

**WOMEN PRISONERS**  
AND THE IMPLEMENTATION OF  
**THE BANGKOK RULES**  
IN THAILAND

## THE RESEARCH TEAM

### THE THAILAND INSTITUTE OF JUSTICE TEAM

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*Dr Barbara Owen* was responsible for the preparation phase of the project, which included the development of the survey, in cooperation with Tomris Atabay and TIJ staff, as well as the survey protocol. Dr Barbara Owen was also responsible for training TIJ staff to administer the survey and undertake the data entry, as well as for undertaking two pre-tests and one pilot of the survey in the Central Women's Correctional Institution in Bangkok together with TIJ staff. Part IV of the report was written by Dr Owen, who also wrote the recommendations on survey administration and further research in Part VI.

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## ACRONYMS

ART	Antiretroviral therapy
CPT	European Committee for the Prevention of Torture
DOC	Department of Corrections, Thailand
DOTS	Directly observed treatment, short-course
HIV	Human immunodeficiency virus
ICRC	International Committee of the Red Cross
SMR	United Nations Standard Minimum Rules for the Treatment of Prisoners
STI	Sexually Transmitted Infections
TB	Tuberculosis
TC	Therapeutic community
TIJ	Thailand Institute of Justice
UNODC	United Nations Office on Drugs and Crime



## I. INTRODUCTION

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), adopted by the United Nations General Assembly on 21 December 2010, is the first international instrument which provides specific and detailed guidelines on responding to the gender specific needs of women in the criminal justice system, as well as of children of such women. The Government of Thailand, led by HRH Princess Bajrakitiyabha, initiated and played a key role in the development, promotion and adoption of the Bangkok Rules. The establishment of the Thailand Institute of Justice (TIJ) by the government of Thailand in 2011 was prompted by the adoption of the Bangkok Rules, the promotion and implementation of which will be central to its work programme. In addition, TIJ aims to serve as a centre of excellence for justice research for the ASEAN Community and beyond, while also contributing to the strengthening of the rule of law, in line with United Nations standards and norms, by supporting and facilitating reform in the fields of law enforcement, criminal justice, and corrections.

The work programme of the TIJ sets out activities to promote the implementation of the Bangkok Rules in a variety of ways. These include conducting assessments of the implementation of the Bangkok Rules in women's prisons in Thailand and in other countries of the ASEAN region and beyond, on request. Such assessments aim to identify good practices and challenges in the implementation of the Bangkok Rules and to put forward suggestions and recommendations to the relevant governments and authorities to improve the treatment of women in the criminal justice system, in line with the Bangkok Rules. The work programme also includes research as required by the Bangkok Rules, Rules 67 to 69. This research aims at understanding 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, as a basis for effective planning, programme development and policy formulation to respond to the social reintegration needs of women offenders."<sup>1</sup>

TIJ is also working together with the United Nations Office on Drugs and Crime (UNDOC) to raise awareness about the Bangkok Rules in the South Asia and Pacific Region, to develop training modules for criminal justice actors on the Bangkok Rules specific to the ASEAN and in the piloting of such trainings.<sup>2</sup>

In this context, TIJ initiated a research project focusing on the situation of women prisoners in Thailand to (1) assess the implementation of the Bangkok Rules in selected prisons of Thailand; and (2) undertake a survey and interviews among women prisoners to determine the characteristics and background of women prisoners, the reasons which trigger women's confrontation with the criminal justice system and their social reintegration needs. The scope of the research did not extend to an examination of the use of non-custodial measures and sanctions in the case of women offenders in Thailand, which will be the subject of further research in future.

The preparation for the research project was undertaken in December 2012 and January 2013. The prison assessments and survey among women prisoners were undertaken in February 2013 in six correctional facilities and prisons where women are held, with 533 prisoners participating in the survey and 34 participating in individual interviews. Given that there were, at the time of the research, 36,649 women prisoners in Thailand and 129 prison facilities where women were held, this initial survey can only be considered as a Phase I or pilot survey, which the TIJ plans to expand and continue in future.

The prisons selected for this pilot research were:

- (1) Central Women's Correctional Institution, Bangkok
- (2) Chonburi Women's Correctional Institution

<sup>1</sup> Bangkok Rules, Rule 67

<sup>2</sup> 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) Bangkok, 19 to 21 February 2013; ASEAN Expert Meeting on the Development of Training Modules based on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) Bangkok Rules Bangkok, 19 to 21 March 2013

- (3) Chiang Mai Women's Correctional Institution
- (4) Pathum Thani, Correctional Institution for Female Drug Addicts [sic]
- (5) Rayong Central and Remand Prison
- (6) Ratchaburi Central and Remand Prison

The selection of the prisons were made on the basis of logistical considerations and the size of the prisons, with the correctional institution for drug dependent prisoners having been included due to the very high number of women prisoners convicted of drug related offences in Thailand.

The prisoners covered by the survey were selected on the basis of their sentence lengths, in the case of convicted prisoners, and offences with which they were charged, in the case of pre-trial prisoners.<sup>3</sup> The proportions of different categories of prisoners who participated in the survey were calculated to reflect, as closely as possible, the similar proportions in the total prison population. (See *Part IV* for further details). All surveys and interviews were conducted in private on a voluntary, confidential and anonymous basis.

The research was undertaken in two phases with one consultant having primary responsibility for each phase, working together and supported by the staff of TIJ.

**Phase 1: Preparation Phase:** This phase included the development of a survey instrument and methodology to profile women in Thailand's prisons, the pre-test and piloting of the survey instrument among a small group of prisoners in the Central Correctional Institution for Women in Thailand and focus group discussion with prisoners to refine and finalise the survey instrument. It was implemented over a period of three weeks. Further details about the methodology used and steps involved are provided in *Part IV*.

**Phase 2: Implementation Phase:** This phase included the development of a checklist to assess the implementation of the Bangkok Rules in the selected prisons, assessment of the implementation of the Bangkok Rules and conducting the survey and individual interviews in these prisons. This phase was implemented over a period of three weeks, with two days dedicated to each prison. On the first day interviews

were conducted with the directors, and staff responsible for different aspects of prison management, healthcare staff and other specialist staff, and different parts of the facility were visited by the consultant and members of the TIJ team. The survey, administered by TIJ staff, was conducted on the first day among 85 to 100 prisoners in each facility. On the second day the consultant, together with one TIJ staff conducted individual interviews with 5-6 prisoners, selected on the basis of their legal status, and including women who had children with them in prison and foreign national prisoners. (See *Appendix 1, programme of prison visits*)

The current report sets out the findings of the assessment and the survey and interviews among women prisoners in six parts. Part II is an executive summary which brings together and summarises the findings of the assessment, survey and interviews. Part III covers the assessment of the implementation of the Bangkok Rules in the facilities visited. As the Bangkok Rules supplement the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), reference is also made to SMR as relevant. The Part IV sets out the findings of the survey among women prisoners. Part V provides some case examples based on individual interviews. Part VI summarises the recommendations of the report, based on both the assessment results and the survey findings.

<sup>3</sup> In this report, the term "pre-trial prisoners" is used to refer to persons deprived of liberty prior to adjudication, including during police investigation, through to the conclusion of the criminal trial, including appeal. Though pre-trial detainees held in police stations were not included in the research project, so called "entrusted persons", which refers to detainees who are still under police investigation but who have been handed over to the prison authorities for their custody, were included in the survey.

## II. EXECUTIVE SUMMARY

The Department of Corrections of Thailand (DOC) was transferred from the Ministry of Interior to the Ministry of Justice in 2002. At the time of writing it was responsible for 114 prison facilities, including 34 central prisons, 49 provincial prisons, 27 district prisons, 24 correctional institutions, 4 remand prisons, one house of relegation and five detention houses.<sup>4</sup>

There were a total of 235,716 prisoners in Thailand on 1 October 2012, of which 199,067 were men and 36,649 (16 per cent) were women. Twenty-seven per cent of prisoners had not been convicted as of that date. The majority of all sentenced prisoners (64 per cent) had been convicted of drug offences. This was followed by prisoners convicted of property offences (19 per cent). DOC reports that the size of the prison population peaked in 2002, when almost 250,000 prisoners were incarcerated in prison as a consequence of the “war on drugs” policy.<sup>5</sup> Over the following years, between 2003 and 2006, the prison population declined due to royal pardons and the use of alternatives to imprisonment to relieve overcrowding in prisons. From 2007 onwards the size of the prison population has been growing again as a result of the reintroduction of a tough policy towards drug offences. Most prisoners who are in prison for drug offences serve long sentences, exacerbating the situation.<sup>6</sup>

The number of sentenced women prisoners increased from 22,748 in 2010 to 24,545 in 2011 and to 26,292 in 2012, which constitutes an eight per cent and

<sup>4</sup> [http://www.correct.go.th/eng/prisons\\_correctional\\_i.html](http://www.correct.go.th/eng/prisons_correctional_i.html)

<sup>5</sup> Corrections in Thailand 2012, op. cit., p. 6

<sup>6</sup> Ibid. p. 6

seven per cent increase respectively, in comparison to a four per cent (2010-2011) and one per cent (2011-2012) increase among sentenced male prisoners. Thus the rate of increase among sentenced women prisoners was faster in comparison to men similar to a growing number of other countries in recent years.

