

In this Issue:

[Women and Prisons in South Africa](#)

[South African Prisons at a Glance](#)

[Farewell to Ahmed Othmani](#)

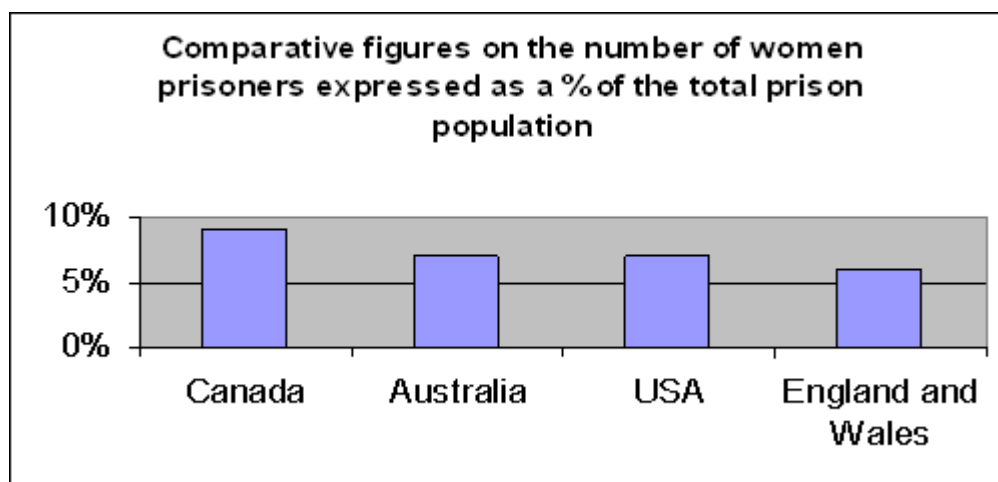
Women and Prisons in South Africa

Feb 2005
by Julia Sloth-Nielsen

This article is based on information obtained from a survey examining the situation of women in South Africa prisons [1]. This survey was developed by the Judicial Inspectorate as a contribution to the 16 days of Activism against Violence on Women and Children Campaign conducted in November and December 2004. A full copy of the printed text is available from the Office of the Inspecting Judge (contact details are provided below).

On 31 August 2004, the prison population in South Africa comprised of 186 739 persons held in 241 prisons. The number of women was 4 152, representing 2.3% of the total prison population. [2] 986 of this total figure were awaiting-trial prisoners and 3 166 sentenced prisoners. The sentenced population consisted of 1 030 convicted for economic crimes, 1 631 for aggressive crimes and 248 for the illegal use or possession of narcotics. 378 of the women awaiting-trial were held on charges relating to economic offences and 473 for aggressive offences. [3]

There are eight prisons in South Africa which accommodate female prisoners only, and 72 prisons which accommodate male and female prisoners. [4] The levels of overcrowding experienced at female prisons differ from prison to prison, the lowest being Queenstown prison which is only 70% occupied and the highest Thohoyandou prison which is 395% occupied.



Profiles of women prisoners

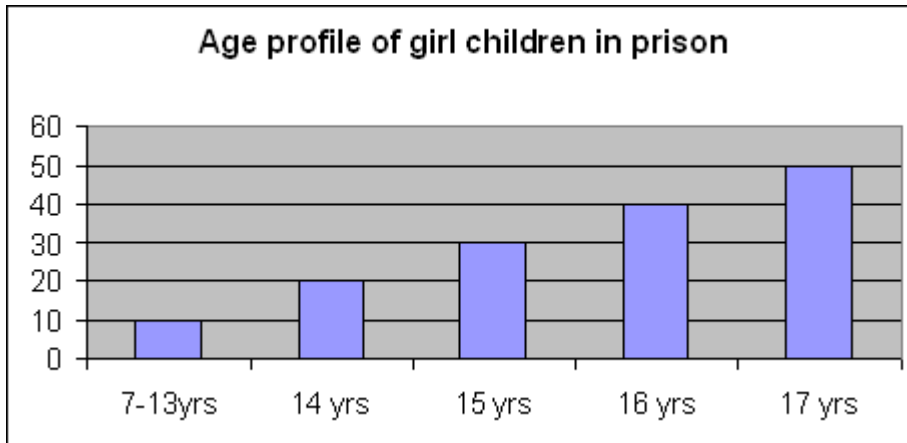
Based on the results of the 1 756 interviews which were conducted with female prisoners by Independent Prison Visitors (IPVs) attached to the Office of the Inspecting Judge, as well as the available statistical information, the following characteristics emerge as the most common among the female prisoners in South Africa. Knowledge of these characteristics may promote a better understanding of the

reasons why women are involved in crime and assist in developing clearer profiles of women who are imprisoned.

