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Detention of women: principles of equality and non-discrimination

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International principles of equality and non-discrimination must be applied to the UK's immigration detention system, which at present fails to meet even the minimum standards which apply in prisons.

Non-discrimination is a founding principle of international human rights law. It is enshrined in a range of international treaties including the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which states that discrimination against women is the "distinction, exclusion or restriction made on the basis of sex" that results in the curtailing of women's human rights and fundamental freedoms.

The UN Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules¹) recognise the distinct needs of women in the criminal justice system and also introduce safeguards to protect women from ill-treatment. Although immigration detention settings are not covered by the Bangkok Rules, these same principles are very relevant to them; the UNHCR Guidelines on Detention, for example, refer to the Bangkok Rules in their guidance on asylum seeking women in detention². Considering places of detention from a gender perspective, Penal Reform International and the Association for Prevention of Torture state that women face heightened vulnerability and risk, and that while the 'root causes' of both are often external to the physical environment of detention, vulnerability and risk become "intensified significantly in places of deprivation of liberty"³.

In the UK, the Equality Duty which came into force in April 2011 places a duty on public bodies to have 'due regard' for protected characteristics including gender. However, there is still no dedicated gender-sensitive policy for female detainees in the UK – unlike in the prison system – and in many areas the immigration detention operating standards fall short of prison standards. For example, in the UK's short-term holding facilities, men and women are held in the same facility, something which would not happen in the prison system. The prison system has a Prison Service Order on 'Establishing an appropriate staff gender mix in establishments' (PSO 8005) which outlines appropriate staffing considerations with due regard

to gender and particular tasks in the prison which are gender-specific. There is no equivalent published policy guidance in the UK's immigration removal centres which detain women, and the facilities do not make public the proportion of female staff they employ.



Asylum-seeking woman from Ukraine looking through the bars of the detention centre in Medvedov, Slovakia.

In light of international and domestic standards, it is of concern that the particular needs of detained women – in the UK and elsewhere – are not taken into account and that their daily realities often fall far short of these fundamental principles of equality and non-discrimination.

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1. www.penalreform.org/publications/bangkok+rules
2. UNHCR (2012) Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum seekers an Alternatives to Detention www.unhcr.org/refworld/docid/503489533b8.html
3. Penal Reform International and Association for Prevention of Torture (2013), *Women in Detention: a guide to gender-sensitive monitoring* <http://tinyurl.com/PenalReform-wid-2013>
4. In 2010 AVID secured an agreement with the UK Border Agency to carry out a comparison of the UK prison service policies concerning women, and to identify learning points which could be applied to women in the detention system. Publication of the results has been put on hold as a result, according to the UKBA, of pressures of competing priorities and workloads.