

Mandate of the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: AL USA 17/2026

(Please use this reference in your reply)

30 June 2026

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolution 59/20.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning sex-based violence against a group of female inmates currently incarcerated in the Central California Women's Facility. Reportedly, they are forced to share intimate spaces with biological males, which results in their exposure to psychological, physical, and sexual violence, with the impact further exacerbated by their past traumatic experiences.

According to the information received

Case of [REDACTED]

Ms. [REDACTED] is an incarcerated woman currently serving a life sentence at Central California Women's Facility ("CCWF"). An observant Muslim, she regularly meets with her imam and wears a hijab. Ms. [REDACTED] survived severe domestic abuse and repeated sexual abuse throughout her childhood, beginning at the age of four. Domestic violence later continued in her marriage, as her husband had a documented history of abusing both her and other women. On 1 September 2002, she shot her husband in self-defense and unintentionally hit and killed a bystander, which resulted in her current incarceration and life-sentence.

Ms. [REDACTED] reports that observing the behavior of trans-identifying biological male inmates housed in her prison causes her fear and an exacerbated experience of Post-Traumatic Stress Disorder (PTSD), as the presence of criminal, intimidating males gives her flashbacks of her violent husband. Based on her observations, most of the trans-identifying biological male inmates transferred to CCWF do not make any effort to behave gently around female inmates or assimilate into CCWF culture. Moreover, her inability to choose who she undresses around and her helplessness to prevent trans-identifying biological male inmates from observing her while she undresses is additionally extremely distressing to Ms. [REDACTED], as it also violates her religious beliefs.

Case of Ms. Tomiekia Johnson

Ms. Tomiekia Johnson is a female inmate currently incarcerated in CCWF, who has a history of enduring physical and sexual violence by multiple assailants. Her victimization started during college, when one male acquaintance sexually

assaulted her, and another strangled her for several minutes. Following her marriage, the abuse escalated further. In one incident, her husband dragged her by the hair and repeatedly slammed her against the walls with such force that a ceiling fan collapsed onto her. He also raped and strangled her to the point that she believed she would die. On one occasion, after pointing a firearm at Ms. Johnson, he accidentally dropped the weapon. Fearing for her life, Ms. Johnson seized the firearm and shot him, resulting in his death. Despite this action being in self-defense, her use of force was classified as excessive, and she was sentenced to 50 years in prison.

Ms. Johnson was diagnosed with acute PTSD upon pre-trial evaluation for the murder of her husband. This condition is reportedly exacerbated by the presence of trans-identifying biological males housed at CCWF and her observations of their behavior. Moreover, Ms. Johnson witnessed and reported incidents of sexual harassment of another female inmate, Ms. Cathleen Quinn, by a trans-identifying biological male inmate, Mr. [REDACTED]. Mr. [REDACTED] is reported to be a large man who dresses and grooms in a manner viewed as very masculine and is not interested in making any effort to present as a woman. Despite a multi-witness report of his violent behavior, CCWF allegedly issued no reprimand and continued to house Mr. [REDACTED] close to Ms. Quinn.

Ms. Johnson also reported being aware of Mr. [REDACTED] stalking and attempting to rape another female inmate. Once again, CCWF allegedly took no disciplinary measures, and allegedly cited the fact that since this female inmate defended herself effectively, Mr. [REDACTED] could not be removed because his rape was only “attempted” and not completed. Ms. Johnson further reports knowing about Mr. [REDACTED] strangling an elderly female inmate and about an incident in which another trans-identifying biological male inmate vaginally raped a female inmate while she was unconscious. Rape was also allegedly witnessed by other inmates and while the rapist was temporarily removed from the housing unit in which he committed the rape, he was subsequently returned.

Ms. Johnson alleges that her reports to the prison have been consistently ignored, disregarded, and suppressed and that she faced retaliation from CCWF for making them.

For example, after Ms. Johnson, Ms. Quinn, and another inmate - who is a biological woman identifying as a man - reported Mr. [REDACTED] for sexually harassing Ms. Quinn, CCWF reportedly put all three women into solitary confinement, citing “safety” concerns. CCWF did not, however, punish Mr. [REDACTED] against whom they complained for his behavior and allowed him to continue living in proximity with his victims and other female inmates. CCWF also issued reports declaring that the women “falsely reported” him, although the reports were ultimately dropped because CCWF could not disprove the veracity of the reports.

