

## **Expert Group Meeting**

Convened by the International Human Rights Clinic at The University of Chicago Law School on behalf of Rashida Manjoo, the UN Special Rapporteur on Violence Against Women at the University of Chicago Law School on May 14, 2013

An Expert Committee Meeting was convened by the International Human Rights Clinic at The University of Chicago Law School on behalf of Rashida Manjoo, the UN Special Rapporteur on Violence Against Women, which brought together experts from Argentina, United Kingdom, Canada, and from many states within the United States. The experts were from academia, advocacy communities, government officials responsible for managing prisons, and the founder of community living and other programs that provide alternatives to incarceration. Below is a summary of the proceedings followed by a list of the participants. The meeting was held on May 14, 2013 at the University of Chicago Law School in conjunction with a conference on the topic of women in prisons.

### **Part I: Introductory Remarks**

#### **Rashida Manjoo (UN Special Rapporteur on Violence Against Women)**

Professor Rashida Manjoo stated that her mandate as UN Special Rapporteur on Violence Against Women is a broad one: it encompasses violence against women in all of its manifestations. This mandate has been interpreted by Manjoo and her predecessors to primarily include four functions. First, the writing of conceptual thematic reports for the UN General Assembly and Human Rights Council, annually, in order to advance the conceptual understanding of violence against women (often understood in a simplistic way within the notion that violence against women is equivalent to domestic violence).

Second, missions to specific countries are an integral part of Manjoo's mandate. However, she can only conduct these missions at the invitation of that country's government. She can request invitations, but these requests can be refused or met with silence. There is a great deal of excitement about country missions, both before and during the mission. But the final country mission reports also need to be used as a tool at the national level to hold governments accountable, and not simply left unutilized, at the state and non-state levels.

Third, Manjoo receives complaints from individuals. This avenue is perhaps underutilized, especially given that it presents certain advantages. One such advantage is that these complaints can be brought against a country that is not party to any international law. Another is that the individual filing the complaint need not exhaust all domestic remedies first. Unfortunately, when these complaints are pursued by writing to the country to remind them of their international law obligations, ask questions about the allegations, and explain the violations as regards international human rights laws, the response rate is low, between 25-33%. This is a challenge as governments have a responsibility to do better when responses are necessary to start a dialogue on the alleged violation. All the allegations attended to are compiled in a report, which can serve as a "naming and shaming" tool. It also provides information to individuals at the country level for those seeking to hold their governments accountable.

Fourth, Manjoo participates in meetings with civil society organisations and academics etc in order to understand more concretely the contexts and realities in different parts of the world.

There is both a spatial and a temporal component that the mandate studies as regards violence against women. Violence occurs whether in times of peace, conflict, post-conflict, displacements, or transitions. It must be acknowledged that what are considered times of peace, women nonetheless remain unsafe and insecure, a fact which often goes unobserved.

Given that the mandate is broad, Manjoo identifies four “spheres” of violence against women.

1. Violence in the home (domestic violence, incest, marital rape, child abuse)
2. Violence against women in the community (workplace, sexual harassment)
3. Violence perpetrated or condoned by the State (failure to protect issues, detention centers, psychiatric hospitals that fail to prevent violence against women)
4. Transnational (refugees, immigrants)

Professor Manjoo pointed out that women are being targeted with violence around the world *because they are women*, and the statistics on violence against women are increasing. The act of killing is the final act in a continuum of violence against women.

Manjoo—and her predecessors—have made it a priority on every country mission to visit detention centers, immigration detention centers, and prisons. The particular issues presented by women in custodial settings are recurrent, and the necessary gendered perspective on incarceration is lacking, not only as to what is particular about the conditions under which women in these custodial settings live, but also what is particular in how women are brought into the custodial system, as well as the consequences that follow from incarceration.

#### **Elizabeth Brundige (Executive Director, Avon Global Center for Women & Justice at Cornell Law School)**

Elizabeth Brundige provided a preliminary overview of the causes, conditions, and consequences of women’s imprisonment. The number of women in prison is increasing rapidly. The rate of increase is as high as 800% in certain countries.