Over 80 per cent of women have been convicted of drug offences, compared to 61 per cent among male prisoners, according to official figures as of October 2012. 20 per cent of women were convicted of property offences. The proportion of violent offences (murder and bodily harm) is low among both male and female prisoners, but much lower among the latter.

The key problem that underlies many of the challenges which are faced in the prison system of Thailand today is the acute overcrowding, which hinders the implementation not only of the Bangkok Rules, but also the SMR. While there does not appear to be a legally prescribed minimum space limit for each prisoner, the standard put forward by the DOC is 2.25 sq.m. This is well below the recommendations of international bodies, such as the International Committee of the Red Cross (ICRC) and the European Committee for the Prevention of Torture (CPT), which recommend, respectively, 3.4 sq.m. and 4 sq.m. in shared accommodation as a minimum. In practice, the space allocation per prisoner is usually calculated as 1.1 sq.m., and many women prisoners have much less than this, as low as 0.60 sq.m. in some prisons visited, which can be described as a crisis level overcrowding.<sup>7</sup> Overcrowding has impacted on many other aspects of prison management and the treatment of prisoners, including access to water and food and healthcare services. Overcrowding is coupled with the shortage of staff, and in particular specialist staff, which exacerbates the challenges faced, putting immense pressure on staff. While the assessment did not directly cover the implementation of non-custodial measures and sanctions, taking into account the negative impact of overcrowding on the implementation of many of the rules contained in the Bangkok Rules, a key recommendation of this report is to take measures in law and practice, to reduce the size of the female prison population. These may include increasing the use of alternatives to imprisonment, considering the reduction of the current very long prison terms, especially in the case of first-time offenders, taking into account mitigating circumstances and the caring responsibilities of

<sup>7</sup> ICRC has noted: “Even in exceptional crisis situations, the floor space in cells and dormitories must never be less than 2m<sup>2</sup> per person. This figure of 2 m<sup>2</sup> per person must in no way be considered as a norm, but as a pragmatic indication which reflects the experience gained by the ICRC in very grave crises. It must be increased as rapidly as possible, for such a situation spells extremely difficult living conditions for the detainees concerned.” (bold words as in the original) See ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons* (2005), p. 21



women when sentencing, and considerably improving the implementation of early conditional release (parole), in line with the provisions of the Bangkok Rules, to stabilise and reduce the size of the female prison population.

The legislative basis governing the management of prisons is also an area which needs urgent attention. The Penitentiary Act currently in force is dated 1936, amended in 1980<sup>8</sup> and the Ministerial Regulations are dated 1937<sup>9</sup>, with some amendments made in later years. In addition DOC has periodically issued its own regulations, to make changes to practice on specific issues. Both the Penitentiary Act and the Ministerial Regulations were found to be out-of-date, regrettably containing articles and rules which violate both the SMR and the Bangkok Rules. Although many of such provisions are said not to be implemented in practice, this legislation remains in force. Furthermore, the Penitentiary Act and Ministerial Regulations form the basis for the current training provided for prison staff. This assessment therefore recommends that the Penitentiary Act and the Ministerial Regulations are reviewed and revised in line with the provisions of the SMR and the Bangkok Rules and that staff training materials and curricula are also revised on that basis. (See *Part VI* for a summary of all the recommendations of this report).

Despite the high number of prisons that hold women prisoners in Thailand (although some of them with very limited capacity), many women have to spend a considerable proportion of their sentence far away from their homes because their allocation has to take into account the length of their sentences. District and provincial prisons closer to their homes cannot usually accommodate women who have been sentenced to prison terms longer than 10 or 15 years. This leads to problems for families to visit the women prisoners, as indicated in the survey results, where a quarter of the prisoners interviewed said that their families and/or children could not visit them because the prison was too far for them to travel and a similar proportion said that it was too expensive for them to travel. This results in a particularly unfavourable situation where women with long sentences often find themselves located far away from their homes, although these women need more contact to maintain links with their families and to benefit from the positive impact of family visits on their rehabilitation, given the many years that they face behind bars. It is recommended that more attention is paid to the allocation of women prisoners closer to home, in line with the Bangkok Rules (See *Part VI*).

<sup>8</sup> As last amended by the Penitentiary Act (No. 4), B.E. 2523 (1980) (Published in the Government Gazette Vol. 97, Special issue, dated 1st February B.E. 2523 (1980))

<sup>9</sup> Ministerial Regulations of the Ministry of Interior, dated 21 April 1937

Information and assistance provided to prisoners on admission appears inadequate in most prisons visited, though to varying degrees. Written information is hardly ever provided. A comprehensive handbook was produced by the DOC to inform prisoners of their rights and obligations, in a number of languages, but prisoners appear not to be receiving it, due to inadequate copies. Many women who participated in the survey and who were interviewed told the research team that they had not received much information on admission, with the exception of disciplinary rules, and that they found out about other issues from prisoners while serving their sentence. It is not clear to what extent they are aware of their rights. It is therefore recommended that measures are taken to improve the information and assistance provided to prisoners on admission (See *Part VI*).

An area of key concern is the searching procedures on admission and on return from court or hospitals, which in all prisons involve strip searches and in some invasive body searches on a routine basis, comprising a serious violation of the Bangkok Rules. The way in which such searches are reportedly carried out, at least in one prison, is another practice which needs urgent attention (See *Part VI*).

The assessment also found that the medical examinations on admission need to be improved and standardised to comply with the provisions of the Bangkok Rules and guidelines and training need to be developed to ensure that staff take appropriate action in a sensitive and professional manner when there are findings or allegations that a woman may have been subjected to ill-treatment, including sexual abuse in previous custody (See *Part VI*).

The classification of women prisoners is standard. According to current legislation and practice all prisoners may be classified as “bad”, “average”, “good”, “very good” or “excellent” class, with no specific gender considerations being taken into account. While information about women’s family circumstances and background is noted by social workers on admission, this information is not used to develop an individualised sentence plan as required by the Bangkok Rules. TIJ was informed that women’s preferences for specific work and vocational training were taken into account, as much as possible, though allocation for work also depended on the women’s classification. The introduction of a gender sensitive classification system lies at the heart of the Bangkok Rules which aim to reduce the disadvantages and discrimination faced by women prisoners in their social reintegration, by ensuring that their needs are better assessed and taken into account during their imprisonment. The development of a gender sensitive classification system to be used in all prisons in Thailand where women are held is therefore recommended by

this report (See *Part VI*).

The Ministry of Health has overall responsibility for healthcare services in prisons, though in practice the responsibility is shared with the Ministry of Justice, which has established its own medical centres in prisons. In most prisons doctors from the Ministry of Health visit prisons on a regular basis and where required prisoners are taken to community hospitals for treatment. The close cooperation between community and prison healthcare services and the responsibility assumed by the Ministry of Health for prisoner healthcare is very much welcomed and in line with international recommendations. While there are many positive aspects of healthcare delivery, such as regular gynaecological screenings and breast scans, the care provided for pregnant women, mothers and their children, the policies on HIV and AIDS prevention and treatment, and therapeutic communities established in some prisons for the treatment of drug dependence, one of the main areas where significant shortcomings were noted was in the provision of healthcare services in the women's prisons visited. This was most certainly as a result of overcrowding and the acute shortage of healthcare staff working in the prisons, who are trying to perform their duties under immense pressure. A large majority of prisoners interviewed and who took part in the survey expressed dissatisfaction with the healthcare services, in particular access to healthcare staff, the lack of medication and difficulties experienced to receive permission to be taken to community hospitals. Foreign national prisoners who do not have national insurance coverage are at a particular disadvantage with regard to treatment in hospitals, since often they will have to pay for treatment, which typically, they cannot afford.

The acute shortage of psychologists and psychiatrists, coupled with the large number of prisoners and additional tensions and mental distress which overcrowded prisons generate mean that the individualised comprehensive mental healthcare, which does not rely on medication as a primary response to mental ill health, is also not being applied in women's prisons in Thailand.

Measures are in place to provide for women's hygiene needs, but they are inadequate. It is welcomed that women have access to sanitary facilities throughout the night and that they can usually wash twice a day. However, due to overcrowding, which results in queuing for water, and the tight prison timetable, women's access to water is sometimes limited. Hygiene articles, including sanitary pads, are provided to women prisoners free of charge by the DOC, which is a positive initiative, but they are not sufficient, which means that women must either buy them from the prison shops or rely on their families help.

Despite the lack of proper individualisation, there is an adequate level of education, vocational training and work provided to women prisoners, with a varied programme of vocational training activities and education at different levels, which is welcomed. The participation in vocational training and education varied considerably, from 12 to 41 per cent in prisons visited. Efforts could be made to increase this proportion taking into account the findings of the survey conducted among women prisoners, which indicated that 65 per cent of women had difficulty reading and 67 per cent had problems with writing. The findings of the survey also indicate that 30 per cent of women felt more vocational training in prison would improve their prospects of social reintegration. In addition, many of the comments made by women who participated in the survey included requests for increased access to vocational and educational programmes to improve their ability to support themselves and their children upon release. Thus, there appears to be a need to further develop vocational training and increase women's participation in such training to better prepare them for re-entry and social reintegration.