Moreover, based on the information received, Ms. Johnson reports that while she has consistently met or even exceeded the criteria for re-sentencing or commutation, she has been told she is being denied parole for “political reasons.” CCWF has also allegedly presented her participation in the lawsuit

against the California Department of Corrections and Rehabilitation as proof that she holds bias against trans-identifying biological male inmates.

Case of Ms. Nadia Romero

Ms. Nadia Romero is a devoutly Catholic female inmate currently incarcerated in CCWF. She is also a survivor of severe sexual and physical abuse perpetrated by men starting from early childhood and continuing into the present. At the age of 11, Ms. Romero witnessed a relative rape a child in her family, and during her attempt to save that child, she was sexually assaulted herself. A year later, she was brutally raped by four different men. Due to such exposure to sexual trauma, Ms. Romero developed severe anxiety, depression, and substance abuse.

According to the information received, on multiple occasions in 2021 in CCWF, Ms. Romero was repeatedly subjected to unwanted physical touching by a trans-identifying biological male inmate while trying to complete a work assignment. She attempted to convince him to stop, but he refused. Feeling unsafe, Ms. Romero filed a grievance and requested that CCWF adjust her work schedule to not overlap with that of this trans-identifying biological male, expressing her fear for her safety and mental well-being. Her grievance was ignored. Instead, CCWF allegedly “lectured” Ms. Romero that her own experience of being harmed was not by a biological male but a “transgender woman” who should be referred to with female pronouns.

Being a devout Catholic, Ms. Romero reports that she believes that the concept of “gender identity” as opposed to biological sex conflicts with God’s design and that using an individual’s “preferred pronouns” is sinful, as it constitutes a lie. Additionally, she reports that having unrelated males and females living together and undressing in front of biological males conflicts with her sincerely held religious beliefs.

Ms. Romero’s reports that multiple harmful experiences with a trans-identifying biological male inmate have made her hyperventilate and suffer panic attacks when in proximity to any trans-identifying biological male inmate, exacerbating her PTSD symptoms. Since CCWF has placed numerous trans-identifying biological male inmates in the prison, these symptoms allegedly erupt constantly. Ms. Romero has also reported feelings of helplessness, despair, anxiety, and depression.

Case of Ms. Cathleen Quinn

Ms. Cathleen Quinn is a female inmate at CCWF who has reportedly suffered domestic abuse and mental illness since she got married as a teenager. She got married at 18 while struggling with depression after the death of her brother. Her husband reportedly physically and sexually abused her, and after the birth of her daughter, he allegedly controlled every part of her finances. He allegedly also attempted to drown her in a toilet and threatened to kill her if she tried to escape with the daughter.

Since her incarceration and being forced to live with biological male inmates, Ms. Quinn reports having experienced depression, mental anguish, and despair for her life. She developed stress-related alopecia and was prescribed medication to reverse the effects of this disease. Her alopecia was caused by a response to trauma and physical stressors.

On two separate occasions in February 2022, Mr. [REDACTED] allegedly “peeped” at Ms. Quinn through the frosted glass door while she was using the bathroom and naked from the waist down. Despite her request to go away, he stayed in front of the door and kept looking at her. His behavior was caught on video. Mr. [REDACTED] suffered no punishment, being allowed to remain in the same housing unit where he had invaded Ms. Quinn’s privacy in the bathroom. After she reported Mr. [REDACTED], allegedly as a response to the complaint, CCWF put her in solitary confinement.

It is also alleged that, a month after making a report, on 30 March 2022, Ms. Quinn was independently found suitable for parole. This began a 150-day waiting period during which her suitability would be confirmed, and she would be released. However, shortly after she was found suitable for parole, CCWF issued a Rules Violation Report (“RVR”) against Ms. Quinn, leading to her parole grant being vacated. The next year, Ms. Quinn appealed the RVR and, after 11 months, was found not guilty.

