**Questionnaire on deprivation of liberty of women and girls**

*The Working Group on the issue of discrimination against women in law and in practice will present a thematic report on women deprived of liberty to the 41st session of the Human Rights Council in June 2019. This report will be produced in the context of the Working Group focus on key areas affecting the human rights of women and girls and will aim at reasserting women’s right to equality and countering rollbacks in this area,*

*In this regard, the Working Group would like to seek inputs from States and other stakeholders to inform the preparation of this report in line with its mandate to maintain a constructive approach and dialogue with States and other stakeholders to address discrimination against women in law and practice,*

*The Working Group intends to take a comprehensive approach to the issue by including various forms of restriction or interference with women’s personal liberty or movement by state and non-state actors, including on the basis of their sex and prescribed gender roles. Thus, deprivation of liberty of women and girls can manifest in a variety of settings, ranging from detention in penitentiary institutions to different forms of forced confinement, because of decisions by authorities, families, communities or private groups. The report will examine the causes, nature and extent of the deprivation of liberty of women and girls, with particular attention to the impact of multiple and intersecting forms of discrimination against women and girls.*

*In answering the questions below, please also highlight the following crosscutting issues:*

1. *any good practices you may have identified in addressing the causes and extent of deprivation of liberty of women and girls;*
2. *the main developments in law or practice in the past five years; and*
3. *the main challenges within your country or region in tackling the issue.*

**I. Justice system**

1. **What are the main causes for women coming into conflict with the law and facing the associated deprivation of liberty, including pre-trial detention? Which are the groups of women who are most vulnerable and why? Please list the types of offenses for which women, or any particular group of women, are typically charged with, including administrative offenses.**

It is difficult to give a general answer to why women come in conflict with the law and therefore risks deprivation of liberty or pre-trial detention. On the other hand, following information appears about women based on completed studies made by the Prison and Probation services in 2013:

Women who are convicted to correctional treatment or non-institutional treatment are somewhat older compared to the general population in the Prison and Probation Services. They are more often convicted for drug offences and crimes of theft. Women serves, in average, a one-year sentence. The women have a frail or no connection the labor market, they have a low educational level and are more often single compared to other women in Sweden. Their main source of income is maintenance support.

The studies show that women more often state that they are feeling physical and mentally ill. 67 percent of the women has some misuses of alcohol and/or drugs where drugs is the most common abuse. This is about the same proportion as the male population but the women have a more severe addiction problem.

Characteristic for the population of women is a higher incidence of illness. The report *Psykisk ohälsa bland fängelsedömda kvinnor* *i Sverige* reveals that over half of the women in the studies have experienced a trauma during their upbringing (61 percent)[[1]](#footnote-1). About one fifth of the women met the criteria for depression (22 Percent) respective personality disorder (18 percent). 39 percent of the women had symptoms which were consistent with adult-ADHD.

Additional aspects to consider within the group of women is their vulnerability to be exposed for violence and sexual violence as well as prostitution and trafficking in persons.

Following results comes from the ASI survey[[2]](#footnote-2) made by the Prison and Probation services (2003-2008):

* Over 70 percent stated that they have been assaulted both physical and mental (compared 40 percent of the male population)
* More than 40 percent stated that they had been sexually assaulted (compared 4 percent of the male population)
* Diseases that affect their way of living is more common among the women, about 60 percent (compared 47 percent of the male population)
* 28 percent of the women stated that the are living with a partner who is committing crimes (compared 4 percent of the male population)
* 24 percent stated that they have participated in sexual acts and got paid to do so.
* 11 percent stated that they have been exposed to human trafficking.

The women describes in the ASI-survey their need for help regards drug abuse, criminality and mental illness.

A list of the most common offence among women who have been committed to the Swedish Prison and Probation Services is annexed.[[3]](#footnote-3) The appendix also shows the recidivism after three years in freedom. (2012-2014).

1. **Please indicate if there are cases of women facing detention in relation to civil law suits and identify the particular groups of women mostly affected.**
2. **What are the main challenges for women’s access to justice, including, for example, the availability and quality of legal representation, the ability to pay for bail, and the existence of gender stereotyping and bias in judicial proceedings?**

In preparing and conducting his or her defence, the suspect may be assisted by **defence counsel**, which is designated by the suspect. If the suspect has appointed an attorney, that attorney is regarded as defence counsel. The compensation for the defence counsel is paid by the suspect himself.

