, drug policies, and incarceration: A guide for policy reform in Latin America and the Caribbean. Washington Office on Latin America (WOLA); International Drug Policy Consortium; Dejusticia.

^{122.} Youngers, C., et al. (2023). Women, drug policies, and incarceration: A guide for policy reform in Latin America and the Caribbean. Washington Office on Latin America (WOLA); International Drug Policy Consortium; Dejusticia.

^{123.} Amnesty International (2023). Pena de muerte 2022: Las ejecuciones registradas alcanzaron la cifra más alta en cinco años. www.amnesty.org/es/latest/news/2023/05/ death-penalty-2022-executions-skyrocket/; Harm Reduction International (2023). Global state of harm reduction: 2023 update to key data.

Hutton, H., & Harry, L. (2021). International Women's Day 2021: Women, drug trafficking & the death penalty in Southeast Asia. University of Oxford, Faculty of Law Blog.
 Harm Reduction International. (2024, April 12). Inputs to the UN Secretary General's report on the death penalty.

^{126.} Harm Reduction International. (2024, April 12). Inputs to the UN Secretary General's report on the death penalty.

 $[\]label{eq:2.1} \textbf{127. Talking Drugs. (n.d.). } Drug Decriminalisation Across the World.$

^{128.} United Nations. (2024, April 30). A/HRC/56/52: Drug use, harm reduction and the right to health - Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng.

^{129.} United Nations Office on Drugs and Crime (2022). World Drug Report 2022.

^{130.} Council of Europe (2022). Implementing A gender approach in drug policies: Prevention, treatment and criminal justice. A handbook for practitioners and decision makers.

^{131.} Lee, N., & Boeri, M. (2017). Managing Stigma: Women drug users and recovery services. Fusio: The Bentley Undergraduate Research Journal, 1(2), 65–94.

Women who use substances are also disproportionately represented among survivors of gender-based violence.¹³² Pregnant women or those with children face heightened levels of discrimination due to the overlapping stigmas of pregnancy, motherhood, and drug use. Those who seek healthcare, including sexual and reproductive services, are often criminalised or discriminated against. For example, in the **United States**, laws specifically target pregnant people who use drugs.¹³³ The fear of legal consequences deters them from seeking necessary healthcare and drug treatment.¹³⁴ Additionally, women criminalised for drug use often risk losing custody of their children.¹³⁵

Drug trafficking

Women's roles in the global drug economy are expanding, encompassing use, cultivation, transporting small quantities of drugs, sales to consumers, and smuggling into prisons. Although some women act as empowered decision-makers within the trade, most women occupy lower-level roles. Socioeconomic vulnerability, discrimination, domestic and gender-based violence, coercion and economic necessity collectively shape the relationship between women and the drug trade. However, these compounding factors are typically overlooked by criminal justice systems.

Women involved in the drug trade typically have minimal involvement in profiting from trafficking, often hold non-leadership roles within criminal networks, and are part of minor and non-violent offences.¹³⁶ In many cases, the men involved capitalise on women's vulnerable situations, lower pay expectations and gender stereotypes that help evade detection, specifically targeting them in their recruitment.¹³⁷ Meanwhile, women involved in the drug trade are often expected to simultaneously perform traditional gender roles as mothers, housekeepers, and wives, even as they participate in illegal activities, highlighting how entrenched patriarchal norms persist in the drug economy. Many women entering the drug trade often find themselves as primary caregivers in vulnerable contexts, leading them to resort to illicit means to support their families.¹³⁸ This vulnerability is further compounded by the complex interconnection between drug trafficking, drug use, sex work, and human trafficking. Studies show that some women engage in trafficking to sustain their own dependencies to drugs, while others are coerced due to prior victimisation.¹³⁹

Hear her story

Sabrina, a 29-year-old from the **United States**, was apprehended for attempting to smuggle 36 kilograms of cannabis worth GBP 1.08 million into the United Kingdom. Sabrina, a mother of three young children, one of whom has a disability, had previously supported her family as a waitress in a strip club. However, she lost her job in September 2022, leaving her with few options. Through what her defence lawyer described as 'naivety and desperation', Sabrina agreed to smuggle drugs. Before her arrest, Sabrina had never travelled outside the United States. She was sentenced to 26 months in prison.¹⁴⁰

Transporting drugs inside the body (through ingestion or vaginal or anal insertion), attached to the body or clothing, and/or in luggage usually involves women as couriers or so-called 'mules' (drug carriers).¹⁴¹ Despite the minimal financial gain and life-threatening dangers associated with drug ingestion, women are often coerced into these activities, particularly when experiencing vulnerable situations.¹⁴² However, these factors are rarely considered when it comes to the criminal process.¹⁴³

Hear her story

In **Colombia**, 19-year-old Dafne was facing financial difficulties after her boyfriend, the father of her child, left her. Returning to her parents' home, she attempted to support herself and her baby by selling garbage bags on the streets alongside

^{132.} Moir, E. et al. (2022). Hidden GBV: Women and substance use. Frontiers in Psychiatry, 13.

^{133.} Amnesty International. (2019). Human rights and drug policy: A paradigm shift note prepared for the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly.

^{134.} Amnesty International. (2019). Human rights and drug policy: A paradigm shift note prepared for the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly.

^{135.} Darlington, C.K. et al. (2023). Outcomes and experiences after child custody loss among mothers who use drugs: A mixed studies systematic review. Drug and Alcohol Dependence, 251.

^{136.} Inter-American Commission on Human Rights (2023). Women deprived of liberty in the Americas. OAS.

^{137.} United Nations Office on Drugs and Crime (2023). World Drug Report 2023.

^{138.} Youngers et al. (2023). Women, drug policies, and incarceration: A guide for policy reform in Latin America and the Caribbean. Washington Office on Latin America (WOLA), International Drug Policy Consortium (IDPC), Dejusticia.

Council of Europe (2022). Implementing a gender approach in drug policies: Prevention, treatment and criminal justice. A handbook for practitioners and decision makers.
 Daly, M. (2023). 26 Young Americans caught with suitcases full of weed at UK airports in 2 months. Vice. <u>www.vice.com/en/article/v7b4x4/cannabis-smuggling-</u>

americans-uk
 141. Ministerio Público Fiscal de la Nación Argentina. (2022). Narcocriminalidad y perspectiva de género. La perspectiva de género y enfoque interseccional en la persecución penal de la narcocriminalidad. www.mpf.gob.ar/procunar/files/2022/06/Procunar-informe_Narcocriminalidad-y-g%C3%A9nero.pdf

^{142.} United Nations Office on Drugs and Crime. (2018). World Drug Report 2018 and Women and drugs: Drug use, drug supply and their consequences.

^{143.} Ministerio Público Fiscal de la Nación Argentina (2022). Narcocriminalidad y perspectiva de género. La perspectiva de género y enfoque interseccional en la persecución penal de la narcocriminalidad. www.mpf.gob.ar/procunar/files/2022/06/Procunar-informe_Narcocriminalidad-y-g%C3%A9nero.pdf

her mother, but this income was insufficient. Seeing Dafne's struggles, her half-sister, who was involved in drug smuggling in male prisons in Bogota, offered her a job. Dafne accepted, concealing drugs in her vagina and smuggling them into a men's prison, under the guise of visiting a relative.

Earning approximately 100,000 Colombian pesos (USD 30) per trip, Dafne used this income to buy essentials for her child, including diapers and milk. However, her involvement in trafficking ultimately led to her arrest when authorities undertook a routine search at the prison entrance, leading to a conviction of 12 years in prison. Dafne believed she was carrying marijuana, but in reality, she was transporting 125 grams of cocaine. This misperception is a common tactic used to underpay couriers and to reduce their apprehension about potential penalties if caught.

'I started to cry, and my uncle came and said to me: You know what, dear? For us poor people, there's always jail. For those who have money, live well – that's it. So, all I can say is, well, it's our turn now...¹⁴⁴

66

I started to cry, and my uncle came and said to me: You know what, dear? For us poor people, there's always jail. For those who have money, live well—that's it. So, all I can say is, well, it's our turn now....

99

A growing body of evidence shows the interplay between human trafficking and women's involvement in the drug trade. Women in vulnerable situations are more likely to be targeted for both human and drug trafficking.

Hear her story

In 2016, Caterina, a 36-year-old Venezuelan woman, was sentenced in **Hong Kong** to 25 years in prison after failing to convince a jury that she was forced to serve as a drug carrier, transporting cocaine inside her body. Caterina stated she was kidnapped in Brazil after responding to a fake job advertisement. She said she was repeatedly raped, and her family was threatened until she agreed to travel to Hong Kong. Caterina was pregnant before the kidnapping and gave birth to a child in prison. According to a lawyer who has assisted Caterina, defence lawyers face the issue that while Hong Kong acknowledges the problem of human trafficking, it does not have laws prohibiting it.¹⁴⁵ As a result, prosecutors, judges, and juries rarely take into account whether the drug carrier is actually a victim of human trafficking.

^{144.} Ministerio Público Fiscal de la Nación Argentina (2022). Narcocriminalidad y perspectiva de género. La perspectiva de género y enfoque interseccional en la persecución penal de la narcocriminalidad. Caciedo Delgado, P.L. (2017). Mujeres en prisión por delitos de drogas: Espejo de las fisuras del desarrollo. Corporación Humanas -Centro Regional de Derechos Humanos y Justicia de Género.

^{145.} Swiss Info (2022, July 28). 'Mulas' de droga latinoamericanas pueblan cárceles de Hong Kong. SWI swissinfo.ch

Criminalisation due to status





PART 2

Criminalisation due to status

LAWS OR OFFENCES THAT SPECIFICALLY, OR DISPROPORTIONATELY, CRIMINALISE WOMEN DUE TO STATUS

Crimes against 'honour' or 'morality'

In some countries, women and girls are prosecuted for acts or behaviours that are deemed to violate entrenched gender norms. So-called 'morality' prosecutions affect women disproportionately, as they revolve around women's clothing or behaviour, reinforcing deep-rooted societal discrimination women face compared to men. Data on this issue is particularly limited not least due to social stigma and lack of publicly available records.

Criminalisation of consensual sex outside marriage

Consensual sexual intercourse outside of marriage, such as adultery or extramarital sex, remains criminalised – albeit sometimes under limited circumstances – in jurisdictions in several regions.

For example, in the **Philippines**, adultery is criminalised under Article 333 of the Revised Penal Code. The law disproportionately targets women as adultery is defined as being committed by a married woman who engages in sexual intercourse with a man who is not her husband. The man involved also bears criminal liability if he knowingly engages in the adulterous act.¹⁴⁶ In **Pakistan**, 'zina' (extra marital sex, including adultery) is criminalised.¹⁴⁷ The criminalisation of consensual sex outside of marriage disproportionately impacts women, as it deters victims of sexual and gender-based violence from reporting cases out of fear of being convicted under such laws.

International jurisprudence on 'honour' or 'morality' crimes

Several UN bodies have condemned the criminalisation of so-called 'honour' or 'morality' offences.

