



# **Review of results**

**Project: “Penal Justice and  
Gender”**

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## **Executive summary, conclusions and considerations**

The Penal Justice and Gender project (JUSPEGUE) implemented by the Institute of Comparative Studies in Penal Science in Guatemala (ICCPG) started in 2003 and is still in progress in 2007. Based on the ICCPG experience in penal justice research and imprisonment issues, a study on women's situation was initiated because of lack of knowledge and attention to women who are deprived of their freedom. JURK (Legal Advice for Women) is the lead organisation for this project in Norway assisted by FOKUS.

This review of the results was developed on the basis of written information about the project and the collection of information through interviews and visits in Guatemala between October 15<sup>th</sup> and November 10<sup>th</sup> 2006.

The starting point of this project was the lack of knowledge concerning the situation and the first step was to investigate the women's situation in order to be able to develop action strategies. The project amended its objectives in 2005 and the present goals are:

General objective:

***Contribute to that the penal law system guarantee respect for the human rights of women deprived of their freedom.***

Specific objectives:

- I. Promote the necessary conditions of receptivity so as to incorporate the gender perspective in penal law***
- II. Help civil servants administering the law to apply a gender perspective in cases involving women.***
- III. Create legal tools and mechanisms to guarantee respect for the human rights of women in the penal system.***

The main conclusions of this report are:

An important result of this project is the existence of a watch dog for the rights of women deprived of their freedom by the penal system. This did not exist before; and the fact that this now exists puts more pressure on the authorities who are responsible to guarantee the respect for the women's human rights. To guarantee respect for women rights in this situation is a long-term task in a system such as the Guatemalan one and it is vital that such a watch dog function exists.

This review concludes that the project has complied satisfactorily with its specific objectives;

The conditions for incorporating a gender perspective in the penal justice system are better today than four years ago. Knowledge has been created; mass media pays attention; more actors include the issue of women and penal justice in their agenda; there is pressure towards the authorities to improve the situation and some of the proposals from ICCPG have been implemented by the authorities.

Civil servants have access to tools for gender analysis within the penal system and in the application of the law, many have received training and there are examples of application of gender analysis in trials against women.

Mechanisms and instruments for monitoring of the situation of women in prison have been created; the cases of strategic litigation are creating juridical precedents and ICCPG has contributed to the approval of a new law regulating the penal system.

Of the specific results we can emphasize the following ones:

- ⇒ Knowledge generated on the situation of women deprived of freedom has been spread through campaigns, consciousness raising and training courses and had an impact in mass media, among civil servants, vulnerable women, women's associations and international organisations.
- ⇒ Among state civil servants the most evident results are found among Public Defenders. Tools exist to incorporate the gender perspective in penal justice, which have already been applied in specific cases by Public Defenders.
- ⇒ A permanent monitoring mechanism on the situation of women deprived of freedom has been established and there is a systematic follow up of the development of their situation.
- ⇒ There has been an increase of complaints against police abuse, especially sexual violence against women.
- ⇒ The first case against a policeman for rape in a police station is now being tried. This is a very difficult trial within the law system and due to intimidation of the employees of ICCPG and the person who has launched the accusation.
- ⇒ 13 cases of strategic litigation have been launched with a gender perspective; where punishments have been less than expected, with sentences in favour of, for example rights to proper health care in custody centres and attention to cultural rights for indigenous women.
- ⇒ ICCPG has contributed to the approval of the new Prison System Law which opens up expectations for improving the situation.
- ⇒ Women who have been identified as being vulnerable to abuse of the penal system and women's organisations that have participated in training courses have now at their disposal better tools to defend their rights and some examples exist where these tools have been used to defend other women specially against police abuse.
- ⇒ Women deprived of freedom have better access to assistance and defence.

This report of the results has identified a series of immediate results and effects of this project. It is also necessary to ask what happened to in general to the situation of women in their transit through the penal system. This project advantage is the existence of a baseline and a follow-up with quantitative studies, the last of which was implemented at the end of 2006.

Compared with 2005 data, we can see that some progress has been observed according to this study;

- There has been sexual violence, but no cases of sexual violation
- Women's detention at police stations has strongly decreased
- The percentage of violation of the legally permitted detention time before presentation to the judge has diminished.

These three issues have been central matters for the campaigns and for the proposals of project. In this case, ICCPG JUSGEGE has been the main actor to launch the issues. It is possible to attribute the improvements mainly to the project work, as they do not correspond

to a general improvement of police action. At the same time, serious problems still remain concerning ill treatment of women, respect for due procedure and to their rights in general.

This review concludes that the project has been well designed with an appropriate methodology. Clear objectives and results with indicators were established. Even so, the general objective is quite ambitious. Some of the indicators could not be used due to lack of information, as for example the percentage of civil servants applying a gender perspective in their work. If it is too costly to get the information required, it is better to change or revise the indicator.

The main challenge to this project is how to achieve that the institutions within the penal system assume the commitment to respect women's human rights and implement it consequently without constant external pressure. The development of the project has shown that it has been necessary with an active role of ICCPG JUSPEGUE in order to achieve results and it has been difficult to achieve that the state institutions assume their role. The changes required in the penal system are profound and depend on political circumstances in many respects out of reach for the project.

There are certain dynamics in the project at present that will influence future developments:

The trial against the policeman accused of sexual violation has turned out to be more complex and demanding in terms resources (especially human resources) than expected. This has, and will have, several implications. Firstly in terms of security: Both the victim of the violation and ICCPG JUSPEGUE staff have received threats to their lives and it has been necessary, particularly in 2007, to implement measures and seek support for protection. At least during the duration of the trial it will be necessary to invest time and resources in order to secure its progress and the protection to staff and victim. This is worthwhile as this case is strategic and might have an important impact. At the same time it can be expected that it will consume much of JUSPEGUE's capacity in the near future.

