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## SPECIAL LECTURE

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### PUTTING THE BANGKOK RULES INTO PRACTICE: A FRAMEWORK FOR INTERNATIONAL COOPERATION

*Her Royal Highness  
Princess Bajrakitiyabha Mahidol\**



It gives me a distinct honor and pleasure to be invited to give a lecture at this senior seminar here today. First of all, I would like to thank the Government of Japan, UNAFEI and JICA for organizing this seminar under the framework of JICA Training and Dialogue Program. I am also pleased to have an opportunity to meet with the seminar participants, who are practitioners in the field of corrections and justice from many different countries. I am sure you will benefit not only from the training itself, but also from the prospects of networking among one another throughout the course.

I am particularly pleased to learn that the main theme for this year's training program is ***"The Treatment of Female Offenders"***. At the time when there is a global call to protect the human rights of women and to eliminate violence against them, this subject has become all the more relevant. In recent years, a number of women prisoners have increased worldwide. Although the number of women prisoners is not as high when compared to men, their rate of increase is rather significant. This certainly presents policy-makers with an agenda for future action.

The adoption of the *"United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders"* or the *"Bangkok Rules"* by the United Nations General Assembly in December 2010 represents a major paradigm shift in women's corrections. While prison administrators around the world are beginning to recognize this new development, I still feel that more needs to be done. The challenge therefore lies in how we can put the Bangkok Rules into practice so as to respond to the reality on the ground.

For my presentation today, I would argue that for the implementation of the Bangkok Rules to be effective, it must be complemented by a sustainable framework for international cooperation. I will start off by introducing some background on efforts led by Thailand and the international community to develop new United Nations standards and norms on female offenders. The structure and provisions of the Bangkok Rules will also be discussed. I will then touch upon current efforts on promoting the implementation of Bangkok Rules, including its research and assessment aspects. Finally, I would like to share with you some thoughts on the prospects of strengthening the framework for international cooperation.

#### **I. BACKGROUND: DEVELOPMENT OF THE UNITED NATIONS STANDARDS AND NORMS ON FEMALE OFFENDERS: THE BANGKOK RULES**

I believe that imprisonment of women offenders should be a punishment of last resort. Women prisoners have special needs and are more vulnerable than men. But when the imprisonment of women offenders is necessary, we need to ensure that their treatment is gender sensitive, and in compliance with the relevant international standards and norms. Unfortunately, the 1955 United Nations Standard Minimum Rules for the Treatment of Prisoners, or the SMR, do not address adequately such special needs.

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It could be said that the genesis of the Bangkok Rules was closely linked to my own experience — a revelation of sort. When I first visited the Bangkok Central Woman Correctional Institution in 2001, I learned firsthand the hardship of these women, and especially their children who are innocent, but often deprived of adequate family care and opportunities. While recognizing the competent role of the Department of Corrections under the Ministry of Justice, I felt the need to raise more awareness about mainstreaming gender sensitivity into our prison management policy.

In 2006, I decided to launch a charitable project called “Kamlangjai” or “Inspire” as translated in English. The project aims to provide moral support, basic health care, and opportunities for women prisoners, both while serving sentence and after release. The project stresses the core value of giving women offenders a second chance so as to be returned back to society as good citizens. Among the project’s special features include the provision of assistance to pregnant and nursing inmates and children living with mothers in prison, vocational training and employment skills development. This advocacy work has continued to galvanize support from various sectors of the Thai society, including NGOs, charity organizations, the private sector, and the media.

I strongly believe in the promotion of the rights-based approach to the treatment of female offenders. While the SMR has been around as the global reference for prison management for over fifty years, the same period also saw the advancement of international human rights law, particularly those related to women’s rights. So in this regard, for the SMR to stand the test of time, this would require a major policy rethink in addressing the human rights of women prisoners as well.

