

# THE BANGKOK RULES: AN INTERNATIONAL RESPONSE TO THE NEEDS OF WOMEN OFFENDERS

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## I. INTRODUCTION

The main international standards relating to the treatment of prisoners, namely the Standard Minimum Rules for the Treatment of Prisoners,<sup>1</sup> the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>2</sup> and the Basic Principles for the Treatment of Prisoners<sup>3</sup> apply without discrimination but do not expressly highlight the needs of women prisoners. The profile of women prisoners is quite different from that of men and their requirements are different. Therefore, the specific needs and realities of all prisoners, including women prisoners, should be taken into account in the application of these international standards.

Unfortunately, practice has shown that, because of the fact that women prisoners are a small proportion of the overall prison population, they are often discriminated against in many ways and the rules included in the main international standards cannot be applied in all cases, often for practical reasons. At the same time, the number of women imprisoned is on the rise in many countries. Against this background, the specific requirements for addressing the situation of women offenders have been emphasized at the United Nations in various contexts.

In 2010, the General Assembly adopted the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),<sup>4</sup> a set of rules responding to the needs of women offenders and prisoners. Bangkok Rule 1 supplements Rule 6 of the Standard Minimum Rules for the Treatment of Prisoners and stipulates that providing for the distinctive needs of women prisoners in the application of the Rules in order to accomplish substantial gender equality shall not be regarded as discriminatory. In fact, “the concept of equality means much more than treating all persons in the same way. Equal treatment of persons in unequal situations will operate to perpetuate rather than eradicate injustice.”<sup>5</sup>

In adopting the Bangkok Rules, the General Assembly recognized “that a number of female offenders do not pose a risk to society and, as with all offenders, their imprisonment may render their social reintegration more difficult.” Thus, the Bangkok Rules also complement and supplement the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)<sup>6</sup> with a section covering the application of non-custodial sanctions and measures for women and juvenile female offenders, including on arrest and at pre-trial, sentencing and post-sentencing stages of the

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<sup>1</sup>First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 22 August — 3 September 1955: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A; amended by the Economic and Social Council in its resolution 2076 (LXII) (addition of section E, entitled “Persons arrested or imprisoned without charge”).

<sup>2</sup>General Assembly resolution 43/173 of 9 December 1988, annex.

<sup>3</sup>General Assembly resolution 45/111 of 14 December 1990, annex.

<sup>4</sup>General Assembly resolution 65/229 of 21 December 2010, annex.

<sup>5</sup>Office of the High Commissioner for Human Rights, Fact Sheet No. 22, Discrimination against Women: The Convention and the Committee, Geneva, undated.

<sup>6</sup>General Assembly resolution 45/110 of 14 December 1990, annex. The Tokyo Rules are the main international instrument on alternatives to imprisonment, applicable without discrimination but with no mention of the specific requirements of women offenders.

criminal justice process.

This article will introduce some of the main issues concerning female crime trends as a background to the development of the Bangkok Rules and will describe their main provisions and their relevance for policy-makers and practitioners.

## II. WOMEN AS OFFENDERS

Generally crimes committed by women differ from male criminality. The differences can be seen in the nature of the crime, and its consequences, combined with the method, crime weapon, and choice of victim.

For a number of reasons, it would appear that women are far less likely than men to commit crime — a pattern that seems to hold true all over the world. While this is a fact, Mannheim<sup>7</sup> cautions us against considering female crime rates only from a comparative perspective as opposed to the more alarming trends of offences committed by men. It is important to consider women criminality *per se*.

Another mistake often occurring in comparing statistical data based on gender is to overlook the big differences among the various categories of offences and the age groups. While in general higher numbers of young men commit more offences than their female peers, among the elder population such difference is less obvious.<sup>8</sup>

Good statistics are at the foundation for sound decision making, but there is a dearth in statistics on women offenders. The fact that women account for only a small fraction of arrests and commit fewer crimes than males has been used as a justification for the neglect of women in criminal justice research. However, women who do enter the justice system, while fewer in number and less violent than their male counterparts, often become extensive users of the system. In focusing on the overwhelming number of males in the criminal and juvenile justice systems, programmes, policies and services often have failed to develop a diversity of options for dealing with the gender and culturally-specific problems of female offenders enmeshed in the system.<sup>9</sup>

Women offend for several reasons. Even in recent times, many studies have validated the traditional assumption that they mainly commit crime out of desperation and lack of resources. They may have a responsibility to support a family or have needs that are met by stealing or committing crime if they do not have access to opportunities to earn a decent living legitimately. Other reasons why women offend are to respond and react to assault or abuse out of fear for their lives. They might feel constrained or limited and have no other way to deal with things. As Morash<sup>10</sup> puts it “. . . socially disorganized neighbourhoods with inadequate education, inadequate job training, and lack of sustainable community-level employment can promote involvement in an alcohol- or drug-related lifestyle”.

In spite of recent advances, less information is available on female crime than on the “traditional” patterns and trends of male crime. Data are scarce and thus more difficult to gather and compare. The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) aptly devote a section to Research planning, evaluation and public-awareness-raising to promote a better understanding of “the offences committed by women, the reasons that trigger women’s confrontation with the criminal justice system, the impact of secondary criminalization and imprisonment on women, the characteristics of women offenders, as well as programmes designed to reduce reoffending by women.”<sup>11</sup>

<sup>7</sup> Hermann Mannheim, *Trattato di criminologia comparata*, Giulio Einaudi Editore, Torino, 1975, p.790-791

<sup>8</sup> Ibid.

<sup>9</sup> Bloom, Barbara E. & Covington, Stephanie S. , Gender-Specific Programming for Female Offenders: What is it and Why is it Important?, The Center for Gender and Justice, La Jolla, CA. Paper presented at the 50th Annual Meeting of the American Society of Criminology, November 11-14, 1998, Washington, D.C.

<sup>10</sup> M. Morash, (2006), *Understanding Gender, Crime, and Justice*, p. 164.

<sup>11</sup> The Bangkok Rules, Rules 67 — 69.

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Traditionally, crimes committed by women have displayed a more emotional characteristic than those committed by men. In *Donne che uccidono*,<sup>12</sup> an Italian text of criminology of 1924 dedicated to women offenders, ample relevance is given to the emotional and psychological background of female murderers, who are portrayed as being hapless victims of compelling feelings and passions, stuck in a tight corset of social conventions and a high sense of honour.