This review has underlined the importance of the watch dog function for women selected by the penal system and that ICCPG has credibility and professional capacity to comply with this task. ICCPG JUSPEGUE has managed to implement a comprehensive strategy in spite of limited resources. At present the monitoring and advocacy depends largely on ICCPG JUSPEGUE. It is worthwhile to explore if it is possible to strengthen the capacities of the women themselves to monitor the situation and voice their opinion on the reality they are living.

### 1. Previous history

The Institute of Comparative Studies in Penal Science in Guatemala (ICCPG) is an academic organisation in the field of Human Rights and Criminal Policy. ICCPG started to introduce a gender perspective into its programs in 2001. As a result of this they decided to develop a project so as to better understand the situation of women deprived of freedom in order to seek improvement in their situation in relation to the judicial system and in the prisons.

ICCPG has wide experience concerning penal law; included prisons for men and women, but for the latter had not applied a gender perspective. Only 5% of people in prison are women and up to now there has been little knowledge of and interest as to their situation, as they are a minority and as there are less problems than in prisons for men.

ICCPG has had difficulties in finding support for this work. In 2002, the project was presented and recommended to the representative of the Women's' Committee of LAG who contacted FOKUS. It was considered that this could be an interesting project for JURK, who after being consulted, showed an interest and asked for assistance through FOKUS in 2002. The project was approved and started in 2003. This is how the program of Penal Justice and Gender (JUSPEGE) was created.

The project has a general objective to<sup>1</sup>:

***Contribute to that the penal law system guarantee respect for the human rights of women deprived of their freedom.***

Specific objectives:

- IV. Promote the necessary conditions of receptivity so as to incorporate the gender perspective in penal law***
- V. Help civil servants administering the law to apply a gender perspective in cases involving women.***
- VI. Create legal tools and mechanisms to guarantee respect for the human rights of women in the penal system.***

### 2. Purpose and methodology applied in the report of results

The main purpose of this report is to present the results at the end of four years of project implementation. Moreover an assessment of the work efficiency, its relevance in the Guatemalan context and in relation to the FOKUS projects strategy is made.

The terms of reference of this evaluation will be found at the end of this report.

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<sup>1</sup> As we will see further on, some objectives have been expressed for the first project period and reformulated in 2005. These are the 2005 targets.

We have to emphasize that this is not an external evaluation, as Beate Thoresen presently works with FOKUS. This work was planned while she was working as an independent consultant in Guatemala, but a few months before implementing this job, she was contacted by FOKUS. FOKUS considered that this job should be made as a results review.

The review was made in Guatemala between October 15<sup>th</sup> and November 10<sup>th</sup>, 2006. The methodology adopted was to review the written information on the project and partially structured interviews with ICCPG and project employees, with institutions and organisations involved in this job and with the target population. Two visits to prison centres in Guatemala City were included. A complete list of these meetings will be found at the end of this report.

The report focuses mainly on the project results and also includes previous data about the situation of women deprived of freedom in Guatemala; a statement of the project relevance in Guatemala and in regard of FOKUS projects strategy; and finally, a note on project efficiency. The main conclusions and consideration can be found in the summary at the beginning of this report.

### **3. Situation of women deprived of freedom**

So as to understand the challenge that this project had to cope with, it is important to take into consideration the previous situation of the penal law system in Guatemala and of women deprived of freedom.

Due to Guatemala's history of military dictatorships and the internal armed conflict which lasted 36 years, the system of law was weak and practice was arbitrary. The peace agreements which were signed in 1996 proposed a reforms agenda and during recent years, there have been attempts and support to strengthen new systems. Amongst others things, a Civil National Police (PNC) was created. However, a tradition of impunity still remains in the country, and the PNC has had to face severe accusations of relationships with organized crime and practices which have been inherited from authoritarian governments, and the judicial system has limited capacity. Again Guatemala has experienced a great increase in violence in recent years, including an increase in the murders of women, and only a few cases have been investigated and tried by the judicial system. There has been little attention given to the prisons situation. However, due to the problems of escapees, revolts in men's prisons, as well as links between organized crime and prisons, the prison reform agenda has recently become the priority.

Knowledge about situation of women deprived of freedom represents a project result, as there was very little information or analysis of this subject.

From 1996 to 2003, there has been a general increase in the population deprived of freedom in Guatemala. In the case of women, there has been a 55% increase. In 2003 there were 463 women in jail. Most of the women deprived of freedom are under 37, subject to custody because of a minor offence, with low income and low school attendance, and many are unmarried mothers. According to the ICCPG data, 47% of the women are or were victims of family violence. Women dedicated to prostitution, workers of **export** industries and those who live with men suspected of offences such as abduction, murder and traffic in narcotics, are the main victims.

As far as their stay in the penal system is concerned, most violations of the women's rights are committed by the police immediately after detention. There are illegal arrests and the women are often kept in the police station for a long period without being sent to the competent judge. Women are not aware of their rights and they do not receive information about them. Major problems detected are corruption, abuses against their physical integrity, rapes and torture.

The majority of the women deprived of freedom are in custody and in reality this practice constitutes almost an anticipated sentence. There are serious problems during the judicial procedure as regards the limited possibility for effective defence and effective defence strategies. As far as indigenous women are concerned the deficiencies are also due to the lack of translations in the trials.

In jail – custody or sentence completion – there are serious deficiencies in the attention paid to health, access to education and work. Most of the women have children and they have to cope with problems of care, either if they remain with them or in somebody else's care. Actions and /or reintegration support programs after jail are also lacking.

We include hereafter a summary of the main conclusions of the investigation carried out by ICCPG.