Within the context of the United Nations, successive sessions of the UN Crime Congress, starting from the 6<sup>th</sup> Congress in Caracas, Venezuela in 1980, had called for a review of issues related to the treatment of female offenders. But it was not until the 11<sup>th</sup> Congress in Bangkok in 2005 that the issue began to gain ground, especially with the Bangkok Declaration calling upon “*the international community to review and update the adequacy of the relevant existing standards and norms*”.

In 2008, I brought the work of the Kamlangjai Project to the attention of the 17<sup>th</sup> session of the Commission on Crime Prevention and Criminal Justice or CCPCJ in Vienna for the first time. The result was very encouraging not only in terms of support from various countries on the awareness-raising aspect, but also the idea of Thailand leading further efforts on this issue. I thought this was the right time to launch another project called “Enhancing Lives of Female Inmates” or “ELFI” in that same year.

The main goal of ELFI was to manage Thailand’s diplomatic initiative to develop a new set of rules specific to the treatment of women prisoners as a supplement to the SMR. The Thai Ministry of Justice took the first step in organizing an Expert Roundtable Meeting in Bangkok in February 2009 to develop the draft rules. Thailand subsequently presented a draft resolution on this subject to the 18<sup>th</sup> session of the CCPCJ. This resulted in an open-ended intergovernmental expert group meeting in Bangkok to negotiate the draft rules in November that same year.

The momentum picked up in 2010 when the final agreed text of the draft rules was presented to and supported by the 12<sup>th</sup> UN Crime Congress in Salvador, Brazil. At the 19<sup>th</sup> session of the CCPCJ, Thailand presented a follow-up resolution on the Bangkok Rules. This resulted in the General Assembly adopting the new “*United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders*” to be known as the “*Bangkok Rules*” in December that same year.

With the Bangkok Rules in place, this completed the mission of the ELFI Project. Basically, it took us altogether two years to develop this new set of UN standards and norms on women prisoners. It could be argued that ELFI had a catalytic impact on subsequent movements within the UN that culminated in the General Assembly mandate to review comprehensively the 1955 SMR with a view to reflecting the advancement in correctional science.

## II. THE STRUCTURE AND THE PROVISIONS OF THE BANGKOK RULES

I would like to turn now to the structure and the provisions of the Bangkok Rules. The Rules were modeled from the SMR, but with the primary aim to address the special needs of female offenders in a way that did not exist before, both for adult and juvenile. The introduction to the Rules, "Preliminary Observations," outlines related UN instruments, including the SMR, the Tokyo Rules on non-custodial measures, as well as those pertinent to the elimination of violence against women. The Bangkok Rules are divided into four main parts.

**Part I** — covers the general management of institutions. The Rules begin with a declaration of the principle of non-discrimination, as set forth in the SMR and the need to account for the distinctive, gender-based needs of women offenders in the pursuit of gender equality. Under Part I, there are several sub-sections namely

(1) Admissions and related concerns — This deal with admission, registration and allocation issues. Rule 4 sets standards for allocation of women prisoners near homes and the need to consider child-caring responsibilities in making such allocation, taking into account preference and the availability of programs and services.

(2) Health care services — Gender-specific medical research continues to demonstrate that males and females experience many diseases differently. The Bangkok Rules provide detailed guidance to address these issues. For example, Rule 5 prescribes the provisions of hygiene needs, particularly those related to personal care and an adequate supply of water. Rule 8 outlines medical confidentiality requirements. Rule 10 provides the most comprehensive provision for "gender-specific health care services", equivalent to that available in the community. Rules 10 and 11 also outline the need for the presence of female staff during examinations. Rules 17 and 18 call for preventative health care education related to gender-specific health care conditions, including HIV/AIDS, sexually-transmitted diseases and other blood borne diseases. Staff training surrounding these needs is also outlined in Rules 33 and 34.

