



**Submission by
Youth Affairs Network of Queensland
to the
Anti-discrimination Commission Queensland
on the
Women in Prison Review**

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Introduction

The Youth Affairs Network of Queensland (YANQ) Inc is the peak community youth affairs organisation in Queensland. Representing approximately 350 individuals and organisations from Queensland's youth sector, we promote the interests and well being of young people across the state by:

- Disseminating information to members, the youth sector, and the broader community
- Undertaking campaigns and lobbying
- Making representations to government and other influential bodies
- Resourcing regional and issue based networks
- Consulting and liaising with members and the field
- Linking with key state and national bodies
- Initiating projects
- Hosting forums and conferences
- Inputting into policy development
- Enhancing the professional development of the youth sector

Justice Policy Statement

YANQ believes that children and young people have human and legal rights which they must know and be able to exercise. YANQ is committed to the protection and enhancement of these rights.

YANQ deplores the lack of respect of the rights of Indigenous children and young people, which among other things has resulted in the over-representation of indigenous children and young people in the child protection, juvenile justice system and the adult prisons.

YANQ strongly endorses the International Conventions, Covenants and Protocols of the United Nations Organisation, especially

- ✓ Convention on the Rights of the Child,
- ✓ International Covenant on Civil and Political Rights,
- ✓ Declaration on the Rights of the Child
- ✓ Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption, Nationally and Internationally
- ✓ Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules),
- ✓ Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment.
- ✓ Guidelines for the Prevention of Delinquency (The Riyadh Guidelines)

- ✓ Rules for the Protection of Juveniles Deprived of their Liberty.
- ✓ Declaration on the Elimination of Discrimination against Women
- ✓ Convention on the Political Rights of Women
- ✓ Declaration on the Elimination of All Forms of Racial Discrimination
- ✓ International Convention on the Elimination of All Forms of Racial Discrimination
- ✓ Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live
- ✓ 1951 Convention on the Rights of Refugees

YANQ is committed to:

Ensuring that young people in Queensland have their fundamental rights fulfilled. At the very least, everyone is absolutely entitled:

- to be heard and listened to,
- to have the necessary information to make informed life decisions,
- to be involved in decision making affecting their life,
- to food, shelter and clothing,
- to access free health care and education,
- to associate freely with people of their choice,
- to live free of categorisation or labelling,
- to equal remuneration for equal work, and,
- to sufficient financial support to ensure they do not live in poverty.

YANQ will:

- collaborate with communities across Queensland to ensure that the above rights are achieved
- assist the government in meeting its social obligation towards young people
- ensuring children and young people's rights are considered before legislation is enacted in Parliament

Young Women and the criminal justice system

Women and young women do experience the justice system as prisoners. In the four years from 1994 to 1998 the number of young women on juvenile justice orders in Queensland increased 116% (DFYCC, 1998) and the numbers of women under 25 in the adult prison system have grown at an even more alarming rate. In recent times over 60% of the women in prison are in this age group. The number of women (particularly young women) being held in detention centres and prisons is unacceptable and damaging to the whole community.

The increasing representation of young women in the criminal justice system is due to a number of systemic and social problems. Firstly, changing economic circumstances have left more young women in poverty and forced them to take responsibility for dependent children. This leads to an increase in low level fraud and theft by women as they struggle

to make ends meet. Secondly, increased drug use has led to an increased representation of young women in the criminal justice system. Thirdly, law and order campaigns over the last ten years have meant that more young women are being sentenced to custodial sentences when once they would have been placed in diversionary and community service programs.

Furthermore, young women still experience the ingrained sexism of the system that expects them to behave like young ‘ladies’ and punishes them when they do not. Young women who have committed crimes seem to inspire an almost atavistic fear in the criminal justice system, which reacts with disproportionate harshness against “bad girls.”