The UN Working Group on Arbitrary Detention has stated that:

- Laws that criminalise certain sexual and/or 'honour'-related offences, such as adultery and prostitution, are prima facie discriminatory against women.
- In practice, these 'honour'-related offences also deny women the presumption of innocence, since gender stereotypes often disproportionately burden women in proving their innocence.

The Working Group recommends that States ensure that women who are the victims of criminal acts, such as rape, are not charged and detained on the basis that they have perpetrated an 'honour'-related offence.¹⁴⁸

The UN Working Group on Discrimination Against Women has found that the criminalisation of extramarital sexual behaviour violates the right to privacy, dignity, and equality of women, as well as the prohibition of discrimination in the family.¹⁴⁹

The UN Special Rapporteur on violence against women reiterated that: 'In countries that have 'moral' crimes on their books, such as adultery or extramarital sex, charges are disproportionately brought against women, even if such laws are gender neutral.⁴⁵⁰

In **Morocco**, a women's rights organisation, Mobilising for Rights Associates (MRA), stated that these laws prevent women in non-marital intimate partner relationships from reporting incidents of gender-based violence for fear of being prosecuted

^{146.} Philippine Commission on Women. (2019). Repeal of provisions of the Revised Penal Code on adultery and concubinage [Policy brief],; United Nations Human Rights Office. (2022). Communication from the Working Group on discrimination against women and girls concerning the Philippines.

^{147.} Amnesty International. (2021). Pakistan: Women still vulnerable under zina laws.

^{148.} Human Rights Council. (2021, August 6). Report of the Working Group on Arbitrary Detention. (A/HRC/48/55). United Nations.

^{149.} Human Rights Council. (2019, May 15). Women deprived of liberty: Report of the Working Group on the issue of discrimination against women in law and in practice. (A/HRC/41/33). United Nations.

^{150.} United Nations General Assembly. (2013, August 21). Report of the Special Rapporteur on violence against women, its causes and consequences: Pathways to, conditions and consequences of incarceration for women. (A/68/340). United Nations.

themselves. The organisation noted that there were more prosecutions for 'morality' crimes in 2020 than for violence against women, reporting that in 2020 there were 10,376 prosecutions for sex outside of marriage, and 2,268 prosecutions for adultery. As these statistics are not gender-disaggregated, it is unclear how many of the prosecutions were against women).¹⁵¹ MRA also highlighted that such laws can be used in an abusive manner against women and can impact children's rights, as they discourage women from filing for child maintenance or parentage claims in non-marital relationships.¹⁵²

Hear her story

In August 2020, a woman in **Morocco** was arrested after her husband, who she was in the process of divorcing, accused her of adultery. After spending a night in detention, she was sentenced to one week of imprisonment, pending trial.¹⁵³

Promising practice

In 2020, the Constitutional Court in **Taiwan** found that adultery laws were unconstitutional, following years of advocacy by women's rights groups, given that women were disproportionately affected by such convictions, facing a 20 percent higher conviction rate than men.¹⁵⁴

There have been recent setbacks in the movement to protect women's rights through the decriminalisation of consensual sex outside of marriage. In January 2023, the President of **Indonesia** signed into law a new criminal code containing provisions that criminalises consensual sex outside of marriage. As in other contexts, there are real concerns that this may deter rape victims – who are usually women and girls – from reporting assaults. There are also concerns that this could lead to some rape victims being imprisoned if they are suspected of having engaged in consensual sex outside of marriage.¹⁵⁵

Convictions under such laws can lead to disproportionate and inhumane sentences, including flogging and even the death penalty. The criminalisation of consensual sexual relations outside marriage – or 'zina' if applied under Sharia law – can attract a death sentence in **Afghanistan**, **Brunei**, **Indonesia**, **Iran**, **Mauritania**, **Maldives**, **Nigeria**, **Pakistan**, **Qatar**, **Saudi Arabia**, **Somalia**, **Sudan**, **Yemen**, and the **United Arab Emirates**.¹⁵⁶ Data from 2018 shows that women are disproportionately affected by 'zina' convictions.¹⁵⁷

Hear her story

According to media reports, in 2024, a single mother in **Malaysia** was sentenced to whipping (six strokes of the cane) and a fine by a court for 'khalwat' - the Islamic crime of being found in proximity to a man who was not her husband in a private place when unmarried.¹⁵⁸

Promising practice

In 2015, **South Korea**'s Constitutional Court struck down a 60-year-old statute outlawing adultery, under which violators had faced up to two years in prison.

Between 2008 to 2014, close to 5,500 people were formerly arraigned on adultery charges, including almost 900 in 2014.¹⁵⁹

Blasphemy laws

In 2023, there were 95 countries with legislation criminalising 'blasphemy' – expressions insulting or offending religious feelings, figures, or symbols – according to the United States Commission on International Religious Freedom.¹⁶⁰ The Commission found that of the 674 reported cases, 482 (71 percent) indicated the gender of the accused blasphemers, and of those 76 cases (16 percent), involved women.¹⁶¹

Discriminatory application of blasphemy laws is not uncommon. For example, in **Pakistan**, strict blasphemy laws, introduced under British colonial rule and made more stringent in the 1980s, have been used against women in an abusive manner or to persecute religious minorities. The NGO *Law Pakistan* estimates that 19 women were detained for blasphemy across Pakistan's 43 prisons as of June 2024. The Prevention of Electronic Crimes Act (PECA), passed in 2016, gave the government

153. Wirtz, M. (2021, January 12). Women in prison, former inmates recount. Inkyfada. inkyfada.com/en/2021/01/12/firsthand-women-prisons-tunisia

157. World Coalition & The Advocates for Human Rights. (2021). Women sentenced to death: An invisible reality. World Coalition.

^{151.} Annual report on the implementation of the penal policy and the improvement of the performance of the Public Prosecutor's Office, (2020). As cited in Mobilising for Rights Associates. (2022). Protection Not Prison: How the criminalization of sexual relations outside of marriage promotes violence against women; and Mobilising for Rights Associates (MRA), & The Advocates for Human Rights. (2020, October). Morocco's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested list of issues.

^{152.} Mobilising for Rights Associates. (2022). Protection not prison: How the criminalization of sexual relations outside of marriage promotes violence against women.

Hioe, B. (2020, March 5th). Constitutional court rules to decriminalize adultery in Taiwan. New Bloom. <u>newbloommag.net/2020/05/30/adultery-decriminalize-ruling</u>
 Human Rights Watch. (2024). Indonesia: Events of 2023

^{156.} Cornell Law Center on the Death Penalty Worldwide. Death penalty worldwide database.

^{158.} The Straits Times. (2024, April 17). Single mother is first woman to be whipped for 'khalwat' in Terengganu. <u>www.straitstimes.com/asia/se-asia/single-mother-is-first-woman-to-be-whipped-for-khalwat-in-terengganu</u>

^{159.} Agencies in Seoul. (2015, February 26). South Korea legalises adultery. The Guardian. www.theguardian.com/world/2015/feb/26/south-korea-legalises-adultery

^{160.} U.S. Commission on International Religious Freedom. (n.d.). Legislation factsheet: Blasphemy laws.

^{161.} U.S. Commission on International Religious Freedom. (2020). Violating rights: Enforcing the world's blasphemy laws.

greater powers to control content posted on social media, including content deemed blasphemous. Pakistan has previously asked Facebook and Twitter to help identify its citizens suspected of blasphemy so it can prosecute them or pursue their extradition.¹⁶²

Hear their stories

In 2022, in **Pakistan**, a woman called Aneeqa Ateeq was sentenced to death under cybercrime and blasphemy laws. *The Guardian* reported that, according to the charge sheet, Aneeqa met her accuser, a Pakistani man, online in 2019 through a mobile gaming app, and they began corresponding over WhatsApp. During the trial, Aneeqa told the court that she believed the complainant intentionally dragged her into a religious discussion so he could collect evidence and take 'revenge' after she refused to be friendly with him.¹⁶³

A case involving a Buddhist woman in **Indonesia** demonstrated how innocuous or unintentional comments can sometimes lead to criminalisation. In 2018, a woman received an 18-month prison sentence after she asked the daughter of a neighbouring mosque's caretaker if the volume of the loudspeaker could be lowered. Rumours subsequently spread that Meliana had demanded the mosque end its call to prayer entirely.¹⁶⁴

Laws prescribing dress codes

In many countries, women's choices about their dress, attire, and appearance are restricted by laws or regulations. This includes banning or limiting the wearing of certain attire or, conversely, requiring particular types of attire, typically on religious grounds.

The last global research on the topic, conducted in 2016 by Pew Research Center, documented that at least 50 out of 198 countries and territories examined had at least one law or policy regulating women's religious attire in 2012 and 2013. Thirty-nine of these countries - spanning five regions - had a law or policy limiting women's ability to wear religious attire.¹⁶⁵ So-called 'burqa bans' in Europe have led to the criminalisation of women in the **Netherlands**, **Denmark**, **Austria**, **Bulgaria**, **Belgium**, and **France**. Most reported cases involved women being fined (for example EUR 150 in France to CHF 10,500 in a Swiss canton), although some laws foresee imprisonment.¹⁶⁶ In **Belgium**, publicly covering one's face can attract a seven-day prison sentence, a sanction that was assessed as 'justifiable in principle' by the European Court of Human Rights in 2024.¹⁶⁷

Hear their stories

In 2024, three young Muslim women in **Belgium** who wanted to wear a headscarf to school in the Flemish part of the country (where religious symbols were banned) had their case heard in the European Court of Human Rights. They argued that the ban violated their freedom of religion. However, the Court upheld the ban – a judgment that has been criticised by rights groups.¹⁶⁸

Elsewhere, the criminalisation of mandatory dress codes targets women under prohibitions of 'indecent dressing', for example. Even where prosecution under the relevant law is not common, a 'chilling' effect on women and girls is widely observed. The laws allow for arbitrary and abusive behaviour by communities and law enforcement officials.

The UN Working Group on Arbitrary Detention has confirmed that public order offences such as 'public indecency' discriminate against women, noting that 'detention of women under such laws constitutes arbitrary detention since the vague nature of these laws violates the principle of legal certainty'.¹⁶⁹

In **Zambia**, the Penal Code regulates the criminalisation of 'obscene matters or things' and any person can be punished by imprisonment for five years, or a fine if they commit acts that are considered indecent or likely to corrupt morals.¹⁷⁰ In **Rwanda**, a similar law exists under which a person can be liable to imprisonment for between six months and two years if convicted of 'an indecent act'.¹⁷¹

^{162.} Hern, A., & Agencies. (2017, March 17). Pakistan asks Facebook and Twitter to help identify blasphemers. The Guardian. www.theguardian.com/world/2017/mar/17/ pakistan-asks-facebook-twitter-help-identify-blasphemers

^{163.} Baloch, S.M., & Ellis-Petersen, H. (2022, January 19). Pakistan woman sentenced to death over blasphemous WhatsApp messages. The Guardian. <u>www.theguardian.com/</u> world/2022/jan/19/pakistan-woman-aneeqa-ateeq-sentenced-to-death-blasphemous-whatsapp-messages

^{164.} U.S. Commission on International Religious Freedom. (2019). Indonesia blasphemy report (p. 4).