Another aspect to be taken into account is that, until more recent times, female crime has been dealt with by men (policy-makers, police, judges). According to Mannheim,<sup>13</sup> men seem to have shaped criminal law to prevent and punish acts potentially harmful to their own interests. More or less consciously, other antisocial female conducts, deemed to be less serious, too pleasant or indispensable to men (such as prostitution), have received a more lenient consideration by the criminal justice system. At the same time, the criminalization of certain behaviour perceived to be expression of non-conformity to social rules (i.e. witchcraft) has been used, and it still is being used in certain countries, to target women.

Male legislators were aware of the women's position of inferiority until the twentieth century and have made efforts to protect them against some of the consequences of this lack of equality. For example, a provision of English law abrogated in 1925 presumed that a woman committing a serious offence (with the exception of murder and treason) in the presence of her husband must have been prompted by him and was thus entitled to a discharge.<sup>14</sup>

However, in more recent times the most common profile of a female offender would point to a woman committing petty, non-violent offences and coming from impoverished and marginalized parts of society, often with a past of emotional and physical abuse, mental health problems and alcohol or drug dependency.<sup>15</sup>

Most statistics available on female offenders in prison are from the United States of America and other affluent countries. More challenging is the identification of reliable statistics in developing countries, including the background information on each offender that would allow targeted programmes to facilitate the prevention of recidivism.

In the USA, in 2012 women represented 8.7%<sup>16</sup> of the total prison population. 60% of known female offenders are incarcerated for drug, theft and handling stolen property offences. 15% of sentenced female prisoners have previously been admitted to a psychiatric hospital and over 40% of sentenced women prisoners have been reported as being dependent on drugs in the year before coming to prison, while an estimated 20% of women in prison have spent some time in care.<sup>17</sup>

It should be noted that the number of arrests are unreliable criteria to track crime trends as they do not distinguish the roles women play in crime. Many females arrested for robbery or burglary acted as accomplices to male offenders. In 1993, a study of female burglars found that of the 105 burglars studied, only 18 were female. For the 18 women included in the study it was found that women typically committed burglaries with male partners, and that when they did, they usually played secondary roles to a boyfriend or husband. Interestingly, the same study also found that male burglars like to involve female partners because police assume burglars are male, thus creating less of a chance of getting caught.<sup>18,19</sup>

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<sup>12</sup> Vincenzo Mellusi, *Donne che uccidono*, Fratelli Bocca Editori, Torino, 1924.

<sup>13</sup> See footnote No.7, *ibid.* p. 792.

<sup>14</sup> *Ibid.* p. 792.

<sup>15</sup> Penal Reform International Briefing No 3, 2008 (1)

<sup>16</sup> R. Walmsley, *Entire world — Female prisoners*, International Centre for Prison Studies, London, 2012, World Prison Brief, available at

[http://www.prisonstudies.org/info/worldbrief/wpb\\_stats.php?area=all&category=wb\\_female](http://www.prisonstudies.org/info/worldbrief/wpb_stats.php?area=all&category=wb_female).

<sup>17</sup> See <http://jantutor.hubpages.com/hub/WHY-DO-WOMEN-COMMIT-CRIME>

<sup>18</sup> See [http://www.castonline.ilstu.edu/krienert/CJS\\_339/Fall\\_2010/Module\\_2/Module\\_2\\_print.html](http://www.castonline.ilstu.edu/krienert/CJS_339/Fall_2010/Module_2/Module_2_print.html)

<sup>19</sup> Scot Decker, Richard Wright, Allison Redfern & Dietrich Smith. "A woman's place is in the home: Females and residential burglary", published August 2006 (available at <http://www.tandfonline.com/doi/abs/10.1080/07418829300091741>).

According to the World Prison Brief of the International Centre for Prison Studies,<sup>20</sup> a comprehensive source of statistics on prison population worldwide, in 2012 women accounted for between 25% and 0 % of the prison population in the 214 countries considered. It is worth mentioning that in Monaco the overall prison population was 12 persons, out of which 3 women, hence the highest percentage. The average percentage was between 2 and 9%. In Europe the median level is 4.9% (with high variation between countries) and there are about 100,000 women in prison every day.<sup>21</sup>

Women may still constitute a very small proportion of the general prison population worldwide but their numbers are increasing in tandem with the rise in the overall prison population in many countries. In some countries the number of female prisoners is increasing at a faster rate than that of male prisoners. For example, in the USA the number of women serving sentences of more than a year grew by 757 per cent between 1977 and 2004 — nearly twice the 388 per cent increase in the male prison population.<sup>22</sup> In England and Wales, the growth in the female prison population in the decade 1992 — 2002 far outstripped that of the male prison population. While the male prison population increased by 50%, the female prison population increased by 173%.<sup>23</sup>

In many countries, a growing number of women are being imprisoned for petty offences as a consequence of tougher criminal justice policies. In particular, drug-related offences are being criminalized and more seriously penalized, thus contributing to the increase of women in prison.

Another factor leading to higher numbers of women in prison are the so-called “moral crimes” in countries where legislation derives from certain interpretations of religious laws. For example, in Afghanistan, a report based on 58 interviews conducted in three prisons and three juvenile detention facilities with women and girls accused of “moral crimes” showed that almost all girls in juvenile detention had been arrested for “moral crimes,” while about half of women in Afghan prisons were arrested on these charges. These “crimes” usually involve flight from unlawful forced marriage or domestic violence. Some women and girls have been convicted of *zina*, sex outside of marriage, after being raped or forced into prostitution.<sup>24</sup>

Women are also increasingly likely to be detained pre-trial because of their difficulty in affording bail and the services of a lawyer. In many countries the proportion of women held in pre-trial detention is equivalent to or larger than that of convicted female prisoners in spite of the principle set out in international instruments that “pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.”<sup>25</sup>

### III. PAVING THE WAY TO THE BANGKOK RULES

The most well-known rules for the treatment of prisoners are without doubt the Standard Minimum Rules for the Treatment of Prisoners which were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955, approved by the UN Economic and Social Council in resolutions in 1957 and amended in 1977.<sup>26</sup> They have proved to be an historic text and continue to provide a critical benchmark for the treatment of prisoners for many countries around the world. They were never intended to describe in detail a model system of penal institutions, but to seek only to set out what is generally accepted as being good principle and practice in the treatment of

<sup>20</sup> See footnote No. 16, *Ibid.*

<sup>21</sup> Kyiv Declaration on Women’s Health in Prison in *Women’s Health in Prison, Correcting gender inequity in prison health*, United Nations Office on Drugs and Crime and World Health Organization — Regional Office for Europe, 2009, p. 1.