The experience of prison is one that it is hard to overcome for many young women. Entrance into prison is more likely to criminalise a young person than any other single factor. This was previously a problem that primarily affected young men but the increasing numbers of young women in prison has meant that increasing numbers of young women emerge from prison more capable criminals than when they went in.

The actual numbers of young women in the juvenile justice, detention or prison systems are much lower than young men, but this means their needs are often forgotten by service providers and planners. They are also probably the most likely group within the community to have their rights violated. A large number of people and organisations believe these women ‘deserve anything they get.’

It is of outmost importance to note that Queensland and Victoria are the only states that incarcerate 17-year-old girls in adult prisons. The government in Victoria has already announced that they will be introducing new legislation to bring changes shortly. This leaves Queensland as the only state in Australia in breach of United Nations Convention on the Rights of the Child (CROC). There is an urgent need to abolish this legislation that discriminates and disadvantages young women and leaves them open to abuse.

Impact of Violence

Young women are particularly at risk from violence especially in these groups: Aboriginal and Islander young women, young lesbians, pregnant and parenting young women, young women from culturally and linguistically diverse backgrounds, young women who use drugs, young women in prison and young women with partners in prison as being particularly susceptible to violence (WAYWARD, 2001)

One of the biggest challenges in responding to violence is addressing the many reasons women and young women do not report violence perpetrated against them:

- Knowing the perpetrator
- Fear of negative police contact
- Fear of loss of privacy
- Lack of faith in the system
- Guilt, shame and embarrassment

- Fear of not being believed
 - Fear of retaliation by the perpetrator
 - Lack of communication paths
 - Concern of not fitting with the stereotype of a “victim”
 - Emotional and psychological impacts
 - Fear of victimisation by the criminal justice system
- (Office of Women’s Policy, 2000)

Specific issues raised by Sisters Inside to ADCQ

The Classification System

YANQ believes that Sisters Inside correctly describe the classification system as inappropriate and discriminatory.

Current system for security classification is discriminatory because it uses a prisoner’s socio-economic background to label them as “risk”. It is evident that the discrimination against people from low socio-economic backgrounds is not a phenomena limited to outside world but entrenched in formal policy and practices of the corrective services.

The Classification System must change and it is envisaged that with the implementation of education programs and allocation of adequate resources young women from Aboriginal or CALD backgrounds and young women with mental health disabilities should not be listed as “high risk”.

Women from CALD backgrounds often have English as their second language resulting in low levels of literacy and numeracy which in turn contributes to their classification as ‘high risk’.

The fact that all women prisoners in Queensland are imprisoned, initially, in one of the two maximum-security prisons is in YANQ’s view discriminatory.

Considering the continuous injustices being inflicted on the Aboriginal population by the invading forces and considering the lack of a formal Treaty, the treatment of the Traditional Owners of the land by the occupiers is discriminatory based on all International Human Rights Frameworks.

Although the total Aboriginal population in Queensland is only 3%, Aboriginal women account for over 30% of the women’s prison population.

Women prisoners, especially Indigenous women, are particularly disadvantaged by a security classification system, which individualises the issue of disadvantage and does not take to account socio-economic circumstances which are way out of control of individual women. Government’s failure to deal with social inequality in the society must

be seen as the main security risk not individual victims of the irrational economic and social management practices.

As a direct result of the discriminatory classification system, Aboriginal women are being disproportionately classified as “high risk” and locked in maximum security. Despite various inquiries and reports into the negative impacts of this type of imprisonment on Aboriginal women, the majority of Aboriginal women in prison continue to be kept in the maximum security prison.

The Aboriginal & Torres Strait Islander Social Justice Commissioner states that: The discrimination faced by Indigenous women is more than a combination of race, gender and class. It includes dispossession, cultural oppression, disrespect of spiritual beliefs, economic disempowerment, but from traditional economies, not just post – colonisation economics and more. (*Social Justice Report 2002* p13)

Another problem with the security classification system is the labelling of women with cognitive and mental disabilities as “high risk” rather than “high need”. With the closure of psychiatric institutions and lack of funding for community based services we are witnessing criminalisation of women with mental health issues.