^{165.} Pew Research Center. (2016, April 5th). Restrictions on Women's Religious Attire.

^{166.} See Government of the Netherlands, Ban on face coverings, www.government.nl/topics/ban-on-face-coverings-referred-to-in-the-media-as-the-%E2%80%98burkaban%E2%80%99; Danish Criminal Code, Section 134c; Government of Austria, Face covering ban in Austria, www.oesterreich.gv.at/en/themen/menschen_aus_ anderen_staaten/aufenthalt/Seite.120251.html#:-:text=Since%201%200ctober%202017%20a.to%20everyone%20residing%20in%20Austria; Bogens, J. (2016, September 30), Bulgaria bans full-face veils in public places, Politico. www.politico.eu/article/bulgaria-bans-burga-face-veil-muslim-niqab/; The Federal Government of Belgium, Loi visant à interdire le port de tout vêtement cachant totalement ou de manière principale le visage; Loi n° 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public.

^{167.} European Court of Human Rights. (2024, April 9). Décision Requête No 50681/20.

^{168.} See for example, Gupta, S. (2024, September 13th). ECtHR's Veil of Ignorance: Intersectionality and Indirect Discrimination in the Belgian Headscarf Ban in School. EJIL: Talk! www.ejiltalk.org/ecthrs-veil-of-ignorance-intersectionality-and-indirect-discrimination-in-the-belgian-headscarf-ban-in-school/

^{169.} Human Rights Council. (2021, August 6th). Report of the Working Group on Arbitrary Detention. A/HRC/48/55.

^{170.} Parliament of Zambia. Act No 20 of 2023, The Penal Code (Amendment). www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf

^{171.} The East African. (2022, August 19). Rwanda: Is indecent dressing a crime? The East African. www.theeastafrican.co.ke/tea/news/east-africa/rwanda-indecent-dressing-3919362

Hear their stories

In May 2022, a **Zambian** businesswoman and social media influencer, Iris Kaingu, was arrested and charged with 'indecent dressing', after attending a fashion event two days prior where she wore a black see-through dress.¹⁷² The police claimed that Ms. Kaingu had chosen to wear clothing that was unreasonably revealing with the intent to corrupt public morals. Following her arrest, Ms. Kaingu was detained at Kabwata Police Station and had to appear in court.¹⁷³

In **Rwanda**, in August 2022, a young woman was arrested for 'indecent dressing' after a photo of her wearing fishnet attire while attending a concert appeared on social media.¹⁷⁴ She was eventually released on bail, and the matter was dropped.¹⁷⁵

In **Nigeria**, although there are no federal laws criminalising a dress code, northern states punish 'indecent dressing' with sentences ranging from a few months of imprisonment to fines under Sharia Law. ¹⁷⁶

Hear their stories

According to media reports, in April 2019, two young women in **Nigeria**, Farida Taofiq and Raihana Abbas, were charged with indecent dressing. They were stopped by police while wearing short dresses. Pleading guilty to 'constituting public nuisance and indecent dressing,' they requested leniency. However, the court sentenced them to two months in prison or a fine of 3,000 Nigerian naira each.¹⁷⁷

In some countries, prosecutions for violations of mandatory dress codes have seen harsh, inhumane sentences. In **Iran**, while not wearing a hijab was already criminalised under the Islamic Penal Code, a new law introduced in 2024 allows for significant fines and longer prison sentences of up to 15 years. The law also requires individuals, families, and businesses to report cases of 'unveiling', and enables the use of technology to enforce it. UN human rights experts criticised the new law, stating that it 'will likely escalate violence against women and girls and further embed systematic and structural gender-based discrimination and segregation into Iranian society.' While the scale of prosecutions of women for not wearing a veil in Iran is hard to ascertain as authorities do not publish statistics, a statement from the police chief of Qom province in January 2024 referred to 1,986 criminal cases in connection with compulsory veiling since March 2023.¹⁷⁸

Hear her story

In **Iran**, in January 2024, authorities carried out a flogging sentence of 74 lashes against Roya Heshmati for appearing unveiled in public.¹⁷⁹

Restriction of women's travel and mobility

In several countries there are laws or regulations that restrict women's travel and mobility. Human Rights Watch published a report in 2023 examining 20 countries in the Middle East and North African that documented the different country requirements imposed on women to obtain their male guardians' permission to travel within their country, obtain a passport, or travel abroad. In some cases, this can lead to arrest or administrative detention.¹⁸⁰

Examples of such restrictions can be seen in **Iran**, where married women must obtain permission from their husbands to apply for a passport or travel internationally.¹⁸¹ Under Taliban rule in **Afghanistan**, women are subject to such rules for journeys over a certain distance.¹⁸²

Promising practice

Laws that required women to show their husband's permission to obtain passports have been repealed, including in **Bahrain**, **Iraq**, **Qatar**, and the **United Arab Emirates**.¹⁸³

183. Human Rights Watch. (2023, July 18). Trapped: How male guardianship policies restrict women's travel and mobility in the Middle East.

^{172.} Zambian Observer. (2022, May 28th). Iris Kaingu has been picked up and detained by police on allegations of incident dressing. zambianobserver.com/iris-kaingu-hasbeen-picked-up-and-detained-by-police-on-allegations-of-incident-dressing/

^{173.} Pindula. (2022, May 28th). Zambian police arrest businesswoman for alleged indecent dressing. www.pindula.co.zw/2022/05/28/zambian-police-arrest-businesswoman-for-alleged-indecent-dressing/

^{174.} Iliza, A. (2022, August 19th). Rwanda woman faces two years in jail for 'indecent' dressing. The East African. www.theeastafrican.co.ke/tea/news/east-africa/rwandaindecent-dressing-3919362

^{175.} Aine, K. (2022, August 19th). Rwanda frees Liliane Mugabekazi after 12-day detention over 'shameful dress'. ChimpReports. chimpreports.com/rwanda-frees-lilianemugabekazi-after-12-day-detention-over-shameful-dress/

^{176.} Oladejo, S.S. (2020). A Glimpse at 'Indecent Dressing' under the Nigeria Legislation. <u>www.linkedin.com/pulse/glimpse-indecent-dressing-under-nigeria-legislation-segun-</u> stephen

^{177.} Sahara Reporters. (2019, April 23rd). Shari'a court in Kaduna jails two ladies for two months for wearing skimpy dresses. <u>saharareporters.com/2019/04/23/sharia-court-kaduna-jails-two-ladies-two-months-wearing-skimpy-dresses</u>

^{178.} Amnesty International. (2024, March 6th). Iran: Draconian campaign to enforce compulsory veiling laws through surveillance and mass car confiscations. <u>www.amnesty.org/en/latest/news/2024/03/iran-draconian-campaign-to-enforce-compulsory-veiling-laws-through-surveillance-and-mass-car-confiscations/</u>

^{179.} Ibid.

^{180.} Human Rights Watch. (2023, July 18). Trapped: How male guardianship policies restrict women's travel and mobility in the Middle East.

^{181.} Ibid.

^{182.} United Nations. (2023, March 8th). Security Council Emphasizes That Punitive Restrictions on Women's Rights, Escalating Hunger, Insecurity Taking Devastating Toll in Afghanistan. press.un.org/en/2023/sc15222.doc.htm

Abortion

Over the past three decades, there has been a global trend towards the liberalisation of abortion rights, with more than 60 countries taking steps to expand reproductive rights. Approximately 60 percent of countries globally have broadly legalised abortion, benefiting 1.12 billion people of reproductive age.¹⁸⁴ Notable progress has been observed in Latin America, where the so-called 'Green Wave' has resulted in the liberalisation of abortions in the region.

However, according to the Center for Reproductive Rights, there are currently 15 countries where abortion is prohibited without exceptions, with varying severity in penalties for individuals seeking abortions and those assisting in the procurement of one. There have also been setbacks on abortion rights in recent years, notably in the **United States** and **Poland**.

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There are currently 15 countries where abortion is prohibited without exceptions, with varying severity in penalties for individuals seeking abortions and those assisting in the procurement of one.

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In the United States, as of January 2025, 13 states have effectively banned abortion, and six states have enacted limits on abortion.¹⁸⁵ The Supreme Court's 2022 decision to strike down Roe v. Wade (which previously legalised abortion) was assessed as discriminatory against 'socio-economically disadvantaged women of colour, notably Black and Indigenous women, and others in situations of vulnerability, such as migrant women, those living with disabilities, and victims of sexual violence and sex trafficking,' by UN experts.¹⁸⁶ Women on probation under movement restrictions as a condition also face limited access to abortion care. The Prison Policy Initiative found that 582,000 women on probation live in states that ban or restrict abortions and are likely to face rejections from courts for approval to travel out of state.¹⁸⁷

In **Poland**, in 2020 a Constitutional Tribunal ruling means abortion is now available only in exceptional cases, making the country home to the most repressive abortion laws in Europe.

Hear her story

A **Polish** woman, Izabela Sajbor was denied an abortion following a diagnosis of foetal abnormality. Later, to comply with the strict law, doctors delayed medical intervention, waiting for the foetus' heart to stop beating before performing a caesarean section, leading to Izabela's death at age 30. Before dying, Izabela sent a text to her mother: 'The doctors can't help as long as the foetus is alive thanks to the anti-abortion law. A woman is like an incubator.'¹⁸⁸

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Various UN bodies have called for access to safe and legal abortions. The UN Committee on the Elimination of Discrimination against Women stated that denial 'is a severe restriction on women's ability to exercise their reproductive freedom, and that forcing women to carry a pregnancy to full term involves mental and physical suffering amounting to gender-based violence against women and, in certain circumstances, to torture or cruel, inhuman or degrading treatment'.¹⁸⁹

Several countries also have provisions punishing those who assist in the termination of a pregnancy, such as **Tanzania**, the **Philippines**, or **Jamaica**. In the **Dominican Republic**, where people undergoing an abortion, with or without assistance, face the risk of imprisonment ranging from two to five years, there are also serious penalties for people involved in the process. Even individuals who put pregnant people in contact or communication with another person to facilitate an abortion risk up to two years in prison.¹⁹⁰

190. Observatorio de Igualdad de Género de América Latina y el Caribe. (n.d.). Leyes sobre aborto. CEJAL

^{184.} Center for Reproductive Rights. (n.d.). The World's Abortion Laws. <u>reproductiverights.org/maps/worlds-abortion-laws/</u>

^{185.} Center for Reproductive Rights. (n.d.). After Roe Fell: Abortion Laws by State. reproductiverights.org/maps/abortion-laws-by-state/

^{186.} Office of the High Commissioner for Human Rights (OHCHR). (2022, June 24th). Joint web statement by UN Human rights experts on Supreme Court decision to strike down Roe v. Wade.

^{187.} Prison Policy Initiative, Emily Widra. (2024, October). One Size Fits None: How 'standard conditions' of probation set people up to fail. www.prisonpolicy.org/reports/probation_conditions' of probation set people up to fail. www.prisonpolicy.org/reports/probation_conditions of probation set people up to fail. www.prisonpolicy.org/reports/probation_conditions of probation set people up to fail.