Nonetheless, CCWF’s parole board allegedly blocked her parole eligibility for an additional five years, this time by finding her guilty of “institutional misconduct.” Based on the information received, the sole “misconduct” cited happened prior to - and did not prevent - her initial suitability grant. It is further alleged that the Commissioner overseeing Ms. Queen’s parole hearing told her she “should have been quiet” about her “victimization” so she could have “gone home.” He also allegedly added that “I would not be out there, you know, trying to change the law.” Moreover, when Ms. Quinn spoke to CCWF’s Prison Rape Elimination Act (PREA) compliance manager, Captain Alonzo Padilla, he allegedly told her: “The bottom line is that you guys [female inmates] are always going to lose because their [transgender-identifying inmates] lawyers are better than your lawyers”.

Case of Ms. Channel Johnson

Ms. Channel Johnson is a female inmate currently incarcerated in CCFW who was also previously housed at the California Institution for Women (“CIW”). Ms. Johnson is a victim of sex trafficking, having been sold for sex from the age of 13. She is allegedly incarcerated for physically defending the safety of younger girls targeted by traffickers.

Ms. Johnson was assigned to a cell with a trans-identifying biological male inmate, Mr. [REDACTED]. At first, Ms. Johnson and Mr. [REDACTED] engaged in consensual sex. Subsequently, however, it is reported that Mr. [REDACTED] began stealing from Ms. Johnson, and prison staff learned about their relationship. After Mr. [REDACTED] was placed in administrative segregation as a disciplinary measure, he began demanding that Ms. Johnson deny that they

ever had a relationship. When she refused to do so, he allegedly threatened to rape and murder her. Mr. [REDACTED] also reportedly stole Ms. Johnson's mail, obtained her family's home address, and began mailing threats of rape and murder to her family, including her minor younger brother and nephew.

It is further alleged that despite both Ms. Johnson and her family reporting the threatening letters to CCWF, it was she who was transferred to another prison - CIW. No action was taken by CCWF to punish Mr. [REDACTED], whose background allegedly includes having raped a woman in another female prison. Ms. Johnson was moved back to CCWF in 2023 while Mr. [REDACTED] was still housed there. He threatened her upon arrival, saying, "I'm staying; you better watch out."

Law S.B. 132 - Transgender Respect, Agency and Dignity Act

Based on the information received, Law S.B. 132, the Transgender Respect, Agency and Dignity Act, added sections 2605 and 2606 to the California Penal Code, which requires the California Department of Corrections (CDCR) to house transgender, non-binary, and intersex prisoners based on their gender identity, regardless of their biological sex. The law came into effect on 1 January 2021. The S.B. 132 requires trans-identifying inmates "be housed at a correctional facility designated for men or women based on the individual's preference" and have an inmate's individual "perception of health and safety" given consideration for "any bed assignments, placement, or programming decision," including placing them in single-cell housing, and "housing the individual with another incarcerated person of their choice."

S.B. 132 does not require trans-identifying biological males to undergo "reassignment surgery" before transferring to a women's prison. Nor does it require an inmate to even be in the process of "transitioning," either socially or medically, deeming self-declaration to be sufficient. Thus, S.B. 132 empowers CDCR to place trans-identifying inmates who are biological males in a women's facility without any consideration as to their biological sex. S.B. 132 also requires the CDCR to address inmates with their preferred pronouns.

Allegedly known risks of implementing S.B. 132

Based on the information received, after implementing S.B. 132 and accepting trans-identifying biological male inmates, CCWF staff began to carry stronger pepper spray and were trained on harsher riot control measures. Additionally, only after the implementation of S.B. 132, the CDCR, CCWF and CIW budgets have increased to anticipate the need for condom and birth control access for female inmates. Allegedly, CCWF is distributing condoms to mitigate the pregnancy risks only present after trans-identifying biological males entered the prison.

Since the implementation of S.B. 132, it is alleged that the CDCR has transferred nearly 50 biological men into CIW and CCWF. Reportedly, many of these individuals have criminal histories of violence against women, posing a threat to female inmates' safety. CDCR allegedly reports that 33.8% of

potential trans-identifying biological male inmates who are seeking to transfer under S.B. 132 are registered sex offenders. It is further alleged that CCWF's facilities are overcrowded, housing as many as eight people in four-person cells with showers and toilets attached.