The large majority of the women work in the prison workshops or factories. A significant proportion of such work is undertaken in agreement with private companies, which provide the materials and initial training to the prisoners. Some work is financed and administered by the prison administration. The work provides women with opportunities to learn new skills and ensures they are purposefully occupied, which no doubt has a positive impact on their mental health and prospects of employment following release. The research team was informed that women receive 50 per cent of the net profit (with 15 per cent going to prison officer in charge and 35 per cent to the prison for general spending). However, the remuneration received by prisoners in practice is extremely low, ranging between 70 BAHT (around US\$2.5) and 400 BAHT (around US\$13) per month, depending on the work undertaken and the agreements reached between the prison administration and the private companies providing the work. The national minimum wage in Thailand, adopted on 1 January 2013, is 300 BAHT per day (around US\$10), which would amount to just over \$200 per month, with a five day working week. The level of pay received by women therefore does not comply with the provisions of the SMR, which require wages received for prison work to be equivalent with that in the community. The low wages hinder many prisoners from buying additional products and food from the prison shops, which is a necessity since, for example, they are not provided with adequate hygiene articles for the whole year. Those prisoners with no families visiting them and foreign prisoners are at a particular disadvantage.

The level of prisoners' contact with the outside world is an area where much improvement is needed to ensure compliance with the Bangkok Rules. In particular, the extremely restricted open (contact) visiting rights, which in most prison visited were once a year, sometimes twice, the very restricted opportunities to make telephone calls, the length of letters, which are also restricted, and the monitoring of all correspondence are practices that do not comply with the philosophy of the Bangkok Rules, as well as specific rules which require prison authorities to make maximum effort to enable women prisoners contact with their families in every possible way. The Bangkok Rules also require visits to be open, especially where children are involved. Problems with maintaining contact with families, especially parents and children were among comment received from many prisoners who participated in the survey. These difficulties included distance and expense of traveling to prisons for visits; delays in mailed letters; restrictions on length and types of visitors; and lack of telephones to contact families. Related here was confinement in prisons far away from "hometowns." The better practice in Ratchaburi Central and Remand Prison, where open visits are allowed on a much more frequent basis is welcomed.

The suspension of visits appears to be a type of punishment that is used quite frequently in at least four of the prisons visited. This practice does not comply with the Bangkok Rules. In one prison the punishment is not used at all which is in line with the Bangkok Rules and very much welcomed, in another it is not used in the case of women with children, which also partially complies with the Bangkok Rules. But the punishment is not explicitly prohibited in the Prison Act or Ministerial Regulations, including in the case of women with children, decision being left to the prison administration in most cases.

Women who are pregnant are registered at an outside hospital in order to see the doctor, by appointment and they have regular medical check-ups in the hospital. Pregnant women are taken to hospital do deliver their babies and no restraints are used during transport or delivery or following delivery. Restraints are also not used when pregnant women are taken to hospital for their periodic checks prior to delivery. In one prison The research team was told that restraints are prohibited in the case of all women. Thus the practice with respect to the use of restraints complies with the requirement of the Bangkok Rules, Rule 24 and is very much welcomed. Children have their vaccines in the community hospitals and also receive regular check-ups. All mothers interviewed were satisfied with the medical care they received, including during the delivery of their babies.

The attention and resources allocated to the treatment and care of pregnant women, breastfeeding mothers and children living with their mothers in prisons are generally welcomed. Improvements can be made to ensure that the dormitories and day-time accommodation areas of these categories of women always have sanitary facilities, including showers and toilets. These facilities should be accessible all the time and ensure that women do not have to share (or compete for) the overcrowded washing areas on a daily basis. In addition, the space allocated to pregnant women, breastfeeding mothers and women with children in prison is grossly inadequate. In at least two prisons, for example, prisoners and their babies had around 63 to 66 cm of space (25 to 26 inches) in width. This situation needs urgent attention to improve compliance with the SMR and the Bangkok Rules. In addition, the impression received during the visits to the prisons was that these categories of women did not have access to a range of physical activities appropriate to their condition. More could be done, such as introducing yoga, tai chi and other exercise programmes for pregnant women, breastfeeding mothers and mothers with children in prison.

Children can stay in prison with their mothers up to the age of one. Then, if there is no family or relative to take care of the child and if the prison has a nursery for children between one and three years old (only the Bangkok Central Correctional Institution for Women, among those visited), they are put in the prison nursery, located in the prison grounds, but outside the actual prison. In such prisons the prison administration tries to find a home for the child with a foster family or volunteer group when a child reaches the age of 3. In prisons where there are no such nurseries, the children are usually removed from prison when they reach the age of one.<sup>10</sup> They are then either taken by a family member to be looked after or placed in alternative care. The prison administration needs to make sure that the women know the address of their children. Prisoners can contact their children and the foster parents with the help of the prison social worker, if they are unable to get news from them. The prison administrations also work with the foster homes to arrange for the child to visit the prison on a regular basis. Overall these are positive practices; however, individual assessments are not undertaken to decide whether a child can be removed from prison, the age being fixed. This practice does not comply with the Bangkok Rules, which requires that individual assessments need to be undertaken before deciding whether a child can be removed from prison or not, taking into account the best interests of the child or children concerned.<sup>11</sup>

<sup>10</sup> In Rayong Central and Remand Prison children were allowed to stay with their mothers in the prison until the age of 3.

<sup>11</sup> Bangkok Rules, Rule 52 (1)

Internal prison inspections are undertaken by the DOC Office of Inspectors twice a year. The inspectors determine whether the prison management practices comply with the law and assess their budgetary needs. In addition, the Ombudsman, National Human Rights Commission and judicial officials can visit prisons, but such external inspections appear to be ad hoc and infrequent. The International Committee of the Red Cross (ICRC) has been visiting security detainees in southern Thailand for eight years. At the beginning of 2012 it received access to all places of detention. At the time of the TIJ assessment mission the ICRC had undertaken 60 prison visits, covering 40 prisons. They had completed a first survey which focused on health in detention. The ICRC reports are discussed confidentially with the authorities in charge. It is felt that more attention should be given to ensure the regular external inspections of prisons by independent bodies to enhance the transparency of prisons.

A number of positive initiatives were underway in some of the prisons visited to prepare prisoners for release. The work, vocational training and education which women prisoners have access to during their imprisonment are also important components of preparation for release starting on the day of imprisonment. However, several factors compromise reintegration into the community and appear to have prevented the introduction and implementation of the more comprehensive and individualised pre-and post-release support programmes put forward in the Bangkok Rules. These factors include the shortage of specialist staff, such as social workers and psychologists, in all prisons, and the lack of adequate resources, coupled with the limited possibilities to cooperate with organisations of civil society or community organisations which work with prisoners or former prisoners, as well as the lack of resources of the probation department. As mentioned above, prisoners' contact with their families is also severely limited, with open contact visits being very infrequent, which is not conducive to the maintenance of social relations between prisoners and their families. Rule 43 of the Bangkok Rules is therefore in general not being fully applied. It is recommended that more attention is given to preparation for release initiatives and programmes, taking into account the specific needs of women who serve long sentences.

There were, at the time of writing, 2138 women staff in Thailand, 283 of whom were employed at headquarters. All staff in the correctional institutions for women are female, including the director, as required by the SMR and the Bangkok Rules. The women's sections of male prisons are also staffed by female staff, though, at least in the two such prisons visited, the director for both the male and female sections of the prisons was male. The ratio of prisoners to staff is very high in all

prisons, with around 20 to 1 in prisons where women are held at the time of writing, calculated on the basis of figures provided.<sup>12</sup> The ratio generally recommended internationally is 3:1. As for specialist staff, in Bangkok the ratio of prisoners to one nurse is 645:1; in Ratchaburi, taking into account the prison population for both the male and female sections, 1566:1; in Rayong - 552:1; in Chonburi - 616:1; in Chiang Mai - 757:1; in Pathum Thani - 813:1. While the prisons are visited by doctors on a regular basis and women can be taken to hospital for treatment, the lack of a qualified doctor to undertake the initial comprehensive health assessment of women prisoners on admission and who is accessible to prisoners on a daily basis, coupled with the acute shortage of nurses is a cause for serious concern. In three of the prisons visited there were no psychologists, and in others, only one, which is deemed to be extremely insufficient to ensure provision of the comprehensive and individualised mental healthcare required by the Bangkok Rules. Similarly, there is an acute shortage of social workers: for example 1 to 1129 prisoners in Bangkok, 1 to 854 prisoners in Ratchaburi, 1 to 552 in Rayong, 1 to 1222 in Chonburi, 1 to 757 in Chiang Mai and 1 to 542 in Pathum Thani. Given that the role of social workers is extremely important in the implementation of the Bangkok Rules, including in encouraging and facilitating contacts between women, their families and children, among many other responsibilities relating to the social reintegration of women prisoners, the insufficiency of this category of staff is clearly hindering the implementation of the Bangkok Rules.