If a suspect under arrest or detained so requests, a **public defence counsel** shall be appointed for him or her. Public defence counsel shall be appointed by the court. Only an advocate (member of the Swedish bar association), who is considered suitable for the assignment, shall be appointed as public defence counsel. For special reasons, another suitable person whose qualifications make him eligible for appointment as a judge may be appointed public defence counsel. The court should seek to engage advocates who regularly function as attorneys before the court.

Public defence counsel shall receive reasonable compensation from public funds for work and time and for disbursements made in connection with the assignment. Compensation shall be determined on the basis of, as a starting point, the time taken that is reasonable with regard to the nature of and extent of the assignment and applying the hourly costs norms determined by the government. The government annually decides on the grounds for the compensation from public funds in the form of an hourly fee.

Public defence counsel shall not demand or receive further remuneration from the suspect. If the accused is sentenced, the accused may have to – due to his or her income - repay the costs or a part of the costs to the State.

In Sweden there is no bail system.   

1. **What have been the main drivers for the increasing or decreasing of the female prison population in your country in the past decade? To what extent are non- custodial measures used, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)?**

There has not been a change (increase or decrease) in the population of women prisoners this last decade. There have only been minor ups and downs but nothing that shows any clear trends.

It is more common that women are sentenced to non-institutional care (frivård) in Sweden. The reason for this is not due to the Bangkok rules. The reason for these sentences is that the court of law convicts according to Swedish law which is gender neutral.

**II. Other institutions**

1. **What other institutions outside the justice system exist in your country wherein women and girls are institutionalized on grounds such as care, correction, protection and prevention against potential harms, etc.?**

**Please list the groups of women and girls who are most concerned in each situation.**

The National Board of Institutional Care (Statens institutionsstyrelse) is an independent Swedish government agency that delivers individually tailored compulsory care for young people with psychosocial problems and for adults with substance abuse. They provide care and treatment where voluntary interventions have proved insufficient and care on a compulsory basis is therefore necessary.

The National Board of Institutional Care runs special residential homes for young people. They receive young people with psychosocial problems, substance abuse and criminal behavior. Care is provided under the terms of the Care of Young Persons Act (LVU). At some of these residential homes, the National Board of Institutional Care also care for young people who have committed serious criminal offences and who have therefore been sentenced to secure youth care under the Institutional Care of Young Persons Act (LSU).

In addition, the National Board of Institutional Care operates special homes which treat individuals with serious problems of abuse of alcohol, controlled drugs and/or prescription drugs. Here, care is provided under the Care of Abusers Act (LVM)

The residential homes run by the National Board of Institutional Care are the only treatment facilities that have the right to forcibly detain individuals who have been taken into compulsory care.

The methods of treatment they use are backed by research. Their work is based on high ethical standards and stringent safeguards for the legal rights of the individual. The National Board of Institutional Care is supervised by a number of bodies, including the Health and Social Care Inspectorate (Inspektionen för vård och omsorg, IVO), the Swedish Schools Inspectorate (Skolinspektionen) and the Parliamentary Ombudsmen (JO).

Psychiatric compulsive care may be given under certain conditions, mainly based on the Psychiatric Compulsive Care Act (1991: 1128), and the Law (1991: 1129) on Forensic Psychiatric Care. Both laws contain substantive and procedural rules that meet basic legal certainty requirements such as requirements for predictability and the possibility of judicial review. Patients with coercive care are in a particularly vulnerable position and it is therefore very important to ensure, as far as possible, their involvement in care, and that care and treatment take place in forms that minimize their integrity and dignity. A central starting point for all healthcare in Sweden is that patients should, as far as possible, be involved and exercise influence over the health care they receive. Every citizen is protected by the means against the general against forced bodily intervention, in addition to protection against death and bodily punishment. The protection against bodily intervention may only be limited by law and limitations may only be made to meet objectives that are acceptable in a democratic society.

**Number of children taken into secure institutional care before the age of 18.**



**Number of children under 18 years taken into care at special residential homes for young people 2009 – 2017 care**



The most common reasons for girls to that are taken into care at special residential homes are theft, assault, violence and threat to a public servant.

The amount of unaccompanied children (under the age of 18) taken into institutional care in 2017 was 259 children, whereof 5 % girls.