Without prejudging the accuracy of the information made available to me, I must express my serious concern regarding the alleged compelling situation of Ms. [REDACTED], Ms. Tomiekia Johnson, Ms. Nadia Romero, Ms. Cathleen Quinn and Ms. Channel Johnson who reportedly have to share highly intimate settings, including sleeping quarters, showers, and toilet facilities with biological males, despite the severe psychological distress, trauma-related reactions, and fear this caused them. Consequences of such unwanted exposure – unacceptable regardless of the additional factors present – would in their case be exacerbated by the failure to take into account their histories of male violence, mental health challenges and their deeply held religious beliefs. I am further alarmed by the allegation that complaints raised by these women were ignored or met with retaliatory responses.

The allegations received also suggest that the relevant authorities were, or ought reasonably to have been, aware of substantial and foreseeable risks associated with such placement. Given the information about allegedly known risks of implementing S.B. 132, including a highly disproportionate number of biological males seeking to transfer to women's prisons being registered sex offenders and prison conditions making it very difficult to detect violence and prevent it on time, failure to protect women in such a situation could amount to a blatant violation of their rights.

Moreover, should the allegations prove true, they would represent a stark example of discrimination against women on the basis of their status as women first, because no positive measures were taken to account for their sex-specific needs, and second, because they were treated substantially worse than biological male prisoners. Based on the information received, they were the ones punished for violence they did not commit but was committed against them.

I further wish to recall that States have a heightened duty of care toward persons deprived of liberty, especially those facing particular vulnerabilities such as women with known histories of sexual and domestic violence. Under article 10(1) of the International Covenant on Civil and Political Rights (ICCPR), "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Both the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) and the United Nations Standard for Rules for the Treatment of Prisoners (Nelson Mandela Rules) provide for sex-based protections for female prisoners, including their right to maintain appropriate privacy and single-sex spaces.

Two of the women in question – Ms. [REDACTED] and Ms. Nadia Romero – reportedly hold sincere religious beliefs, which would also be additionally violated by coercing them to undress when biological males could observe them or by compelling them to use the preferred pronouns, which in their view would constitute a lie. In this regard, I wish to recall that articles 18 and 19 ICCPR protect the freedom of conscience, religion and expression, and the limitations to them must be interpreted very strictly and be implemented only when necessary.

I am also very alarmed by the allegations that some of the women who reported sexual harassment, privacy violations, threats, or safety concerns were subjected to punitive treatment thereafter, including placement in solitary confinement, disciplinary reports, transfer to another institution, or consequences affecting parole eligibility. I wish to stress that article 2(3) of the ICCPR guarantees the right to an effective remedy for human rights violations and obliges States to ensure that individuals can safely access complaint and accountability mechanisms. Any retaliatory measures by those seeking to exercise their right to an adequate remedy are strictly prohibited under international law. The alleged retaliatory treatment would likely create a chilling effect, discourage reporting of the violations and further exacerbate the abuse.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please clarify allegations concerning the incidents involving Mr. [REDACTED] and Mr. [REDACTED], including whether investigations were conducted into the alleged acts of violence and the reasons why the alleged perpetrators reportedly remained housed in proximity to female inmates after complaints were made.
3. Please further explain the circumstances under which Ms. Tomiekia Johnson, and Ms. Cathleen Quinn were placed in solitary confinement, including reasons why this measure was considered appropriate for their safety as opposed to moving biological males to separate spaces.
4. Please provide information about the circumstances under which Ms. Tomiekia Johnson, and Ms. Cathleen Quinn, were denied parole, in particular in the context of the reported comments of the CCFW staff linking these decisions to their opposition to sharing intimate spaces with biological males.
5. Please indicate whether any remedies, protective measures, and psychological assistance were made available to Ms. [REDACTED], Ms. Tomiekia Johnson, Ms. Nadia Romero, Ms. Cathleen Quinn and Ms. Channel Johnson in response to the allegations described above. In particular, please also indicate whether any accommodations have been provided in connection with Ms. [REDACTED] and Ms. Nadia Romero's religious beliefs.
6. Please provide detailed information on any measures taken by the relevant authorities to assess and mitigate the risks posed to female inmates by

the placement of biological male inmates in women's correctional facilities pursuant to S.B. 132, including with regard to women with histories of sexual or domestic violence, PTSD, mental health conditions, or religious objections.