#### *Causes*

Violence against women is frequently a *cause* of the incarceration of women. In some cases, women may use force against their abuser, but lack access to traditional self-defense justifications because of the failure of outside observers to understand that the threats these women are responding to may not exhibit the traditional temporal patterns. Women are often imprisoned for committing economic offenses in response to coercion by their abusive partners. Women may also be imprisoned for so-called moral crimes, such as adultery, receiving abortions, or leaving the home (often to escape abuse). Women who have been the victims of trafficking may be administratively detained, ostensibly for their protection or rehabilitation. The war on drugs also plays a key role as a cause of women’s imprisonment. Women are often low-level offenders but are nonetheless subject to harsh sentences and mandatory pre-trial detention. Other causes include economic factors and women’s involvement in resistance movements or activism or terrorism.

## *Conditions*

Sexual violence is a pervasive problem for women in prison. In many countries male and female prisoners are housed together. Male guards are often tasked with guarding female prisoners, placing those women at greater risk of sexual assault or sexual extortion. Women prisoners have been verbally abused, sexually harassed, and humiliated. Male guards may be present when they bathe or use the toilet. Physical violence by prison staff or other prisoners is common as well. Overcrowding leads to problematic sanitation and hygiene conditions. Food is often inadequate. Health care is often inadequate generally and in respect to the particular needs of female prisoners, such as pre- and post-natal care for pregnant or nursing women. Prisons often do not provide sufficient substance abuse and mental health treatment services. Prison authorities in some countries routinely shackle pregnant women during transportation or labor, a practice that is needlessly punitive and demeaning and poses a risk to the health of the mother and child. Women in prison lack meaningful opportunities to maintain contact with their family members through visitations. Rehabilitation and reintegration services are frequently inadequate. Women in immigration detention centers and LGBT women face particular problems in prisons.

## *Consequences*

Prison has a disproportionately negative effect on women's emotional and mental health. Women who are released are particularly prone to depression, self-harm, or suicide. They face particular challenges in procuring employment, education, affordable housing, or health insurance. Stigma remains a serious problem, potentially leading to higher recidivism rates. The incarceration of women has a serious negative impact on both mothers and their children. Women in some jurisdictions may lose their parental rights. In some countries children remain in prison with their mothers, increasing contact, but raising new problems that must be addressed.

This research is just a starting point, but it shows that women offenders and prisoners face particular challenges and have gender-specific characteristics and needs. We need a more gender-sensitive understanding of incarceration.

## **Part II: Opening Roundtable Comments**

Each expert attending the meeting identified the issues that they feel are paramount on the causes, conditions, and consequences of women's imprisonment.

### **Sherise Nicholas (A Safe Haven)**

Nicholas is a former prisoner. In her experience, women need more resources while they are in prison so they can be successful when they are released. Safe Haven gave her the resources she needed. The prison system did not give her information about what resources were out there; it was acquired only through hard-work. This barrier needs to be taken down so that women can readily acquire the information they need to be successful upon release. Funding for women reentering society needs to be increased, but there also needs to be more resources for women while they are still incarcerated.

### **Neli Vasquez-Rowland (Co-Founder, A Safe Haven)**

Vasquez-Rowland noticed that the resources available to women in prison or who had been released from prison were fragmented. There was no single turnkey organization that could provide the “basic denominator” that every human being needs: shelter and food. The funding streams needed to be unified so that individuals like Sherise Nicholas had an accessible resource they could rely on while working to reintegrate into society. Vasquez-Rowland came from an investment banking background. She has observed an incredible return on investment for resources expended on stabilizing and reuniting families, as well as reintegration into the workforce. Additionally, there needs to be a greater focus on the front end, on diverting people away from prison and into systems that can address the root causes of their behavior. This means treating this as the health care issue it really is and, in particular, focusing on drug and alcohol treatment rather than incarceration.

**Benjamin Wolf (Associate Legal Director, ACLU of Illinois)**

Huge numbers of imprisoned women have substance abuse or psychiatric health problems that need to be addressed. It is a huge problem in the United States that children are separated from their parents. The children are being punished for the alleged crimes of the mothers.

**Alan Mills (Legal Director, Up-Town Legal Clinic in Chicago)**

The healthcare and mental care system in Illinois is “completely and totally broken” within the prison system. This is a particularly acute problem because the state has decided that primary mental health care for prisoners will be provided through the correctional system. This includes drug abuse treatment, notably. This means that the incarcerated person with drug abuse or mental health issues comes out of prison worse than they went in, creating a downward cycle.