<sup>22</sup> Handbook for prison managers and policymakers on Women and Imprisonment, Criminal Justice Handbook Series, United Nations publication, Sales No. E.08.IV.4, 2008, p. 2-3.

<sup>23</sup> Women and the criminal justice system: a report of the Fawcett Society’s Commission on Women and the Criminal Justice System, London, 2005, p. 5.

<sup>24</sup> See: “*I Had To Run Away*” *The Imprisonment of Women and Girls for “Moral Crimes” in Afghanistan*, 28 March 2012 <http://www.hrw.org/reports/2012/03/28/i-had-run-away>

<sup>25</sup> The Tokyo Rules, Rule 6.1.

<sup>26</sup> ECOSOC resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

prisoners and the management of institutions.

In the course of the years, two additional instruments have been adopted: the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>27</sup> and the Basic Principles for the Treatment of Prisoners.<sup>28</sup> Like the Standard Minimum Rules, they apply to all prisoners without discrimination. In truth however, these instruments have failed to draw sufficient attention to women's particular needs. With the increase in the number of women prisoners worldwide, the need to bring more clarity to considerations that should apply to the treatment of women prisoners has acquired importance and urgency.

The requirements for addressing the situation of women offenders had been emphasized at the United Nations in various contexts. For example, in 1980, the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted a resolution on the specific needs of women prisoners,<sup>29</sup> in which it recommended that in the implementation of the resolutions adopted by the Sixth Congress directly or indirectly relevant to the treatment of offenders, recognition should be given to the specific problems of women prisoners and the need to provide the means for their solution; that, in countries where it was not yet done, programmes and services used as alternatives to imprisonment should be made available to women offenders on an equal basis with male offenders; and that the United Nations, governmental and non-governmental organizations and all other international organizations should make continuing efforts to ensure that the woman offender was treated fairly and equally during arrest, trial, sentence and imprisonment, particular attention being paid to the special problems which women offenders encounter, such as pregnancy and child care.

The Seventh Congress,<sup>30</sup> the Eighth Congress<sup>31</sup> and the Ninth Congress<sup>32</sup> also made specific recommendations concerning women prisoners. In the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century,<sup>33</sup> adopted by the Tenth Congress, Member States committed themselves to taking into account and addressing within national crime prevention and criminal justice strategies any disparate impact of programmes and policies on women and men (para. 11); and to the development of action-oriented policy recommendations based on the special needs of women as prisoners and offenders (para. 12). The plans of action for the implementation of the Vienna Declaration<sup>34</sup> contain a separate section (sect. XIII) devoted to specific recommended measures to follow up on the commitments undertaken in paragraphs 11 and 12 of the Declaration, including that of States reviewing, evaluating and, if necessary, modifying their legislation, policies, procedures and practices relating to criminal matters, in a manner consistent with their legal systems, in order to ensure that women are treated fairly by the criminal justice system.

In 2003, the General Assembly called for increased attention to be devoted to the issue of women in prison, including the children of women in prison, with a view to identifying the key problems and ways in which they could be addressed.<sup>35</sup>

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<sup>27</sup> General Assembly resolution 43/173 of 9 December 1988, annex.

<sup>28</sup> General Assembly resolution 45/111 of 14 December 1990, annex.

<sup>29</sup> See Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August –5 September 1980: report prepared by the Secretariat, United Nations publication, Sales No. E.81.IV.4, chap. I, sect. B, resolution 9.

<sup>30</sup> See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August –6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E, resolution 6 (on the fair treatment of women by the criminal justice system).

<sup>31</sup> See Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August –7 September 1990: report prepared by the Secretariat, United Nations publication, Sales No. E.91.IV.2, chap. I, sect. A.5 (Basic Principles for the Treatment of Prisoners (see also General Assembly resolution 45/111, annex)); and *ibid.*, sect. C, resolutions 17 (on pretrial detention), 19 (on the management of criminal justice and development of sentencing policies) and 21 (on international and interregional cooperation in prison management and community-based sanctions and other matters).

<sup>32</sup> See A/CONF.169/16/Rev.1, chap. I, resolutions 1 (on recommendations on the four substantive topics of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders), 5 (on the practical implementation of the Standard Minimum Rules for the Treatment of Prisoners) and 8 (on the elimination of violence against women).

<sup>33</sup> GA resolution 55/59 of 4 December 2000, annex.

<sup>34</sup> GA resolution 56/261 of 31 January 2002, annex.

In the Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice, adopted by the Eleventh Congress on 25 April 2005,<sup>36</sup> Member States declared that they were committed to the development and maintenance of fair and efficient criminal justice institutions, including the humane treatment of all those in pre-trial and correctional facilities, in accordance with applicable international standards (para. 8); and they recommended that the Commission on Crime Prevention and Criminal Justice should give consideration to reviewing the adequacy of standards and norms in relation to prison management and prisoners (para. 30).

In a further resolution in 2006, the General Assembly stressed that “violence against women” meant any act of gender-based violence resulting in, or likely to result in, physical, sexual or psychological harm or suffering to women, including arbitrary deprivation of liberty, whether occurring in public or in private life, and urged States to review and revise, amend or abolish all laws, regulations, policies, practices and customs discriminating against women or having a discriminatory impact on women, and ensure that provisions of multiple legal systems complied with international human rights obligations, commitments and principles, including the principle of non-discrimination. The Assembly urged States to take positive measures to address structural causes of violence against women and to strengthen prevention efforts addressing discriminatory practices and social norms, including with regard to women in need of special attention, such as women in institutions or in detention; and to provide training and capacity-building on gender equality and women’s rights for law enforcement personnel and the judiciary.<sup>37</sup> The resolution is an acknowledgement of the fact that violence against women has specific implications for women’s contact with the criminal justice system, as well as their right to be free of victimization while imprisoned. Physical and psychological safety is critical to ensuring human rights and improving outcomes for women offenders, of which the Bangkok Rules take account.

It is worth recalling that the General Assembly, in its resolution 63/241 of 24 December 2008, called upon all States to give attention to the impact of parental detention and imprisonment on children and, in particular, to identify and promote good practices in relation to the needs and physical, emotional, social and psychological development of babies and children affected by parental detention and imprisonment.