The Number of Low Security Beds

It appears very clearly that the number of minimal low security beds available to Women as compared with Men support the assertion by Sisters Inside that women are being discriminated based on their sex.

The number of low security beds available to women prisoners in Queensland is unacceptable.

Due to a lack of lower classification facilities majority of women are imprisoned in maximum-security prisons at Brisbane Women’s and Townsville Women’s.

Recommendations from the Royal Commission into Aboriginal Deaths in Custody and the Review of Corrective Services in Queensland in 1999 both strongly recommended that Aboriginal Prisoners have greater opportunity to transfer to a community correction centre, in particular in north Queensland regions.

The lack of a range of sentencing options such as Outstations in far north Queensland and the quality of services and facilities in existing Outstations disadvantages Aboriginal Women.

There are approximately 60 low and medium security beds available for women prisoners. As a direct result of this, a large majority of women prisoners serve their prison sentences within the maximum security prisons and have no access to gradual release back into the community.

The use of low security beds promotes the concept of rehabilitation as part of the corrections regime. The use of high security jails promotes the concept of punishment which is contradictory to the principles of correction.

Access to Conditional and Community Release

YANQ supports Sisters Inside assertion that Indigenous women have less access to Conditional and Community Release and in comparison with non-Indigenous women prisoners, Aboriginal women access Conditional and Community Release on a much slower rate if at all.

As a matter of priority the Queensland government must address the slower release rate of Aboriginal prisoners on conditional release by addressing a number of discriminatory policies and disadvantages faced by Aboriginal women. Proper consultation with the Aboriginal community and service providers could assist the government in achieving this desired outcome.

After release from prison, Women are less likely than men to be convicted of further offences in particular violent crime. As such women pose a lower risk to the safety of the community after release. This information must be used to look at the issue of recidivism, correction and process for reintegration into the community. Women must be provided with far greater opportunities for release into low security prisons, parole, and work release and/or home detention.

Women serving less than two years do not have access to the Parole Board. Approximately 75% women are serving less than one year and approximately 85% are serving less than 2 years. Women must be provided with access to parole and a range of non-custodial arrangement for sentences less than 2 years.

The plight of young women with mental disability must not be forgotten. A range of support services are required to ensure a successful reintegration attempt. However as mentioned before the main priority for the government is to stop incarceration of young women with mental disability. No matter what the financial cost, there is no excuse for this most vulnerable group in our society to be treated so appallingly.

Access to Programs

Compared with young men, young women seem to have less access to programs inside prison. This might be so because of lower number of women in prison as compared with men however access to programs is paramount to any notion of correction and community reintegration.

Due to language and other cultural issues Aboriginal and CALD women have less access to programs in women prisons. Programs of quality are far and in-between.

If the notion of rehabilitation is to be taken seriously, the government must allocate significant resources to change the culture of prison from one that is based on punishment of the criminal to one that is about providing options previously not available to individuals in the society. Almost every prisoner has had ample violence and punishment in their lives. What the society has failed to do is to look at how we forget and forsake those who due to our social constructs and their socio-economic background could not compete with other affluent members of our society.

Access to Work

The use of prison labour and the working conditions are discriminatory and designed to serve companies profiteering rather than providing meaningful work for people in prison.

System is becoming reliant on income generated by prisoners. This will not allow for cost recovery during low inmate periods as well as maintaining dependence on below award wages and the need for ongoing availability of this type of low paid labour.

The issue of choice is what separates work from slave labour. The current system has an emphasis on required activity which prisoner's treatment is directly linked to. Far from it being a carrot the current system is based on the threat of the stick.

As work is a “required activity”, once again, young women from Aboriginal and Islander backgrounds, young women from CALD backgrounds and young women with disabilities are the ones which mostly miss out on work and therefore are further discriminated against.