The shortage of all levels of staff, including and especially medical staff, is a key reason why the prison administrations have resorted to assistance by trustee prisoners, which is a practice that does not have a place in good prison management, puts vulnerable prisoners at risk and has led to the violation of the principle of medical confidentiality in some prisons.

Staff working conditions are difficult and they are under significant stress, no doubt, exacerbated by the levels of overcrowding and the shortage of staff. Working hours are long. Reportedly, many staff leave the service, resigning when and if they get another opportunity elsewhere.

All prison staff are said to receive a four month basic training for new officers at DOC's Correctional Staff Training Institute. Training on the Bangkok Rules was introduced in 2011 and integrated into the programme. The plan is to train all female staff on the Bangkok Rules. So far, DOC has conducted training for a

<sup>12</sup> 1855 female prison staff (excluding staff working in headquarters to 36,649 women prisoners)

total of 216 staff in 2011. There were plans to train another 150 staff in three groups in 2013. DOC has also included three hours of training on the Bangkok Rules in the basic training of all staff. In 2013, 269 staff were to receive this basic training. There are also efforts to integrate the provisions of the Bangkok Rules into different levels of training programmes, including the higher level in-service training programmes. For example, a seminar on strategic planning was to be conducted in 2013 on the implementation of the Bangkok Rules, which would be for 30 senior level staff. In addition, the requirements of the Bangkok Rules will be included in DOC's key performance indicators and the directors of women's prisons will have to sign a commitment to implement them. The research team was informed that senior experts would undertake monitoring to assess the implementation of the Bangkok Rules. The number of staff trained on the Bangkok Rules needs to be increased in order to speed up the implementation of the Bangkok Rules, taking into account that at least 2138 staff in total (all women staff) need to be trained.

The impression received during staff interviews and the assessment of practice in prisons was that the philosophy behind the Bangkok Rules had not been totally understood or internalised. This was particularly evident in the strict prison regime, the distance between staff and prisoners in a number of prisons visited, the focus on security and discipline, reflected in the restrictions on contact with the outside world, searching procedures and frequent use of disciplinary measures. One notable exception to this was Ratchaburi Central and Remand Prison. It was also observed that the Bangkok Rules were understood to focus primarily on pregnant women and women with children in prison, and the many other important provisions of the rules were not sufficiently understood or applied. Most importantly, comments received indicated that, since the Bangkok Rules were not incorporated into national legislation, there was no legal obligation to apply the rules. This highlights once again the fundamental requirement to revise or totally rewrite the existing Penitentiary Act and Ministerial Regulations to ensure that their provisions comply with those of the SMR and the Bangkok Rules, and to ensure that the training curriculum of staff is also updated on this basis.

In conclusion, despite the training and good practices which have been introduced and the efforts at many levels, significant challenges are faced, partially due to the acute overcrowding and the shortage of staff and other resources, partially due to outdated legislation and regulations on which staff training is based and partly due to deeply ingrained attitudes which regard security as the primary focus of prison management policies, hindering the full implementation of many provisions of not only the Bangkok Rules, but also the SMR.

The initial survey sought to meet the requirements of Rules 67, 68 and 69 of the Bangkok Rules. Overall, the survey was a success in collecting self-report data on backgrounds and characteristics of women prisoners in Thailand, outlined in Part IV. This survey should be viewed as a pilot with some lessons learned for future administration. The findings reported here can serve as an empirical foundation for improving operational practice within the DOC and, combined with the whole of this report, provide guidance for meeting the requirements of the Bangkok Rules.

It is composed of:

- **Bureaus and divisions at headquarters:** Bureau of Rehabilitation, Bureau of Penology, Bureau of Penological Operation, Bureau of Social Works, Bureau of Correctional Research and Development, Planning Division, Personnel Division, Medical Services Division, Legal Affairs Division, Finance Division, Construction and Environment Division, Office of the Secretary, Correctional Staff Training Institution, Public Relations Division, Office of the Inspectors, Office of Administration Development, Office of Internal Audit, Correctional Transparent Cooperation Center and the Office of Drug Suppression and Prevention.
- **Prisons and correctional institutions:** 34 central prisons, 4 remand prisons, 24 correctional institutions, 1 house of relegation and 5 detention houses.

**The Provincial Administration** has responsibility for the supervision of provincial and district prisons. A total of 49 provincial prisons and 27 district prisons are under the responsibility of the Provincial Administration.

The DOC is headed by a Director General, who is supported by four deputy directors general: Deputy Director General (Administration); Deputy Director General (Rehabilitation); Deputy Director General (Academic) and Deputy Director General (Operations), as well as a Senior Expert in Penology.

In 2012 1.33 per cent of the annual budget was allocated to prisoner rehabilitation and 2.5 per cent to drug prevention and suppression.<sup>14</sup> The rest was allocated to expenditure relating to the custody of prisoners, including staff salaries and allowances, operational expenses, investments and subsidised funds. This proportion was broadly similar to previous years.<sup>15</sup>

### 1.2 Prison Facilities

The DOC is responsible for 114 prison facilities, including 34 central prisons, 49 provincial prisons, 27 district prisons, 24 correctional institutions, four remand prisons, one house of relegation and five detention houses.<sup>16</sup> A brief description of

<sup>14</sup> Corrections in Thailand 2012, Department of Corrections, Ministry of Justice, p. 8

<sup>15</sup> Corrections in Thailand 2011, Department of Corrections, Ministry of Justice, The Prisoners' rights under the Thai Penitentiary Act, specialists of the Department of Corrections, p. 578 (reporting on 2008).

<sup>16</sup> [http://www.correct.go.th/eng/prisons\\_correctional\\_i.html](http://www.correct.go.th/eng/prisons_correctional_i.html)

## III. ASSESSMENT OF THE IMPLEMENTATION OF THE BANGKOK RULES IN SELECTED PRISONS

### 1. The Administration of Prisons: Overview

#### 1.1 The Management of Prisons

The Penitentiary Department of Thailand was renamed the Department of Corrections (DOC) in 1962. In 2002 the DOC was transferred from the Ministry of Interior to the Ministry of Justice. According to Ministry of Justice Regulations of 2002 the Department of Corrections, has the following key responsibilities<sup>13</sup>:

- providing treatment for offenders according to the court verdicts by means of the Penitentiary Act and related laws;
- stipulating guidelines for the treatment of prisoners under relevant laws and regulations, penological practices, and the United Nations standards on the treatment of offenders;
- providing social welfare for prisoners;
- performing other duties assigned by the Ministry of Justice or the Cabinet.

The Department's organizational structure is broadly divided into the Central Administration and the Provincial Administration.

**The Central Administration** includes prisons/correctional institutions and bureaus/divisions that come under the direct supervision of the department's headquarters.

<sup>13</sup> As set out in the Prisoners' rights under the Thai Penitentiary Act, specialists of the Department of Corrections, p. 573

each is provided below.

- **Remand Prisons** hold prisoners awaiting investigation or awaiting trial.
- **District Prisons** are small prisons holding pre-trial and sentenced prisoners, whose sentence term is under ten years. District prisons are located in major districts all over the country where criminal courts are established. They are primarily for men, but women are also held in separate sections of such prisons. Most district prisons hold around 100 women or less, but a few were holding much higher numbers in October 2012.<sup>17</sup>
- **Provincial Prisons** are small prisons holding both pre-trial and sentenced prisoners, whose sentence term is under fifteen years. Provincial prisons are located in every province or where there are criminal courts. They are generally for men, but have a small section for women prisoners, where generally around 100-200 women prisoners are held, though in some provinces around 400-600 women prisoners were being held in provincial prisons in October 2012.<sup>18</sup> Women may be allocated to such prisons depending on the province in which they were sentenced.
- **Central Prisons** are prisons which hold convicted prisoners whose sentence term is over fifteen years (sometimes up to 30 years or a life sentence) and pre-trial prisoners. They are primarily for men, but also hold female prisoners. The section for women is larger than in provincial prisons and they have their own education and vocational training facilities, though their access to such activities is often less compared to women in correctional facilities (see below). Often Central and Remand Prisons are located in one prison compound and sentenced and remand prisoners are mixed together. The number of women held in these facilities vary considerably with up to 1000 women prisoners held in some facilities.<sup>19</sup>
- **Correctional institutions** are prisons which hold a specific category of prisoners, and include seven correctional institutions for drug offenders, five open institutions, one medical correctional institution (hospital), seven correctional institutions for women, three correctional institutions for young offenders and one agricultural institution.<sup>20</sup>

17 E.g. Thanyaburi District Prison and Thung Song District Prison. (DOC prison population statistics, 1 October 2012)

18 E.g. Phra Nakhon Si Ayutthaya Provincial Prison, Saraburi Provincial Prison, Prachuap Khiri Provincial Prison, Samut Sakhon Provincial Prison and Suphan Buri Provincial Prison. (DODC prison population statistics, 1 October 2012)

19 E.g. Rayong Central and Remand Prison, which held 1048 sentenced women and 890 female pre-trial detainees on 1 October 2012.