#### Summary of the research conclusions:

- *The most serious violation of human rights against women in the penal system, occurs during police custody, during the very first moments of their freedom deprivation.*
- *Illegal arrest and custody; verbal and physical attacks; tortures; sexual violence; extortions and threats represent the most serious violations.*
- *There are several factors which furthers police illegal and arbitrary practice; practice inherited from the internal armed conflict, specially sexual violence, firmly rooted in the police; weak internal police control; lack of a police career system; weak legal control to prevent police abuse; no relevant and accurate registers about police abuse towards women. Only 10% of police members are women and most of them are confined to administrative jobs.*
- *Custody while awaiting trial distorts the operations and functions of the penal system by serving as an anticipated sentence. According to the study, 67% of women deprived of freedom are innocent.*
- *When a provisional sentence is laid down, judges do not analyze the proof in hand or the circumstances of the event that could show the lack of or limited contribution of accused women, especially as far as abduction and traffic in narcotics offences are concerned. Collected information shows that most of the women accused of these offences were caught because they knew some of the members of the gang or only because they were physically on the spot where the arrest was made.*
- *Files analysis show technical deficiencies in the defence and in the construction of the case strategy, as nobody put forward extenuating circumstances or modifications of the penal responsibility in favour of the incriminated women.*
- *Women do not know their rights and have limited communication with the person in charge of their defence, something which prevents this person from knowing her life story and from preparing a strategy suited to the case.*
- *The custody centres in the interior of the Republic lack work, educational and health programs. Generally speaking, general conditions do not exist to give an adequate medical assistance.*
- *The disciplinary system is arbitrary and furthers the abuse of power.*
- *During custody and also during sentence, discriminatory acts against indigenous women are carried out. Another group which suffers from discrimination is the homosexual women.*
- *The prison system does not include programs of after prison assistance, which gives little chance of social rehabilitation for free women.*

## **4. Project methodology**

The systematic methodology which has been implemented for this project has been critical in obtaining results. For this and for the purposes of learning, we are including an interpretation of the main elements of the methodology.

- **Importance of generating knowledge:**

ICCPG JUSPEGE devoted the first part of the project to a study. The basic study was published in a book “Women in jail... their difficult transit in the penal justice” in October 2004. Later, in 2005, they carried out a quantitative study, published under following title “Figures on Police Crimes against Women”. Both studies have been recognized by other actors as being well documented and giving substantial information on an issue which is generally unknown.

They emphasize the importance of generating knowledge on this issue so as to try to develop accurate strategies of work to change the situation. This was particularly relevant as there was no specific knowledge of the situation of women deprived of freedom, when this work was initiated. The in-depth analysis of the situation of women deprived of freedom is the foundation for the project work strategy.

Starting from that point, strategies were defined for:

- **Permanent monitoring**

Studies gave a good base line and in order to keep actual information it was decided to encourage permanent monitoring in detention centres. This mechanism has the advantage of giving the possibility of getting to know quickly of worrying situations and it is expected to function in a preventive way, because authorities know that situation is under observation. This mechanism has been directly established by ICCPG JUSPEGE in cooperation with PDH (the human rights ombudsman), especially in the interior of the country. At the end of 2006, a new quantitative study was also implemented to identify possible changes in the situation.

- **Making the situation known**

Information collected on the situation of women deprived of freedom showed serious violations of their rights. ICCPG JUSPEGE decided to make this situation known to the public. For that purpose, they started a campaign in the media so as to disclose information. In addition, they published a leaflet with easy access information (in the colours of the Civil National Police). Publicity made on this issue was important in order to attract attention on this matter. For financial and sustainability reasons, the campaign concentrated on sensitizing journalists or those in charge of communicating this issue so as to obtain maximum coverage in mass-media.

- **Get proposals**

ICCPG JUSPEGE developed some proposals to change the situation of women on the basis of the completed study. Concrete proposals for action were sent to the different penal system actors, and also to civil society.

- **The Lawsuit as a strategy for influence**

Using lawsuits was assumed as being part of project strategy due to the limits in the women's capacity to defend themselves and in order to accompany women involved. However, it is not possible to assume a large number of cases and it was decided to look for exemplary cases in the different problem areas (ex. Health access, sexual violence, discrimination, application of gender perspective). This strategic litigation has as its objective to influence the penal system and the government. It also opens up the possibility of taking advantage of international organisations which could influence national practice, such as The Inter-American Committee Court, the United Nations Organisation, Committee against Torture, women's relatives, prisons and justice defenders and the CIIDH.

- **Making people more sensitive to the necessity for change**

For the target groups, different strategies have been defined to make people aware in order to create knowledge on those problems and on the necessity for change.

- **Training to know rights and change practice**

Training is linked to the sensitization of groups. Some different strategies have been defined according to a target group; from training in rights for vulnerable women deprived of freedom to technical training for civil servants within the institution. For that purpose, a handbook has been developed and published – Penal Justice and Gender Handbook – together with training descriptions. It is worth saying that those training books and materials are of high quality. Efforts have been made to develop good contents and also a training methodology. Results among women's' groups who received this training, show that methodology was good and relevant.

- **Having target groups clearly defined**

When defining project target groups, ICCPG JUSPEGE was looking for:

- authorities with authority and power to change the situation
- possible allies to encourage those changes

### ***The allies***

Among the allies, they identified *women's organisations*. However, there were important challenges to succeeding in this relationship. ICCPG is an organisation which is within the human rights movements and had not developed a close relation with women's organisation. Moreover, the issue of women in prison or in conflict with the law was not on the agenda of the women's movement. Building a relationship required a closer and lengthy dialogue. The fact that ICCPG worked on a specific issue that had not been flagged by other organisations was an obstacle as it was necessary to convince and educate people on the relevance of this issue. At the same time, it was an advantage because they were not competing with other organisations on a same issue.

*The Human Rights Ombudsman (PDH)* was another possible ally. The PDH has a mandate to watch over the situation and to promote human rights. However, the PDH has not the capacity to implement studies or to record the situation and it did not have data on imprisoned women. The PDH has a department in charge of women's rights with presence in different areas of the country, and has the capacity to watch over the situation of women in conflict with law, outside the capital. ICCPG JUSPEGE managed to establish a relationship with the PDH, who considers now that ICCPG JUSPEGE is a resource for its own work in this matter.