Age group

The majority of women prisoners (51%) fall within the age category of 30 to 50 years. 6% of female prisoners are older than 50 years. Comparatively female prisoners are slightly older than their male counterparts, on average 60% of male prisoners are younger than 30 years.

Female Children

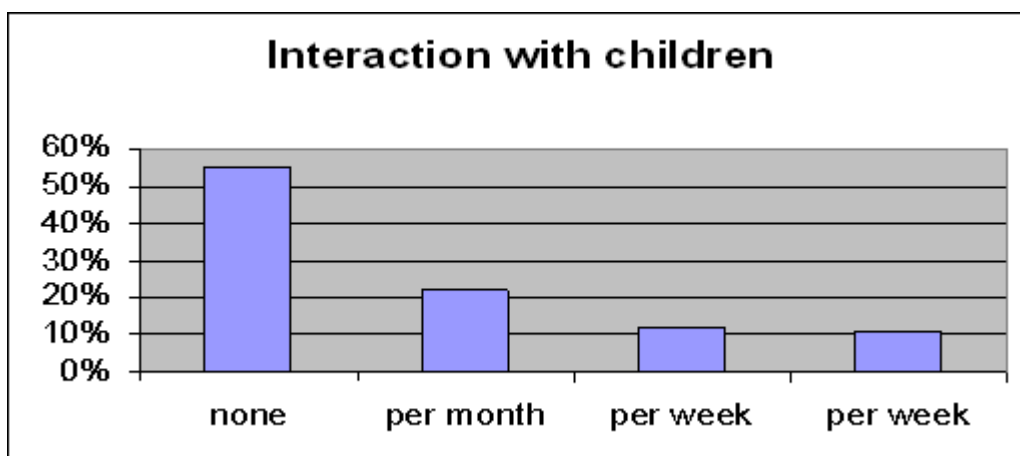


As at the 31 August 2004 there were 63 girls in prison in the country who were younger than 18 years old. 28 of them were sentenced and 35 were awaiting-trial.

Marital status and children

Of the 1 756 female prisoners interviewed by IPV's, 72% were unmarried, 8% were divorced and 20% were still married. 84% of women prisoners are mothers. 33% of these mothers have one child, 25% have two children, 20% have three children and 22% have more than three children to care for. The vast majority of mothers (74%) reported that their children were in the care of family or friends, only 17% of those interviewed with children have children who have been placed in foster care, children's homes or have been adopted.

Of grave concern is that 55% of mothers reported to have no interaction with their children and have lost contact with them. This is reported to be one of the main contributing factors to the frustration experienced by women in prisons. There are 192 infants and toddlers in prison with their mothers.



Conditions in female prisons

A survey was undertaken of the conditions of detention of women by IPV's. Inspectors

visited the eight prisons which are restricted to women only, and a further six which have separate sections which accommodate female prisoners. The fourteen prisons visited hold nearly 70 % of the female prisoner population in the country. Some identified challenges were:

- 63% of all female prisoners reported that they are kept in a prison which is more than 100km from their home towns.
- The most common complaint to IPVs concerns the difficulties female prisoners have in maintaining contact with their families. Under certain circumstances, however, the policy of permitting 45 minutes for non-contact visits and an hour for contact visits is waived. When family members travel a significant distance to visit their loved ones, their visits can be extended for up to three hours.
- Many centres which cater for women prisoners were not designed for the special needs of women. The facilities for women with babies are inadequate. In Thohoyandou, for example, where there is only a rudimentary crèche, ten mothers and their children (all under the age of two years of age) share a communal cell with 35 other women.
- As most prisoners, including women, still occupy outdated prison buildings, many still have to eat their meals in their cells. Cells are generally equipped only with beds, and not with tables.
- A further issue of concern for female prisoners is the provision of toiletries. In general, the correctional authorities provide soap, toothbrush, toothpaste, and sanitary towels. It is the responsibility of the prisoners to provide their own shampoo and deodorant.