Strip Searching

Strip searching of prisoners is permitted by s. 26A(4)(a) of the *Corrective Services Act 2000*. Strip searches are mandatory following all contact visits at Brisbane Women's.

YANQ agrees with Sisters Inside that Strip searching indirectly discriminates against women – the effect on women prisoners is disproportionately greater than the effect on men and the requirement is not reasonable in the circumstances.

Furthermore YANQ fully agrees with Sisters Inside that mandatory strip searches of women prisoners are unlawful assaults and systemic sexual assault. The impact of these strip searches is exacerbated by the fact that majority of women prisoners are survivors of sexual abuse and incest. Strip searching re-traumatises women who are mostly in need of support services to overcome the negative emotions related to their initial abuse.

The assertion by Corrective Services that strip searching keeps prisons free of drugs is incorrect. Research by Sisters Inside has clearly demonstrated that strip searches do not uncover contraband. Very little if any drugs have been found as a result of thousands of strip searches. By all standards this is a monumental failure as drugs are still making their way into the prison. The hard question which must be asked by the government is how else and who else can and is supplying drugs in prisons.

Mandatory strip searches after each contact visit could also be seen as discriminatory as young women with abuse backgrounds are less likely to want visits by family and friends. Strip searching is a form of extreme punishment and must be regarded as a form of torture.

Other issues

YANQ is extremely concerned that the majority of women prisoners are young people and that the current prison system is doing very little for rehabilitation of individual as well as dealing with the socio-economic circumstances which contribute to the imprisonment rates of young women.

By far the most shameful example of our discriminatory system is the treatment of Aboriginal and Islander prisoners as documented during the Royal Commission into Aboriginal Deaths in Custody.

The failure by our system to recognise historical as well as ongoing injustices committed towards Aborigines as well as an absolute lack of knowledge and respect for Aboriginal culture has resulted in the continuation of colonisation of Australia and prisons serve only to punish those who refuse to be assimilated. In this way it is very clear to see how

colonisation continues to the present day and it leaves us with a great responsibility to act in a manner which will put an end to this brutal inhumane and discriminatory process.

Department of Corrective Services state that 57.1% of women in Queensland prisons have been diagnosed with a specific mental illness. This is clearly unacceptable and against all principles of a civil society. Queensland Health must take responsibility for this and end this barbaric discrimination ASAP.

Concluding remarks

By far most research points to the abysmal failure of prisons to achieve reformative affects for prisoners as well as deterring affect on others. It seems that retribution is the silent policy platform and that discrimination on the basis of age, sex and race has permeated all levels of policing and sentencing. The situation is further exasperated by racist, ageist and sexist policies and procedures which govern the management of Queensland prisons.

In the words of Commissioner Elliot Johnson (Royal Commission into Aboriginal Deaths in Custody):

...the first strategy to reducing the number of deaths in custody is to reduce the number of Aboriginal people coming into custody in the first place.

Rob Watts of the RMIT University makes the following observation after seven years of research and reflection on the processes and problems for staggering numbers of human beings through the twentieth (and now the 21st) century who have been the victims of systematic state genocide, terror, violence, torture, family break-ups and geographic displacement, all the result of deliberate and carefully implemented state policy processes. States and their policies are 'the true and onlie begetters' of the greatest crime waves of the twentieth century, and state and their agents are the most persistent and serious of criminal offenders in an era sociologist still persist in referring approvingly to as 'modernity'.

YANQ believes that despite the best attempt by various governments to hide the crisis which has engulfed the criminal justice system in Queensland it is very clear that immediate action of significant proportion is needed in order to slow and eventually halt various levels of discrimination faced by young women in the prison system.

As a matter of outmost priority and inline with Australia's international obligations, Queensland government must stop incarceration of 17 year olds in adult prison. A strategic plan must also be developed in consultation with various government and community bodies to deal with the overrepresentation of young people under the age of 25 (majority of prisoners) and the overrepresentation of the Indigenous young women in Queensland prisons.