**Amy Fettig (Senior Staff Counsel at the ACLU’s National Prison Project)**

Using the lens of violence to look at women in prison is important. The entry point into the criminal justice system is too often a history of trauma or abuse. Then, once incarcerated, the abuse too often continues or recurs. Thus, unfortunately, the lens of violence is too often a central one in the experience of incarcerated women, but it can also provide a powerful explanatory lens to understand, and hopefully address, the root causes of the incarceration of women.

**Bridget Arimond (Clinical Professor of Law and Director of the LLM Program for International Human Rights, Northwestern University School of Law)**

Many currently imprisoned women were wrongfully convicted. Historically, there has been less focus on women who have been wrongfully convicted than on men. The rate of incarceration for women has risen dramatically since the 1980s. It is essential to focus on the harm this causes both to women and the family unit, particularly the children.

**Gail Smith (Senior Policy Consultant and Founder, Chicago Legal Advocacy for Incarcerated Mothers)**

The high prevalence of sexual and physical abuse often directly leads to the substance abuse problems, which then lead women into the custodial system. There needs to be more emphasis on providing treatment and services on the front end to interrupt this pathway, so that these women can be

diverted way from incarceration and toward programs that actually treat the root causes of their offenses, principally gender-specific, trauma-informed drug treatment.

The termination of parental rights—usually by state action—is highly problematic. The children then age out of foster care and are without adequate care options. Lack of community-based sentencing programs to keep mothers and children together exacerbates the problems of poverty and violence against women. The separation of mothers and children prevents or interrupts mother-child bonding which is crucial for children’s healthy development. CLAIM also has worked to end the use of shackles on pregnant women and especially women in labor.

**Randolph Stone (Clinical Professor of Law, Criminal and Juvenile Justice Project Clinic at the University of Chicago Law School)**

The Post-Incarceration Reentry Program recently worked with a woman struggling to locate employment and housing following a large number of convictions for prostitution, drug, and theft offenses. The collateral effects of entry into the criminal justice system are obvious. Stone hopes to learn from the collected experts to better understand the challenges and issues for incarcerated and formerly-incarcerated women.

**Kim Buchanan (Professor of Law, University of Southern California School of Law)**

We should be cautious about the efficacy of using a gender-sensitive lens in prison-rape and prison-conditions discourse. Stressing the separateness or difference of women prisoners can be problematic. Framing incarcerated women as vulnerable and as victims of sexual or physical abuse and/or controlled by drug addiction can be useful strategically in persuading politicians, but there are costs associated with it. Empirically, most women are not in prison for killing or attacking abusers. And many women are imprisoned for harming their own children. The view that incarcerated women are victims leaves out the many women who *are* imprisoned for committing violent crimes and who are *not* good mothers. Those inmates deserve our concern as well. Female inmates are more likely to be sexually abused by other inmates than other guards. And surveys report inmate-on-inmate sexual abuse amongst incarcerated women at three times the rate at which men report inmate-on-inmate sexual abuse. This means that women are perpetrating sexual violence themselves within prison. There has been inadequate study of this.

**Herschella Conyers (Clinical Professor of Law, Criminal and Juvenile Justice Project at the University of Chicago Law School)**

In the juvenile system, there is a problem with the way girls are seen. They are viewed as more deviant for engaging in criminal conduct. There is something “un-female” about committing these acts that allows these girls to be treated worse than boys who commit the same criminal conduct. The silence around past trauma still exists and we need to ask what continues to allow this silence to continue. Acting out is seen as pathological in girls in a way that it is not for boys, and this can lead to unequal treatment.

**Maria Woltjen (Director, Young Center for Immigrant Children’s Rights at the University of Chicago Law School)**

This year there are expected to be 26,000 unaccompanied children coming to the US from all over the world. This is an increased figure from past years. 82% of the girls report having been molested on the way to the US, which is incredible. Pregnant girls are detained at the border. They are not provided with adequate services and often end up giving birth in custody. There is insufficient focus on the conditions of confinement for immigrant children. A major problem is that nobody can file suit. The organizations that receive funding to represent the interests of these children get that funding from the U.S. custodial agency detaining the children. Nobody can sue the United States to complain about conditions, because they would be suing the same agency that funds them. These children are routinely detained without any accusation of having committed any crime. This is an issue the US should get in front of. The justification for detaining the children is often that they are being protected from their traffickers, but it is not clear this is a sufficient justification for continued detention of these children.