Offences

On 31 August 2004, the detailed breakdown of the offences for which women were incarcerated, sentenced and awaiting trial, was as follows;

FEMALE PRISONERS AS ON 31 AUGUST 2004

(Sentenced and awaiting-trial)

Nature of Offence	Totals
Murder	914
Theft other	879
Assault serious	438
Fraud and forgery	316
Robbery common	178
Economic crimes other	173
Culpable homicide	151
Robbery aggravating	129
Prison offences	123
Other	109
Murder attempted	104
Trade/cultivate marijuana	87
Assault common	75
Possess/use of marijuana	62
Trading in dangerous dependency developing medication	59
Crimes against the good order	58
Crimes against the family life	44
Damage to property	40
Car theft	35
Burglary / housebreaking	34
Possess/use of prohibited substance	33
Rape and attempted rape	25
Stock theft	24
Kidnapping / child stealing	24
Trade/cultivate of prohibit substance	23
Indecent assault	5
Possess/trade in intoxicating liquor	5
Driving under the influence	2
Good name and honor of a person	2
Crimes i.r.o. road traffic	1
TOTAL:	4152

The data above shows that 1 030 of the women in prison were convicted of economic crimes, 1 631 for aggressive crimes, and 248 for the illegal use or possession of narcotics. Of those awaiting trial, 378 were being held on charges related to economic offences and 473 for aggressive offences.

Sentences

The average sentence on 31 August 2004 that the 3166 sentenced female prisoners were serving was 5 years and 10 months. By comparison, the 1 905 female prisoners serving sentences on a comparable date in 1995 were serving an average of 3 years and 2 months. This indicates a marked trend towards longer sentences, which has increased the overall average sentence. This is supported by the increase in the number of female prisoners serving sentences of longer than 7 years, which since 1995 has increased by 300%. [5]

Socio-economic vulnerability

Women's inferior socio-economic status in South African has been recognized at Constitutional Court level, [6] and the particular effects of this upon women's incarceration are stark. Of the 986 awaiting trial women in prison, 330 had been granted bail but were unable to pay, nearly a third of all awaiting trial female prisoners. By comparison, the equivalent figure for male awaiting trial prisoners granted bail but unable to pay this is 7% of the awaiting trial population. Of the 330 that are unable to pay bail, 17 were imprisoned as an alternative to bail amounts set at less than R200.

208 of the sentenced women were given a fine with an alternative prison sentence, indicating that the court considered them to pose no risk to the community. This constitutes 6.5% of sentenced female prisoners. [7] These women, too, are in prison primarily as a result of poverty.

Women convicted of murder

The following table presents a comparative profile of males and females in terms of murder and attempted murder.

CATEGORY	GENDER	OFFENCE	NUMBER	% OF TOTAL
Sentenced	Male	Murder	22778	17
Sentenced	Female	Murder	910	29.1
Sentenced	Male	Attempted Murder	6059	4.5
Sentenced	Female	Attempted Murder	79	2.5
Awaiting trial	Male	Murder	5550	11.8
Awaiting trial	Female	Murder	188	20.1
Awaiting trial	Male	Attempted Murder	1768	3.8
Awaiting trial	Female	Attempted Murder	42	1.3

Nearly a third of female prisoners are in prison for the offence of murder or attempted murder, which is deserving of note. It is possible that a significant proportion of these women may benefit from the recent Supreme Court of Appeal judgment in *Ferreira and others v S*. [8] In this case a life sentence (imposed upon a woman who had her abusive partner murdered) was set aside on the ground that the phenomenon of the 'cycle of violence' that characterizes the situation of battered women, constitutes substantial and compelling circumstances that enable a sentencing court to impose a lesser sentence than the prescribed minimum. *Ferreira's* life sentence was substituted with a sentence of 6 years, which would have been fully suspended had she not already served three years pending the finalization of the appeal process. It is understood that a process of review of women prisoners who murdered their partners in similar circumstances is presently being undertaken. [9]

Footnotes

[1] Thanks to Gideon Morris of the Office of the Inspecting Judge of Prisons for permission to summarize and reprint some of the material in *Women in South African Prisons*. Copies of this book can be obtained from: Judicial Inspectorate of Prisons; Private Bag X9177; Cape Town; 8000 or 9th Floor, 1 Thibault Square, c/o Long and Hans Strijdom Streets, Cape Town. Tel 021-421-1012/3/4/5; Fax: 021-418-1069.

[2] Management Information System of DCS.

[3] The number of awaiting-trial women who were unable to pay their bail constituted 33% of the total awaiting-trial women prison population. 208 of the sentenced women were given a fine with an alternative prison sentence. The Report of the Judicial Inspectorate reveals great concern about the huge increase in the number of female prisoners who are serving sentences of longer than 7 years, and ascribes this to the effects of the minimum sentencing legislation.

[4] The number of female prisoners has risen significantly over the last ten years, even though their relative numbers have remained stable. The minority status of women is not peculiar to South Africa: it is a universal phenomenon. However, in this country, women constitute an even smaller minority of prisoners than they do in many other countries.

[5] This is ascribed to the effect of the minimum sentence legislation (Women in South African Prisons at p9).

[6] See for instance *Bannatyne v Bannatyne and another* 2003 (2) BCLR 111 (CC).

[7] A comparable figure for male prisoners detained as an alternative to paying a fine could not be established.

