

## A Human Rights Focus

ACTCOSS strongly advocates that the development of a prison for the ACT accepts as a principle that prisoners are entitled to recognition of their human rights under all international human rights instruments. We draw particular attention to the specific rights outlined by the Government in introducing the ACT Human Rights Act 2004 (the Act). Drawing on the preamble of the Act, ACTCOSS maintains:

*Human rights are necessary for individuals to live lives of dignity and value:*

Custodial sentencing imposes a restriction on the liberty and movement of offenders, it does not remove their other human rights. Prisoners have the right to dignity and recognition of their inherent value as people. Practices within the prison must have this as an underlining principle.

*Respecting, protecting and promoting the rights of individuals improves the welfare of the whole community:*

ACTCOSS believes this is a cornerstone of civil society. In a direct way, providing supports and services that address the issues which may have contributed to an individual's contact with the corrections system meets that obligation. The strong evidence regarding the high level of negative health outcomes, mental health issues, suicidal behaviour, substance abuse, violence and sexual abuse that has been experienced by those in custodial facilities must be responded to, to provide them an opportunity of rehabilitation and reintegration into the community at the conclusion of their custodial sentence.

*Setting out these human rights also makes it easier for them to be taken into consideration in the development and interpretation of legislation.*

Clear legislative frameworks and transparency around the implementation of these frameworks is essential to ensuring an appropriately managed prison that complies with the Human Rights Act. Accountability and transparency of policies and practices is vital, and objective scrutiny of these needs to be built into the process.

*This Act encourages individuals to see themselves, and each other, as the holders of rights, and as responsible for upholding the human rights of others.*

The administrators and service providers within the ACT prison have an obligation to ensure that the rights of prisoners are recognized and protected. There is also an obligation to ensure that inmates understand their rights and have access to the remedies that will be offered to other community members who feel their rights have been infringed.

*Few rights are absolute. Human rights may be subject only to the reasonable limits in law that can be demonstrably justified in a free and democratic society. One individual's rights may also need to be weighed against another individual's rights.*

The rights and needs of particular cohorts within the community must be recognized and responded to. In looking at the issues for women facing custodial sentences, there is the need to draw on best practice, and the use of residential and separate facilities that appropriately respond to the needs of women, and ensure that they don't become even more marginalised even within the prison population.

*Although human rights belong to all individuals, they have special significance for Indigenous people—the first owners of this land, members of its most enduring cultures, and individuals for whom the issue of rights protection has great and continuing importance.*

The particular rights, as well as the challenges and barriers facing our Indigenous community must be recognised in the planning and establishment of a prison. The cultural issues and the additional risks need to be explicitly addressed in the design, establishment and operation of any correctional facility within the ACT.

## POLICY

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ACTCOSS believes that early intervention, diversion and non-custodial sentencing should be the cornerstones of corrections policy. ACTCOSS strongly supports innovative models which utilise concepts such as restorative justice and the like as a way of providing options that do not include custodial sentences. ACTCOSS supports a policy where custodial sentences are seen as a last resort

This is in recognition of the fact that custodial sentences have failed as a method of rehabilitation. ACTCOSS notes, however, that most often custodial sentences are imposed to meet a community demand for punishment of crime.

ACTCOSS recognises that the number of prisoners sentenced from ACT jails into NSW facilities has continued to increase over the past decade. Therefore, ACTCOSS believes that there is a strong case to support the need for a prison in the ACT to address:

- The primary concern, which is to ensure that prisoners are able to maintain links with family and community (particularly noting the needs of children with parents in custody);
- The desire for the ACT to control the outcomes for people in prison;
- The desirability of ACT community organisations to be able to provide services to prisoners and their families in a holistic and restorative way;
- To better integrate corrections services into the wide suite of rehabilitative and restorative practices; and
- The financial drain on the ACT economy of continuing to send prisoners across the border the New South Wales.

ACTCOSS believes that the following are vital in the development of a new prison in the ACT:

- That the whole suite of human rights instruments that are applied to the community are applied to the residents of any corrections facility;
- the prison is complemented by the development of best practice, community-based, restorative, holistic sentencing models;
- there is transparency of contractual arrangements involving public funds and rigour and efficacy in the regulatory regime of the corrections service;
- There is transparency and accountability around practices within the prison (eg introducing independent official visitors that are reflective of the population);
- That there is the provision of specific programmes that address the needs of prisoners (including medical intervention, response to drug and alcohol issues, suicide prevention and response where there are issues of violence and abuse);
- that the specific needs of vulnerable groups of prisoners are responded to, including the needs of women prisoners, people with intellectual disabilities, Indigenous prisoners and prisoners from culturally and linguistically diverse groups;
- there is the development of new and emerging corrective services functions; and
- there is a focus on the advocacy of the rights, needs and interests of prisoners and their significant others, including the involvement of prisoners and ex prisoners in management and oversight

In relation to a women's prison, ACTCOSS continues to point to best practice models which support a residential and separate facility to a men's facility, where women's ongoing roles as carers can be maintained, and women are able to access appropriate supports and services. We reiterate that, particularly for women, custodial sentences must be only used as the option of last resort and every effort must be made for placement in community-based programs before considering a custodial sentence.

ACTCOSS will continue to support informed community debate and input into the discussion regarding the development of a prison for the ACT, through support for mechanisms such as the Community Coalition on Corrections and Women in Prisons Group.

Adopted by the ACTCOSS General Committee April 2006.