In adopting the Bangkok Rules in 2010, the General Assembly recognized the need to provide global standards with regard to the distinct considerations that should apply to women prisoners and offenders and a number of relevant resolutions adopted by different United Nations bodies, in which Member States were called upon to respond appropriately to the needs of women offenders and prisoners.

In its resolution 65/229, the General Assembly, recognizing that a number of female offenders do not pose a risk to society and, as with all offenders, their imprisonment may render their social integration more difficult, also emphasized that, “when sentencing or deciding on pre-trial measures for a pregnant woman or a child’s sole or primary caretaker, non-custodial measures should be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious and violent.”<sup>38</sup> Consistently, the Bangkok Rules devote Section III to Non-custodial Measures, and thus complement and supplement not only the Standard Minimum Rules for the Treatment of Prisoners but also the main international instrument on alternatives to imprisonment, namely the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).

The Bangkok Rules are addressed to prison authorities and criminal justice agencies (including policymakers, legislators, the prosecution service, the judiciary and the probation service) involved in the administration of non-custodial sanctions and community-based measures.

As with the Standard Minimum Rules for the Treatment of Prisoners, in view of the great variety

<sup>35</sup> GA resolution 58/183 of 22 December 2003 entitled “Human rights in the administration of justice”.

<sup>36</sup> GA resolution 60/177 of 16 December 2005, annex.

<sup>37</sup> General Assembly resolution 61/143 of 19 December 2006 entitled “Intensification of efforts to eliminate all forms of violence against women”.

<sup>38</sup> Op. para. 9

of legal, social, economic and geographical conditions worldwide, it is evident that not all of the Bangkok Rules can be equally applied in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in how they are applied, in the knowledge that they represent, as a whole, the global aspirations considered by the United Nations as leading to the common goal of improving outcomes for women prisoners, their children and their communities.<sup>39</sup>

#### **IV. WHY ARE THE BANGKOK RULES RELEVANT TO WOMEN PRISONERS AND OFFENDERS?**

In most countries, prison regimes are designed predominantly for male prisoners. Imprisonment has a different impact on women than on men. A number of additional problems affect women in the criminal justice system, particularly when they are detained. Although pre-trial detention should be used as a measure of last resort, even women accused of petty non-violent offences often do not have the money required to access bail and are thus excluded from non-custodial measures. Most women committed to detention have children and this fact enhances their vulnerability, especially at the time of admission. Because they are not numerous, women prisoners are usually concentrated in a few facilities and may end up spending long periods far from home and their families. Furthermore, women's prisons are often converted, unsuitable buildings offering fewer facilities and fewer options for education and training than men's prisons. In spite of the fact that women frequently represent a low security risk, they are often kept in prisons under higher security than is needed and this further contribute to the emotional distress caused by the fact of being imprisoned. Many women prisoners have a past of abuse and victimization and their needs for treatment are often not recognized and met in prison. They may actually endure further mental and physical abuse, harassment and violence in prison.

Many countries do not have the required policies for the care of pregnant prisoners and of the babies and small children of imprisoned mothers, including family visits. Women at different ages require special health care and hygiene and this needs to be taken into account by national prison administrations.

The Bangkok Rules cover these and other issues affecting women prisoners and advocate the development of gender-specific options for diversionary measures and pre-trial and sentencing alternatives. Although the Bangkok Rules recognize numerous gender-specific needs of women prisoners, I will focus on four of the main areas developed by the Bangkok Rules.

##### **A. Pre-trial Detention and Non-custodial Measures.**

Rule 56 refers to the specific safety requirements of women under arrest or awaiting trial, who find themselves in a particularly vulnerable situation. In fact, sexual abuse and other forms of violence may be used, for example, as a means of coercion to extract confessions. Therefore, prison authorities must ensure that policies and rules aiming to safeguard prisoners against abuse are applied with particular care during women's pre-trial detention period. The impact of being held in pre-trial detention, even for a short period, can be devastating not only for the woman but also for her family, especially when she is the sole or primary caretaker of the children. Bearing in mind that, under international standards,<sup>40</sup> detention pending trial should be used as a measure of last resort, Rules 57 and 58 urge authorities to develop and apply gender-specific diversionary measures and pre-trial and sentencing alternatives for women wherever possible.

Rule 57 refers to the provisions of the Tokyo Rules as guides for the development and implementation of appropriate responses to women offenders. Rule 60 places emphasis on the need to devote enough resources to identify suitable alternatives for women offenders combining non-custodial measures with interventions addressing the underlying problems that have contributed to the women's

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<sup>39</sup> The Bangkok Rules, Preliminary Observations

<sup>40</sup> See in particular Article 9 (3) of the International Covenant on Civil and Political Rights; Rule 6 of the Tokyo Rules and Principle 39 of the Body of Principles for the protection of All Persons Under Any Form of Detention or Imprisonment, which limit the use of pre-trial detention to very specific circumstances.

criminal conduct, such as “therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability and educational and training programmes to improve employment prospects.”

An important rule, addressed to the judiciary, is Rule 61 which recommends that “courts shall have the power to consider mitigating factors such as lack of criminal history and relative non-severity and nature of the criminal conduct, in the light of women’s caretaking responsibilities and typical backgrounds.”

Rule 62 reiterates the importance of ensuring equality of healthcare services in- and outside the prisons. Here, the provision of women-only, trauma-informed and gender-sensitive substance abuse programmes in the community is strongly advocated, both for crime prevention and for diversion and alternative sentencing purposes.

Rule 65 on juvenile female offenders confirms the important principle that institutionalization of children in conflict with the law should be avoided to the maximum extent possible. Furthermore, the gender-based vulnerability of juvenile female offenders should be taken into account in decision-making.