^{188.} Vandoorne, S. & Bell, M. (2022, June 29th). Poland has some of the strictest abortion laws in Europe. Izabela Sajbor's family say those laws are responsible for her death. CNN. edition.cnn.com/2022/06/28/europe/poland-abortion-law-izabela-sajbor-death-intl-cmd/

^{189.} UN Committee on the Elimination of Discrimination against Women. (2022, July 1st). Access to safe and legal abortion: Urgent call for United States to adhere to women's rights convention.

Furthermore, medical staff dealing with these issues in many countries are predominantly women. For example, in the US, 72 percent of obstetricians or gynaecologists are women.¹⁹¹

Hear her story

In 2023, **Polish** abortion rights activist Justyna Wydrzynska was sentenced to eight months of community service for helping a woman in an abusive relationship access abortion pills. Under Polish law, those who aid an abortion can face up to three years in prison. UN human rights experts called for her acquittal, stating that the charges appeared to be 'intended to punish her work as a human rights defender and to instil fear among those who are supporting Polish women in accessing safe abortion care'.¹⁹²

Countries enforcing restrictive abortion policies, such as **Haiti** and **Honduras**, experience significantly higher rates of unsafe abortions and maternal mortality, with the average maternal mortality ratio being three times greater in such countries.¹⁹³ This issue is intersectional, with women from minority backgrounds disproportionately affected in maternal mortality and morbidity statistics. These disparities are compounded by the fact that they also face heightened risks of unintended pregnancies and are more likely to encounter barriers in accessing safe abortion services due to socioeconomic disadvantage.¹⁹⁴

In **El Salvador**, the extremely restrictive laws on abortion criminalise all forms, with no exception, and can attract severe sentences ranging from two to eight years of imprisonment. Women facing obstetric emergencies – often within contexts of poverty and discrimination – can find themselves subjected to criminal proceedings for aggravated homicide.

Hear her story

In **El Salvador**, Teodora Vásquez, a 20-year-old woman, was convicted of aggravated homicide after having a stillbirth 2007. She was sentenced to 30 years in prison. After serving 10 years, a court found she had been wrongly convicted. She wrote: 'Poverty is the first thing that is condemned. That is why, instead of helping me, they put me in jail and sentenced me to 30 years. If you are poor, you have no opportunities. And if you are a woman and you are alone, it is worse for you. Many women in my country fall victim to the judicial system, mostly accused of abortion, charged with aggravated murder.¹⁹⁵

Given that many maternal deaths are preventable, the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, has concluded that if the death of a woman or girl is directly attributed to the intentional denial of access to gender-specific, life-saving medical care – such as through a blanket ban on abortion – it qualifies as a gender-based arbitrary killing.¹⁹⁶

Where abortion is permitted only under exceptional circumstances, the permissible conditions vary. In 43 countries, abortion is only permitted where the pregnant person's life is at risk, or it may extend to broader grounds, including therapeutic or health reasons, as is the case in 47 countries, 25 of which also consider mental health a valid reason.¹⁹⁷ This latter approach is common in Africa, where 39 out of 54 countries provide exceptions to the illegality of abortions based on either of these two exceptions.¹⁹⁸ In Kenya, for example, abortions are permitted when deemed necessary by a trained health professional when the life or health of the pregnant person is at risk. However, unlawfully administering poison, using force, or employing any other means to induce miscarriage is a felony with a potential imprisonment term of seven years for those attempting to cause their own miscarriage.¹⁹⁹

Another common exception is when the pregnancy results from rape or incest. However, the existence of restrictive criteria for accessing abortions under these circumstances often results in people being excluded from these provisions in practice.

In **Brazil**, research by the Universidad de São Paulo (USP) and Columbia Law School's Human Rights Institute found that an average of 400 court cases were brought for self-abortion or 'consented to' abortion between2018 and 2022. They also reported that Black and brown women from low-income communities are most likely to be prosecuted for abortion.²⁰⁰ Abortion is currently permitted only in cases of rape, to safeguard life, or in instances of foetal anencephaly, under the Brazilian

^{191.} Zippia. (n.d.). Obstetrician/gynaecologist demographics and statistics in the US. www.zippia.com/obstetrician-gynecologist-jobs/demographics

^{192.} United Nations Human Rights Office. (2023, March 14). UN experts urge Poland to acquit woman human rights defender Justyna Wydrzyńska. United Nations.

Mishra, V., Gaigbe-Togbe, V., & Ferre, J. (2014). Abortion policies and reproductive health around the world. United Nations Department of Economic and Social Affairs.
 United Nations. (2022, September 21st). Committee on the Elimination of Racial Discrimination. (CERD/C/USA/CO/10-12). Concluding observations on the combined tenth

to twelfth reports of the United States of America. International Convention on the Elimination of All Forms of Racial Discrimination. **195.** Vásquez, T.C. (2022, November 17th). I Went to Prison for Aggravated Murder After Having a Stillbirth – And I'm Not the Only One. Global Citizen. <u>www.globalcitizen.org/en/</u>

content/teodora-vasquez-mujeres-libres
 196. Human Rights Council. (2017, June 6th). Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings. A/HRC/35/23, paras 92-95

^{197.} Center for Reproductive Rights. (n.d.). The World's Abortion Laws. reproductiverights.org/maps/worlds-abortion-laws

^{198.} Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Cote D'Ivoire, Democratic Republic of Congo, Eritrea, Eswatini, Gabon, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Morocco, Namibia, Niger, Nigeria, Rwanda, Senegal, Somalia, South Sudan,

Eswatini, Gabon, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Morocco, Namibia, Niger, Nigeria, Rwanda, Senegal, Somalia, South Sudan, Sudan, Tanzania, Togo, Uganda, Zambia, Zimbabwe.

^{199.} Center for Reproductive Rights. (n.d.). Kenya's Abortion Provisions. reproductiverights.org/maps/provision/kenyas-abortion-provisions

^{200.} Clooney Foundation for Justice. (2022, July 14). Brazil's criminalization of abortion results in discrimination and fair trial violations.

Penal Code and a Supreme Court ruling. In June 2024, a bill was introduced that would equate abortion after 22 weeks of pregnancy with homicide, even in cases of rape, and impose sentences ranging from six to 20 years' imprisonment for those seeking an abortion, and the healthcare professionals involved.²⁰¹

Hear her story

In **Brazil**, an 11-year-old girl who became pregnant as a result of rape was prevented from accessing a legal abortion and was instead placed in a shelter by the justice system, suffering psychological and physical violence while under the care of the state.²⁰²

In **Rwanda**, according to a report published in 2021 by Health Development Initiative, around a quarter of all women in the country's prisons had been convicted for obtaining an abortion. While positive reforms in 2012 and 2018 on abortion were achieved, women continue to be prosecuted for illegal abortions, and the sanctions ranging from one to three years in prison or a fine equivalent to USD 300.²⁰³ A woman in prison who was convicted for obtaining an abortion illegally, said that she had had a miscarriage. She explained to the researchers 'My relatives could not believe that a pregnancy of four months could be miscarried. So, they informed the police and accused me of deliberately terminating the pregnancy.'²⁰⁴

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My relatives could not believe that a pregnancy of four months could be miscarried. So, they informed the police and accused me of deliberately terminating the pregnancy.

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In the **United Kingdom**, where abortion is largely legal, the Offences Against the Person Act of 1861 sets out that procuring one's own miscarriage outside a hospital or clinic is a criminal offence and can attract a life sentence.²⁰⁵ This archaic legal provision disproportionately affects the most vulnerable women, including those facing domestic or honour-based violence, those with caregiving responsibilities, and those unable to travel.²⁰⁶

Hear her story

Carla Foster took abortion tablets during the **UK** COVID-19 pandemic lockdown that she ordered via a 'pills by post' scheme (introduced during the pandemic for unwanted pregnancies up to 10 weeks, after a remote consultation). The pills terminated her pregnancy when she believed she was about 28 weeks pregnant and as a result, the mother of three was given a 28-month prison sentence for 'procuring a late abortion' under the Offences Against the Person Act. Her sentence was reduced on appeal with the judge stating she needed 'compassion, not punishment'.²⁰⁷

A spokesperson from the British Pregnancy Advisory Service on the case stated, 'Now is the time to reform abortion law so that no more women are unjustly criminalised for taking desperate actions at a desperate time in their lives.' ²⁰⁸

Witchcraft and sorcery

Several countries across different regions retain witchcraft and sorcery-related offences. Data on this issue – particularly the number of women who are criminalised – is hard to access due to stigma, a lack of targeted data collection, and underreporting of human rights abuses by impacted communities.²⁰⁹ In addition to criminalisation, accusations of witchcraft result in serious violations of human rights, including beatings and even murder.

Women are particularly vulnerable to accusations, and criminalisation, of witchcraft. Research in **Ghana**, for instance, indicates that fewer men are accused of witchcraft, and those who are often continue to live amongst their community without facing the same mistreatment or exclusion as women.²¹⁰

- 205. Offences against the Person Act 1861, Section 58.
- 206. According to respondents of PRI/WBW survey.

 ^{201.} Conectas Human Rights. (2024, June). Here are 4 threats to legal abortion in Brazil. www.conectas.org/en/noticias/here-are-4-threats-to-legal-abortion-in-brazil
 202. Instituto de Defesa do Direito de Defesa. (2022, June 21st). Por uma justiça garantidora de direitos de meninas, adolescentes e mulheres. iddd.org.br/por-uma-justica-garantidora-de-direitos-de-meninas-adolescentes-e-mulheres

^{203.} Rutembesa, E. et al. (2021). Understanding the Causes, Practices, and Consequences of Terminating Pregnancies: Experiences of Women Incarcerated for Illegal Abortion in Rwanda. Health Development Initiative.

^{204.} Ibid, p. 22.

^{207.} Topping, A. (2023, July 18). Woman jailed for taking abortion pills after time limit to be freed from prison. The Guardian. <u>www.theguardian.com/uk-news/2023/jul/18/carla-foster-woman-jailed-obtaining-tablets-pregnancy-freed-appeal</u>

^{208.} British Pregnancy Advisory Service. (2023, July 18). BPAS comment on release of woman sentenced to prison for ending her own pregnancy. www.bpas.org/about-bpas/press-office/press-releases/bpas-comment-on-release-of-woman-sentenced-to-prison-for-ending-her-own-pregnancy

^{209.} Office of the High Commissioner for Human Rights (OHCHR). (n.d.). Witchcraft and human rights. www.ohchr.org/en/special-procedures/ie-albinism/witchcraft-and-human-rights

^{210.} Songtaba Ghana. (2022). Prevalence of Depression, Quality of Life and Gender Dynamics of Women Accused of Witchcraft in Northern and Northeast Regions of Ghana. Songtaba, Ghana Somubi Dwumadie, UKAid.