*The Institute for Public Penal Defense (IDPP)* is an organisation created by the Peace Accords and is responsible for defending accused persons who do not have the necessary income to pay a lawyer. The IDPP is a key organisation for the women, as they are the ones who defend most of their cases. The IDPP becomes a possible ally as it works with accused women and as it has certain openness towards women's issues, especially because a woman is in charge of this organisation.

*Human Rights Organisation*, of whom ICCPG is part of, has had the prison situation on its agenda, but a special focus on women was missing.

*Women* are allies in this work and help to encourage changes. Within this group, there are accused and convicted women, together with women from vulnerable groups. ICCPG JUSPEGE has directly worked with women deprived of freedom, with women in prostitution and with organisations which work with vulnerable women. The project tried first to work directly with vulnerable populations, but changed its strategy to emphasize its interaction with other organisations, as it is very difficult to have the capacity to sustain a broad contact with vulnerable populations.

### ***The organisations which must change policy and practice***

To encourage changes in the way women are considered it was thought necessary to influence the different parts of the political and judicial system. The following authorities were defined as priorities:

- Ministry of Justice
- Ministry of the Interior
- The Civil National Police
- Judicial organisation and judges
- Penitentiary system

In addition, approaches have been made towards the National Congress of the Republic, in particular to especially to obtain a new Prisons Law and Regulations

## **4. Reporting the results**

In the report of the results we start from the expected results, with its indicators, formulated in the project. The evaluation period embraces two projects and includes results of both, for 2003/2004 and 2005/2006. It also identifies non-expected results and the way to succeed in obtaining the specific target.

⇒ **Avoid police abuse and incorporate the gender perspective in the penal justice.**

In the first phase of the project the aim was to create conditions to decrease police abuse to women. From 2005, there have been more efforts to make conditions favourable to incorporate gender perspectives in penal justice, still paying attention to the police abuse.

TARGET	EXPECTED RESULT	INDICATORS
<b>2003/2004:</b> <b>Objective I</b> <b>conditions have been created that lower the risks of police misuse to women</b>	> factors that provoke police misuse have been identified > justice area authorities take into account the proposals made by the institute for elaboration of policies which lower risks of police misuse > mechanisms that permit transparent information on police abuse have been established	<ul style="list-style-type: none"> <li>• three situations of police abuse against women in custody have been identified</li> <li>• the three most important factors that further police abuse on women in police stations have been identified</li> <li>• training units make necessary adaptation to their curriculum in order to avoid police abuse</li> <li>• proposals are discussed with authorities in charge of criminal policy elaboration</li> <li>• first year of mechanism implementation shows a 20% increase of denunciation of police abuse cases</li> </ul>
<b>2005/2006:</b> <b>Objective I</b> <b>Promote necessary conditions for incorporating gender perspective in penal justice</b>	> In 2006, penal justice civil servants, general society and international organisations for human rights, have knowledge about human rights violation on women deprived of freedom and are receptive to proposals for change	<ul style="list-style-type: none"> <li>• there have been 4 published works, in the different national media about women's situation, that have been selected by the penal system</li> <li>• Two human rights organisations and / or women movements denounce the violation of human rights of women accused of crimes and offences.</li> <li>• two denunciations from International Organisations, against violation of women rights have been selected by the penal system</li> <li>• significant increase of penal accusations in police abuse cases</li> </ul>

THE ICCPG studies identified situations of police abuse against women in custody; A key problem is the detention in police custody lasting longer than the law allows. The lack of police internal controls, lack of registration and investigation of abuse cases, the fact that consolidated police careers do not exist and the inheritance of arbitrary and illegal practice from the internal armed conflicts have been, among others, the most important factors that further the abuses.

ICCPG JUSPEGE has put forward proposals to improve this situation, among them tribunals on duty which facilitate the access of women in custody to be presented to a competent judge, and therefore the time remained in police station will be shortened. This system was successfully installed in Guatemala City, and thus reduced an abuse risk factor for women. The new quantitative study implemented by ICCPG at the end of 2006 shows that there was a decrease in the number of women who were admitted to the police stations. There was also a decrease in the percentage women who were held for longer than the established presentation time before their first declaration to a judge.

The project's objective was to make the number of complaints of police misuses against women increase and indeed it has been possible to notice an increase in this field:

- In 2003, the year this project started, there were 36 abuse complaints and 8 of sexual violence in custody situations.
- In 2004, these figures increased up to 99 police abuse complaints and 13 of sexual violence. This is to say a 275% and 162% increase respectively.
- The Professional Liability Office of the PNC informed that in 2005 there was a decrease in general complaints against PNC agents, but at the same time there was an increase of 42% of sexual violence complaints.
- We still do not have the 2006 figures.

A significant increase in cases of police abuse presented to the penal system was expected. This proved to be more difficult, especially in cases of sexual violence, where women fear to complain and assume the personal costs involved.

For the same reason, ICCPG JUSPEGE has achieved an important success when presenting a sexual violence case that took place in the Nebaj police station. The case experience confirms the security risk involved in bringing an accusation of police agents, and the victims as well as the ICCPG staff members have been threatened and intimidated. It is a great success that one of the policemen responsible for abuse has been arrested and that first trial against a policeman accused of rape will take place.

ICCPG JUSPEGE was able to organize 4 workshops on penal justice and gender with teachers of the Civil National Police Academy (PNC). However, PNC's managers have not willingly accepted the results of the ICCPG study, and they responded by denying the situation. It has been very difficult to communicate directly with PNC in order to convince them to change the situation and to change the Academy's curriculum. The PNC in general faces a very severe crisis with demands to clean up the institution because of its record of abuses and arbitrary practices.