## **B. Women Prisoners with Children**

Research from many countries has revealed that when mothers are imprisoned, the family will often break up, or as mothers are often the sole or primary caretakers within a family, alternative carers will need to be found. This may include state welfare services or institutions, thus feeding a cycle of institutionalization. Research has also indicated that the children of imprisoned parents are at greater risk of future incarceration themselves. In the United Kingdom, for example, it has been estimated that of 150,000 children who have a parent in prison, 75 per cent will end up committing a crime.<sup>41</sup>

It is a sad fact that most women prisoners have children.<sup>42</sup> Children may accompany their mothers into prison or they may have been left outside. Separating a mother from her baby has a traumatic and long-term effect on both. Children are a life-sustaining force for many prisoners and breaking the bond between the mother and the child is a terrible punishment for the woman. Children may be too young to comprehend the reasons for separation and are likely to suffer from acute emotional and developmental problems. On the other hand, the punitive, harsh environment of prisons is hardly appropriate for children and it can permanently damage the mental well-being of children.<sup>43</sup>

The exact figures of children affected by their mother’s imprisonment are not known. By means of example, the children of roughly 20,000 Brazilian women have their mothers in prison.<sup>44</sup> There is no fixed rule as to whether, and in what circumstances, it is in a child’s interest to be separated from a parent in prison.<sup>45</sup> Such decision should be based on an individualized, case-by-case analysis of the child’s best interests.<sup>46</sup>

The Bangkok Rules devote great attention to this fundamental problem of women prisoners and they are fully in line with the Convention on the Rights of the Child,<sup>47</sup> in particular as they refer to the

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<sup>41</sup> See footnote No. 22, p. 17. At the same time, such children are more likely to have come from an environment characterized by unemployment, mental health problems and abuse, all factors that may increase the risk for a child to develop antisocial or criminal tendencies later in life.

<sup>42</sup> *Ibid*, p. 18 for percentage figures of mothers among the women prison population in several countries.

<sup>43</sup> See footnote No. 22, p. 20 - 21

<sup>44</sup> Oliver Robertson, *The impact of parental imprisonment on children*, Quaker United Nations Office, Geneva, April 2007, p. 8.

<sup>45</sup> Jean Tomkin, *Orphans of Justice: In search of the best interests of the child when a parent is imprisoned: A Legal Analysis*, Quaker United Nations Office, Geneva, August 2009, p.27-28. In Italy, for example, there is the possibility to delay detention of mothers of young children and to place an expectant mother or a mother with a child under the age of three under house arrest (until the child reaches 10 years of age), as an alternative to imprisonment.

<sup>46</sup> Oliver Robertson, *Collateral convicts: Children of incarcerated parents, recommendations and good practice from the United Nations Committee on the Rights of the Child Day of General Discussion 2011*, Quaker United Nations Office, Geneva, March 2012, p. 19.

best interests of the children in any situation.

Admission (Rule 2) is a very delicate phase for women prisoners, especially mothers. Rule 2.2 is dedicated to women with caretaking responsibilities for children, who prior to or on admission, should be permitted to make arrangements for their children, including a reasonable suspension of detention, taking into account the best interests of the child. The mother should also have access at this time to information and legal advice on alternative care arrangements and their long-term implications. When granting suspension of detention or sentence is not possible, authorities should at least consider the option of home leave, immediately on detention to allow for the requisite arrangements regarding childcare to be made.<sup>48</sup>

Supplementing Rule 7 of the Standard Minimum Rules for the Treatment of Prisoners, Rule 3.1 (Register) introduces the number and personal details of the children of a woman being admitted to prison to the information to be recorded at the time of admission. Beside the names and ages of the children, if they are not accompanying the mother, their location and custody or guardianship status should be recorded with the mother's permission. For this purpose, it is indispensable to explain to the women why such information is being gathered. This information can be extremely valuable in assisting with contact between the mother and the child living outside of the prison if required. At the same time, gathering data about the parental status of women prisoners can contribute to the tailoring of rehabilitation programmes for the women and to improve prison policies and services for the children in prison.<sup>49</sup> All information relating to the children's identity should be kept confidential and its use should always comply with the requirement to take into account the best interests of the child (Rule 3.2).

Rule 4 (Allocation) states an important principle: women prisoners should "be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking into account their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services." This touches upon a crucial aspect of rehabilitation, i.e. the importance of maintaining relations with the family. Women are often discriminated against in their allocation because of the small number of women's prisons in most countries and therefore experience immense challenges in maintaining contacts with their families.<sup>50</sup> According to Rule 4, prison authorities should endeavour to introduce the means to ensure that women are allocated closer to home or to the place where they would like to be eventually released. It is also important to consider the wishes of the woman concerned in view of the prisoner's frequent background of violence and abuse. Some women may wish to leave the past behind and move away from a partner that may have harmed them or contributed to their falling into crime.<sup>51</sup> The Guidance Document on the Bangkok Rules<sup>52</sup> recommend that, if a larger number of small units to house women offenders cannot be established, "consideration may be given to increasing the number of women's sections attached to men's prisons, with the requisite staffing, facilities and services, taking into account the gender specific needs of women prisoners outlined in the Bangkok Rules, in order to be in a position to house women closer to their homes."

Rule 9 (under 6. Health-care services, (a) Medical screening on entry) extends the requirement of undergoing a health screening to any child accompanying the woman prisoner. Such screening should be administered preferably by a child health specialist and should determine any treatment and medical needs, including any specific primary healthcare and psychological support requirement due to their deprived and low socio-economic backgrounds. Rule 9 also refers to the need for suitable care (a least

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<sup>47</sup> See in particular Article 3 (3) of particular relevance for courts and other bodies when deliberating on whether a child should remain with the parent in prison or be separated from the parent and be provided with alternative care.

<sup>48</sup> Commentary to the Bangkok Rules in United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, published by "Enhancing Lives of Female Inmates — The ELFI Project, Bangkok, Thailand, 2009, Rule 2.2

<sup>49</sup> Tomris Atabay, Guidance Document on the Bangkok Rules, Working document, Penal Reform International, London, 31 May 2012, p. 33.

<sup>50</sup> See footnote No. 48, Commentary to the Bangkok Rules, Rule 4.

<sup>51</sup> Ibid.

<sup>52</sup> See footnote No. 49, p. 34.

equivalent to that in the community) to be provided. This Rule is in line with Article 12 of the International Covenant on Economic, Social and Cultural Rights and Article 24 of the Convention on the Rights of the Child (right of the child to the enjoyment of the highest attainable standard of health). Wherever possible and in the best interests of the child, such screening should be undertaken in the presence of the mother to alleviate the anxiety of both the child and the parent.<sup>53</sup>

Other Rules expanding the relevant Standard Minimum Rules for the Treatment of Prisoners (37-39, in this case) to take into account the requirements of women prisoners with children are Rules 26 and 28 on family visits (under 8. Contact with the outside world). Rule 26 reiterates the importance of encouraging and facilitating the women prisoners' regular contact with their families, including their children. Such contact is at the basis of the women's mental well-being and is functional to the success of any rehabilitation programme.<sup>54</sup> Reference is also made to the need for authorities to adopt measures to reduce the impact of separation from families by introducing flexibility in the application of prison regulations and rules on visits and other means of communication in view of the disadvantages caused by the allocation of women prisoners far away from their homes.<sup>55</sup>

Rule 28 refers to the visits involving children, taking into account the mothers' and their children's emotional needs for close physical contact and the importance of a child-friendly environment for children visiting their mothers to mitigate the austere environment and the stressful situation for the child. The conditions of visits should make these positive experiences, to be repeated frequently so as to limit the trauma and distress associated with having an imprisoned mother and to maintain contacts between families and prisoners. For example, open visits should be the norm rather than the exception, especially when children are involved. Individual risk assessment may facilitate the identification of those prisoners posing a security risk to be excluded from open visits. The staff's friendly and understanding attitude towards the visiting children may also contribute to a less stressful experience.