**Jesenia Santana (Senior Policy Advisor, STEPS to End Family Violence)**

Santana works with women who are survivors of domestic violence whose crimes are related to their abuse. The absence of alternatives to incarceration for survivors is a glaring problem. Advocates being present at pre-trial arraignments would provide these defendants with more information concerning their rights and more access to counseling services. The aim is not to pathologize these women, but to understand battering and its consequences, principally how their abuse leads them to enter into the criminal justice system. Pleading is a central issue, given that over 95% of cases get pled out. An interdisciplinary approach to criminal defense would help support survivors, and would also allow them to spend less time incarcerated. Structural racism affects all of these issues and should not be ignored.

**Aya Fujimura-Fanselow (Crowley Fellow, Fordham Law School)**

Indigenous women in Bolivia are particularly vulnerable. There is a separate system of community justice for indigenous people. This means that when they enter the Bolivian state system they are unfamiliar with the system in the way that makes them especially vulnerable to abuse. For instance, indigenous women may not understand that they have a right to a lawyer. They may also be imprisoned far from where they are from. Further, there is some documentation of violence between the indigenous and non-indigenous Bolivians in the prisons. El Salvador does not allow for abortion under any circumstances. Fujimura-Fanselow is submitting an amicus brief on behalf of a woman in El Salvador convicted and sentenced to thirty years in prison for having an abortion. She suffered due process violations that are intertwined with gender discrimination in El Salvador.

**Silvia Martinez (Public Defender, Argentina)**

The war on drugs became a war on women. Women's prisons must be managed by women. This is necessary to prevent violence. There are two kinds of violence in prisons: guards against prisoners and prisoners against other prisoners. It is not uncommon for women with a history of trouble to be grouped together on purpose. The state is responsible for the violence this creates: women can be hurt both by government action and inaction. Women in prison must have open access to telephones, so they can contact public defenders immediately when a violent incident occurs. This dramatically increases the ability for such incidents to be adequately addressed. The Argentinian Defensoria receives such phone calls every hour of every day.

### **Joey Mogul (Partner, People's Law Office)**

Nationwide, transgender women of color are being profiled as sex workers. There is a campaign in New York to bar the use of condoms as evidence in criminal cases. Currently, possession of condoms can be used as evidence of sex-related offenses, and this is actually deterring women from carrying condoms which has large public health consequences. If someone has been convicted of *any* violent crime against a child in Illinois you get put on a sex offender registry, which has serious consequences for the released inmate attempting to reintegrate society. Individuals who identify as lesbians or gender non-conforming in women's prisons are being targeted with sexual violence. Finally, it is not possible to talk about incarceration without talking about race.

### **Craig Futterman (Clinical Professor of Law, Civil Rights and Police Accountability Clinic at the University of Chicago Law School)**

Mass incarceration is a form of social control: a perpetuation of caste-like systems. During the height of the war on drugs from the mid-eighties to the mid-nineties African-American women were the fastest growing segment of the prison population in the United States, growing by over 200%. Although African-American women are still incarcerated at a rate nearly three times that of white women in the United States, the racial disparity has actually decreased by almost 50% over the past decade. This presents an interesting question.

### **Deborah Labelle (Attorney, ACLU of Michigan)**

Labelle worked a long-term custodial sexual violence case on behalf of a large class of women in Michigan, which ended with a settlement of \$100 million. Data kept on the women released after the settlement indicates substantially lower recidivism rates. Their recidivism rate is under 15%, as opposed to the 62% for women generally in Michigan. This is surprising to the extent that additional trauma might be thought to lead to higher recidivism rates. Why is the recidivism rate so low for these women? The money they received in the settlement is one potential answer. Perhaps some amount of money made available upon release reduces recidivism rates. But money does not appear to be the explanation. "Citizenship" might present another answer: the fact of winning their case might have led to positive affirmation that stands in some relationship to lower recidivism rates. A human rights model was also used to explore this outcome; perhaps employing the language of human dignity and educating prisoners about human rights ideas has played some role in the lower recidivism rates.