Persons with albinism, are particularly vulnerable to being accused of witchcraft, as are women who do not conform to expected gender stereotypes, such as childless women or widows.²¹¹ Older persons are also at heightened risk of being accused and, in some cases, criminalised for witchcraft. For example, in **Benin** in 2016, the UN Subcommittee for the Prevention of Torture found older persons (80 years or more) serving long sentences in prison, often for acts of witchcraft, noting their 'great vulnerability'.²¹²

Witchcraft accusations can also stem from a lack of recognition or support for mental health conditions and psychosocial disabilities, such as depression, schizophrenia or dementia. People with these conditions are also at higher risk of mistakenly or falsely confessing, or being manipulated into confessing, to crimes or actions that are associated with witchcraft.²¹³

The Penal Code of the Central African Republic criminalises practices of charlatanism and witchcraft that could disturb public order, harm people or damage property.²¹⁴ Since these accusations are often vague and hard to prove, they are typically used against people 'undesirable' in their communities. These laws disproportionately affect women, especially older women.²¹⁵ The legal uncertainty relating to the elements of this offence often result in arbitrary decisions from the judiciary.²¹⁶ A 2022 study on the issue by Avocats Sans Frontières (ASF) and Inanga found that witchcraft accusations tend to be higher in rural areas and intersect with other forms of social marginalisation. These accusations primarily target unmarried women, widows, divorcees, or women without children particularly older and poorer women. Nearly 60 percent of the women held in Bimbo Women's Remand Prison in Bangui between January 2020 and June 2021 on witchcraft-related charges fell into these categories. The average age of those accused was 55 years old.²¹⁷

Hear her story

In the **Central African Republic**, Sylvie was accused of witchcraft by her sister after her sister's husband died. She was detained in pre-trial detention for over a year, even though her sister later apologised for the accusation. It is unclear what ultimately happened to Sylvie.²¹⁸

In **Chechnya**, authorities have targeted those suspected of practicing 'sorcery and witchcraft', deemed by authorities as anti-Islam, through the establishment of the Islamic Medical Institute. In 2019, two elderly women and a man were arrested on allegations of witchcraft and paraded on television. Media reports did not detail any further charges against them.²¹⁹

Hear their stories

According to news reports, on the night of Halloween in 2021, three women were arrested in **Chechnya** on suspicion of sorcery. The women were found with several "magic-related" artefacts, including maps, tarot cards, and a 'magical stone'. The women denied practising witchcraft, and said they were natural healers. Although the three women were reportedly released without a formal charge, the court ordered them to sign a promise to cease practising magic.²²⁰

Various international and regional bodies have reiterated calls for governments to take action to address the killings, violence, and the criminalisation of people accused of witchcraft.

In 2021, the UN Human Rights Council adopted a resolution on the elimination of harmful practices related to accusations of witchcraft and ritual attacks, calling for a more holistic approach in addressing harm resulting from accusations of witchcraft and ritual attacks. The resolution called on States to ensure that no one is deprived of the right to life, liberty, or security of person because of religion or belief.²²¹

217. Schmitt, M. (2023, July 28). Central African Republic: witchcraft. Prison Insider.

Association for Women's Rights in Development (AWID). (2015, February 27). Witchcraft accusations perpetuate women's oppression in Sub-Saharan Africa. <u>www.awid.org/news-and-analysis/witchcraft-accusations-perpetuate-womens-oppression-sub-saharan-africaJenkins</u>, 0., & Agbenyadzi, E. (2022, May 6). Evidence review on people accused of witchcraft in Ghana and Sub-Saharan Africa (Disability Inclusion Helpdesk Report No. 81).

^{212.} Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (2018, October 1). Visit to Benin undertaken from 11 to 15 January 2016: Observations and recommendations addressed to the State party. United Nations.

Brooke, J., & Ojo, O. (2019). Contemporary views on dementia as witchcraft in sub-Saharan Africa: A systematic literature review. Journal of Clinical Nursing, 29(1-2).
 Avocats sans Frontières. (2023, January 5). Witchcraft representations and judicial treatment of the offence of charlatanism and witchcraft practices in the

Central African Republic.

^{215.} Office of the High Commissioner. (2015, December 10). Witchcraft in a modern age: broken communities and recalcitrant stigma.

^{216.} Durdu, G. (2022). Représentations sorcellaires et traitement judiciaire de l'infraction de Pratiques de Charlatanisme et de Sorcellerie en RCA. Frontières.

^{218.} AFP. (2018, February 27). Jailed for 'witchcraft' in Central African Republic. Arab News. www.arabnews.com/node/1255241/offbeat

^{219.} BBC Monitoring. (2019, September 23). Outrage rises at Chechen 'witch hunt'. BBC. www.bbc.com/news/blogs-news-from-elsewhere-49795987

^{220.} Carroll, O. (2021, November 1). Chechnya arrests three 'witches' in Halloween crackdown. Independent. www.independent.co.uk/news/world/europe/chechnya-witcheswomen-halloween-kadyrov-b1949256.html

^{221.} Human Rights Council. (2021). Resolution adopted by the Human Rights Council on 12 July 2021: Elimination of harmful practices related to accusations of witchcraft and ritual attacks (A/HRC/RES/47/8).

Furthermore, in 2023, the Pan African Parliament validated Guidelines on Accusations of Witchcraft and Ritual Attacks: Eliminating Harmful Practices and other Human Rights Violations.²²²

Hear her story

According to media reports, in 2009, two Indonesian domestic workers were sentenced to death in **Saudi Arabia** for allegedly practising witchcraft against their employers' families. Sumartini was accused of causing the disappearance of her employer's son through 'black magic', although he was later found alive. Warnah was accused of casting a spell on her employer's wife, causing a mysterious illness. In 2019, after diplomatic negotiations, the women were extradited back to Indonesia.²²³

Sexual orientation and gender identity

The criminalisation of sexual orientation and gender identity continues denying members of LGBTQI+ communities of their human rights, permitting queerphobia, discrimination, and violence.²²⁴

Private, consensual, same-sex sexual activity is criminalised in 63 countries.²²⁵ Among them, 12 either impose the death penalty or have provisions in their laws allowing for its possibility in cases involving such activities.²²⁶ At least six of these countries – including **Iran**, Northern **Nigeria**, **Saudi Arabia**, **Somalia**, and **Yemen** – enforce the death penalty for these consensual acts.²²⁷

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At least 40 countries criminalise consensual sexual conduct between females.

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A 2024 report by the Human Dignity Trust states that at least 40 countries criminalise consensual sexual conduct between females. Most of these laws originate from British colonial rule, while others are founded in Sharia law.²²⁸ A few expressly prohibit sexual conduct between women, including **Iran**, **Malawi**, **Mauritania**, and **Tunisia**,²²⁹ or specific sexual acts between women, such as **Liberia** and **The Gambia**. Others, like **Antigua** and **Barbuda**, **Saint Lucia**, and **Trinidad & Tobago**, use gender neutral language to criminalise all homosexual/ same-sex activity.²³⁰

Discriminatory, and derogatory terms are often included in the legal provisions, defining homosexuality as 'unnatural'. For example, the Penal Code in **Pakistan** characterises consensual same-sex sexual activity as 'against the order of nature' and places homosexuality on par with bestiality by including references to intercourse with 'any man, woman, or animal'.²³¹

Of the jurisdictions that criminalise female same-sex intimacy through statutory penal legislation, 11 use terms such as 'gross indecency' or 'serious indecency'.²³²

The criminalisation of consensual sexual activity between women may be less explicit because of a societal denial of the possibility that women can engage in intimate relationships with each other without the involvement of men.²³³ Scholars have argued that this denial is symptomatic of a larger societal refusal to recognise the economic, social, and sexual independence of women.²³⁴

The intersection of gender and sexual orientation compounds the challenges faced by lesbians and bisexual women within societies where their identities are criminalised. Beyond criminalisation of same-sex relations, lesbians and bisexual women are disproportionately criminalised for other offences, including offenses related to reproductive matters, extra-marital consensual sex, abortion, and sex work.²³⁵

Research has shown that even when these legal provisions are not enforced, the fear of criminalisation often forces lesbians and bisexual women into heterosexual marriages as a means of avoiding legal

228. Human Dignity Trust. (2024, September 24). Breaking the Silence: Criminalisation of Lesbians and Bisexual Women and its Impacts.

231. Pakistan Penal Code (Act XLV of 1860), s. 377: www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html

Pan-African Parliament. (2023, March 15). PAP reaches milestone with the launch of Guidelines on eliminating harmful practices, human rights violations. African Union.
 The New Arab. (2019, April 24). After jailing them for a decade, Riyadh deports two Indonesian women accused of 'witchcraft'. <u>www.newarab.com/news/riyadh-deports-two-indonesian-women-facing-execution-witchcraft</u>

^{224.} Office of the High Commissioner for Human Rights (OHCHR). (2018, May 16). Leave no LGBT person behind. www.ohchr.org/en/statements/2018/05/leave-no-lgbt-person-behind behind

^{225.} Human Dignity Trust. (n.d.). Map of countries that criminalise LGBT people. www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation

^{226.} Afghanistan, Brunei, Iran, Mauritania, Northern Nigeria, Pakistan, Qatar, Saudi Arabia, Somalia, Uganda, UAE, and Yemen

^{227.} Human Dignity Trust. (n.d.). Map of countries that criminalise LGBT people. www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation

^{229.} Gambia, Iran, Malawi, Mauritania, Nigeria (Kano State), Tanzania (Zanzibar), Tunisia, Yemen, and Zambia

^{230.} Algeria, Antigua and Barbuda, Barbados, Bhutan, Botswana, Burundi, Cameroon, Comoros, Dominica, Eritrea, Ethiopia, Gambia, Guinea, Libya, Malaysia, Morocco, Oman, Saint Lucia, Somalia, Sri Lanka, St Vincent and the Grenadines, Sudan, Tanzania, Togo, Trinidad & Tobago, and Uganda.

^{232.} Human Dignity Trust. (2024, September 24). Breaking the Silence: Criminalisation of Lesbians and Bisexual Women and its Impacts.

^{233.} Lennox, C., & Waites, M. (Eds.). (2013). Human Rights, Sexual Orientation and Gender Identity in The Commonwealth: Struggles for Decriminalisation and Change. University of London Institute of Commonwealth Studies.

^{234.} For example, Tong, R. (2009). Feminist thought: A more comprehensive introduction (2nd ed.). Westview Press.

^{235.} UN CEDAW Committee. (2015). General recommendation No. 33 on women's access to justice (para. 49). United Nations. Human Dignity Trust. (2024, September 24). Breaking the silence: Criminalisation of lesbians and bisexual women and its impacts (p. 39)

repercussions and violence, concealing their true sexual orientation. While this pressure may also affect homosexual and bisexual men, patriarchal norms exacerbate the challenges faced by women, limiting their ability to lead autonomously outside of marriage. ²³⁶

In 14 countries, transgender and genderqueer individuals face criminalisation through laws targeting 'cross-dressing,' 'impersonation,' and 'disguise.'²³⁷ In many other countries, they are criminalised under broader laws that are often used in conjunction with each other.²³⁸

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In 14 countries, transgender and genderqueer individuals face criminalisation through laws targeting 'cross-dressing,' 'impersonation,' and 'disguise'.