Since 2010, the proportion of women between 25 to 29 has doubled in the care of substance abusers act (LVM). Women under the age of 30 are now half the group of women in this care.

1. **Please explain the decision-making process for the institutionalization of women and girls in each situation, including the role of women and girls themselves in the decision on institutionalization. Please highlight any good practices in terms of enabling women to exercise agency within institutional systems, with due respect to their rights?**

Orders for compulsory care are made by the Administrative Court, on the application of social services.

Within the framework of compulsory care, the National Board of Institutional Care offers young people and adult clients opportunities to influence their situation. Everyone has the right to say how they feel and what they want. They have procedures for providing information about and safeguarding the rights of the young people and adults they care for, including mechanisms for dealing with complaints and appeals, as well as provision for them to be involved in planning their own treatment.

The National Board of Institutional Care have guidelines on good standards of care, which set out what young people and adult clients have the right to expect in order to feel safe and well looked after. To get an idea of what the young people and adults in their care see as their problems, and what they think about their care and treatment, the National Board of Institutional Care interview them on admission and on discharge. These interviews form the basis for planning each individual’s treatment. They also give the National Board of Institutional Care a better understanding of the problems of the young people and adults they receive, and a basis for following up and evaluating the care provided.

**III. Forced confinement in private contexts**

1. **What forms of forced confinement of women and girls exist in a private or social context sanctioned by family, community or group of individuals such as abduction, servitude, guardianship and “honor” practices, trafficking, home detention, “witch camps”, widowhood rites, etc.?**

Crimes and oppression committed in the name of ”honour” as well as abductions and other forms of social control of women and girls does occur in Sweden, however, the exact extent is not known[[4]](#footnote-4).

In November 2016, the Government presented a government communication to the Parliament which outlined a gender equality policy for the future. The communication outlines strategic issues such as gender equality policy goals, efficient structures for strategic, coherent and long-term governance of this policy area, and a ten-year strategy to prevent and combat men’s violence against women, as well as measures in all policy areas to achieve a gender equal society.

The long-term national strategy to prevent and combat men’s violence against women (2017-2026) which was presented as part of the communication, includes actions against gender based violence including domestic violence, crimes and oppression committed in the name of “honour”, and actions against prostitution and trafficking for sexual purposes. The strategy places specific focus on violence prevention and on targeting stereotypical norms of masculinity as a cause of violence. It emphasizes the participation and responsibility of men in eradicating violence. It also states that a disability perspective should be integrated in measures taken.

Examples of measures taken to address these issues are, inter alia, a legislative proposal to Parliament to sharpen legislation against recognition of child marriage entered into in a foreign country; a government commissioned inquiry examining how to strengthen protection against crimes and committed in the name of “honour” presented recommendations for further legislative changes in August 2018; and a government commission to strengthen the capacity of so called “Children’s Houses[[5]](#footnote-5)” to respond appropriately in cases involving suspicions of crimes and oppression committed in the name of “honour” including child marriage, forced marriage and female genital mutilation.

Government agencies report that women and girls in socioeconomically vulnerable areas experience a higher degree of restriction on their sexual and reproductive rights than in other areas. Although crimes and oppression committed in the name of “honour” does not only occur in areas with socioeconomic challenges, there are indications that its prevalence is higher in these areas.

The site Hedersförtryck.se and related campaign material for multiple target audiences developed by the Country Administrative Board in Östergötland within the framework of the Government’s commission to work to counter honour related violence and oppression in its related forms of manifestation through child marriage, forced marriage, and female genital mutilation.

Under the coordination of the County Administrative Board of Östergötland, the county administrative boards are also organising in-service trainings for various professional groups on honour-related violence and oppression including child marriages and forced marriages as well as female genital mutilation. The boards carried out nearly 160 training activities across the country in 2016, attended mainly by staff members of the social services, health care, schools, the justice sector and civil society organisations.

Within the framework of the Government’s commission to the County Administrative Board of Östergötland to counter honour related violence and oppression, a national support helpline is offered providing advice and assistance to professionals and volunteers coming into contact with situations of honour related violence and oppression, child marriage, forced marriage and female genital mutilation.

In addition, the Government has commissioned the Swedish Employment Agency, the Social Insurance Agency, the Migration Agency and the National Board of Health and Welfare to develop a joint plan for increased detection of victims of domestic violence and violence in the name of honour. The commission is likely to result in better co-ordination of victim support between the agencies involved as well as the municipalities and the county councils/regions. The National Board of Health and Welfare is expected to submit a final report on this work no later than June 1, 2019.