Amongst those serving long-term sentences, young girls have committed less serious crimes than their male counterparts. They are receiving disproportionate sentences. For example, they are less likely than boys to be the one who actually committed the homicide they are incarcerated for. The girls concerned all voluntarily walked away from education. In contrast, boys are often expelled or suspended. We need to understand how the educational system is failing these girls such that they left school. Further, these girls were highly likely to not have been living at home when they committed their crimes. Finally, immigration and juvenile criminal justice advocates need to work together better going forward ("Crim-Im" movement).

### **Brenda Smith (Professor of Law, Washington College of Law, American University)**

The punitive state is present in so many different places: immigration; juvenile detention of girls; the public school system, etc. Smith is investigating the holistic impact of mass incarceration on communities. Prisons are not just a place of punishment, but an economic space. Issues of class are clearly present. And there may not always be a large difference in this respect between the inmates and those supervising them. They may be similarly economically disadvantaged and similarly vulnerable. Prisons should be shown it is in their own interest to run a safer prison and a prison that does not allow for those in custody to be traumatized or re-traumatized by violence within the prison. We need to talk more about connecting economic and social rights with human rights, so that those in custody can be provided with economic opportunity when they are released.

**John Maki (Executive Director of the John Howard Society)**

The John Howard Society has been a primary proponent of prison reform legislation. Initially, this reform included a program for mothers. It was a non-starter for members of the IL General Assembly because they felt women already receive too much in support and services. Further, many men felt that women are treated preferentially in prisons. These dynamics are important to consider when evaluating the legislative process of reform.

**Deanne Benos (Private Consultant on Prisons)**

On the government side, there are both resource and cultural constraints. Culturally, there is a gap between the correctional system and advocates for these women. The idea of a program for women was met with resistance in Illinois, because male correctional officers struggled to understand why women deserve special treatment. They have some hostility to treating women differently. Women have a complex challenge of being both matriarchs, that is, caretakers, as well as victims. They carry victimization with them into the system, but also their sense of themselves as family caretakers. A male-centric system leads to the re-victimization of these women, all over again. The cultural gap plays a role here. For example, male officers at several Illinois prisons were openly excited to tear down statements from the Women's Division when the Division was shut down.

**Andrea Huber (Policy Director, Penal Reform International)**

We must be cautious to avoid gender stereotypes, particularly that women are merely victims. This leads to women who are perpetrators receiving disproportionate sentences because there is an enlarged stigma attached to these women. Many of the underlying reasons for these problems apply to both men and women. Overcrowding affects both men and women, for example. We need to be careful not to think these problems only apply to women. It is important to differentiate between pre-trial detention, immigration detention, and post-sentencing detention because they have different rationales behind them and they are different institutions. Finally, Huber noted that it is disappointing that awareness about the Bangkok Rules is still lacking, and they are hardly mentioned even in meetings on women in prisons. She believes that they should be referenced as much as possible. It is the only international document on this issue that has been accepted unanimously by the UN General Assembly, and it contains potential solutions to many of the problems prisoners face.

**Mikhail Golichenko (Senior Policy Analyst, Canadian HIV/AIDS Legal Network)**



There needs to be a special emphasis on policies surrounding the War on Drugs, which is driving horrible human rights violations, in particular in the countries of the former USSR. For now even the UN system does not have a unified approach to the War on Drugs in light of states' human rights obligations. For example in his report of August 2010 the UN Special Rapporteur on the right to health suggested that in order to provide for the fulfillment of the states obligations regarding the right to health, drugs should be decriminalized and regulated by way of evidence based and human rights oriented laws and policies. This created a lot of tension within the UN system and the UN Office on Drugs and Crime as well as the International Narcotic Control Board issued a note distancing themselves from the position of the UN Special Rapporteur. This singled out the Special Rapporteur as someone who was implied to be “unprofessionally” radical in his strive for legalization. The report was effectively devalued despite the fact that the Special Rapporteur simply did not shy to point out the major failures of the war on drugs and called for evidence based and human rights oriented response. I believe that the human rights oriented approach demands for support to the report of the Special Rapporteur on the right to health from the whole UN family, including the Special Procedures of the Human Rights Council. Every Special Rapporteur may easily find the issue of concern related to her/his mandate when it comes to the War on Drugs. The Special Rapporteur on the Violence against Women is not an exception. Even in so-called advanced countries, drug policies are discriminatory at their core because they do not take into account the special vulnerabilities of people who use drugs to human rights violations. Women who use drugs represent the group which is extremely vulnerable to human rights violations because due to its punitive nature the War on Drugs exaggerates every gender related difficulty, including pregnancy and parenting.

