

BRIDGING THE GAP BETWEEN INCARCERATED MOTHERS AND THEIR CHILDREN IN THAILAND: FIVE YEARS ON AFTER THE ADOPTION OF THE BANGKOK RULES

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It is my great pleasure to address the important topic of the treatment of pregnant women, nursing mothers and women with children in prison. First of all, I would like to express my sincere appreciation to the Raoul Wallenberg Institute, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) as well as other Programme Network Institutes for their hard work in preparing this workshop.

The issue related to treatment of pregnant women, nursing mothers and women with children in prison is one of the significant features of the Bangkok Rules.

I. OVERVIEW OF MOTHERS AND CHILDREN IN PRISON

A large majority of women in prison worldwide are mothers or primary caretakers of children. This includes 87 per cent of women prisoners in Brazil, 80 per cent in the United States and Russia, 66 per cent in the United Kingdom, 82 per cent in Thailand and 78 per cent in Armenia and Georgia. Among these numbers, there are pregnant women, breastfeeding mothers and women with dependent child in prison. These particular groups of women require special attention regarding medical care, food, exercise and facilities. These requirements often pose challenges in prison administration.

As the population of women prisoners grows, the number of children affected by maternal imprisonment is therefore increasing. Statistics show that there are 221 children in Armenia, 486 children in Georgia, and 256 children in Thailand staying in prison with their mothers. However, there are no precise statistics on the total number of children living in prison with their mothers worldwide, and it is almost impossible to know how many children outside of prison are affected by imprisonment of their mothers. Therefore, children of imprisoned parents are often described as the “forgotten or hidden victims”.

II. IMPACT OF IMPRISONMENT ON INCARCERATED MOTHERS AND THEIR CHILDREN

A. Difficulties Faced by Incarcerated Mothers

Pregnancy and raising a child in prison is not an easy experience. Studies show that common problems faced by pregnant inmates include difficulties to catch up on missed sleep and missed meals due to the inflexibility of the prison regime.

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Also, pregnant women and breastfeeding mothers have specific health concerns related to prenatal, postnatal and child care in addition to standard health care. Some women face problems in getting access to appropriate and timely medical support during labour and after giving birth.

Stress and disruption of family links caused by imprisonment can lead to harmful effects on the progression of a pregnancy and generate negative emotional impacts on women prisoners, particularly in the case of foreign inmates who are imprisoned further away from their homes. This group of prisoner usually faces difficulties in receiving visitation and keeping in contact with their children and family. This might be due to the lack of economic means to travel, difficulties to make a telephone call due to different time zones or their families just simply do not want to contact them. This results in severe emotional impacts and may reduce rehabilitation and resettlement prospects of women prisoners.

B. Impact on Children

On the other hand, research has found an association between the child problem behaviour and their experience in having a parent in prison. It has been indicated that children of imprisoned parents have twice the risk of developing behavioural problems and poor psychological health. They are also at greater risk of future imprisonment themselves.

Moreover, distressful impacts during childhood caused by imprisonment of their mothers can lead to life-long problems such as impairment of attachments to others, emotional maladjustment and personality disorders.

Therefore, there has been an international debate as to how the rights and welfare of children of imprisoned mothers shall be protected. While some suggest that children should be allowed to live with their mother in prison, some believe that the development of newborn babies can be retarded due to prison environment.

Despite diverse views, most have come to general consensus that the best interests of children should be the primary consideration. To ensure the best interest of the child, conditions and the quality of care in prison should be as close as possible to those outside. However, some countries are facing difficulties in providing appropriate care and facilities for children. In practice, countries around the world have different laws addressing how long children can stay with their mothers in prison, ranging from one month to six years.

III. RELEVANT INTERNATIONAL STANDARDS AND NORMS

Regarding international standards and norms, the Standard Minimum Rules for the Treatment of Prisoners (or the “SMR”) adopted in 1955 has only general provision which requires that women’s institutions have special accommodation for pregnant women and breastfeeding mothers, and that arrangements should be made for children to be born in a hospital outside prison.

To supplement the SMR, the Bangkok Rules set out further important guidance in relation to treatment and support which should be provided to this group of prisoners. This includes, for

instance, prohibition of the use of shackles or restraints on pregnant women, provision of adequate food and healthcare and guidance on how to treat children of imprisoned mothers.

IV. THE ROLE OF THAILAND IN PROMOTING THE TREATMENT OF WOMEN PRISONERS INCLUDING SPECIAL CATEGORIES OF WOMEN

For many years, Thailand has attached great importance to the promotion of humane treatment of women prisoners. One outstanding initiative entitled the “Kamlangjai” (or “Inspire”) Project was established under the initiative of Her Royal Highness Princess Bajrakitiyabha Mahidol in 2006 with a focus on enhancing the quality of life of female inmates and babies born to incarcerated mothers. The Kamlangjai Project took partnership with several private sectors and organized a number of charity-based activities and vocational training for women prisoners to supplement the work of the Department of Corrections. As a result, the Kamlangjai Project has become a unique and effective model of public involvement.