There is evidence that lesbian and bisexual women and gender-diverse persons are overrepresented in criminal justice systems and experience abuse by authorities. For example, in the **United States**, it has been estimated that lesbian and bisexual women face arrest rates more than four times higher than those of straight women. Lesbian and bisexual women constitute approximately 33 percent of the female prison population despite representing only approximately 3.4 percent of the general population. ²³⁹ Additionally, one in six transgender individuals in the United States has experienced imprisonment at some point in their lives. This rate rises alarmingly to nearly half among Black transgender people.²⁴⁰ Non-white queer people also tend to experience disproportionate abuse,²⁴¹ particularly transgender women of colour.242

When detained, gender-diverse people face violence, discrimination and inhumane treatment at the hands of authorities and fellow detainees. Research conducted by PRI and Transgender Europe examined the placement of trans and non-binary people in prisons. It found that where there is no legal recognition of their gender, the most common placement outcomes are being 'unidentified' (where the person conceals their identity due to concerns for their safety or treatment), or being held in a facility that corresponds to their legal identity and assigned sex at birth, but either in solitary confinement or under unsafe conditions.²⁴³

Sex work

Sex work encompasses the exchange of a wide range of sexual services between consenting adults for financial or in-kind remuneration. In recent years, new forms of sex work have emerged, including phone sex, webcam modelling, strip clubs, and platforms such as OnlyFans. The global sex industry, which is estimated to be worth over USD 180 billion, employs approximately 52 million people worldwide, 41.6 million of whom are women.²⁴⁴

Some people are trafficked for the purpose of sexual exploitation. However, widespread misinformation perpetuates the conflation of sex work with trafficking and exploitation. This misconception often serves as the foundation for harmful policies and practices that further marginalise sex workers and hinder efforts to support victims of trafficking.²⁴⁵

Conflating sex work with trafficking can lead to de facto criminalisation of sex workers and human rights violations. In **Thailand**, sex workers frequently cite police raids as their greatest fear, with anti-trafficking operations often resulting in forced detention and the public dissemination of raid images. In **Canada**, migrant sex workers report violence by law enforcement during 'anti-trafficking' operations, including strip searches, physical abuse, and sexual assault. In **India**, raids conducted under the guise of anti-trafficking have subjected both sex workers and trafficking victims to violence. ²⁴⁶

Even where women are victims of trafficking, they can find themselves further victimised by anti-trafficking laws. In the **United States**, for example, women have been criminalised for activities they were compelled to engage in because of their trafficking situation.²⁴⁷ Despite being coerced or forced, they often face legal repercussions, leading to their further victimisation within the criminal legal system. Explicit statutory

^{236.} See analysis in Human Dignity Trust. (2024, September 24). Breaking the Silence: Criminalisation of Lesbians and Bisexual Women and its Impacts (p. 39).

^{237.} Human Dignity Trust. (n.d.). Map of countries that criminalise LGBT people. www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation

^{238.} Egerton-Peters, J., Jimenez, J., Stewart, A., & Goodwin, L. (2019). Injustice Exposed: The Criminalisation of Transgender People and its Impacts. Human Dignity Trust.

^{239.} Jones, A. (2021, March 2). Visualizing the unequal treatment of LGBTQ people in the criminal justice system. Prison Policy Initiative.

^{240.} Bryant, E. (2024, February 20). 'We Need to Listen'. Vera Institute.

^{241.} Harvard T.H. Chan School of Public Health, NPR, & Robert Wood Johnson Foundation. (2017). Discrimination and LGBTQ+ health: The health impact of discrimination on LGBTQ+ people in the United States. Harvard T.H. Chan School of Public Health.

^{242.} Shaw, A. (2020). Violence and Law Enforcement Interactions with LGBT People in the US. UCLA Williams Institute.

^{243.} Penal Reform International & Trans Europe and Central Asia. (2024). Placement of trans and non-binary people: A guide for prisons.

^{244.} International Union of Sex Workers. (n.d.). Sex Worker Statistics by Country, Gender. www.iusw.org/sex-worker-statistics/

^{245.} Global Network of Sex Work Projects. (2021, December 14). Briefing Paper: The Consequences of Misinformation about Sex Work and Sex Workers.

^{246.} Global Alliance Against Traffic in Women. (2018). Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions. gaatw.org/ publications/SWorganising/SWorganising-complete-web.pdf

^{247.} According to PRI/WBW survey.

exceptions and the non-recognition of "forced criminality" within anti-trafficking legislation further hinder their ability to access non-punishment provisions in many countries.²⁴⁸

Models that criminalise sex workers, their clients, or third parties - along with measures such as 'raid and rescue' operations and 'rehabilitation' services - contribute to the erasure of the diverse lived experiences of sex workers and their agency.²⁴⁹ The UN Working Group on Discrimination Against Women and Girls has noted that: 'Decriminalization [of sex work] would not jeopardize the protective functions of the State in relation to combating exploitation, as other criminal law provisions, including antitrafficking laws, would be used in cases of violence, compulsion or exploitation. In addition to removing any criminal law provisions relating to sex work, the Working Group calls for ending the practice of the arbitrary application of other punitive provisions against sex workers, including those on vagrancy, public decency and public order, and forms of 're-education', as well as ending the practice of criminalising poverty.'250

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Decriminalization [of sex work] would not jeopardize the protective functions of the State in relation to combating exploitation, as other criminal law provisions, including antitrafficking laws, would be used in cases of violence, compulsion or exploitation.

UN Working Group on Discrimination against Women and Girls

This position has been echoed by the Council of Europe's Commissioner for Human Rights, who has emphasised the need for a human rights-based approach to sex work, focusing on the protection of sex workers' rights and prioritising their safety, agency, and bodily autonomy.²⁵¹ There is significant evidence of the harms of criminalising sex work. Challenges in reporting crimes (including violence) and accessing justice are common, as are stigma, discrimination, and police violence. Criminalisation also means that sex workers are denied legal protection, including employment rights, and can end up in detention.

There are also public health risks. For example, in **Mauritius**, women can face imprisonment if caught with condoms, inhibiting safer sexual practices and exacerbating health concerns.²⁵² Evidence suggests that decriminalising sex work could reduce new HIV infections among sex workers and their clients by 33 percent to 46 percent over a ten-year timeframe.²⁵³

Many transgender, and trans women in particular, turn to sex work as a means of survival²⁵⁴ – often in response to the harsh realities of discrimination gender-diverse people face in traditional workplaces.²⁵⁵ In countries such as **Indonesia**, **Malaysia**, and **India**, a reported 80 to 90 percent of all gender-diverse people engage in sex work.²⁵⁶

Trans people, especially those of colour or Indigenous, are at significantly higher risk of criminalisation and violence, particularly when they participate in sex work.²⁵⁷

Research conducted for the Council of Europe highlighted the heightened criminalisation of women and sex workers under the restrictions put into place during the COVID-19 pandemic.²⁵⁸ The study indicates that numerous **European countries** set out punitive measures to enforce pandemic restrictions, expanding law enforcement powers and imposing significant fines and imprisonment. These measures disproportionately impacted marginalised communities, including sex workers, along with migrants, members of the LGBTQI+ community, racialised people, and women human rights defenders-groups already bearing the brunt of the pandemic's economic repercussions.²⁵⁹

251. Commissioner for Human Rights. (2024, February 15). Protecting the human rights of sex workers. www.coe.int/en/web/commissioner/-/protecting-the-human-rights-of-sex-workers

253. UN AIDS. (2024, June 2). To protect sex workers' health, protect their human rights.

^{248.} UNODC. (2020). Female victims of trafficking for sexual exploitation as defendants. **249.** Ibid.

^{250.} Office of the High Commissioner for Human Rights. (2023, December 7). Eliminating discrimination against sex workers and securing their human rights: Guidance document of the Working Group on discrimination against women and girls (A/HRC/WG.11/39/1).

^{252.} According to PRI/WBW survey.

^{254.} Asia Catalyst, Zuo You, SCMC. (2015). 'My life is too dark to see the light': A survey of the living conditions of transgender female sex workers in Beijing and Shanghai. Asia Catalyst. www.aidsdatahub.org/sites/default/files/resource/my-life-too-dark-see-light-2015.pdf

^{255.} Nguyen, A. (2016). Promoting and protecting the rights of lesbians, bisexual women, transgender and intersex persons. UN Women. asiapacific.unwomen.org/en/digitallibrary/publications/2016/05/promoting-and-protecting-the-rights-of-lgbti

^{256.} Asia Catalyst, Zuo You, SCMC. (2015). 'My life is too dark to see the light': A survey of the living conditions of transgender female sex workers in Beijing and Shanghai. Asia Catalyst. www.aidsdatahub.org/sites/default/files/resource/my-life-too-dark-see-light-2015.pdf

^{257.} Mitchell, M., McCrory, A., Skaburskis, I., & Appleton, B. (2022). Criminalising gender diversity: Trans and gender diverse people's experiences with the victorian criminal legal system. international journal for crime, justice and social democracy.

^{258.} Mann, L. (2023). The impact of COVID-19 on women's access to justice. Council of Europe, Gender Equality Commission.

^{259.} Ibid. See also: Amnesty International. (2022, May 31). 'There is no help for our community': The impact of States' Covid-19 responses on groups affected by unjust criminalization.

Promising practice

In December 2024, **Belgium** became the first country to grant sex workers full employment rights, following advocacy from rights groups and the Union of sex workers. The law provides for rights to formal contracts, social security benefits, maternity leave, and pensions, among other protections.

Legislation regarding sex work varies greatly across and within countries, presenting a complex landscape.²⁶⁰ The most widespread approach globally, involves the criminalisation of the purchase and sale of sexual services and other activities related to sex work, treating them as criminal acts.²⁶¹ For example, in **Malaysia**, sex work is regulated by the federal Penal Code and state-based Sharia laws. Punishment ranges from imprisonment to caning, with sex workers also targeted under other laws, such as those criminalising transgender identity or drug possession. Sex workers have reported instances of police planting drugs during raids, often conducted under the guise of "vice prevention'.²⁶²

In contrast, the Nordic model criminalises the buying of sex while refraining from penalising sellers. This approach has been adopted by countries like **Ireland**, **Northern Ireland**, **Canada**, and **France**. ²⁶³ In France, the expectations that this approach would lead to improving the human rights of sex workers have fallen short. Although national laws criminalising solicitation were revoked, local anti-sex work regulations persist, impacting outdoor sex work, which is prevalent in France. These regulations continue to have a detrimental, penalising impact on sex workers. Police continue to target sex workers for arrest and clear public sex work areas. This results in fewer clients, income reduction, and heightened dependence on third parties for finding work.