**Marie-Claude Jean Baptiste (Programs Director, Vance Center NYC Bar Association)**

Women are disproportionately harmed by the lack of access to legal aid in poor countries. There needs to be more research on this problem. It seems women are particularly harmed because of a lack of economic resources, but this is an issue requiring further study. It is valuable to look at best practices and try to spread them. But it is also important to not be patronizing in pushing for reform.

**Debbie Denning (Chief of Programs and Support Services, Illinois Department of Corrections)**

Everything said today about the conditions and problems inside prisons has been spot on. It is necessary to ask: who are the ultimate policymakers for the female prisoners? We know what works and can put together models, but these policies will ultimately be subject to the decisions of policy makers and budgetary needs. This can be frustrating, but it is something which must be understood. Politics do impact the conditions of confinement. There is a view that when it comes to conditions in prison women get everything and men get nothing. In reality, women get everything that can be provided for free.

**Joni Stahlman (Women and Family Services Program and Reentry Coordinator, Illinois Department of Corrections)**

When women leave prison they face serious challenges, beyond what men experience. They face more serious stigma when attempting to reintegrate into communities and the workforce. It can be a particular challenge to resume being a mother after some time in prison. There is a lack of resources to deal with these special challenges that women face. It is difficult to meet their substance abuse needs and mental health needs, and to help them be good mothers.

**Mary Meg McCarthy (Executive Director, National Immigration Justice Center)**

The immigration system in the United States is broken. Immigrant detention is the largest growing sector of the prison population. They lack due process protections or access to counsel. There is very little oversight or accountability.

Extensive advocacy is necessary to even get access to the detention facilities. The conditions are horrendous. For example, transgender women are placed in solitary confinement as a matter of course, ostensibly for their protection. Pregnant women are denied adequate medical care. The connections between criminal law and immigration law are growing and becoming more important.

**Part III: Responses by Experts to Questions from Rashida Manjoo**

Question: What are the commonalities across the world? What lessons from your research is applicable globally? Are we missing key issues from particular locations?

**Marie Claude Jean-Baptiste (Programs Director, Vance Center NYC Bar Association)**

The assumption that incarcerated women should be treated different already exists in the United States. In other countries, they are only at the beginning of this discussion of why women in prison require special considerations. There is a widespread lack of understanding about why women need gender specific rules. NGO's can fail to focus on women in prisons. For one thing, women prisoners tend to be small in number relative to the general population. So that if a NGO wants to focus on sexual violence against women in a particular country they may not think it worthwhile to focus on the specific issue of violence against women in prison. We need to focus on the solutions that can be replicated, while being sensitive to cultural differences.

**Jesenia Santana (Senior Policy Advisor, STEPS to End Family Violence)**

Dedicating more resources to creating the narrative of the individual can be crucial. That narrative helps to create understanding, and illuminate what interventions to apply.

Question: Do you think part of making these personal narratives visible in the US has been the work of NGOs?

**Jesenia Santana (Senior Policy Advisor, STEPS to End Family Violence)**

The use of advocates and defense attorneys, particularly with an interdisciplinary approach, contributes to the development of a narrative that allows a judge to respond to their individual situation. Pre-trial meetings with an advocate or attorney can develop the narrative that otherwise escapes. A woman may in jail for months because a court does not know that they *are* mothers, or that they have housing or employment obligations. These community connections make them less likely to present a flight risk. More people would be able to go on living while their case develops if this narrative component were stronger.

**Brenda Smith (Professor of Law, Washington College of Law, American University)**

Smith has done work in Nigeria, Ghana, and Togo. There are some things that we do in the United States that they would never even think about doing. For instance, they take the question of who supervises women in prison very seriously; it would never even occur to them to allow cross-gender observation of prisoners. So even though these countries may lack the tradition we have in the United States of having NGOs to support individuals released from prison, there are still positive things to learn from them [in terms of adopting the Standard Minimum Rules for the Treatment of Prisoners].