In a situation where it is very difficult to interact directly, it became important to generate a change in public opinion and try to have an indirect influence through other actors.

Between 2004 and 2006, four **sensibility campaigns** have been carried out through the mass media:

- The immediate result of these campaigns has been the launching of 49 reports in the mass media (written press, radio, and television) based on the information given by ICCPG JUSPEGE in the campaign or in direct interviews. Taking into account the impact of such media, this opened the possibility for 85% of the Guatemala's population to be informed<sup>2</sup>. This is beyond expected results of the project.
- After the campaign, an increase in the number of news broadcast in the mass media concerning the police abuse issue has been noticed. Even if this is related to the discussion of the role of the police and crime in Guatemala, the campaigns were also a factor that contributed, as we can notice numerous articles with direct reference to the ICCPG's work.

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<sup>2</sup> Report: impact measurement – Mass media Campaigns, ICCPG,

- The campaigns contributed to establish ICCPG and especially the Gender and Penal Justice Program (JUSPEGE) as a reference for the journalists who had been sensitized on this issue. JUSPEGE is now seen as a reliable source of information in this matter.
- Public attention to this issue has contributed to create more receptiveness within the projects direct target groups, according to ICCPG JUSPEGE, as they are more open to receive their proposals.

The knowledge of rights among women vulnerable to police misuse can contribute to diminish these abuses. Vulnerable women's lack of knowledge of their rights was shown by the ICCPG study to be a serious problem. JUSPEGE started training with women involved in prostitution, identifying them as one of the most vulnerable groups in relation to the penal system.

- An important result of this process was the rights awareness, especially that prostitution is not a crime and therefore women cannot be arrested because they do it. This knowledge has contributed to help women, who are often victims of illegal arrests and police abuse, defend themselves. The women that were interviewed talked about situations where they avoided arrest because they argued that it was illegal. ICCPG has trained 65 women in vulnerable situation.

The project is not able to carry out a large training program with vulnerable groups. This is the reason why they decided to offer training to organisations which work with those groups. The organisations have been chosen in areas where high levels of police abuse have been detected. This is to say Guatemala City, especially to sexual workers, in Villa Nueva, where the police station with more abuse complaints is located, and also on the southern coast. Las Salas, in Guatemala City dedicate themselves to the work with sexual workers. ASIDEPROSA is a Villa Nueva network and at the end of 2006 contacts were established with Costa Sur.

- Las Salas now have methods to defend women who are in conflict with police. There still are misuses, but some women are more capable of defending themselves when Las Salas are involved. Women from Las Salas confirm that they frequently use the legal tools they have learnt, even if we do not have data or documented cases which prove this.

As an example of the results, we introduce the case of Villa Nueva women:

**The case of Villa Nueva women**

*The Integral Association for Health Promotion (ASIDEPROSA) stems from promoters trained by Villa Nueva Health Centre. They decided to create an independent association and they are now signing all legal papers. ASIDEPROSA has 50 members in 27 communities in the suburbs of Guatemala City with a population of 178 inhabitants. Each member does voluntary work for the community as health promoters, midwives or legal promoters, trying to anticipate and prevent problems in the community. They promote training in order to develop and be able to work effectively in the community. This is the reason why they were interested in the training course provided by ICCPG JUSPEGE on gender and penal justice, even if all people did not agree on the subjects.*

*Three changes or results can be noted from the women's stories:*

*\* Women feel stronger because they know the laws and they know where to go if they have a problem. Therefore, they also feel in a better situation to help other women. "We thought that when a policeman arrested a sex*

*worker this was legal. Now we know that it is not the case and that it is the policeman who acts illegally. Being sex worker is not a crime and the police does not respect the constitution”*

*\* “I was against them, I thought they were vicious, that they were guilty because they took married men’s money. I did not know how they suffer, that they do this because they have children. The training course showed me that I was discriminating them”. “I did not like the training course’s themes, but afterwards, I was convinced and now I am convinced that we must fight for them (sex workers)”. The women express that they had a very bad image of sex workers. The training course succeeded in making them identify with as women, recognising similar problems in their life situation. It seems that when talking about this group of women in a gender perspective it was possible to overcome prejudice and create reflection about their own conditions as women.*

*\* “this taught us to value ourselves as women. It made me think that we all are valuable. Sex workers are treated as if they were leprous, but they are women who are victims of a great suffering. All of us have suffered”. It made quite impression in the meeting that while reflecting on what they had learnt, the women started relating their own stories of suffering and violence. They had clearly been able to talk about this in the group and they had shared their experiences; they were very eager to talk. They also show a great fighting spirit to try to overcome this situation.*

*These women have started an organisational and training process with various associations. We cannot attribute to the project all that has been expressed. However, it was obvious that the training course on gender and penal justice had had an influence in the way of thinking and in creating a lot of reflection. They bring these thoughts in their personal life, but they also have turned them into action, trying to inform sex workers of their rights and help them know where to go in case of abuse. They felt as protectors, even if they confessed that it is necessary to know how to approach sex workers in order to support them and this is not always easy.*

**The women’s movement** is another actor that ICCPG JUSPEGE tried to get as an ally to change the situation for women deprived of freedom. They have managed to build a relationship, and ICCPG is now recognized as a major actor that can provide training to the movement in penal justice issues. ICCPG JUSPEGE managed to:

- Influence the women’s movement agenda that now integrates this issue of women and the penal system in its alternative reports and statements. Before it was an unknown issue. They admit that ICCPG has contributed to improve the movement’s proposals. In the movement, the inter-family violence was integrated as an issue and a few were considering the issues of violence by state institutions. The ICCPG JUSPEGE study also provided useful information in relation to the problem of assassinations of women – “The *Femicide*”. Sexual violence is another issue that has not been much dealt with within the women’s movement but that has been focused more based on the information from the study.
- The relationship that JUSPEGE built with the women’s movement entailed unexpected results in ICCPG institutional relations. ICCPG – SEDEM and CALDH (two other human rights organizations) are now working together on the issue of social cleansing. ICCPG – ECAP – UNAMIG and CALDH have made a consortium that works on sexual violence during the internal armed conflict.
- ICCPG has managed to contribute to the debate on penal justice inside the women’s movement. Part of this movement considers that sentences for violence against women should be strengthened, including even the death penalty. The inputs from ICCPG, who are against death penalty and have other opinions concerning the level of sentencing, have contributed to create reflection on this within the movement.