(3) Mental health — Multiple sources show that women are much more likely than men to be diagnosed with a wide range of mental health conditions, particularly those related to trauma and the harm of lifetime violence. Rule 12 calls for the provision of individualized, gender-sensitive and trauma informed mental health programs for women prisoners, taking into account the prior history of abuse and violence of women offenders. Rule 13 calls for staff training on sensitivity to women's distress during incarceration. Rule 16 provides details on developing and implementing strategies to prevent suicide and self-harm among women prisoners and need for gender-specific policy of mental healthcare in women's prisons.

(4) Safety and security — Strip-searches are a particularly sensitive issue in women prisons. In Rules 19, 20, and 21, the importance is stressed on same-gender staff, training, alternative screening methods and staff sensitivity and professionalism in all forms of searches. Rules 25 and 31 also cover the protections of women prisoners who report all forms of abuse in prisons.

(5) Reproductive status and health care needs — The Rules also discuss the humane treatment of pregnant women and their unborn children under criminal justice supervision. Special accommodations for pregnant women are outlined throughout the Rules. Prohibitions on the use restraints, such as leg irons and wrist shackles, on pregnant women are addressed in Rule 24. Rule 22 addresses limitations on disciplinary confinement for pregnant prisoners, breast-feeding women and those with infants.

(6) Women prisoners and children — The Rules make specific provisions for women prisoners and their children. Contact with children and families, particularly those far from their homes, is the subject of Rule 26. Visits with children and other forms of family visits are covered in Rules 27 and 28. Family ties and their impact of sentencing and the possibility of alternatives to incarceration are addressed in Rules 58 and 61.

(7) Institutional personnel and training — These Rules particularly mention the need to develop

staff to enable them to address the social reintegration requirements of women prisoners and to manage safe and rehabilitative facilities. Creating opportunity for female staff in terms of gender equality, components of staffing, and staff training are covered in Rules 29, 30, 32, 33, 34, and 35.

(8) Juvenile female prisoners — In conjunction with the Beijing Rules on Juvenile Justice, Rule 65 advocates that institutionalization of all children in conflict with the law be avoided wherever possible. Rule 36 outlines their needs for special protection; Rules 37, 38 and 39 discuss equal access to all programs and services with a special emphasis on healthcare.

**Part II** — examines those applicable to special categories such as sentenced prisoners; prison programmes; social relations and aftercare; pregnant and child-rearing mothers, foreign nationals, minorities and indigenous peoples and women under arrest or awaiting trial. Under Part II, there are several sub-sections namely

(1) Sentenced prisoners — Rules 40 and 41 that describe the lower-risk typically posed by female offenders, and the components of gender sensitive risk assessment and classification. These procedures address rehabilitative programmes and services which match their gender-specific needs, especially those related to past violence and trauma, mental health, substance abuse and child-caring responsibilities.

(2) Social relations and aftercare — Rules 42 to 47 describe the requirements for programme activities that foster re-integration and rehabilitation, including those related to treating women prisoners who have experienced sexual and other forms of violence and abuse.

(3) Pregnant and care-giving women — Rule 48 discusses care for pregnant and breast-feeding women, whereas Rules 49 to 52 discuss the specifics of programming for children, including the standard for creating a normalized environment for those living with incarcerated mothers, and the requirements for separating children from their mothers.

(4) Foreign Nationals — The issue of foreign nationals has particular implications for women in prison. The proportion of female foreign nationals in custody varies widely; the Bangkok Rules address this question of the imprisonment of female foreign nationals in Rule 53.

(5) Minorities and indigenous peoples — The specific cultural and religious requirements of imprisoned minority group members and indigenous people are outlined in Rules 54 and 55.

(6) Prisoners under arrest and awaiting trial — The safety and other human rights concerns of pre-sentenced women are detailed in Rule 56.

**Part III** — outlines requirements for non-custodial measures, supplementing the Tokyo Rules in the development and implementation of appropriate responses for women offenders. Rules 57 to 59 discuss requirements for diversionary and other pre-trial measures, considerations of caring responsibilities and the role of independent bodies in providing protective measures for women in these forms of supervision. Rules 60 to 62 describe the type of programmes that should be made available to women in non-custodial care, including gender and culturally relevant interventions and therapies. Community-based substance abuse programmes are also addressed.