After the success of the project, the Government of Thailand launched an international project entitled “Enhancing Lives of Female Inmates” in 2008 to raise awareness about the situations of women prisoners. Thailand proposed the development of a new set of UN international standards which specifically address the needs of women prisoners and women offenders. With international support, the Bangkok Rules were subsequently drafted and adopted in 2010.

Following the adoption of the Bangkok Rules, the Thailand Institute of Justice (or the “TIJ”) was established by the Government of Thailand in June 2011 to carry on its continuous commitment to promote humane treatment of women prisoners nationally and internationally.

V. THAILAND’S EFFORTS IN PUTTING THE BANGKOK RULES INTO PRACTICE

It has been almost five years since the adoption of the Bangkok Rules. What Thailand has learned is that to successfully put the Bangkok Rules into practices requires collective efforts from three main aspects. These include gender-sensitive law and policy, right-based correctional practices and support from the public. Despite our remaining challenges, I am very pleased to share with you some efforts and improvements Thailand has made in recent years.

A. National Law and Policy

At the national law and policy level, there are several ongoing efforts to review existing law and develop tools to facilitate the implementation of the Bangkok Rules.

First, about a week ago the Cabinet approved a proposal for amendment of the Penitentiary Act of Thailand. Such Act is dated 1936 and amended in 1980 while some of its provisions are found to be out-of-date. Therefore, the legislative review has been undertaken with a view to updating and ensuring that the national law and regulation are compliance with international standards. Substantial changes are expected to be made including insertions of some principles of

the Bangkok Rules particularly on the treatment of pregnant women, nursing mothers and women with children in prison.

Second, the TIJ in cooperation with the Department of Corrections of Thailand have developed an assessment tool containing a set of indicators aiming to assess compliance and gaps in implementing the Bangkok Rules in Thai correctional institutions. The assessment tool is based on the Index of Implementation of the Bangkok Rules jointly published by the TIJ and the Penal Reform International. The assessment tool has been pilot tested and will be used by the Department of Corrections in the future.

Another important initiative is the development of the gender sensitive investigation tool and methods to collect data on background and individual circumstances of women offenders such as number of children and history of victimization. The information will be collected in a gender sensitive manner and sent to the court for their consideration before giving any sentences to women offenders.

B. Correctional Practices

With regard to prison operation, pregnant inmates are registered and have regular medical check-ups in a local hospital. They are transported to outside medical facilities to give birth with no restraints being used during transfers to hospitals, medical examinations, and delivering birth. Prisons also provide additional food to pregnant women to ensure that they receive adequate nutrition during pregnancy. Children can stay with their mothers up to the age of one. They also receive appropriate diet and regular check-ups at the community hospital. Many women correctional institutions also have programmes and activities appropriate to pregnant women.

However, the extent to which pregnant inmates are provided with appropriate and adequate care depends on financial resources and the physical design of each correctional facility. Female-only prisons are usually better equipped with necessary requirements such as mother and baby units and space for exercise. In contrast, women's units within male prisons are likely to face more difficulties and limitations in provision of care of pregnant inmates.

C. Public Involvement

Public involvement is another key to success in improving lives of pregnant inmates and children in prison. It is also a great way to provide moral support for women behind bars and help them go through difficult times.

As mentioned earlier, the Kamlangjai Project is a unique model for public and private cooperation. A number of activities have been organized through partnerships with non-profit organizations and private sectors such as hospitals, universities, television stations, private companies, and department stores. These activities include, for instance, the “Quality Pregnancy” programme and the “Yoga in Prison” programme.

Furthermore, the Department of Corrections also works with faith-based organizations to organize several activities such as prison chorus and meditation programme, as part of the rehabilitation programme, with the purpose to enrich the lives of prisoners.

VI. WAY FORWARD

Thailand, like many other countries, is facing many challenges in ensuring successful implementation of the Bangkok Rules. These common challenges include prison overcrowding and lack of financial resources and professional staff.

However, in moving forward we should aim to achieve an increase in the use of alternative forms of sentencing, including restorative justice approaches and community service, where the offence is not serious. This will help reduce the number of mothers in prison and the impact of maternal imprisonment on children.

Also, the prison regime should be flexible enough to respond to and accommodate specific needs of women and children in prison. Special programmes such as pregnancy care and child rearing programmes should be made available to enhance women's ability to raise their children.

Partnership between prison authorities and the private sector or non-governmental organizations should be encouraged as effective means to physically and mentally support women behind bars. Lastly and most importantly, we all as policy makers and practitioners should always remember that women who have failed as citizens can succeed as mothers. And we should ensure that prison can provide an opportunity for them to become a better parent.