20 [http://www.correct.go.th/eng/prisons\\_correctional\\_i.html](http://www.correct.go.th/eng/prisons_correctional_i.html)

**Correctional Institution for Women** holds women with all types of sentences, including those who are under sentence of death. Remand and sentenced prisoners are held in separate parts of the same facility. Correctional institutions offer a range of rehabilitation programmes and services.

- **Correctional Institution for Young Offenders** holds young offenders, aged 18-25 and first time offenders with not more than ten years of prison terms.
- **Correctional Institution for Drug Addicts** was established for the treatment of prisoners with drug dependence and with drug related offences.
- **Open Correctional Institutions** are facilities with minimum security for prisoners close to release. The living conditions are reportedly almost similar to those of people living in the community.
- **Medical Correctional Institution:** There is one medical correctional hospital located in Bangkok. It is responsible for sick prisoners in the capital city and its surrounding areas. In addition, if prisoners are in serious condition and cannot be effectively treated in the medical centres in each prison, patients may be transferred from prisons all around country to the hospital.
- **Detention Houses** are used for the custody of detainees by virtue of a warrant of detention, often used for fine defaulters.
- **House of Relegation** holds prisoners who are serious repeat offenders, who have committed offences more than three times.

There were a total of 235,716 prisoners in Thailand on 1 October 2012, of which 199,067 were men and 36,649 (16 per cent) were women. Twenty-seven per cent of prisoners had not been convicted as of that date. This proportion included those who were awaiting the outcome of their appeals (14 per cent), those who were awaiting trial (5 per cent) and those who were awaiting the investigation of their cases (8 per cent).<sup>21</sup> See Table 1.

**Table 1: Prison population in Thailand on 1 October 2012**

Categories	Male	Female	Total
1. Convicted prisoners	143,277	26,292	169,519
2. Remand prisoners	53,626	10,038	63,644
2.1 Pending of appeal prisoners	27,572	4,816	32,388
2.2 Awaiting trial prisoners	9,494	1,783	11,277

21 Statistics as of 1 October 2012, received from DOC

Categories	Male	Female	Total
2.3 Awaiting investigation prisoners	16,560	3,439	19,999
3. Juveniles in detention	293	3	296
4. Detainees	1,921	316	2,177
<b>Total</b>	<b>199,067</b>	<b>36,649</b>	<b>235,716</b>

The majority of all sentenced prisoners (64 per cent) had been convicted of drug offences. This is followed by prisoners convicted of property offences (19 per cent), with offences against life and of bodily harm comprising a very small proportion of convictions.<sup>22</sup> See Table 2.

**Table 2: Prisoner population by type of offences, as of 31 May 2012**

Type of Offences	Male	Female	Total	Percentage
Offences against Property	30,000	3,477	33,477	19.21
Offences against Narcotics Law	90,506	21,189	111,695	64.08
Offences against Life	10,299	366	10,665	6.12
Offences against Bodily Harm	4,765	143	4,908	2.82
Sex Offences	6,743	132	6,875	3.94
Offence against Social Security	200	15	215	0.12
Others (various types such as forest plantation act, gambling, immigration act, petty offence)	5,881	590	6,471	3.71
<b>Total</b>	<b>148,394</b>	<b>25,912</b>	<b>174,306</b>	<b>100.00</b>

### 1.3 Legislation

The legislative basis for the management of prisons in Thailand is provided by the Penitentiary Act of 1936, amended in 1980<sup>23</sup> and the Ministerial Regulations dated

1937<sup>24</sup>, with some amendments made in later years. In addition the Department of Corrections (DOC) has periodically issued its own regulations, to make changes to practice on specific issues, for example, regulations on dependent children in prison (1938); regulations on frisking prisoners before taking them to their cells (1943) and regulations revoking flogging (2005), among others. The Penitentiary Act is available in English translation, but the regulations were not available in translation, so key sections of the Ministerial Regulations and a few of the DOC regulations were translated into English for the purpose of the current assessment. Therefore, it should be noted that the information available for the review was not complete. However, as the scope of this assessment does not extend to a detailed analysis of the legislation governing prisons, only some comment is made here and in relevant parts of the report on some legislative issues identified, taking into account the fact that the Penitentiary Act and Ministerial Regulations form the basis for the current training provided for prison staff and the implications of this on practice, including on the implementation of the SMR and the Bangkok Rules. It is, therefore, of significant concern that both the Penitentiary Act and the Ministerial Regulations were found to be out-of-date, regrettably containing articles and rules which violate both the SMR and the Bangkok Rules. For example the Penitentiary Act Section 35 (6) on solitary confinement; Section 35 (7) on confinement in a dark cell; Section 35 (8) on flogging; Sections 15 to 19 on the use of firearms; and Section 21 on the exemption of prison officials from civil and criminal liability in certain circumstances are among the key articles which raise concern.

The Ministerial Regulations Chapter 3, Rules 25 – 28 on instruments of restraint,<sup>25</sup> which include fetters, foot cuffs and chains, violate SMR Rule 33, Chapter 5, Rule 100 on solitary confinement, up to one month, can amount to torture or ill-treatment,<sup>26</sup> with no exception being made for women, including pregnant women, breastfeeding mothers and mothers with infants in prison, violating the Bangkok Rules, Rule 22. Rule 103 gives the prison director the authority to inflict any of the punishments listed in the Penitentiary Act, which include flogging and placing in a dark cell, as mentioned earlier, which constitutes a violation of SMR, Rule 31. Rule 112 covers confinement in a dark cell, Rules 113 to 119 cover details of flogging, solitary confinement and confinement in dark cell, violating SMR Rule 31.

<sup>22</sup> Statistics as of 31 May 2012, received from DOC

<sup>23</sup> As last amended by the Penitentiary Act (No. 4), B.E. 2523 (1980) (Published in the Government Gazette Vol. 97, Special issue, dated 1st February B.E. 2523 (1980))

<sup>24</sup> Ministerial Regulations of the Ministry of Interior, dated 21 April 1937

<sup>25</sup> These are amended rules (amended in 13 January 1998).

<sup>26</sup> See Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, 5 August 2011, A/66/268, para. 81



Furthermore, the Ministerial Regulations were issued by the Ministry of Interior, who was responsible for the prison system at the time of their publication in 1937. The administration of prisons was transferred to the Ministry of Justice in 2002, but the Ministerial Regulations of the Ministry of Interior remain in force. Thus, the Ministerial Regulations are not only out of date but there is an incongruity between the authority responsible for the regulations and the authority currently responsible for the administration of prisons.

In addition, many other provisions of the Penitentiary Act and the Ministerial Regulations are very inadequate. These include provisions on work, healthcare, education and training. Reference is made to these in the relevant parts of this report.

It was reported during the assessment that many of these provisions are not implemented in practice, at least in women's prisons. Provisions on flogging were totally revoked with a DOC Regulation of 12 April 2005. There is a DOC order to revoke the use of a dark cell in Thailand and in practice placing in a dark cell is also reportedly no longer in use. Solitary confinement is said not to be used in the case of women prisoners. However, such provisions still exist in legislation and the DOC Regulations which have revoked certain measures, in order to bring practice closer to the requirements of international standards, are hierarchically below the Ministerial Regulations and the Penitentiary Act. Thus concerns remain that these provisions remain legally in force, violating international standards.

In addition to the legislation and regulations which lay the basis for the administration of prison and the treatment of prisoners, DOC has also introduced its own sets of prison standards, which aim to bring practice closer to the requirements of international standards. While the DOC standards are important in guiding and improving practice, they do not have the same legal force as the Penitentiary Act and the Ministerial Regulations. As these standards are only available in Thai, and since the scope of this assessment does not extend to evaluating national regulations and standards in detail, they have not been translated and reviewed.

A key recommendation of this report is to undertake a thorough review and revision of all the primary and secondary legislation and rules which govern the management of all prisons, including women's prisons, to bring them in line with the provisions of SMR, the Bangkok Rules, and other international standards and to revise all prison staff training curricula and materials on this basis.

## 2. Prison Population

DOC reports that the size of the prison population peaked in 2002, when almost 250,000 prisoners were incarcerated in prison as a consequence of the "war on drugs" policy.<sup>27</sup> Over the following years, between 2003 and 2006, the prison population declined due to royal pardons and the use of alternatives to imprisonment to relieve overcrowding in prisons. From 2007 onwards the size of the prison population has been growing again as a result of the reintroduction of a tough policy towards drug offences. Most prisoners who are in prison for drug offences serve long sentences, exacerbating the situation.<sup>28</sup>

Rates of recidivism were around 14 per cent among convicted male prisoners according to 2012 figures and around ten per cent among convicted female prisoners in the same year. Fifty-four per cent of reoffending among male prisoners and 86 per cent among female prisoners related to drug related offences.