Post-sentencing requirements are the subject of Rule 63, reinforcing the need to take into account women's child caring responsibilities and gender-specific social reintegration needs. Non-custodial sentences for pregnant women and those with dependent children (Rule 64), avoiding custodial and institutional placement for female children (Rule 65) and the need to protect victims of trafficking (Rule 65) conclude the section on non-custodial measures for women.

**Part IV** — deals with research and public awareness. These Rules support the development of more empirical information on the situation of women prisoners as a basis for program development and effective policy for rehabilitation and reintegration. Rules 67 and 68 discuss the direction of action-oriented research in multiple areas such as offences committed by women, reasons that trigger

women's confrontation with the criminal justice system, the impact of secondary criminalization and imprisonment on women, characteristics of women offenders, and programs designed to reduce re-offending by women, the number of children affected by their mothers' confrontation with the criminal justice system and the impact of this on the children. Rule 70 also outlines the promotion of public awareness of the trends, problems and factors associated with in women prison through research and media is outlined in Rule 70.

### **III. CURRENT EFFORTS ON PROMOTING THE IMPLEMENTATION OF THE BANGKOK RULES**

Now I would like to move to discuss current efforts to promote the implementation of the Bangkok Rules. Since the Rules bear the name of our capital, it is only natural that Thailand will continue to have interest in this aspect. There are multiple approaches to implementing the Bangkok Rules. These include dissemination and/or translation of information, sharing of experiences and best practices, and coordination of capacity-building and technical assistance activities.

We believe that good implementation strategies require strong evidenced-based research, which can serve as a platform for policy development and advocacy work. The areas of research will not be limited to "prisons" and "prisoners", as many of the challenges encountered in prison systems are inextricably linked to the criminal justice system as a whole, including the police, prosecution service and the judicial system.

The Bangkok Rules are the first international standard that not only highlights the necessity to meet the specific needs of female offenders, but also includes measures to ensure that the best interests of their children are always taken into account. The Bangkok Rules themselves require Member States to undertake further research in a number of areas relating to women offenders and their children as stipulated in Rules 67, 68 and 69. They include research on:

- The offences committed by women,
- The trends, problems and factors associated with offending behaviour in women,
- The impact of criminalization and imprisonment on women,
- The characteristics of women offenders,
- Programmes designed to reduce reoffending by women and their effectiveness,
- Research on the number of children affected by their mothers' confrontation with the criminal justice system and imprisonment in particular, and
- The impact of this on the children.

Moreover, for the implementation of the Bangkok Rules to be effective and sustainable, Thailand thought it appropriate to institutionalize the Rules themselves. Such an idea came at the time when the Thai Ministry of Justice was planning to develop an arm's length institute for criminological research. This became a basis for the establishment of the "Thailand Institute of Justice" or the TIJ in 2011. While the programme of work of the TIJ covers a broad spectrum of justice and rule of law issues, its priority area is geared precisely towards promoting the implementation of the Bangkok Rules, both nationally and internationally.

At present, the TIJ is undertaking a baseline research to profile women offenders and to develop a checklist to assess the implementation of the Bangkok Rules. In so doing, we will focus on Thailand initially, and will be expand this work to other ASEAN countries at a later stage. Once the interview and survey instruments are developed and tested, they will be used to conduct further research on the key areas as provided for by Rule 67-69 of the Bangkok Rules.

The survey called "*Questionnaire for Women Prisoners in Thailand*," targeting over 500 women inmates in eight different prisons in Thailand, will cover women of all sentences lengths and classifications. The first part of the questionnaire covers key areas including:

1. Background demographics.
2. Children.

3. Visiting and contact.
4. Education.
5. Work history.
6. Previous offenses.
7. Current offenses.
8. Drug use history.
9. Mental health, including abuse and domestic violence.