Funded by the Government, the National Centre for Knowledge on Men’s Violence Against Women (NCK) operates a national helpline for women who have been subjected to threats and violence, Kvinnofridslinjen. Relatives and friends are also welcome to call. It is open 24/7, free of charge.

The site Youmo.se, run by the County Council of Stockholm on behalf of all county councils and regions of Sweden and is funded by the Government through the Swedish Agency for Youth and Civil Society (MUCF). The site which targets youth between 13 and 20 years old is available in 6 languages in addition to easy Swedish. It contains information in a range of formats about topics on the body, sex and health, including information on violence sexual violence, abuse and relevant support services. There is also information about gender equality, rights and assistance available to ensure physical and psychological wellbeing. Youmo.se also collaborates with young people, experts in the fields covered by the site, youth guidance centres, elevhälsan, national agencies and NGOs.

With support from the National Board of Health and Welfare (SoS), the County Administrative Board of Skåne in collaboration with the county administrative boards nationwide developed an information website called “Infogeneratorn.se” (“the information generator”) in 2016. The site is a resource tool for professionals and municipalities and provides quality assured and adapted information in 24 languages to be used in the contact with victims of violence in intimate relationships in 24 languages.

1. **Please identify the groups of women and girls who are most affected by these situations.**

See above.

1. **What is the role of law and policy (including customary law and authorities) in your country concerning these types of confinement?**

See above.

**IV. Migration and crisis situations**

1. **What are the specific risks of detention and confinement encountered by women on the move in the context of asylum seeking, internal displacement and migratory processes?**

**What is the policy relating to the administrative detention of women migrants including pregnant women and women with children?**

Detention is carefully regulated by law, Chapter 10 in the Swedish Aliens Act 2005:716. The freedom of an alien should not be limited more than necessary in each individual case. Supervision instead of detention shall be used whenever possible. The law contains time-limits for detention.

Decision of detention is used by the Swedish Migration Agency (SMA), the Police or a court to ensure that an alien is available for enforcement of an expulsion order or a decision of refusal of entry. It may also be used to determine identity or right of residence.

Currently (August 2018) 417 persons can be accommodated at five detention centres in Sweden. The detainees are kept in special premises – detention centres – run by the SMA. The detention centres are specially designed not to look like institutions for correctional treatment. Some detention centres have separate departments for women and children. The detainees enjoy a considerable degree of freedom within the centres and they have substantial access to contacts with the outside world. They also have access to a range of activities. Against this background, detainees who are a danger to themselves or other persons may be transferred to a correctional institution, remand centre or police arrest facility. Such a transfer may also be ordered if the alien has been expelled for a criminal offence or if there are some other exceptional grounds. Children may not be transferred to a correctional institution, remand centre or police arrest facility. A child may not be separated from its legal guardian through detention of the minor or the guardian.

General information about detention at the SMA website: <https://www.migrationsverket.se/English/Private-individuals/Detention-and-supervision.html>

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| **Numbers and percent of women in Swedish Prison and Probation services 2015-2017** | | | | | |  |
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| **IÖV(Electronic tag)** | **2015** | | **2016** | | **2017** | |
|  | Number | Percent | Number | Percent | Number | Percent |
| Others | 4 | 2% | 1 | 0% | 5 | 2% |
| Traffic offence not driving while intoxicated | 6 | 3% | 2 | 1% | 8 | 3% |
| Driving while intoxicated | 148 | 63% | 149 | 65% | 143 | 60% |
| Drug offence etc. | 18 | 8% | 21 | 9% | 28 | 12% |
| Crimes of Violence | 13 | 6% | 8 | 3% | 11 | 5% |
| Sexual offence | 0 | 0% | 0 | 0% | 0 | 0% |
| Sexual offence | 22 | 9% | 32 | 14% | 22 | 9% |
| Robbery o aggravated robbery | 0 | 0% | 0 | 0% | 0 | 0% |
| Fraud, embezzlement, etc. | 9 | 4% | 4 | 2% | 6 | 3% |
| Crime against public order | 15 | 6% | 12 | 5% | 16 | 7% |
| Totalt | 235 | 100% | 229 | 100% | 239 | 100% |
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| **Probation** | **2015** | | **2016** | | **2017** | |
|  | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| Others | 21 | 2% | 22 | 2% | 23 | 2% |
| Traffic offence not driving while intoxicated | 4 | 0% | 6 | 1% | 5 | 1% |
| Driving while intoxicated | 124 | 12% | 107 | 11% | 114 | 12% |
| Drug offence etc. | 288 | 28% | 256 | 27% | 299 | 31% |
| Crimes of Violence | 140 | 14% | 161 | 17% | 119 | 13% |
| Sexual offence | 1 | 0% | 0 | 0% | 2 | 0% |
| Crimes of theft | 257 | 25% | 243 | 25% | 250 | 26% |
| Robbery o aggravated robbery | 11 | 1% | 7 | 1% | 12 | 1% |
| Fraud, embezzlement, etc. | 69 | 7% | 52 | 5% | 53 | 6% |
| Crime against public order | 103 | 10% | 100 | 10% | 75 | 8% |
| Totalt | 1018 | 100% | 954 | 100% | 952 | 100% |