While the size of the prison population has been growing the number of prison staff has declined from 11,449 in 2006 to 10,773 in 2011, which has meant that the staff to prisoner ratio, which was 1:15 in 2006 decreased to 1:22 in 2011.<sup>29</sup> At the time of writing, a ratio of around 1:20 has been calculated in women's prisons based on figures provided.<sup>30</sup> Although there is no specific international standard prescribing a required ratio, good prison management generally recommends a minimum ratio of 1:3. This means that the staff to prisoner ratio in Thailand, which was already very low in 2006, had become even more problematic by 2011.

The punitive counter narcotics policy of the government of Thailand is reflected not only in the sentencing trends, but also in DOC's management policies and practices, which require the implementation of strict security measures to prevent the smuggling of drugs and mobile phones into prisons.<sup>31</sup>

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27 Corrections in Thailand 2012, op. cit., p. 6

28 Ibid. p. 6

29 Ibid. p. 7

30 1855 female prison staff (excluding staff working in headquarters to 36,649 women prisoners)

31 Prison staff interviews and comments by TJ researcher and former General Director of DOC, at 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), Bangkok, 19 to 21 February 2013 (see report of meeting, para. 80)

### 3. Women Prisoners: Overview

Of the 36,649 women prisoners held in Thailand’s prisons and correctional institutions on 1 October 2012, 72 per cent were convicted and sentenced (See Table 1). Almost one third of the women (11,638) were held in “women’s correctional institutions”, 1,062 in the “correctional institution for female drug addicts” (Pathum Thani) and the rest in the 121 central, district, provincial prisons and remand prisons, in the correctional hospital (Klong Prem) and in four houses of confinement.<sup>32</sup> The distribution of women held in correctional institutions, including the “Correctional Institution for Female Drug Addicts”, can be seen in Table 3.

**Table 3: Women’s Correctional Institutions<sup>33</sup>**

Name	Location	Female
(Klong Prem) Central Women’s Correctional Institution	Bangkok	4,566
Correctional Institution for Female Drug Addicts	Pathum Thani	1,062
Thonbuti Women’s Correctional Institution	Bangkok	988
Chonburi Women’s Correctional Institution	Chonburi	1,169
Nakhon Ratchasima Women’s Correctional Institution	Nakhon Ratchasima	1,787
Chiang Mai Women’s Correctional Institution	Chiang Mai	1,470
Phitsanulok Women’s Correctional Institution	Phitsanulok	654
Songkhla Women’s Correctional Institution	Songkhla	1,004

<sup>32</sup> Houses of confinement hold a small number of offenders who have been sentenced to confinement, rather than imprisonment under Section 18 of the Criminal Code of Thailand. According to Section 23 of the Criminal Code if a person is sentenced to imprisonment not exceeding three months and the person is a first time offender or if not a first time offender, the first offence was committed due to negligence, then the court may decide to convert the imprisonment to confinement of not more than three months. According to Section 24, a place of confinement cannot be in a police station or in a prison. It may be the home of the offender, the home of another person who consents to accept the confined person or another place established for the purpose where the offender may be confined, which is usually close to a prison. Such places are referred to as “houses of confinement”. The liberty of persons held in houses of confinement is not as restricted as those of prisoners, as set out in Section 25 of the Criminal Code. There were four houses of confinement in Thailand on 1 October 2012 in Pathum Thani, Trat, Roi Et and Nakhon Si Thammarat, holding a total of 413 confined persons on that date, including 67 women.

<sup>33</sup> DOC figures, as of 1 October 2012

The number of sentenced women prisoners increased from 22,748 in 2010 to 24,545 in 2011 and to 26,292 in 2012, which constitutes an eight per cent and seven per cent increase respectively, in comparison to a four per cent (2010-2011) and one per cent (2011-2012) increase among sentenced male prisoners. Thus, the rate of increase among sentenced women prisoners was faster in comparison to men similar to a growing number of other countries in recent years. Gender disaggregated figures for pre-trial detainees over these years were not available.

The proportion of offences committed by sentenced women prisoners can be seen in Table 4, with comparisons to offences committed by male prisoners. As can be seen over 80 per cent of women have been convicted of drug offences, compared to 61 per cent among male prisoners. The proportion of violent offences (murder and bodily harm) is low among both male and female prisoners, but much lower among women prisoners.

**Table 4: Types of offences committed by male and female prisoners, as of 31 May 2012<sup>34</sup>**

Type of Offences	Male	Female	Male Percentage	Female Percentage
Offences against Property	30,000	3,477	20%	13.4%
Offences against Narcotics Law	90,506	21,189	61%	81.7%
Offences against Life	10,299	366	7%	1.4%
Offences against Bodily Harm	4,765	143	3%	Less than 1%
Sex Offences	6,743	132	4.5%	Less than 1%
Offence against Social Security	200	15	Less than 1%	Less than 1%
Others (various types such as forest plantation act, gambling, immigration act, petty offence)	5,881	590	4%	2.2%
<b>Total</b>	<b>148,394</b>	<b>25,912</b>	<b>100%</b>	<b>100%</b>

<sup>34</sup> Table with total percentages was provided by DOC. Gender disaggregated percentages calculated.

Sentence terms served by male and female prisoners as of 31 May 2012 can be seen in Table 5. These figures show that there is not a significant difference between the prison terms of male and female prisoners. The largest proportion of both sexes was serving sentences between 2-5 years on that date. While a slightly larger proportion of men were serving sentences between ten and 20 years, a higher percentage of women were serving sentences of 20 to 50 years. Overall, 42.7 per cent of men and 38.7 per cent of women were serving sentences over 5 years.

**Table 5: Sentence terms of male and female prisoners, as of May 2012<sup>35</sup>**

Sentence Terms	Male	Female	Male Percentage	Female Percentage
Less than 3 months	1,133	111	Less than 1%	Less than 1%
3 – 6 months	2,809	482	1.9%	1.9%
6 months – 1 year	7,089	1,359	4.7%	5.2%
1 – 2 years	25,769	4,618	17.3%	17.8%
2 – 5 years	48,027	9,280	32.3%	35.8%
5 – 10 years	29,010	4,178	19.5%	16.1%
10 – 15 years	11,031	1,583	7.4%	6.1%
15 – 20 years	8,116	1,085	5.5%	4.2%
20 – 50 years	13,173	3,015	8.9%	11.6%
Life imprisonment	2,191	195	1.4%	Less than 1%
Death penalty	46	6	Less than 0.1%	Less than 0.1%
<b>Total</b>	<b>148,394</b>	<b>25,912</b>	<b>100%</b>	<b>100%</b>

DOC is making efforts to implement the Bangkok Rules in all prisons where women are held. According to the Head of Training at the DOC<sup>36</sup>, they first started implementing the Bangkok Rules in the Central Women’s Correctional Institution in Bangkok as a pilot initiative. Six more institutions have followed the lead. These

<sup>35</sup> Table with total percentages was provided by DOC. Gender disaggregated percentages calculated.

<sup>36</sup> Head of Training department, DOC

are the women’s correctional institutions in Chiang Mai, Nakhon Ratchasima, ChonBuri, Phitsanulok, Songkhla and Thon Buri. There are also models among prisons which hold both men and women. These are Ratchaburi, Udon Thani and Koh Samui prisons. However, as this assessment outlines, despite the training and good practices which have been introduced and the efforts at many levels, significant challenges are faced, partially due to the acute overcrowding and the shortage of staff and other resources, partially due to outdated legislation and regulations on which staff training is based and partly due to deeply ingrained attitudes which regard security as the primary focus of prison management policies, hindering the full implementation of many provisions of not only the Bangkok Rules, but also the SMR.

#### 4. Prisoner Accommodation

UN Standard Minimum Rules for the Treatment of Prisoners (SMR) require that all prisoner accommodation must meet the requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.<sup>37</sup> Every prisoner should have his or her own bed or mattress with clean bedding.<sup>38</sup> Other rules cover the need for windows, artificial light and cleanliness.<sup>39</sup> While SMR do not prescribe a minimum space requirement for each prisoner, the International Committee of the Red Cross (ICRC) has recommended minimum space specifications per prisoner on the basis of its experience in countries worldwide. These specifications, which include 1.6 sq.m. for sleeping space, but which do not include space for toilets and showers, are 5.4 sq.m. per person in single cell accommodation and 3.4 sq.m. per person in shared or dormitory accommodation, as a minimum.<sup>40</sup> The Committee for the Prevention of Torture of the Council of Europe (CPT) has, in its various reports, suggested a minimum acceptable space in shared accommodation to be 4 sq.m per person.<sup>41</sup>

In Thailand prisoners generally sleep in dormitory style shared accommodation, with 30 to 125 prisoners in each dormitory observed in prisons visited. The prisoners sleep on mattresses or, in some cases, a number of blankets, on the floor. In the prisons visited there were Asian style toilets (usually two) and a wash basin in

<sup>37</sup> SMR, Rule 10

<sup>38</sup> SMR, Rule 19

<sup>39</sup> SMR, Rules 11 and 14

<sup>40</sup> International Committee of the Red Cross (ICRC), ‘Water, Sanitation, Hygiene and Habitat in Prisons’ Supplementary Guidance’ 2012.