In the section on Prison Regime, Rule 42.3 advocates that "particular efforts should be made to provide appropriate programmes for pregnant women, nursing mothers and women with children in prison." The participation in such programmes should be based on sufficient flexibility of the prison regime so as to accommodate the mothers' breastfeeding or childcare schedules.

In the Standard Minimum Rules for the Treatment of Prisoners only Rule 23 mentioned the needs of pregnant women, breastfeeding mothers and mothers with children in prison, without providing much guidance. The Bangkok Rules greatly expand on this topic devoting to it an entire section (Rules 48 — 52). Rule 48 focuses on the needs of pregnant or breastfeeding mothers, their entitlement to receive qualified advice on health and diet, adequate and timely food, a healthy environment and regular exercise opportunities. The post-natal medical and nutritional needs of a special category of women, i.e. those who have recently given birth but whose babies have remained outside, are also considered in Rule 48.3.<sup>56</sup>

Rules 49 — 52 cover the delicate question of whether to allow children to stay with their mothers and until what age. Such difficult decisions should be taken on an individual basis considering the best interests of the child, taking into account the prison conditions and the quality of child care available outside of prison if the child does not stay with the mother. Rule 49 also stresses the important principle that "children in prison with their mothers should never be treated as prisoners", a fact seldom reflected by prison policies, staff training and budget allocations.

Even when children are staying with their mothers in prison, mothers are usually not allowed to

<sup>53</sup> See footnote No. 48, Commentary to the Bangkok Rules, Rule 9.

<sup>54</sup> Rule 44 foresees that "in view of women prisoners' disproportionate experience of domestic violence, they shall be properly consulted as to who, including which family members, is allowed to visit them".

<sup>55</sup> See footnote No. 49, p. 77-78.

<sup>56</sup> Additionally, Rule 39 (under Juvenile female prisoners) extend to pregnant juvenile female prisoners the entitlement to receiving support and medical care equivalent to that provided for adult female prisoners. Taking into account the fact that they may be a greater risk of pregnancy-related complications because of their age, their health shall be monitored by a medical specialist.

spend enough time with their children because of strict rules and prison schedules. Rule 50 stresses the importance of providing the maximum possible opportunities to women prisoners to spend time with their children when they are staying in prison with them.

Children living with their mothers in prison should be entitled to ongoing health-care services, including vaccinations and preventive care. Their development should be monitored by specialists, in collaboration with community healthcare services, to assess any negative effects of living in a closed institution (Rule 51.1). Rule 51.2 emphasizes another crucial issue, i.e. that “the environment provided for such children’s upbringing shall be as close as possible to that of a child outside of prison”. This implies in practice not only prison nurseries and play areas decorated and furnished in a child-friendly manner, but also programmes to facilitate the children’s socialization outside of the prison (e.g. attendance of a regular kindergarten in the community, organization of excursions to public green areas and playgrounds, etc.) usually in cooperation with non-governmental organizations and volunteers.

Rule 52 focuses on one of the most difficult moments for women prisoners: the separation from their children. In the majority of countries mothers can keep their babies with them in prison up to a certain age, which differs from country to country, normally up to three years, but in some countries up to six years and sometimes longer. Rule 52 reiterates that decisions as to when a child is to be separated from its mother shall be based on individual assessments and the best interests of the child within the scope of relevant national laws. Being that this is a very delicate decision, particular care must be exercised to protect the child, undertaking the removal with great sensitivity<sup>57</sup> and only after having made appropriate arrangements for the child’s care outside. Once children leave the prison and are placed with family or alternative care, frequent contacts between the children and their mother prisoners should be facilitated through prison visits and access to home leave when there are no exceptional security concerns.

Rule 64 (Section III, Non-custodial Measures), indicates that, where possible and appropriate, preference should be given to non-custodial sentences for pregnant women and women with dependent children. Custodial sentences should be considered only when the “offence is serious or violent or the woman represents a continuing danger, and after taking into account the best interests of the child or children, while ensuring that appropriate provision has been made for the care of such children.”<sup>58</sup>

### **C. Women Prisoners and Safety**

The Bangkok Rules recognize the central importance of safety requirements for women prisoners. Under the Rules of General Application, Section 7 (Rules 19 – 25) is entitled Safety and Security and it supplements rules 27 to 36 of the Standard Minimum Rules for the Treatment of Prisoners<sup>59</sup>, including by providing specific guidance on searching procedures (Rules 19 – 21) to ensure that women prisoners’ dignity and respect are protected. Searches are one of the most sensitive and potentially traumatic moments of a prisoner’s life, particularly for women prisoners.<sup>60</sup> Where permitted at all, invasive body searches and strip searches<sup>61</sup> should only be carried out if absolutely and legally necessary and never on a routine basis.<sup>62</sup> While no prisoner should be humiliated or required to strip completely during a search, additional sensitivity is required in the case of women, as they are likely

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<sup>57</sup> For additional recommendations on children leaving prison see Oliver Robertson, *Collateral convicts: Children of incarcerated parents, recommendations and good practice from the United Nations Committee on the Rights of the Child Day of General Discussion 2011*, Quaker United Nations Office, Geneva, March 2012, p. 29 -30.

<sup>58</sup> See also the African Charter on the Rights and Welfare of the Child, 1999, Art. 30; the Council of Europe, Parliamentary Assembly recommendation 1469 (2000), on Mothers and babies in prison, adopted on 30 June 2000; and the Human Rights Council resolution 10/2 of 25 March 2009, entitled “Human rights in the administration of justice, in particular juvenile justice”.