The second part of questionnaire gives women prisoners an opportunity to add more information concerning their own problems, experiences and opinions which may help us understand more about life in prison. The survey is supplemented by individual interviews aimed at asking more open-ended questions.

#### **IV. THE WAY FORWARD: STRENGTHENING THE FRAMEWORK FOR INTERNATIONAL COOPERATION**

At this point I would like to share some thoughts about the way forward. Thailand does not claim monopoly in promoting the Bangkok Rules, as they belong to all Member States of the United Nations. We need to join hands and strengthen international cooperation in this area to ensure better and more well-informed, evidence-based policy-making. This, in turn, will enable female offenders to reap the fullest benefits of the Rules. From the start of the ELFI Project, Thailand has continued to cooperate closely with the United Nations Office on Drugs and Crime or the UNODC, particularly in enabling it to launch its activities related to the Bangkok Rules.

In this context, I take this opportunity to inform you that the TIJ, in cooperation with the UNODC, will host two important meetings in Bangkok this year in relation to the Bangkok Rules namely

First — the “East Asia-Pacific Regional Meeting on the Implementation of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)” to be held from 19 to 21 February; and

Second — the “ASEAN experts meeting on the development of training modules based on the Bangkok Rules” to be held from 19 to 21 March.

I would like to highlight the first meeting whose purpose is to develop a report to be used as a basis for the development of technical assistance activities, to strengthen cooperation among countries of the region and to foster a common understanding, while addressing the problems of women prisoners and women subjected to non-custodial measures. Given the interest of UNAFEI, the Government of Japan, and other Asia-Pacific countries in this subject, I strongly encourage you to participate in this meeting.

I also wish to highlight our cooperation within the context of the ASEAN Community which will come into existence in 2015. I believe there are two fundamental requirements that need to be pursued in order to consolidate its crime and justice portfolio:

- First, we need to systematically harmonize laws, regulations, standards and norms related to crime prevention and criminal justice within member states of the ASEAN Community.
- Second, we need to look at how we can effectively promote capacity-building and training programmes for criminal justice officials and educators as well as evidence-based research in this field.

I believe this is the right time to lay groundwork for the re-training and re-tooling of our human resources for 2015. The implementation of the Bangkok Rules in the ASEAN region will be an example in this regard. The TIJ stands ready to collaborate and assist our partners in this common endeavor.

Finally, since the development of UN standards and norms on prisoners has always intertwined with the UN Crime Congress process, we shall look forward to the 13<sup>th</sup> Crime Congress to be held in Qatar

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in 2015. One of the Congress workshops is entitled: “*The role of the UN Standards and Norms in Crime Prevention and Criminal Justice in support of effective, fair, humane and accountable criminal justice systems: experiences and lessons learned in meeting the unique needs of women and children, in particular the treatment and social reintegration of offenders*”. UNAFEI and TIJ already expressed interest to work together on the women offenders part of this workshop, which I understand will be coordinated by several other interested PNI Institutes as well. This offers us an opportunity to review and share experiences in the implementation of the Bangkok Rules after their first five years.

## V. CONCLUSION

In concluding my presentation, I would like to reiterate my sincere appreciation to UNAFEI for inviting me to participate in this productive exercise. Undoubtedly, the treatment of female offenders will continue to be a crucial aspect of the criminal justice reform of all countries. The Bangkok Rules represent a major advancement in correctional science not only in complementing the 1955 SMR on gender sensitive approach, but also in highlighting the importance of promoting human rights in the administration of justice. Therefore, we need to work together in putting the Bangkok Rules into practice so as to enhance our culture of corrections.

While work on the domestic front itself will determine the outcome for female offenders, we need to apply equally commensurate effort on strengthening the framework for international cooperation. After all, it was the international community that sought to influence change in this area. Sharing of best practices, dissemination of information and provision of capacity-building activities among countries will help improve our common knowledge base and policy-making. This UNAFEI senior seminar is a good example of such cooperation, and Thailand is pleased to be part of this “community of justice”.

I thank you very much.