The study has also influenced other actors’ reports, for example:

- The PDH’s reports on the Human Rights situation

- The official report of SEPREM (Presidential Secretary of State for Women) on the Inter-American convention to prevent and fight against violence
- The country analysis reports of the Office of the High Commissioner of Human Rights
- The Association for Prevention of Torture of UN and the World Organisation against Torture, during a visit to Guatemala, condemned tortures to women perpetrated by the PNC according to ICCP JUSPEGE studies.

As concerns the objective of creating conditions to lower the risks of police abuse, we can note that there have been some success. Mechanisms such as tribunals on duty facilitate the women presentation to a competent judge in the within the time limit which has been established by law. The increase in complaints, especially cases about sexual violence, puts more pressure on police in order to make them improve their behaviour. There is more information and attention paid to the women situation among the actors defined as allies. This is reflected in the interviews made with the participants themselves. As far as the executors of the penal system are concerned, there are also some improvements (see hereafter), but there were also serious obstacles. It has not been possible to work directly with the PNC to change attitudes. Also, the State Prosecutor, with whom ICCPG had good relations and training programs, closed his doors after the criticisms presented by ICCPG to the present public prosecutor. The results that this work may have had on these actors are indirect and difficult to measure.

⇒ **Improve the defence and the penal process**

The project aimed first at identifying deficiencies and providing some tools to improve the defence of women and thereafter, to promote its implementation.

OBJECTIVES	RESULTS	INDICATORS
<b>2003/2004: Objective II</b> <b>Public Defence has tools that guarantee an efficient defence to women accused in a penal case</b>	<ul style="list-style-type: none"> <li>➤ Technical defence deficiencies have been listed in cases of accused women</li> <li>➤ the public penal defence institute integrates the project proposals in its training procedures</li> <li>➤ Public defenders use tools which allow a better technical defence for women on trial</li> </ul>	<ul style="list-style-type: none"> <li>▪ Five main deficiencies in the defence of accused women have been listed</li> <li>▪ Five strategies to overcome these deficiencies have been established</li> <li>▪ The results of the investigation and the training manual have been integrated into training programmes for public defenders.</li> <li>▪ In 50% of the cases where women were indicted, public defenders use the provided tools</li> </ul>
<b>2005/2006: Objective II</b> <b>Help justice civil servants to apply the gender perspective in women cases</b>	<ul style="list-style-type: none"> <li>➤ for 2006, the persons involved in a training process appropriate knowledge and basic tools related to gender category, perspective and penal justice that allow them to prepare process strategies in favour of women accused of crimes and misdemeanours</li> <li>➤the fact that training on gender issues is carried out, strengthens the civil servants judicial practice, in favour of women accused of crimes</li> </ul>	<ul style="list-style-type: none"> <li>▪ 5 deficiencies in the judicial practice of civil servants in the justice sector, in cases of women accused of crimes and misdemeanours, have been identified.</li> <li>▪ 75% of civil servants participating complete the training period</li> <li>▪ 75% of civil servants participating that complete the training period, use in a proper way the basic knowledge</li> </ul>

	and misdemeanours	regarding gender in the penal system <ul style="list-style-type: none"> <li>▪ 50% of civil servants who complete the training, use the tools relating to gender in their judicial practice</li> <li>▪ Already trained public defenders integrate a gender perspective in 6 of the cases of women accused of crimes and misdemeanours</li> </ul>
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Defence deficiencies were identified thanks to the study implemented.

Through this project, 96 permanent civil servants working in the Institute of Public Penal Defence (IDPP) have been trained, and this represents the total number of permanently employed defenders. In addition training has been provided to 82 public defenders employed on a case basis. The training consisted of introducing a gender perspective into the advocates' work, giving them the necessary tools to succeed. A central point was training on introducing gender perspective in defence strategies. At the beginning of the training, there was no knowledge of the subject and even opposition to the gender perspective.

Results:

- The IDPP gender unit has been strengthened and its role has changed. The IDPP gender unit was previously dedicated to social work among arrested women. This still persists, but now the major task is to facilitate the introduction of a gender perspective into in the work. Case files are now reviewed by the gender unit. The fact that IDPP has a woman manager with openness to the work has facilitated the process. However, the ICCPG JUSPEGE theoretical judicial approach and training efforts have been a key point.
- Advocates, according to IDDP and the interviews made with them, are more aware of the gender perspective. This can be seen in the case of lawsuit strategies. Advocates take the accused women's personal stories more into account, looking for a total picture of the woman's situation and not only the crime itself. A cultural approach is now seen as a necessity. There are now some examples of sentences incorporating this as well as a case in Jutiapa where the accusation was abandoned because of the introduction of this new perspective in the case.
- This review has not collected data on percentage of advocates who are implementing the new perspective. However, we can see a clear desire from IDPP's management to promote new lawsuit strategies and concrete examples where these were implemented. One obstacle has been the judges' disagreement with introducing a new way of considering proof and argumentation in lawsuits.
- ICCPG JUSPEGE together with the IDPP has presented police abuse cases and defended accused women where these strategies are implemented.

To sensitize judges, ICCPG JUSPEGE has carried out a training program for 46 judges of first instance penal court, but we do not know the impact of this in practice.

Referring to the indicators; there is information available on the civil servants participation and completion of the training processes, but not in general data which would allow us to

check if they use their basic knowledge in a proper way or if they implement gender assessment tools. Public defenders have at least included the gender perspective in 6 cases.