<sup>59</sup> In this context it is important to recall Standard Minimum Rules 8 (a) on the separation of male and female prisoners and 53 (3) on the supervision of women prisoners by women staff.

<sup>60</sup> The principle that persons should only be searched by the same gender has been stressed, inter alia, by the Human Rights Committee, General Comment 16 on Article 17 of the International Covenant on Civil and Political Rights.

<sup>61</sup> A strip search refers to the removal or rearrangement of some or all the clothing of a person so as to permit a visual inspection of a person’s private areas. This definition distinguishes strip searches from invasive body searches, which involve a physical inspection of the prisoner’s genital or anal region (Commentary to the Bangkok Rules, Rule 19)

to feel particularly humiliated by an intimate search. Furthermore, the experience may be extremely distressing if they have been sexually abused in the past. Rule 20, acknowledging the harmful psychological and possible physical impact of invasive body searches, recommends the development of alternative screening methods, such as scans.

Rule 21 highlights the importance of the professionalism, competence and sensitivity of prison staff tasked with the searches of children in prison with their mothers and children visiting prisoners. In fact, the potential trauma for the child deriving from a search carried out without respect and dignity can be immense. Children staying with their mothers in prison should be searched only when justifiably necessary and with sensitivity. A pat-down search can be used to search visiting children, explaining the reasons for the search of the child. A child should be searched in full view of his/her mother and should never be subjected to invasive body searches.<sup>63</sup>

The adverse psychological and even physiological effects of solitary confinement have been stressed in various international fora.<sup>64</sup> Such harmful effects are likely to be amplified in the frequent case of women prisoners with pre-existing mental healthcare needs or who have developed mental health problems in prison. In the case of women with infants and breastfeeding mothers in prison, the distressing impact of solitary confinement also penalizes their children by separating them from their mothers, while for pregnant women it may expose them to health complications. Thus, Discipline and Punishment, Rules 22 — 23 supplementing Standard Minimum Rules 27 — 32, expressly exclude the applicability of close confinement and disciplinary segregation to these categories of prisoners (Rule 22). Rule 23 also excludes the prohibition of family contacts, especially with children, from the disciplinary sanctions permitted for women prisoners. As mentioned before, regular contacts with their children and families are extremely important for the mental well-being and the rehabilitation of women prisoners. Prohibiting contacts between the woman prisoner and her family would also punish the family and children in violation of their best interests.

Rule 24, supplementing Standard Minimum Rules 33 and 34, clearly prohibits the use of any kind of body restraint (such as shackles) during labour, during birth and immediately after birth. Unfortunately this practice seems to be still common in some countries, in spite of the strict regulation on the use of instruments of restraint in the Standard Minimum Rules and the fact that women in labour or during and right after birth are unlikely to escape but may be harmed by the restriction of movement in these critical phases.<sup>65</sup>

Going beyond the provisions of Standard Minimum Rules 35 — 36, Rules 25.1 and 25.2 underline States' responsibilities regarding complaints of abuse, including sexual abuse. These provisions are of great relevance as they provide guidance to prison authorities in the application with regard to women prisoners of Article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>66</sup> It takes into account the fact that women are particularly vulnerable to abuse in prison and that they are usually afraid of complaining for fear of retaliation.

Rule 25.3 expands Standard Minimum Rule 55 on Inspection, recommending that inspectorates, visiting or monitoring boards or supervisory bodies monitoring the conditions of detention and treat-

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<sup>62</sup> See also the Statement on Body Searches of Prisoners, World Medical Association, adopted by the 45<sup>th</sup> World Medical Assembly, Budapest, Hungary, October 1993 and revised at the 170<sup>th</sup> Council Session, Divonne-les-Bains, France, May 2005.

<sup>63</sup> See footnote No. 49, p. 69.

<sup>64</sup> See e.g. Istanbul Statement on the Use and Effects of Solitary Confinement, adopted on 9 December 2007 at the International Psychological Trauma Symposium, Istanbul, annexed to the Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/63/175 of 28 July 2008. See also the Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/66/268 of 5 August 2011.

<sup>65</sup> See footnote No. 49, p. 72.

<sup>66</sup> Article 13 stipulates that "each State Party should ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and have his case promptly and impartially examined by its competent authorities. Steps should be taken to ensure that the complaint and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given".

ment of women prisoners shall include women members. This should serve to improve the understanding of women prisoners' needs and to make it more comfortable for women prisoners to share their concerns, especially on gender specific issues.

#### **D. Women Prisoners and Health**

Women prisoners often have greater primary healthcare needs in comparison with men. In fact, the majority of women prisoners usually come from socially disadvantaged communities and groups. They tend to be young, unemployed, with little education and to have dependent children.<sup>67</sup> Large percentages of women prisoners have a history of victimization and mental health care needs, including drug use.<sup>68</sup> Widespread domestic violence against women and sexual abuse are common backgrounds of women prisoners. It is widely recognized that imprisonment has a devastating impact on women's mental health, generating new problems and exacerbating existing ones, especially for women with children. Therefore, women are at higher risk to harm themselves and to attempt suicide.<sup>69</sup> The Bangkok Rules take these aspects into account and promote the establishment of mental health services oriented to the gender-specific needs of women prisoners. Likewise, they also expand the provisions of the Standard Minimum Rules for the Treatment of Prisoners to reflect the specific needs of women prisoners in term of healthcare and hygiene. Furthermore, women tend to serve short sentences because they usually commit less serious non-violent offences. Their turnover is high and this also poses additional challenges to health services offered in prison. Many drug-using women prisoners neglect their health while outside prison<sup>70</sup> and this, coupled with the frequent occurrence of sexual violence, sex work and unsafe sexual practices in this segment of the population, make women prisoners particularly vulnerable to HIV and other sexually transmitted diseases.

Under the Rules of General Application, sections 5 on Personal Hygiene and 6 on Healthcare Services are prominent. Rule 5 supplements Standard Minimum Rules 15 and 16, while rules 6 to 18 supplement Standard Minimum Rules 22 — 26 which are limited to general principles on hygiene and healthcare in prison, only mentioning gender-specific healthcare needs in relation to pregnancy and birth and the establishment of nurseries. The Bangkok Rules take stock of the advances made since 1955 with regard to the provision of general healthcare in prisons, including the prevention, treatment and care of HIV/AIDS, as well as the progress made in understanding the gender-specific health needs of women prisoners.