<sup>41</sup> Commentary to the European Prison Rules (2006), Rule 18



*A dormitory in one prison*

a corner of the dormitory, with a low partitioning. Prisoners have access to the toilets throughout the night. Dormitories visited also had ceiling fans and in some prisons, one to two televisions. Lights in the dormitories are kept on throughout the night for security reasons, but dimmed. The dormitories appeared very clean. The fact that prisoners had access to sanitary facilities throughout the night is welcomed.

Prisoners cannot keep any personal belongings in the dormitory, except for a few items, such as a book, in some prisons an additional bottle of water and toiletry articles. All other personal belongings are kept in individual lockers outside the dormitory. Good prison management practice requires that prisoners should be allowed to keep some personal belongings with them in their sleeping accommodation. They should have enough space and a place to store such belongings.

A legal minimum requirement of space for each prisoner does not appear to have been set out in the prison related legislation, including the Ministerial Regulations of Thailand. Such a requirement may be set out in DOC regulations or the separate

standards developed by the DOC, which were not available in English. A report prepared by specialists of the DOC in 2008 states that “the standard sleeping area stipulated by the Department is 2.25 square meters for each inmate”, but that due to overcrowding this standard was not being met at the time of writing. The report explains: “This means that the standard sleeping area shall consequently allow a number of only 105,748 prisoners. However, as of February 2008, there were 166,338 prisoners in prisons across the country. It is obvious that the number still exceeds the sleeping capacity and one may simply imagine of how prisoners have to sleep tightly in dormitories. Overcrowding is a cause of many related problems; both to the custodial system and to physical and mental status of the prisoners.” Since that date the size of the prison population has increased further, as shown in Table 1 earlier, with the described negative consequences on prison management and the physical and mental health of prisoners no doubt having increased. In addition, there appeared to be a different understanding as to the standard space determined by DOC, according to prison directors interviewed during the course of the assessment. In all but one of the prisons visited the research team was told that the standard space per prisoner as determined by DOC was 1.1 sq. m. In one prison the research team was informed that women should have 2 x 2.2 m space (i.e. 4.4 sq.m.) according to DOC standards and men 2 x 2.5 m (5 sq. m.) and that the lowest minimum space which should never be exceeded was 1.75 sq. m. per person.<sup>42</sup>

In actual fact, the space allocation per prisoner was generally 1.1 sq. m or even below, in most of the prisons visited, though depending on the category of the prisoner and the dormitory in which she was held. In the Central Women’s Correctional Institution in Bangkok, the average actual space per prisoner varied between 0.65 sq.m and 1.02 sq. m on 15 January 2013<sup>43</sup>; in Rayong Central and Remand Prison (women’s section), where the occupancy level was 349 per cent<sup>44</sup>, one dormitory visited had 0.86 sq.m. per person, another, which was for prisoners with long sentences, including life imprisonment, provided 0.62 sq.m. per person, another had 0.58 sq.m. per person, according to the measurements taken by the research team on the day. According to information provided by the prison administration the average space in January 2013 was 0.64 sq.m per person. In Ratchaburi prison, the average amount of space per person on 16 January 2013 was 2 sq.m.<sup>45</sup> The management

<sup>42</sup> Chonburi Women’s Correctional Institution, interview with director

<sup>43</sup> Information received from the administration of the Central Women’s Correctional Institution, Bangkok

<sup>44</sup> Based on figures provided for design capacity and actual capacity.

<sup>45</sup> Calculated on the basis of information provided by the prison administration on the capacity of the prison and the actual number of prisoners.

in this prison allows prisoners with short sentences to sleep in the corridors outside the dormitories to relieve overcrowding and keep the doors of the dormitories open at night so that the women sleeping in the corridors can access the toilets at all times. This was the only prison where such a practical measure had been introduced to relieve the pressure in dormitories. On the contrary, in Chiang Mai Women's Correctional Institution, where the occupational level was around 50 per cent<sup>46</sup>, and despite the fact that there were 32 empty dormitories, the management held that the minimum standard put forward by DOC was 1.1 sq.m. per person so the capacity of each dormitory was calculated on this basis. In the two dormitories visited, 30-33 prisoners were accommodated in such dormitories, each prisoner having a space of 1.68 to 1.85 sq.m. The director explained that they were unable to use the additional rooms due to the lack of staff to adequately supervise the dormitories at night. In Chonburi, the average amount of space per person was 1.94 sq. m on the day of the TIJ visit. In the Correctional Institution for Female Drug Addicts in Pathum Thani, the research team was told that the design capacity was 2000, calculated on the basis of an allocation of 1.1 sq.m per person. The actual number of prisoners on the day of the visit was 1614. In one dormitory visited women had 0.96 sq.m. per person, in another 0.92 sq.m per person.

The space requirement in Thailand takes into account only the amount of space which a prisoner uses to put down her mattress and sleep. There is no space for personal belongings, which are kept outside in lockers. Prisoners sleep feet to feet, usually on their sides to fit into the small space, in some places, reportedly, with legs interlocked.

Pregnant women and women with babies sleep in separate dormitories and have more space than other prisoners, but still the space which they do have allows only for a sleeping area. In two prisons, for example, prisoners and their babies had around 63 to 66 cm of space (25 to 26 inches) in width, compared to around 38 cm (14 -15 inches) of space in width, which other women had.

Not surprisingly, one of the key complaints of prisoners was the lack of space. For example, in Chiang Mai, where prisoners are accommodated in overcrowded dormitories, despite the availability of many empty rooms, a number of prisoners commented "the prison is large but the sleeping space is too crowded. They squeeze prisoners into one room". In Chonburi almost all prisoners who took

<sup>46</sup> The prison which was originally a male prison had a capacity for 3000 prisoners. The women had been moved to this prison a few months prior to the assessment visit, as the men were moved to a new prison. On the day of the visit the prison was holding 1514 women, including convicted and pre-trial prisoners.

part in the survey complained of the lack of space, one of them saying "Most of the time when prisoners are fighting it is because of the sleeping area. The width of the mattress is 45 cm." A number of prisoners with longer prison terms requested more space, taking into account the many years they would be sleeping in the same conditions. In Bangkok too overcrowding was one of the main grievances of prisoners. One woman commented: "Some problems are being underestimated. For example, the dormitories are so crowded. When we sleep, our heads contact with other prisoners' and that is how lice are spread. Also, we can't stretch our legs; we have to bend our legs all night. It's real suffering." In Rayong Central and Remand Prison the situation was similar though in this prison, the lack of contact with the outside world was the key problem faced by the women, who appeared to regard the small space they had for sleeping as secondary. (See Section 10)

Clearly there is acute overcrowding in women's prisons with the space allocation per prisoner, in practice, far below internationally accepted standards, within levels of what can be described as crisis level of overcrowding.<sup>47</sup> The DOC standards themselves, although not adhered to, are also well below the minimum space requirements set out by international and regional bodies. There is an urgent need to address the problem of overcrowding, which leads to many other challenges and human rights violations.

Space should always be considered in conjunction with other factors, including the amount of time prisoners spend in their dormitories and the amount of time they spend in the open air. Fortunately, in Thailand prisoners spend most of the day out of their dormitories, leaving around 6.30 am in the morning and returning around 4.40- 5 pm in the evening. Due to the warm climate, prisoners are able to spend a lot of time in the open air. Therefore, the situation is less alarming than it could have been, had the prisoners spent a longer period of time in their dormitories, but nevertheless, requires urgent attention.

It would appear that overcrowding has resulted in the lowering of standards in other aspects relating to prisoners' living conditions restricting the implementation of not only the Bangkok Rules, but also the SMR, which the Bangkok Rules supplement. For example, although the DOC has the responsibility of providing

<sup>47</sup> ICRC has noted: "Even in exceptional crisis situations, the floor space in cells and dormitories must never be less than 2m<sup>2</sup> per person. This figure of 2 m<sup>2</sup> per person must in no way be considered as a norm, but as a pragmatic indication which reflects the experience gained by the ICRC in very grave crises. It must be increased as rapidly as possible, for such a situation spells extremely difficult living conditions for the detainees concerned." (bold word as in the original) See ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons* (2005), p. 21

all prisoners with a standard mattress similar in size, reports from prisoners as well as observations during the assessment indicated that not all prisoners have access to such mattresses. In some prisons many had to use two blankets put up on top of each other, instead of a mattress, which resulted in a very thin layer of support.

The acute level of overcrowding is for the most part related to the policies implemented at governmental level, the overuse of pre-trial detention, the length of the judicial process and sentencing policies and practices. Prison administrations cannot reduce the number of prisoners held in their facilities, though they can take measures to relieve the impact of overcrowding, such as those taken in Ratchaburi prison, as mentioned earlier. The scope of this assessment does not cover the implementation of non-custodial sanctions and measures, provided in the Bangkok Rules, Rules 57 to 65, but it is clear that the government of Thailand needs to review its criminal justice and sentencing policies, in particular, in relation to women offenders, giving preference to non-custodial alternatives, instead of imprisonment in the case of women, taking into account their backgrounds, mitigating circumstances applicable to their offence and their caring responsibilities. The impact of criminal justice policies which favour imprisonment, even where unnecessary, is felt in the prison facilities leading to significant challenges in implementing the SMR and the Bangkok Rules.