Migrant sex workers face even greater vulnerability, often subjected to arrest and deportation during police operations. ²⁶⁴ Sex workers who survive gender-based violence, particularly those who are undocumented, face systemic obstacles when attempting to access justice. These include police refusing to file complaints, discriminatory attitudes, and the fear of arrest or deportation, which deters them from seeking support.²⁰⁵

Another approach allows specific types of sex work, while banning others. For example, in **England and Wales**, independent escorting is allowed, but operating brothels is forbidden. **Germany** and the **Netherlands** have more comprehensive legalisation measures, including licensed brothel operations.²⁶⁶

In some countries, legislation on sex work is complex. In **Mexico**, for example, despite federal legality, varying state-level regulations often effectively criminalise sex work. ²⁶⁷In **Greece** and **Senegal**, stringent laws surrounding sex work and related activities create an environment where sex workers are at risk of arrest and prosecution, mirroring the challenges faced in countries where sex work is completely prohibited.²⁶⁸ In Senegal, although the law permits women aged 21 and above to participate in sex work, they are not legally permitted to operate in hotels, brothels, private residences, or public areas.²⁶⁹

Decriminalisation models seek to remove punitive measures against all facets of commercial sex, aiming to integrate sex work into the labour market. ²⁷⁰ This strategy has been adopted in several jurisdictions including New Zealand, and the Australian states of New South Wales and the Northern Territory.271 While assessments of such models point to benefits such as empowerment of sex workers and encouraging reporting of crimes and asserting of rights, stigma remains a prevalent issue. This is especially true for migrant sex workers, who often do not enjoy the full benefits of decriminalisation.²⁷² Stigma and harms of discrimination need to be a consideration when sex work legislation is developed, concluded a 2024 report that drew on the lived experiences of 70 sex workers across New Zealand, Scotland, and Ireland.273

In recent decades, advocacy – often led by sex workers – has brought significant progress in securing better rights protections, including through decriminalisation.

 ^{260.} Global Network of Sex Work Projects. (2019, December 12) Case studies: How sex work laws are implemented on the ground and their impact on sex workers.
 261. Karlsson, H. (2022). Sex Work Policy Worldwide: A Scoping Review. Sexuality & Culture, 26(6), 2288–2310.

 ^{262.} Global Network of Sex Work Projects. (2019, December 12) Case studies: How sex work laws are implemented on the ground and their impact on sex workers.
 263. Karlsson, H. (2022). Sex Work Policy Worldwide: A Scoping Review. Sexuality & Culture, 26(6), 2288–2310.

^{263.} Ranssoli, A. (2022). Sex work Policy work work and a scoping Review. Sexuality & Cardie, 20(6), 2260-2010.264. Global Network of Sex Work Projects. (2019, December 12) Case studies: How sex work laws are implemented on the ground and their impact on sex workers.

^{265.} Amnesty International France. (n.d.). Rentrez chez vous, ça va passer: L'impact des violences policières sur les personnes LGBTQI+ en France.

^{266.} Karlsson, H. (2022). Sex Work Policy Worldwide: A Scoping Review. Sexuality & Culture, 26(6), 2288–2310.

^{267.} Global Network of Sex Work Projects. (2019, December 12) Case studies: How sex work laws are implemented on the ground and their impact on sex workers.

^{268.} Karlsson, H. (2022). Sex Work Policy Worldwide: A Scoping Review. Sexuality & Culture, 26(6), 2288–2310.

^{269.} Ibid.

^{270.} Ibid.

^{271.} Ibid.

^{272.} Global Network of Sex Work Projects. (2019, December 12th) Case studies: How sex work laws are implemented on the ground and their impact on sex workers. www.nswp.org/resource/nswp-briefing-papers/case-studies-how-sex-work-laws-are-implemented-the-ground-and-their

^{273.} Armstrong, L. (2024). 'In an ideal world, it would be fully decriminalised': Stigma, discrimination, and sex work laws in Scotland, Aotearoa New Zealand, and the Republic of Ireland. Open Access Te Herenga Waka-Victoria University of Wellington. Report.

Efforts continue. For example, in South Africa, in 2024, sex workers filed a constitutional challenge against laws criminalising consensual adult sex work, arguing that these laws stigmatise their profession, increase vulnerability, and violate their rights.²⁷⁴

Suicide and attempted suicide

Suicide and attempted suicide remain a crime in 25 countries, and the legal status is unclear in 27 others, according to the Campaign to Decriminalise Suicide.²⁷⁵ Where attempted suicide is criminalised, people who survive suicide attempts can face arrest, prosecution, fines, or imprisonment.

More than 700,000 people die by suicide worldwide each year.²⁷⁶ Conservatively, for every suicide, an estimated 20 people attempt it. Accurate data on the number of women globally who attempt suicide is challenging to obtain due to stigma, lack of reporting, and insufficient data collection. Data available indicates that while women are less likely to die by suicide, in some countries women are more likely to attempt it. For example, in the United States, adult women report suicide attempts 1.2 times more often than men.²⁷⁷ Research has shown that there is a strong and consistent association between gender-based domestic violence and suicidality amongst women.278

There is a growing movement towards decriminalisation of suicide. For example, Ghana, Guyana, and India saw amendments to their law books on suicide in recent years. This follows calls for change, including by the World Health Organization, which recommends decriminalisation of suicide attempts.²⁸¹

Evidence shows that criminalising suicide attempts leads to stigma, isolates individuals in distress and crisis, and prevents them seeking the support they need, at the time they need it most.²⁸²

A 2022 study on 171 countries found that criminalisation of suicide is associated with higher national suicide rates, especially among women in low Human Development Index, non-Muslim countries. The study concluded that patriarchal cultures that penalise suicide may render women particularly vulnerable to suicidality.283

Hear her story

Despite suicide no longer being criminalised in England and Wales, in 2019, an 18-year-old woman was charged with causing a 'public nuisance' after attempting suicide for the sixth time in Manchester. Her lawyer stated that she was suffering from mental illness. The Manchester Magistrates' Court gave her a 12-month community order and fined her GBP 200 in costs and surcharges.²⁸⁴

Promising practice

In 2022, Pakistan abolished the punishment for attempted suicide, eliminating colonial-era laws and demonstrated a commitment to prioritising mental health support and suicide prevention over punishment.279

Senator Karim Ahmed Khawaja explained the amendment, stating: 'It is the duty of the welfare state to provide relief to its citizens instead of criminalising the one who is already suffering. It is, therefore, expedient to omit Section 325 of the Pakistan Penal Code'.280

Promising practice

In January 2025, the High Court in **Kenya** ruled that the penal provisions criminalising suicide were unconstitutional, on the grounds that they discriminated against people based on their health status.

This follows officials from the country's leading mental health hospital urging Parliament to consider repealing relevant laws to 'shift perceptions and stigma.'285

^{274.} Broughton, T. (2024, October 10). Bid to decriminalise sex work in South Africa faces challenges, GroundUp,

^{275.} Suicide Decriminalization Network. (n.d.). Home. www.suicide-decrim.network

^{276.} World Health Organization. (2021). Suicide worldwide in 2019: Global health estimates. www.who.int/publications/i/item/9789240026643

^{277.} American Foundation for Suicide Prevention. (2024). Suicide Statistics. afsp.org/suicide-statistics/

^{278.} McLaughlin, J., O'Carroll, R. E., & O'Connor, R. C. (2012). Intimate partner abuse and suicidality: a systematic review. Clinical psychology review, 32(8), 677-689.

^{279.} Information from PRI/WBW survey. See also: Decriminalize Suicide Worldwide. (n.d.). Country profile: Pakistan. www.suicide-decrim.network/countries/pakistan 280. Senate of Pakistan. (2018). Report No. 35: 'The Criminal Laws (Amendment) Bill, 2017' (further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898) introduced by Senator Karim Ahmed Khawaja. <u>senate.gov.pk/uploads/documents/1517210952_735.pdf</u>

^{281.} World Health Organization. (2023). WHO policy brief on the health aspects of decriminalization of suicide and suicide attempts.

^{282.} Suicide Decriminalization Network. (n.d.). Home. <u>www.suicide-decrim.network/</u>

^{283.} Wu, K. C., Cai, Z., Chang, Q., et al. (2022). Criminalisation of suicide and suicide rates: An ecological study of 171 countries in the world. BMJ Open, 12, e049425. 284. Oppenheim, M. (2019, May 23). Campaigners condemn 'unbelievable' prosecution of two mentally ill women charged after suicide attempt. The Independent.

www.independent.co.uk/news/uk/home-news/manchester-suicide-women-prosecution-police-traffic-jam-a8926981.html 285. Muiruri, P. (2015, January 10). Kenya court rules that criminalising attempted suicide is unconstitutional. The Guardian. www.theguardian.com/global-development/2025/ jan/10/kenya-court-rules-that-criminalising-attempted-suicide-is-unconstitutional

Recommendations

Photo: Market woman in Sierra Leone. Adelaide Turnbull/ AdvocAid

Recommendations

The findings contained in this report demonstrate that, for too long, the criminal justice system has been used to address issues related to poverty, mental health, abuse and marginalisation. In some instances, it has been weaponised to target women or disproportionately impact women.

It is critical to reevaluate, reform and reimagine justice systems and move from an approach based on punishment to one rooted in community, care and support, which research shows produces much better outcomes for women and their children, as well as society.

guiding policymakers, practitioners, civil society, and women or communities affected, and other stakeholders to address the criminalisation of women due to poverty or status.

These action-oriented recommendations are aimed at

These recommendations are not exhaustive and should serve as a foundation for broader reforms addressing the root causes of women's criminalisation. Comprehensive change must tackle systemic discrimination, colonial-era legal harms, and other structural injustices that disproportionately impact women globally.

Five calls to action

- **DATA** collection should be prioritised, including participatory research and resourcing for further in-depth research on this overlooked issue. A focus on several parts of the world where little data or analysis is available publicly should be prioritised (including the Caribbean, Middle East, and North African regions).
- **UNDERSTAND** how laws and policies affect women disproportionately so that evidence-based, community-led solutions are adopted instead of criminalisation.
- **DECRIMINALISE** laws that violate international law and human rights standards and accompany such legal reforms with awareness-raising and engagement initiatives to remove stigma and gender-based discrimination.

- **CENTRE** the leadership of community-led organisations and experts, including women with lived experience, in any reform efforts. Their insights should inform reform initiatives, research initiatives and service improvements.
- 05 AVOID IMPRISONMENT, criminalisation and prosecution while law reforms are ongoing to decriminalise offences which exclusively or disproportionately impact women due to poverty or status. Rather, criminal justice systems should adopt a range of measures to mitigate the impacts of such laws.