Regarding the specific results obtained between 2003 and 2006 we can give following conclusions:

IDDP has in hand tools for the effective defence of women, tools that were developed through handbooks and training prepared by ICCPG JUSPEGE. There are also clear indicators that show that these tools have been used in cases of lawsuit strategies. IDPP has created a system, with a gender unit, which supports the use of these tools.

As far as other state civil servants belonging to this system are concerned, some improvements in awareness and the knowledge of judges can be observed, but this is still at the very beginning. ICCPG JUSPEGE has not been able to contact the State Prosecutor for public prosecutors' training. Even if we had good relations with State Prosecutor before, the latter stopped our contacts with the institution, as ICCPG gave its recommendation to another general prosecutor because of the weak results under the present prosecutor.

The improvements of defence have had an influence on judges' decisions, as better arguments and presentation of proof are presented in the cases tried. However, the new way of bringing proofs has also had to cope with some opposition from the judges, as they are not used to taking into account aspects like the life stories of women.

⇒ **Respect of the women chosen by the system rights**

OBJECTIVES	RESULTS	INDICATORS
<p><b>2003/2004: Objective III</b>  <b>Mechanisms have been created that better guarantee rights of women deprived of freedom rights and the use of sentences other than prison.</b></p>	<ul style="list-style-type: none"> <li>➤ situation of women deprived of freedom in custody but also in prison after sentence, has been established</li> <li>➤ people in charge of defending women deprived of freedom use legal tools to improve their prison conditions</li> <li>➤ increased use of alternatives to prison and shortening sentences</li> </ul>	<ul style="list-style-type: none"> <li>• More frequent cases of human rights violation have been detected, in custody centres</li> <li>• Negative consequences of custody and arrest have been established</li> <li>• Authorities in charge of looking after the rights of women deprived of freedom have introduced three cases to improve their conditions</li> <li>• Procedures have been implemented to obtain jail benefits</li> </ul>
<p><b>2005/2006: Objective III</b>  <b>Generate tools and judicial mechanisms that guarantee human rights of women chosen by the penal system</b></p>	<ul style="list-style-type: none"> <li>➤ By 2006, 6 lawsuit cases have been examined, that are strategic from a penal point of view and relevant from a gender perspective serve as a reference for cases where women are accused of crimes and misdemeanours</li> <li>➤ By 2006, legal procedures have been implemented to approve Disciplinary Rule for Custody Centres for women deprived of freedom and continued advocacy to approve a new Prisons Law</li> <li>➤ A system of prisons monitoring is in operation and it is an effective control reference, for watching over</li> </ul>	<ul style="list-style-type: none"> <li>• 6 penal paradigmatic cases, concerning human rights violation, pursued in favour of women chosen by the penal system.</li> <li>• A Disciplinary Rule project for Centres for women deprived of freedom, in relation to civil society and jail system authorities</li> <li>• The 5 main deficiencies of Jail Centres have been identified. They entail violations of human rights for women deprived of freedom</li> <li>• 2 proposals for change concerning conditions of jail centres for women have been worked out</li> </ul>

System deficiencies and their negative consequences for women were identified thanks to the study implemented.

A monitoring mechanism exists for the jail centres for women with PDH, Public Defence and ICCPG collaboration. ICCPG JUSPGE carries out periodic visits to centres in Guatemala City. For the PDH Women's defence unit, the training and follow up of the monitoring mechanism gave a new direction to their work, knowledge on a new matter that they should check and at the moment they are visiting police stations in different regions of the country. Monitoring itself means a continuous vigilance of people in charge of the prison system. The visits to the centres are also an opportunity for women in prison to alleviate worries and obtain judicial assistance.

A total of 13 strategic litigation cases have been introduced in the penal field with a gender perspective, thus surpassing the 6 expected cases. Cases have been chosen after an analysis of the main problems that women have to cope with in the process from arrest to sentence and commitment in a custody centre. These cases are directly presented by ICCPG JUSPEGE or in collaboration with IDPP or PDH. In many cases a judicial audit has been carried out, from a gender perspective together with IDPP. Many cases are now in the process of being tried. Some successes have been noted as follows:

- Less severe sentences than expected for several women
- Attention to the lack of medical care in prison centres. ICCPG has managed through lawsuits to oblige the prison system to provide the attention and in one case to obtain freedom for a women suffering from a terminal illness. The denial of adequate and immediate medical assistance has been internationally condemned by the Inter-American Human Rights Commission. The need to present the cases at this level illustrate the existing difficulty involved in securing that the system answer to the medical needs of women.
- Attention has been paid to cultural aspects, especially the right to translation into the mother tongue: this is based on the case of two indigenous women who were convicted without understanding the nature of their own trial.
- Having been able to initiate a charge for sexual violation of a woman in arrest at the police station by the police and the arrest of responsible policemen. It has been difficult to get women to complain in such cases because of problems entailed during lawsuit, in their social environment, because of the threats and reactions of the police themselves and because of the difficulty in guaranteeing safety to the person. We have learned that psychological attention is needed for the woman involved in the case and she must also be followed up very carefully.

In this report, we have not been able to collect information on the alternative sentences to the deprivation of liberty.

A new prison system law with important input from ICCPG in cooperation with other civil society organisations has been approved. The project aim was to make some changes in the disciplinary system of jail centres, taking into account that a change of the law itself was necessary. ICCPG has campaigned for a new law knowing in advance that it would be difficult to succeed. As the new law has been approved, it will be easier to change the

disciplinary system in the custody centres and ICCPG participates in discussions on the new rules.