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| **Conditional sentence with community service** | **2015** | | **2016** | | **2017** | |
|  | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| Others | 16 | 4% | 18 | 4% | 24 | 6% |
| Traffic offence not driving while intoxicated | 0 | 0% | 5 | 1% | 5 | 1% |
| Driving while intoxicated | 147 | 33% | 114 | 26% | 128 | 33% |
| Drug offence etc. | 49 | 11% | 48 | 11% | 40 | 10% |
| Crimes of Violence | 148 | 33% | 162 | 37% | 113 | 29% |
| Sexual offence | 0 | 0% | 2 | 0% | 0 | 0% |
| Crimes of theft | 9 | 2% | 9 | 2% | 11 | 3% |
| Robbery o aggravated robbery | 0 | 0% | 1 | 0% | 0 | 0% |
| Fraud, embezzlement, etc. | 25 | 6% | 18 | 4% | 20 | 5% |
| Crime against public order | 52 | 12% | 60 | 14% | 49 | 13% |
| Totalt | 446 | 100% | 437 | 100% | 390 | 100% |
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| **Prison** | **2015** | | **2016** | | **2017** | |
|  | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| Others | 22 | 4% | 23 | 4% | 26 | 4% |
| Traffic offence not driving while intoxicated | 28 | 5% | 29 | 4% | 19 | 3% |
| Driving while intoxicated | 48 | 9% | 56 | 9% | 48 | 8% |
| Drug offence etc. | 180 | 32% | 181 | 28% | 180 | 30% |
| Crimes of Violence | 65 | 12% | 83 | 13% | 73 | 12% |
| Sexual offence | 2 | 0% | 2 | 0% | 6 | 1% |
| Crimes of theft | 125 | 22% | 160 | 24% | 157 | 26% |
| Robbery o aggravated robbery | 20 | 4% | 20 | 3% | 13 | 2% |
| Fraud, embezzlement, etc. | 37 | 7% | 58 | 9% | 39 | 6% |
| Crime against public order | 29 | 5% | 44 | 7% | 49 | 8% |
| Totalt | 556 | 100% | 656 | 100% | 610 | 100% |
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| Recidivism after three years in freedom. (2012-2014) |  |  |  |  |  |  |
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|  | **2012** | | **2013** | | **2014** | |
|  | **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| Women | 566 | 22% | 529 | 22% | 537 | 24% |
| Men | 6222 | 30% | 5774 | 30% | 5489 | 31% |
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1. Yourstone, Wenander and Långström (2014) *Psychological illness among women i prison Sweden* [↑](#footnote-ref-1)
2. Addiction Severtity Index [↑](#footnote-ref-2)
3. See tables on pages 10-11. [↑](#footnote-ref-3)
4. See, for example, SOU 2018:69. [↑](#footnote-ref-4)
5. Children’s Houses (“Barnahus”) are child-friendly, interdisciplinary centres within children’s services where social welfare professionals work in partnership with police, state prosecutors and health practitioners in rigorous investigations of child abuse. These houses are designed to maximise comfort for the children, who can also access treatment services for themselves and their families there. Children’s Houses have offices and meeting rooms for all the professionals and separate waiting rooms for children and young people which are furnished and designed for their needs. [↑](#footnote-ref-5)