Specific recommendations

01	Centre the leadership and involvement of women with lived experience and affected communities in reform efforts.	The leadership of community-led organisations and experts, including women with lived experience, must be ensured in any reform efforts (such as the International Network of Formerly Incarcerated Women). Meaningful engagement goes beyond tokenism, requiring deep involvement from women with lived experience in reform efforts. Their insights should shape policy reforms, research directions and service improvements. For participation to be effective, women must understand the value of their contributions, know how their input will be used, and have opportunities for reflection and feedback.
02	Decriminalise laws that relate to income-generating activities due to poverty.	Decriminalise offences such as begging, petty theft, vagrancy, loitering, idleness, homelessness or in relation to informal economies.
		Responses should instead focus on gender-responsive economic empowerment schemes which do not perpetuate gender-stereotypes. Additionally, investment in robust social protection schemes is crucial to ensure women have access to financial security, healthcare, and social services. Where restrictions on certain activities are deemed necessary on public health grounds, a proportionate approach should be taken, and women supported to find other forms of income.
03	Decriminalise offences related to debt, alongside efforts to understand and address causes of debt.	Women affected by poverty and debt should be supported and invested in, instead of criminalised. Policies should focus on divesting from punitive approaches and imprisonment and redirecting resources to social programmes, education and economic opportunities. Providing women with holistic services such as vocational training, housing assistance and access to mental health services should be prioritised.
		Debt should be seen as a human rights issue rather than a personal failure and efforts should be taken to address underlying gender inequalities. Efforts should be made to address the root and gender-specific causes of personal debt, including through research to understand the complex causes and impacts of personal debt on women.
04	End the criminalisation of non-payment of fines.	Laws and policies that impose criminal penalties for non-payment of fines must be reviewed and reformed to prevent the disproportionate harm they cause, particularly to women in vulnerable situations.
		Justice actors should be sensitised to the social and economic consequences of penalising individuals—especially women and their children—for their inability to pay fines, ensuring that justice systems adopt fair and non-punitive approaches.
05	Decriminalise 'status' offences including crimes of 'honour' or 'morality'.	Laws that criminalise women on morality or status grounds must be recognised as a violation of international law; morals can never be invoked as a permissible ground to restrict rights in ways that are discriminatory. Alongside decriminalisation, states must implement measures to sensitise communities, including of their harm and ineffectiveness in making societies safer.

06	Decriminalise seeking or carrying out an abortion.	Ensure that all individuals can access safe and legal reproductive healthcare without fear of prosecution or stigma, by recognising that abortion is a public health issue rather than a criminal matter, aligning with international standards.
		Promote education on sexual and reproductive rights, promoting bodily autonomy, addressing stigma and misinformation about abortion, and implement policies to provide post-abortion care, counselling, and access to contraception, reducing unintended pregnancies and improving overall wellbeing.
07	Decriminalise witchcraft and sorcery and implement a comprehensive programme to engage communities.	Decriminalisation of offences related to so-called witchcraft and sorcery should be pursued, alongside sensitisation with affected communities, including within customary and community justice systems. Multi-jurisdictional data and analysis should support such reform efforts. Specifically designed, context-specific programme to support efforts in addressing the harms from criminalising practices deemed to be witchcraft or sorcery should be prioritised.
08	Decriminalise sex work and recognise and protect sex worker's rights.	All aspects of sex work, including all individuals involved, should be decriminalised to safeguard sex workers' rights and improve their working conditions, drawing on best practice models. Sex workers and their organisations must be meaningfully included in policymaking, as they have the expertise to address industry challenges.
		Recognising sex work as legitimate labour ensures workplace protections and reduces exploitation. Additionally, laws and policies must clearly distinguish between consensual sex work and trafficking to prevent harmful conflation that undermines the right of both sex workers and trafficked persons.
09	Decriminalise offences criminalising same-sex sexual conduct.	Same-sex sexual conduct and other offences criminalising or otherwise punishing individuals because of their sexuality and gender identity should be decriminalised, in line with international standards. Furthermore, other discriminatory treatments and practices based on sexuality and gender, including by law enforcement, should be addressed.
10	Reform drug laws with a gender-lens to address disproportionate impact on women.	Public-health oriented drug policies, including the decriminalisatic of the use, possession and cultivation of drugs for personal use must be prioritised, following the successful efforts in many jurisdictions globally. Evidence-based treatment services with a gender perspective should be ensured.
		Where criminalisation models remain, alternatives to imprisonment must be expanded and offered for those engaged in the lowest levels of the drug trade, including small-scale dealing and transporting drugs within a country or across borders. Imprisonment of women, particularly in situations of vulnerability, should be used as a measure of last resort (in line with the UN Bangkok Rules). Governments should also eliminate laws, regulations or practices that mandate pre-trial detention for anyon accused of a drug offense.

11	Decriminalise suicide and invest in mental health services.	Law reforms should be accompanied with awareness-raising efforts and investing resources toward improving mental health services and suicide prevention efforts. This includes expanding gender-specific access to therapy, crisis support, and addressing the socioeconomic, legal and cultural factors that contribute to suicide, such as poverty, discrimination and gender-based violence. There must be recognition that criminalising suicide increases stigma and discourages people from seeking help.
12	Abolish the death penalty and implement immediate safeguards.	Governments should abolish the death penalty. In the meantime, they must enforce a moratorium on executions and ensure that the death penalty is not applied to offences that fail to meet the "most serious crimes" threshold under international law, such as drug-related offences or status offences that disproportionately impact women.
13	Avoid criminal charges, prosecution and imprisonment.	While law reforms of decriminalisation are ongoing, criminal justice systems should adopt a range of measures to mitigate the impacts of such laws, with a few to reducing imprisonment as a priority. Criminal charges should be avoided where possible. Non-prosecution policies for certain offences, diversion programmes and other similar measures should be developed. Support services and community-based measures must be developed and implemented.
		Where women are convicted of an offence, the sentence should be proportionate and non-custodial options preferred by judicial authorities, in line with the UN Bangkok Rules. Gender-specific mitigating factors should be established and implemented in legislation governing the prosecution and sentencing of women. A non-custodial option should be the 'default' rather than the exception, and justification for imprisonment should be required.
14	Invest in building further evidence and intersectional analysis on criminalisation of women globally.	Initiate a process to understand the reasons for criminalisation and harms faced by women entering criminal justice systems, including through participatory research. A gender lens should be incorporated into data collection and analysis by establishing a dedicated mechanism with political authority at the national level to continuously monitor and assess the reasons women enter the criminal justice system. This mechanism should disaggregate data by gender and intersecting factors such as socioeconomic status, race, ethnicity and disability, and such data be made publicly available to foster knowledge and transparency.
		Specific resources should be allocated for gender-sensitive data collection, including funding, expertise and capacity-building for personnel. Additionally, an oversight body should be established to ensure the incorporation of intersectional analysis into policy reforms, with regular reporting on impacts and recommendations to drive effective and equitable changes.
		Furthermore, existing or new data collection mechanisms at the UN level should be used to collate and publish disaggregated data on the criminalisation of women.



Invest in and scale Promising practices that support rather than penalise women in poverty or for their status should be documented, shared and up decriminalisation replicated, with context-specific adaptations. The international efforts and alternatives community, donors and civil society should support governments, (good practices). practitioners and the communities affected, in reforms, including through the dissemination of reform efforts and successful initiatives. Governments and local municipalities should invest in building or expanding Women's Centres which are community-based services that provide tailored support to women. Implemented with various models in several countries, they can provide support to any women who might benefit, including those in contact with the criminal justice system.286 **Ensure mandatory** Justice system actors should receive mandatory, comprehensive and comprehensive training on gender-specific responses, both at induction and throughout their careers. This training should equip them with the gender-sensitive training knowledge and skills to address discrimination in the justice system for justice actors. effectively. Programmes to foster leadership among criminal justice professionals, including men, on the issues in this report and more broadly gender-responsive and transformative interventions should be implemented. Furthermore, gender-responsive, diversified leadership that includes people with lived experience should be prioritised to ensure a more balanced and equitable system. **Ensure access to** Recognise that women accused of crimes disproportionately lack access to legal representation because they often do not hold the gender-sensitive legal aid keys to their individual or family resources, and therefore eligibility and legal empowerment assessments for legal aid for women should not consider the for women that are income of their spouse. Adopt gender-sensitive legal aid systems, criminalised. in line with the UN Principle and Guidelines on Access to Legal Aid in Criminal Justice Systems. Furthermore, undertake comprehensive reviews of legal frameworks for prosecuting women to ensure their right to adequate defence. A comprehensive assessment of their circumstances and vulnerabilities, including psychological and social services assessments, must be considered. Investing in accessible legal aid, legal empowerment and diversion programs can help women avoid unnecessary imprisonment by ensuring fair representation and access to non-custodial alternatives.287 **Increase funding to** Governments and the philanthropic sector, particularly women's rights and human rights donors, should increase funding to support actors pursuing organisations working to address the criminalisation of women decriminalisation and due to poverty, from legal services to community support. providing support to Dedicated funding should be allocated for this work and women affected by issues consultations scheduled with organisations working in this space in this report. to understanding the gaps and challenges.

^{286.} See for example, Women in Prison, The value of Women's Centres, 2022.

^{287.} There are several examples of gender-responsive legal aid and legal empowerment models, such as AdvocAid Sierra Leone and Sisters Inside Australia.



Hold governments accountable and support decriminalisation efforts at international and regional levels. Intergovernmental bodies, including the United Nations, must step up to address the criminalisation of women due to poverty and status. The UN should use a multi-pronged strategy utilising all its bodies and mechanisms, including the Commission on Crime Prevention and Criminal Justice, human rights bodies as well as agencies and bodies mandated to address gender inequality, such as the Commission on the Status of Women (who should dedicate a session to this topic).

Specifically, the UN must hold governments to account against its commitments in international human rights law, raise awareness, engage in dialogue with stakeholders, and provide advisory services, technical assistance, and capacity-building on non-punitive, human rights-based solutions to combat the inequality in criminalising women for poverty or status. They should ensure women with lived experience are part of their efforts and engage civil society collaboratively.

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Potohar Organization for Development Advocacy (Pakistan) Reset Drogas (Argentina) Sarah Wilde Rooftop Housing (England) Suar Perempuan Lingkar NAPZA Nusantara Foundation, Womxn's Voice (Indonesia) TB HIV Care (South Africa) Urban Outreach Bolton (UK) Venezuelan Prisons Observatory (Venezuela) International Network Against Witchcraft Accusations and Ritual Attacks Women Nest Kenya (Kenya)

Individuals:

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This report is dedicated in memory of Bina Mahtani and to women and girls who face harm by criminal justice systems every day. From poverty to punishment

About Penal Reform International

Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide. We work 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. Our primary objectives are to secure trials that are impartial, sentencing practices that are proportionate and promote social rehabilitation, and humane conditions of detention where alternatives to imprisonment are not possible. We work through country missions, regional hubs, remote coordination, and through partners.

www.penalreform.org

Women Beyond Walls

Women Beyond Walls is a global collaborative dedicated to combating the mass incarceration and over-criminalisation of women and girls worldwide. We build collective power and resource resistance to challenge systemic injustices, advocating to end the harm that imprisonment causes to women, their families and our communities. Our work includes research, campaigning, litigation, and storytelling. We unite a diverse coalition—women with lived experience, family members, lawyers, academics, practitioners, policymakers, philanthropists, feminists, and allies—to drive change. We foster cross-movement learning and collaboration, committed to the belief that a legal system rooted in care, not punishment, requires the collective effort of all.

www.womenbeyondwalls.org

The Global Campaign to Decriminalise Poverty and Status

The Global Campaign to Decriminalise Poverty and Status is a coalition of organisations from across the world that advocate for the repeal of laws, reform of policies and change in practices that target people based on poverty, status or for their activism. All over the world, criminal justice systems misuse overly broad and discriminatory laws that stem from the colonial era to criminalise people for who they are rather than for what they have done, and to quell dissent. Our coalition members are organisations from across the world, working on improving criminal justice systems to ensure that human rights are respected for all. They work collaboratively through legal reform, litigation, advocacy, policy, capacity building and research to make change happen.

www.decrimpovertystatus.org

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