Rule 5 stresses the need to ensure ready access to sanitary and washing facilities, safe disposal arrangements for blood-stained articles, as well as provision of hygiene items, such as sanitary towels/pads.<sup>71</sup> Such measures are not only useful to promote health and prevent disease, but also to maintain the sense of human dignity of women prisoners.

Rules 6 — 9 expand the requirement of medical screening on entry foreseen in the Standard Minimum Rules to take into account the gender-specific healthcare needs of women prisoners. For many women in low-income countries, this may be the first medical examination they undergo because of barriers and discrimination in accessing basic healthcare services in the community. Such initial screening is vital to diagnose any physical or mental illness requiring immediate attention (e.g. presence of sexually transmitted diseases or blood-borne diseases; reproductive health complications; post-traumatic stress disorder and suicide risk; drug dependency; etc.) but also to identify any signs of ill-treatment, including sexual abuse, in previous detention or custody and take appropriate action.<sup>72</sup> Rule 8 emphasizes the importance of respecting the right of women prisoners to medical confidentiality at all times, including the right to refuse vaginal examination and not to share information about their

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<sup>67</sup> Briefing on the UN rules for the treatment of women prisoners and non-custodial measures for women offenders ("? Bangkok Rules"), Penal Reform International and Quaker United Nations Office.

<sup>68</sup> See footnote No. 22, p. 8 — 9: for example in the United Kingdom 80% of the women prisoners suffer from diagnosable mental health problems and 66% are drug dependent or use alcohol to dangerous excess. In 2002, 75% of the women entering European prisons were problematic drug and alcohol users.

<sup>69</sup> *Ibid.*, p. 10.

<sup>70</sup> Jan Palmer, Special health requirements for female prisoners in Health in prisons, A WHO guide to the essentials in prison health, World Health Organization Regional Office for Europe, 2007, p. 157.

<sup>71</sup> See footnote No. 48, Commentary to the Bangkok Rules, Rule 5.

reproductive health history.<sup>73</sup>

Rules 10 - 11 refer to gender-specific health care and introduce important requirements, such as the equivalence of care provided to women prisoners to the services available in the community. Bearing in mind the prevalence of sexual abuse in the past of many women prisoners, it is essential that they have a right to request to be examined or treated by a woman physician or nurse to the extent possible. In situations when this is not possible, a woman staff member shall be present during the examination (although, as a rule, only medical staff should be present during medical examinations).

As the Commentary to the Bangkok Rules notes, Rule 12 “takes account of the reality that in many prison systems women prisoners’ unique mental healthcare needs are not adequately understood or treated; symptoms are addressed rather than the underlying reasons that lead to mental health problems. Too often women are prescribed medication to overcome their distress or depression, rather than being provided with psycho-social support, based on individual assessments.”<sup>74</sup> For women prisoners requiring long-term or specialized treatment, where appropriate and possible, preference should be given to treatment in the community with adequate security measures, taking into account the negative impact of imprisonment on mental health.

Rule 13 underlines the need for prison staff to be aware of times when women prisoners may be more susceptible to mental distress and depression (e.g. upon admission, after separation from a child, etc.) and to be trained on how to respond to women’s needs with understanding.

HIV/AIDS is a major health issue in prisons and a relatively recent one, which is not reflected in the Standard Minimum Rules for the Treatment of Prisoners. Thus, Rule 14 considers the women’s particular physical vulnerability to HIV and the risk of mother-to-child transmission. It recognizes the need to support the development of initiatives on HIV prevention, treatment and care, such as peer-based education.<sup>75</sup>

Rule 15 deals with another crucial problem affecting the mental health of many women prisoners, i.e. substance abuse. A large number of women prisoners worldwide require treatment for substance abuse. If left untreated, these women are more likely to reoffend. Thus, access to treatment programmes designed for women offenders becomes essential to support their rehabilitation. The UNODC Drug Abuse Treatment Toolkit, “Substance abuse treatment and care for women: Case studies and lessons learned” provides additional recommendations for a comprehensive approach to substance dependence programme planning and development.<sup>76</sup>

Due to the already mentioned higher prevalence of mental health problems and substance addiction, together with the negative impact of separation from their families, women prisoners are more likely to attempt suicide or to harm themselves than men. Rule 16 asserts that gender-specific strategies for the prevention of suicide and self-harm, as well as specialized support to those at risk, shall be part of a comprehensive policy of mental healthcare in women’s prisons.

Rule 17 addresses the importance of education and information on the preventive healthcare. Considering the low education level and awareness among most women prisoners, this is extremely important. Prisons may offer the opportunity to educate women on how to reduce their risk to develop sexually transmitted or blood-borne diseases.

<sup>72</sup> See footnote No. 49, p. 37 and p. 41: The Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104 of 20 December 1993) proclaims that States should “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”. This obligation is reflected in Rule 7.

<sup>73</sup> For example, in some countries disclosing information on an out of marriage pregnancy or childbirth may cause stigmatization or even be considered as criminal offences. In many countries, abortion is criminalized.

<sup>74</sup> See footnote No. 48, Commentary to the Bangkok Rules, Rule 12.

<sup>75</sup> See also: UNODC, WHO, UNAIDS (2206) HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings, A framework for an effective national response.

<sup>76</sup> United Nations; New York, 2004 (available at [http://www.unodc.org/docs/treatment/Case\\_Studies\\_E.pdf](http://www.unodc.org/docs/treatment/Case_Studies_E.pdf)).

Finally, Rule 18 stipulates that women prisoners shall have access to preventive healthcare services, including screening for breast and cervical cancer as frequently as in the community (equivalence of care principle).

## **V. CONCLUSIONS**

The Bangkok Rules are of historical importance for having compiled under one instrument all the provisions addressing the various gender-specific issues of women prisoners. Although they are one of the most recent sets of standards in criminal justice, as they become better known all over the world it is expected that policy-makers and reformers will endeavour to take the necessary measures to implement them in full.

It is for me an honour to start the promotion of the Bangkok Rules in this region. In fact the first meeting on the sensitization of policy-makers and senior prison staff on this important instrument will take place next month in Bangkok and will mark the beginning of a worldwide series of activities, generously supported by the Kingdom of Thailand, aimed at better understanding the needs of women prisoners and the challenges of prison administrations in addressing them.

As most countries have been inspired by the Standard Minimum Rules for the Treatment of Prisoners in their prison policies, I am sure that the Bangkok Rules will represent a beacon guiding Governments in their reform efforts to improve the treatment of women prisoners.