If we ask if the expected objectives have been achieved, it can be concluded that there are improved mechanisms to guarantee respect for human rights of women thanks to monitoring and strategic lawsuits. The contribution to the approval of a new Prison system Law is very important. The implementation of new mechanisms and their continuation depends mostly on the steady efforts made by ICCPG and it shows the difficulty in getting a penal system that assumes their responsibility without pressure. In health issues, there has, for example, been success in getting sentences that oblige the system to improve the situation for individual women, but there have also been serious problems with the implementation of the sentence. The challenge in this sense is still to get the system to assume respect Human Rights.

## **VII. Relevance**

Relevance will here be analyzed from two different angles. Relevance in respect of the situation for women deprived of freedom, and relevance for the situation in the country, especially for the women of Guatemala.

The project aims at improving the situation for groups of women deprived of freedom. It is a very vulnerable group that suffers serious rights violations. For the same reason working with women deprived of freedom is highly relevant. The only former initiatives to support this group of women that were identified were focused on social work or material support. This project provides legal help to women, but the main strategy is to change system conditions so that this system can establish a practice of respecting human rights for women. In this sense, this is a relevant project which embraces more women than those who are at presently deprived of freedom.

In its methodology, the project looks for changes in the penal justice system so as to improve women's situation. This means influence at an institutional level, and also in civil servants' attitudes and abilities. To succeed in this task, there has been work to sensitize public opinion and other groups that can contribute to push for the expected changes. This means that the project is relevant beyond women that have been chosen by the system. The project is also relevant for wide-ranging procedures of political debate and state reforms in Guatemala, such as:

- This issue is relevant for central political themes in society, that is to say, justice system reform, police role, penal system reform.
- Knowledge created by this project is relevant in relation to the serious problems of violence against women and it brings in new elements in order to understand the huge amount of women murders.
- The project has made people conscious of the situation women in very vulnerable conditions. This has also lead to debates on the general situation of women.
- The project was able to create links with other actors and from that point has generated new cooperation processes. It has helped to strengthen women's movements paying attention to and providing technical support on this issue.
- The project concerns palpable issues in Guatemala for respect of human rights and especially women rights.

## **5.1 Relevance concerning FOKUS project strategy**

- ***The projects have to have a clear gender perspective, focusing on woman and contributing to the promotion and strengthening of women rights:***

This project combines a strategy for the promotion of women's rights with the search for a gender perspective in penal justice in general. It clearly fills the FOKUS aim, which is to have a perspective directed at women.

- ***Women or girls must constitute the target group for all projects. Men can be included in specific activities where the goal is to improve women's situation.***

The final target group of this project is women deprived of freedom and groups of women vulnerable in the penal justice system. Work with other groups and institutions is included in order to promote changes in women's situations.

- ***Organising women is an important focus area. To be an active participant in the civil society, women's organisations have to be well working, well structured and have the necessary knowledge. Therefore, partnerships involving local women's organisations and the strengthening of women's competence and capacity will have priority.***

This project has no real component for promotion of women organisation. However it has a clear component to strengthen women's organisations through training and technical support including groups of women who are vulnerable to the penal justice system and organisations inside the women movement of Guatemala.

- ***The projects and organisations supported should, if at all possible, have a female leadership. Furthermore, women should be represented at all levels during planning and implementation. Where there are no traditions for female leadership, or female leadership for some reason has proved impossible, it is required that the project incorporates training components aimed at preparing women to fill leadership positions.***

ICCPG is not a women organisation, but a professional NGO in justice matters depending on human rights movement. Among the founder members of ICCPG, there is a woman, who at present is the director. As far as the project is concerned, it is planned, directed and implemented by a team of women. This team's presence has given an impulse to mainstreaming of gender in all initiatives and has brought together the institute and women movements.

- ***Projects should be open to all women irrespective of social background, religion, ethnic and cultural affiliation, sexual orientation and political opinion. The projects shall facilitate genuine participation opportunities for particularly marginalised women. FOKUS funds cannot be appropriated for activities related to party politics or religious preaching.***

The project is open and has a clear profile in terms of promoting the participation of marginalized women, such as indigenous women in the penal system or women in prostitution. It is not involved in party politics.

- *The projects shall aim at a democratic organisational structure including real co-determination for those who are supposed to benefit from the project activities.*

Among project team there is participatory planning. The project works as a technical assistance projects with other authorities and with women deprived of freedom. Due to this situation, they do not participate directly in decision-taking, but decisions are taken after a systematic dialogue and diagnostic on women's situation with women.

## **6. Efficiency**

From 2003 to 2006 a total of NOK 2 624 803 have been invested in the project, the three first years via NORAD funds and in 2006 thanks to the FOKUS telethon. This amount includes 8% of administrative funds for the follow-up from the Norwegian counterpart, and for travelling and auditing expenses. Investment was distributed according to following schedule:

Year	Approved Budget in NOK
2003	532 925
2004	541 523
2005	642 555
2006	907 800
<b>Total</b>	<b>2 624 503</b>

The project employed two persons during the first three years and three in 2006. Besides, from time to time, consultants were engaged. There is also ICCPG support and control provided by management and administration.

The project is well structured and clearly states its activities. There is information on the activities and a good results register on the implemented tasks.

ICCPG administrative and accounts systems meet the required norms, and also meet the standards of Guatemala's labour laws. The main problem noticed in this area was that a contract signed between JURK and ICCPG does not fit with the calendar year as it should have, in accordance with the FOKUS norms. This has entailed extra administrative work for ICCPG. All parties agree that the contract should be adjusted to the calendar year.

We consider that the project has used the financial resources in an efficient way.

Changes that took place in the budget corresponded mostly to requirements that appeared because of the case against police for the rape of Juana Mendez. The requirements for follow up and security measures were higher than expected.

Cooperation links between JURK and ICCPG function in a good way. At the beginning, the persons in charge of the project did not know Spanish, and this made direct communication between JUSPEGE team, who does not speak English, and JURK more difficult. It was then necessary to communicate through another person. ICCPG considers that relationship with JURK has improved since they engaged a person who understands Spanish.