7. Please provide information on the criteria, procedures and safeguards used by the California Department of Corrections and Rehabilitation when determining whether a biological male inmate may be transferred to a women's correctional facility under S.B. 132, including whether criminal histories of violence against women or sexual offences are taken into account.
8. Please provide information on the number of biological male inmates transferred to women's correctional facilities pursuant to S.B. 132 since its entry into force, including:
 - (a) the number who are registered sex offenders;
 - (b) the number of complaints received from female inmates concerning sexual harassment, assault, intimidation, voyeurism, threats, or other safety concerns involving transferred biological male inmates.
9. Please indicate measures taken to ensure respect for the dignity, privacy, and safety of female inmates in women's correctional facilities, including with regard to sleeping arrangements, shower facilities, toilets, changing areas, and protection from observation by biological males while undressing or performing intimate bodily functions.
10. Please provide information on what alternative arrangements, if any, are available for female inmates who object to being housed with or exposed in intimate settings to biological male inmates.
11. Please provide information on the training and guidance provided to prison staff regarding the prevention of sexual and sex-based violence, protection of female inmates' privacy and dignity, and management of conflicts arising from the implementation of S.B. 132.

This communication, and any response received from your Excellency's Government, will be made public via the communications reporting [website](#) at the 60 days mark. Should Your Excellency's Government respond within 60 days, both the communication and the response, may be published before the 60 days mark. The communications and responses will also be made available in the subsequent periodic report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

I may publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

I would be grateful if this letter could also be transmitted to the attention of Mr. Gavin Newsom, Governor of California.

Please accept, Excellency, the assurances of my highest consideration.

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

Protections of female prisoners

The International Covenant on Civil and Political Rights (ICCPR), ratified by the United States on 8 June 1992, prohibits torture, inhuman and degrading treatment or punishment (article 7), provides for the right to security of a person (article 9), and ensures humane treatment of persons deprived of liberty (article 10). Under article 17 of the ICCPR, no one shall be subjected to arbitrary or unlawful interference with their privacy, including correspondence. Furthermore, article 26 of the ICCPR not only enshrines a general right to equality before the law but also directly prohibits any discrimination and guarantees to all persons equal and effective protection against discrimination, including on the basis of sex.

Regarding the right to the security of a person, in its general comment No. 35, the Human Rights Committee recalled that it obliges the states to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. Therefore, “states parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.” They are obliged to address the patterns of violence, such as intimidation of human rights defenders, retaliation against witnesses or violence against women (CCPR/C/GC/35, par. 9).

Moreover, according to the Human Rights Committee, article 10(1) imposes on State parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty (HRI/GEN/1/Rev.1 at 33 (1994), par. 3). The State therefore bears a heightened duty of care to those whom it detains. The Human Rights Committee in its general comment No. 16 further clarified that “arbitrary interference” in one’s privacy can also extend to “interference provided for under the law” (HRI/GEN/1/Rev.1 at 21, par. 4).

While the United States has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), by signing the Convention, it expressed, under article 18 of the Vienna Convention on the Law of Treaties, its intention not to defeat the object and purpose of the treaty. Article 1 of CEDAW, commonly understood as its primary object and purpose, refers to the discrimination against women on the basis of sex that has an effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women of rights on an equal basis with men. Signing CEDAW, therefore, obliges states not to engage in such discrimination.

Moreover, the Preamble to the UN Declaration on the Elimination of Violence against Women recognizes “that violence against women is a manifestation of historically unequal power relations between men and women, which have led to

domination over and discrimination against women by men. Article 1 of the Declaration on the Elimination of Violence against Women defines "violence against women" as any act of "gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts. (A/RES/48/104).

In the same vein, while the United States has not ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), the fact of signing it still makes its key provisions relevant to a great extent, especially when they are also repeated in the Universal Declaration of Human Rights (UDHR), which might be regarded at the current point as having acquired a status of customary law. Article 11(1) of ICESCR as well as article 25(1) of the UDHR recognize the right of everyone to an adequate standard of living, including adequate housing. "Adequate" means also that housing must provide the greatest possible degree of privacy and security and be culturally appropriate. In determining what is "adequate" housing for female prisoners, their sex-specific needs must therefore be taken into account

Similarly, the ICESCR recognizes in article 12 the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Article 25(1) of the UDHR specifies that the standard of living must be adequate for one's health and well-being. Compelling female prisoners who are survivors of violence to share intimate spaces with biological males, especially when it results in an acute onset of their PTSD and directly profoundly disturbs their mental health, would strongly contradict the very essence of the right to the highest attainable standard of physical and mental health.