[8] Judgment handed down 1 April 2004, as yet unreported. See *R v Lavallee* (1990) 1 SCR 852 [SCC] (Canada) (also reported at 55 C.C.C. (3d) 97) and *Osland v The Queen* [1998] HCA 75 (10 December 1998) (Australia) or comparable jurisprudence.

[9] Personal Communication, Social worker at Westville Female Prison on 1 November 2004. It was indicated informally that initial investigations had shown that some 10% of the sentenced female prisoners in that facility might benefit from the *Ferreira* principles.

[TOP](#)

South African Prisons at a Glance

Feb 2005
by Lukas Muntingh

CATEGORY	Feb-04	Oct-04	VARIATION
Prisons	240	228	-5.0
Functioning prisons	233	225	-3.4
Closed prisons	7	3	-57.1
Total prisoners	187065	184871	-1.2
Sentenced prisoners	132315	137093	3.6
Unsentenced prisoners	54750	47778	-12.7
Males	182892	180813	-1.1
Females	4173	4058	-2.8
Children	3973	3406	-14.3
Sentenced children	1698	1678	-1.2
Unsentenced children	2275	1728	-24.0
Total capacity	113551	113825	0.2
Overcrowding percentage	164.7	162.4	-1.4
Most overcrowded	Durban Med C 387.60%	Johannesburg Med B 372.00%	
Least overcrowded	Vryheid 25.30%	Pomeray 25.60%	
Awaiting trial 3 months +	23033	21023	-8.7
Infants in prison with mothers	196	201	2.6

[TOP](#)

Farewell to Ahmed Othmani

11.12.04
by Catherine Simon

A Passionate Defender of Human Dignity

The Director of Penal Reform International (PRI), Ahmed Othmani, died on Wednesday 8 December in Rabat (Morocco), the victim of a car accident. He was 61 years old.

Son of nomads, Ahmed Othmani grew up in the Sidi Bou Zid region, in Southern Tunisia. At Independence in 1956, when he was 13 years old he moved to Tunis to take up his studies. It was his first revolution. After a few months spent with his brother, he had to start taking care of himself, away from all his relatives. He called this period "his break from the tribal world".



Ahmed Othmani neither complained about his teen years in Tunis nor about the solitude of living in a big city. He took this opportunity to read and discover the world. Having been brought up in a traditionalist environment - where his father had repudiated his first wife and taken two other

wives – he was not concerned to learn that the president Habib Bourguiba had decided to abolish polygamy. On the contrary, he said in his book *Beyond Prison*^[1] “this modernism seduced me. In later years it was not Bourguiba that I fought, but rather the single party regime”. In his book, written in collaboration with the historian Sophie Bessis and prefaced by Robert Badinter, Ahmed Othmani relates the great stages of his life and his struggle to reform the prison systems around the world.

After the steppe and the city, after high school and university – where he had become a political activist – he experienced the brutality of the prison system, in which he spent more than 10 years of his life. Ahmed Othmani was then a member of the Tunisian Socialist Group of Studies and Action (GEAST), well known for its publication *Perspective*, as well as a leader of the student protest movement in the late 1960's.

Ahmed Othmani was arrested and tortured, thereby discovering the harsh reality of prison - what he called “the caricature of society”. He was exposed not only to its diversity, complexity, and misery, but also to the solidarity inside as well as outside its walls. His first account of his experiences inside prison – *Repression in Tunisia* – was smuggled to the outside world and was published in the magazine *Temps Moderne* in April 1979. He then discovered “another way to campaign for his cause, which was not overtly political”. The struggle to defend human rights then became the centre of his life.

Upon his release from prison in August 1979, Ahmed Othmani joined Amnesty International (the French section having adopted him as a political prisoner in 1971) and founded in 1981, with his wife Simone, the Tunisian branch of AI – the first in the Arab World. In 1984, he moved to London where he became responsible for the development of Amnesty International programmes in the Middle East and North Africa. It was a difficult time as he explained: “When I arrived in an Arab country, I made a point of saying that I also worked with Israelis and that my wife was Jewish, so that things were clear from the start”.

It was his rigour and passion to defend human rights around the world that led him to found, in 1989, in collaboration with others including Vivien Stern from Britain, the new organisation *Penal Reform International* – an NGO composed of experts. Many states –such as Rwanda after the genocide in 1994 – called upon PRI to improve their judicial and penal systems.

“A man of honour and conviction” is how Robert Badinter described Ahmed Othmani, who has been a pioneer in his field, but all too briefly.

[1] Published by La Decouverte-Syros, 2002

http://www.lemonde.fr/web/recherche_articleweb/1,13-0,36-390396,0.html

TOP

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