**Amy Fettig (Senior Staff Counsel at the ACLU's National Prison Project)**

People have learned to use narrative as a powerful tool. Fifteen years ago, the human rights and civil rights communities were not using narrative as well as they are today. Many reports are written to be buried, precisely because they lack a narrative element, they lack peoples' stories. Reading through hundreds of pages of dry facts, one realizes that no one will ever read this. Time and effort can go wasted.

**Sital Kalantry (Clinical Professor of Law, International Human Rights Clinic at The University of Chicago Law School)**

Geographic diversity presents a challenge. Conditions in one country can be very different from conditions in another. It is a challenge to give global recommendations. It is difficult to first understand the conditions in these various locations and then even harder to move from that understanding to recommendations. It can be a lot easier to identify the worst practices, or sometimes the best practices, but it is the gray area, which is the majority of the reality, that can be difficult to assess.

**Neli Vasquez-Rowland (Co-Founder, A Safe Haven)**

A Safe Haven has been on the ground, working with reentry populations. They created businesses that would employ people that no one else would employ. They have housing for people that no one else will rent to. We want to advance the conversation from advocating for ideas to looking at what is really working out there in the communities. Time is of the essence, and so we need to advocate for things that really work now. Poverty and economic challenges are the common denominator for people in the prison system. Homelessness and domestic violence issues are pervasive. Each individual requires an individualized response, and we can utilize resources and institutions that are already in place. Recently, the Minister of Justice from China toured the program. It is important to look at what programs are working and collaborate with people working on the front lines to understand best how to help people.

**Silvia Martinez (Public Defender, Argentina)**

All over the world, prisons are made by men for men. This needs to be considered when reading the study on prisons. Some apparently neutral policies mean something different for women than they do for men. A shower without curtains has a different significance for women than it does men. If the architects of the prison system are men, then they need to understand that women need curtains in the showers, for instance. Further, there are especially vulnerable groups. Cultural minorities might eat different foods or wear different clothing, and these differences need to be considered. In prisons all

over the world there are neutral policies, and this is not a good thing. Finally, with long sentences women face an extra punishment that men do not face. They may lose the possibility of becoming mothers. This should be considered at the time of sentencing, otherwise punishments will be disproportionate, or even more disproportionate than they already are.

**Deborah Labelle (Attorney, ACLU of Michigan)**

The loss of reproductive opportunity is an important issue and should be emphasized. It impacts the decisions these young women make while imprisoned. Solitary confinement has a very damaging impact on girls and its use should be abandoned. Sometimes it is used as a way to separate girls from the adult population. Solitary confinement is used punitively against girls who act out. In contrast, solitary confinement is used primarily for safety reasons with male prisoners. These girls lose any opportunity to socialize, and there are often added privacy concerns. There may also be a correlation with high suicide rates amongst women prisoners.

**Deanne Benos (Private Consultant on Prisons)**

It is important to remember that, through culture change, positive reinforcement stage by stage can lead to results. It is easy for change and reform to drown at the individual level; the problem is massive and daunting. If you were to start on a smaller level and pick five or six places where something positive is happening then you can create a situation where there is positive attention on a city or country that has had problems. It can become a source of pride. This happened with an unpopular policy here in Illinois; the officers saw that it worked and came to support the policy and take pride in it. Those officers were then moved around the system to spread that positive culture.

**Mary Meg McCarthy (Executive Director, National Immigration Justice Center)**

It is a powerful message when the UN Special Rapporteur on violence against women or the Special Rapporteur on torture is investigating an issue like solitary confinement. In the immigration context, women are often placed in solitary confinement. There is no process for these women and so they are sometimes held indefinitely in solitary confinement. They should not be held in solitary confinement longer than fifteen days; after this point mental health problems can emerge amounting to cruel and unusual punishment.