According to rule 1 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), account shall be taken of the distinctive needs of women prisoners in the application of the Rules. Rule 6 requires health screening of women prisoners for mental health-care needs, including post-traumatic stress disorder, sexual abuse and other forms of violence that may have been suffered prior to admission. Rule 13 stipulates that "prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support." Under rule 31, "clear policies and regulations on the conduct of prison staff aimed at providing maximum protection for women prisoners from any gender-based physical or verbal violence, abuse and sexual harassment shall be developed and implemented. " Furthermore, rule 11(a) of the United Nations Standard for Rules for the Treatment of Prisoners (the Nelson Mandela Rules) stipulates that "men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate," because of the risk male inmates pose to female inmates

The Special Rapporteur on violence against women and girls, its cause and consequences in her report A/HRC/59/47, stated that the erasure of sex as a distinct vector of analysis within law and policy obscures the unique vulnerabilities of females, increasing the risk of exploitation. Based on the report, the "denial of the sex-specific needs of females who are victims results in a failure to provide appropriately tailored protections, such as single-sex facilities, services and spaces. Female-only spaces are essential in contexts in which women are especially vulnerable or require privacy from

men...Women may feel bullied, harassed or humiliated for being forced to share intimate spaces with males who identify as women, or participate actively in “affirming” their colleagues’ gender identity.” (A/HRC/59/47, paras. 28-29, 62(e)) The Special Rapporteur also called on states to protect the rights of females to female-only spaces in situations in which such spaces are necessary and proportionate to the legitimate aim of ensuring the safety, dignity and protection of females.

Freedom of thought, conscience, religion, expression and opinion

Article 18(1) of the ICCPR stipulates that “everyone shall have the right to freedom of thought, conscience and religion article 18(2) specifies that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” The Human Rights Committee explained that persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint (CCPR/C/21/Rev.1/Add.4, par. 8). Coercing female prisoners for whom modesty is one of the key aspects of complying with their religious obligations to undress in the presence of biological males, therefore, would violate their freedom of conscience and religion and have a disproportionately negative impact on them.

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media.” Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order or of public health or morals; and (iii) be necessary and proportionate for those objectives. The Human Rights Committee in general comment No. 34 noted that “No person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a political, scientific, historical, moral or religious nature.” (CCPR/C/GC/34, par. 9). Compelling a woman to use the pronouns that do not correspond to the biological sex of another prisoner, particularly when accompanied by a threat of sanction, would thus amount to the violation of her freedom of expression.

Right to an effective remedy and protection from retaliation

The right to access to justice for women and girls in cases of human rights violations is closely linked to the obligation under article 2(3) of the ICCPR to ensure an effective remedy, which is also included in article 8 of the UDHR. The Human Rights Committee has clarified that those remedies include the duty to investigate and bring perpetrators to justice. A failure by a State Party to investigate allegations of violations could in and of itself, give rise to a separate breach of the Covenant. According to the Committee, “the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities,” which places both negative and positive

obligations on prison administration. (CCPR/C/21/Rev.1/Add. 13, paras. 8 and 18). In the same vein, the CEDAW Committee affirmed that under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation (A/47/38, par. 9).

Notably, as under the articles on Responsibility of States for Internationally Wrongful Acts, “the conduct of any State organ shall be considered an act of that State under international law” regardless of the organ’s position or functions (article 4), any retaliatory actions taken by the prison administration are attributable to the state, which bears responsibility for them.

Under rule 57(1) of the Nelson Mandela Rules, “Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.” Furthermore, rule 57(2) provides that safeguards shall exist to ensure that prisoners may make complaints “safely and, if so requested by the complainant, privately,” and they must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.

Moreover, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders in article 12 requires States “to take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.” Similarly, under the United Nations Declaration on the Elimination of Violence against Women (1993), states are required to pursue, by all appropriate means and without delay, a policy of eliminating violence against women; to exercise due diligence in preventing, investigating, and punishing acts of such violence; and to provide access to just and effective remedies for victims (A/RES/48/104).