

# Confinement and Consent: A Comparative Analysis of Sexual Abuse in Finnish and U.S. Prisons



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## US/New York Findings

- Using New York as a representative of the United States, is closer in population to Finland for comparison. Also gives a much smaller number of prisons to research.
- In 2022 alone, there was 548 reports of sexual abuse (Both by staff and other incarcerated people) In New York State
- The United States Prison and specifically in New York, faces severe issues with overcrowding and struggle to effectively handle inmates
- New York has over 31,000 inmates, many which come from low-income/resource households.
- Since PREA's adoption, the Prison Litigation Reform (PLRA) was implemented and did not look to address sexual assault in prisons and discouraged many women from coming forward with their assault(s).
- The United States ranks at #10 country with the most rapes per 100,000 people

## Case Laws In United States

- **Boddie v. Schnieder**

Case cited over 3,00 times. Boddie was unable to submit a claim as the sexual abuse he experiences was not 'severe enough' to be considered cruel and unusual punishment.

- **Cash v. County of Erie**

in which a detainee filed a report against a deputy sheriff for sexual abuse and the county sheriff for indifference towards the threats of this sexual misconduct. Case was settled for \$500,000.

## Why Research Sexual Abuse Across Prisons?

Sexual abuse is a serious violent crime that occurs globally. Unfortunately, it is also a common occurrence within prison systems, not just by inmate on inmate, but also by the staff hired to protect these inmates. Prisons are specifically designed to hold those who have committed crimes and hold them accountable. Instead, these inmates become victims of sexual crimes. This research looks to address why these cases occur in prison and what factors contribute and prevent sexual assault in these prisons in the early 2010's to present.

## Legal Framework

- **Basic Principles for the treatment of Prisoners** Adopted December 14th, 1990, by the general assembly resolution 45/111. This framework is designed to address abuses present in prisons globally and set guidelines for the dignity and protection of prisoners regardless of their sex, gender, sexuality, race, language, and religion.
- **United Nations Rules for the treatment of women prisoners and Non-custodial Measures for women offenders (The Bangkok rules)** Adopted December 21st, 2010, By the United Nations General Assembly. Similar to the Basic Principles for the Treatment of Prisoners but specifically catered towards female inmates and addressing their needs.
- **PREA (The Prison Rape Elimination Act of 2003)**, while meant to protect, struggles to make actual progress.

## Finland Findings

- Have virtually no record/file of sexual abuse or misconduct within their system.
- Within Finland, there is only a small population of prisoners (around 3,500) and 28 prisons/facilities.
- Of Finland's 28 prisons, 13 are 'open prisons' and they encourage growth and trust from incarcerated people as they are structured with a less punishment-based approach to prison and instead focus on rehabilitation.
- Inmates have their own spaces and engage in activities focused on building skills and preparing them to reenter society.
- Incarcerated people also have flexible contact with family members and even friends from the outside.
- **Summary of the Annual Report 2023.** Parliamentary Ombudsman of Finland, 2023. consist of review and inspection of Finland's prisons for that year. One specific chapter devoted to address UN conventions and resolutions. As well as a whole section devoted to provisions in human rights.

## Conclusion

The difference of United States' punishment focused, and Finland's rehabilitation focused prisons are not the only factors that cause for the extreme disparity in their number of cases. However, The United States' extreme violence and fatality rate within in their prisons, accompanied with understaffing and overcrowding contributes to their high number of sexual assault cases. The US has a lot of issues in their prison system, but with Finland's prison system, there are much lower rates of violence which showcases the strengths in their system. Finland does better not only in prison, but outside as well, in 2022, the US rate of rape per 100k is 41.8 while Finland with a lower rate of 32.9. Finland's small size helps with handling cases more affectively but the way Finland approaches justice also helps to lower their cases.