**Kim Buchanan (Professor of Law, University of Southern California School of Law)**

Earlier it was noted that prisons are designed by men for men. It seems more accurate to say prisons are designed by men for *other* men. This is how men in power decide to treat people who they want to punish. And these decisions are bound up with notions of race and criminal stigma. This is one shortcoming of the typical gendered account of women's imprisonment. Likewise, women who do not fit the feminizing narrative of being good mothers or women who do not submit to their husbands and who end up in prison are likely to end up in maximum security prisons. Women who do not fit the typical narrative of woman-who-resisted-her-abusive-husband are treated worse, and we should be concerned about all the women not just those that fit this narrative. Institutional change is difficult, even if there is good legislation or good policy at the administrative level. It is not implemented in a way which produces reform. Change is especially difficult in a country like the United States where there are special

barriers to litigation by prisoners over prison conditions. One thing the United States could learn from other countries is a greater openness to outside observers.

**Jesenia Santana (Senior Policy Advisor, STEPS to End Family Violence)**

We should be cautious about the criminalization of violence. The domestic violence movement fought long and hard to criminalize violence against women, to have mandatory arrest laws and the like. However, the consequence of this has been an increase in the incarceration of women, without reducing rates of violence against women. This is a lesson other countries can learn from when considering criminalization of violence against women. There is not a clear solution to this problem, although greater investment in prevention strategies would be worthwhile. We need to be mindful of over-litigation. When the criminal justice system was used by the violence against women movement, it was largely because there were no other institutions to use. The problem is that this has not worked. For one thing, communities of color and poor communities are discriminatorily policed, which leads these women into the criminal justice system. It erases their victimization status when police view the women as perpetrators.

Another problem is that when these new laws were passed, they had batterers' intervention programs that diverted batterers away from incarceration. These interventions often fail and, further, there is no similar diversion program from women, meaning that they are unlikely to be diverted away from incarceration when they are seen as the aggressor.

**Susan Gzesh (Executive Director, Human Rights Program at The University of Chicago)**

There are two distinctions we should think about. One is the public/private distinction. It is unclear if we are blessed in the United States by the increasing privatization of prisons and immigration detention centers. From the standpoint of both analyzing the problems and advocating for reform, it is perhaps useful to think about whether there is something different about the situation where a private company is running the prison than when it is run by the government.

It may also be useful to make distinctions between the reasons people are incarcerated. The Bangkok Rules make a distinction between pre-trial detention and those serving sentences, but we also have detained immigrants to think about. The State's interests are different for these different groups of incarcerated people. With criminal detention there is supposed to be some punishment, as well as some rehabilitation, but with immigration detention it is simply a "holding pen." Making this distinction might help make analysis of these problems clear.

## Participating Experts

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Name	Organization	Title
Neli Vasquez-Rowland	A Safe Haven	Executive Director
Joey Mogul	People's Law Office	Partner
Brenda Smith	Director, Project on Addressing Prison Rape	Professor, American University, Washington College of Law
Joni Stahlman	IL Department of Corrections	Women and Family Services Program and Re-entry Coordinator
Debbie Denning	IL Department of Corrections	Chief of Programs and Support Services
Maria Woltjen	Young Center for Immigrant Children's Rights	Executive Director
Elizabeth Brundige	Avon Center for Women & Justice	Executive Director
Deb LaBelle	ACLU of Michigan	Attorney
Aya Fujimura-Fanselow	Fordham Law School	Crowley Fellow
Gail Smith	CLAIM	Senior Policy Consultant and Founder
Silvia Martinez	Defensoria (Argentina)	Public Defender and Head of Prison Commission
Deanne Benos		Private Consultant on Prisons
Andrea Huber	Penal Reform International (London)	Policy Director
Herschella Conyers	University of Chicago Law School	Clinical Professor of Law
Craig Futterman	University of Chicago Law School	Clinical Professor of Law
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Ben Wolf	ACLU of IL	Associate Legal Director
Marie-Claude Jean Baptiste	Vance Center, NYC Bar Association	Programs Director
Alan Mills	Uptown People's Law Center	Legal Director
Sital Kalantry	University of Chicago Law School	Clinical Professor of Law
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John Maki	John Howard Association	Executive Director
Bridget Arimond	Northwestern University School of Law	Clinical Professor of Law
Jesenia Santana	STEPS to End Family Violence	Senior Policy Advisor
Mikhail Golichenko	Canadian HIV/AIDS Legal Network	Senior Policy Analyst
Mary Meg McCarthy	National Immigration Justice Center	Executive Director
Kim Buchanan	USC Gould School of Law	Associate Professor of Law

Name	Organization	Title
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