On 25 March 2013 the National News Bureau of Thailand reported that most judges in the country had agreed to take into account the circumstances of female offenders when sentencing them. The judge interviewed endorsed a case in which a female offender was spared a prison sentence because she had a 3-month-old child who needed her care.<sup>48</sup> The development is welcomed, though the further implementation of this decision needs yet to be seen and assessed.

The awareness of the government of Thailand of the need to take measures to reduce the size of the prison population is also evidenced by the introduction of electronic monitoring of offenders by the Ministry of Justice.<sup>49</sup> The ministry's new regulation became law after it was published in the Royal Gazette on 22 March 2013, based on the amendments to Section 89/2 of the 2007 Criminal Procedure Code, which stipulates that the courts must find alternatives to custody to ensure that offenders remain in a designated place or do not enter certain areas by using electronic monitoring devices such as wrist bracelets and ankle bracelets.

48 [http://thainews.prd.go.th/centerweb/newsen/NewsDetail?NT01\\_NewsID=WNSOC5603250010005](http://thainews.prd.go.th/centerweb/newsen/NewsDetail?NT01_NewsID=WNSOC5603250010005)

49 <http://www.bangkokpost.com/news/local/342173/law-on-electronic-monitoring-effective>

Accordingly, prison directors and wardens authorised under the regulation can seek permission from the court to place an offender under an electronic monitoring programme, if they meet one of the following criteria:

- Prisoners who may die if continued to be imprisoned;
- Prisoners who must take care of parents, a spouse or children who are dependent upon them;
- Prisoners who are sick and in need of continuous treatment;
- Prisoners who deserve mitigation of their sentences and other means of custody.

It was reported that eligible prisoners will need to have completed one third of their prison sentence.<sup>50</sup>

This is an extremely welcome development, despite some reservations about the use of electronic monitoring itself, a detailed discussion of which is a topic beyond the scope of this report. The new law paves the way for the release of some women who have caretaking responsibilities, women who are very sick and need regular treatment and those whose offence was committed in mitigating circumstances. It is hoped that this law will be implemented without delay, though the DOC subsequently announced that the law could not be put into practice yet, since DOC did not have the budget to purchase electronic tagging devices. The Probation Department announced that it might consider leasing the devices to comply with the regulation.<sup>51</sup>

While these initiatives are deemed to be very timely, other measures would need to be taken in law and practice, to reduce the size of the female prison population, including by increasing the use of alternatives to imprisonment, considering the reduction of the current very long prison terms, especially in the case of first-time offenders, and considerably improving the implementation of early conditional release (parole), in line with Rule 63 of the Bangkok Rules, to stabilise and reduce the size of the female prison population.

## 5. Prisoner Allocation

The Bangkok Rules, Rule 4 provides that "Women prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation,

50 <http://news.asiaone.com/News/AsiaOne%2BNews/Asia/Story/A1Story20130326-411354.html>

51 <http://news.asiaone.com/News/AsiaOne%2BNews/Asia/Story/A1Story20130326-411354.html>

taking account of their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services." This rule was introduced because of the reality in prison systems worldwide that women prisoners are very often placed in prisons far away from their homes, due to the small number of women prisoners and the correspondingly small number of women's prisons. However, being close to families, relatives and communities are particularly important in the case of women and the disruption of links with their children, families and relatives has been shown to have a particularly harmful impact on the mental wellbeing and social reintegration prospects of women prisoners.

The way in which women are allocated to prisons in Thailand takes into account the place where the offence was committed (which is often, but not always, the same place as the place of residence) and the length of sentence received. For example, if a woman is sentenced to less than 10 years, she may be allocated to a district prison, where she committed the offence which would likely be close to her home, or if less than 15 years she may be allocated to a provincial prison where the offence was committed, which may also be close to her home. In the case of longer prison terms, women are transferred to Central Prisons or Correctional Institutions for Women, which may be far away from their homes. If they are assessed to be dependent on drugs and have a prison term of less than 10 years, they may be transferred to the Female Correctional Institution for Drug Addicts (Pathum Thani). Thus, in practice many women find themselves in prisons far away from their homes and this was a major cause for distress among women interviewed in some prisons.

The women can request a transfer to their places of residence when the sentence term that remains to be served is equal to the maximum sentence length which the prison close to their home may accept. The director of the Central Correctional Institution for Women told the research team that when they transfer a prisoner to a different prison, they take into account where the prisoner comes from and they try to transfer her to that city or province. She added that they also take into account the prisoner's request to be allocated to a particular place. In most other prisons visited, it appeared that the prison administration takes into account, to the extent possible, the need to transfer a woman closer to home, once she has completed the part of the sentence which is above the term acceptable in the prison close to her home, but this does not appear to be the case in all prisons. In Chiang Mai Correctional Institution for Women, for example, a significant number of women said that their main problem was not being able to transfer back to their home towns. They said that some of them had served over half of their sentence in

this prison, but were still not allowed to transfer home. One prisoner commented, for example, that her family had never visited her in prison, because they were too far away. So they communicated by letters only, as there was also not a telephone in the prison. She had requested a transfer on two occasions, but her request had not been accepted. She did not know why she was not allowed a transfer, because there was a prison in her home province for prisoners who had a sentence of up to ten years. She had only five years of her sentence left and therefore should be eligible for a transfer. Another woman said that she came from a province close to the Lao border, but she was arrested in Chiang Mai. She had asked for a transfer closer to home in January the previous year, but had not received a response. She said that there was a prison for women with long sentences in her province, adding that normally in her case she should be able to move there. Another prisoner said she missed home. She had applied for a transfer over a year ago but had had no reply. In Pathum Thani Correctional Institution for Drug Addicts as well, where the women had been transferred from other prisons which were close to home, some prisoners who had been transferred from Bangkok said that they had preferred to be there as it was easier for their families to visit.

It is a matter of concern that despite the high number of prisons that hold women prisoners in Thailand (although some of them with very limited capacity), women do have to spend a considerable proportion of their sentence far away from their homes because their allocation has to take into account the length of their sentences. This results in a very unfavourable situation where women with very long sentences often find themselves located far away from their homes, although these women almost certainly need more contact, given the many years that they face behind bars. It is of further concern that the transfer requests of women in some prisons (at least one in this small sample of prisons) appear not to be receiving any response or any favourable response despite their apparent eligibility for a transfer. It is therefore a key recommendation of this report to review the criteria used for the allocation of women prisoners, in light of the provisions of the Bangkok Rules, to ensure that more women can spend their prison terms closer to their homes, and to develop a DOC regulation on the transfer of women prisoners closer to their homes, as soon as they have become eligible for such a transfer and provided that they request such a transfer. Both of these recommendations may necessitate the expansion of the capacity of some of the provincial and central prisons to accommodate more women. If the provisions of the Bangkok Rules on non-custodial measures and sanctions are implemented, and the sentencing of women reviewed also on the basis of the Bangkok Rules, as recommended in Section 2, then perhaps there would not be a need to expand capacity.

## 6. Prisoner Admission and Registration

### 6.1 Admission

The Standard Minimum Rules (SMR), Rules 7 and 35, provide guidance on the registration and admission of all prisoners. Rule 7 places an obligation on prison authorities to ensure that there is a permanent legal record of everyone who is imprisoned. SMR Rule 35 (1) requires that every prisoner on admission be “provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution,” and 35 (2) provides that “if a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.”

The rules on admission and registration of the Bangkok Rules introduce further provisions, which take account of the particular vulnerability and special needs of women prisoners at the time of admission, requiring that adequate attention is paid to the admission procedures of women and children. Newly arrived women prisoners are required to be provided with facilities to contact their relatives, access to legal advice, information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand, and, in the case of foreign nationals, access to consular representatives.<sup>52</sup>

The Bangkok Rules They also add an important element to the process, in that they recognise the reality that most women committed to detention have children. Such children may be accompanying their mothers into prison or they may have been left in the community. The rules are the first among international standards, which provide important guidance on how to deal with the children of imprisoned mothers, in line with the Convention on the Rights of the Child (CRC), and taking into account the best interests of the children.

The commentary to Rule 2 explains the rationale behind these provisions as follows: “Women, especially those who are illiterate, poor, those who have been violently victimized and who are the primary carers of their children and families, feel particularly vulnerable on first admission to prison. They are often unaware of

<sup>52</sup> Bangkok Rules, Rule 2

their legal rights, are extremely distressed about what is happening to them and what impact that will have on their children. According to some studies prisoners are at heightened risk of self-harm and suicide during the initial period following admission to prison.<sup>53</sup> Facilities where new prisoners can spend their first 48 hours to help with transition to prison life, which have been introduced in a number of prisons in the UK, for example, should be provided to all prisoners, but are particularly important in the case of women prisoners, who are especially vulnerable to mental distress, and particularly during their first days of imprisonment.<sup>54</sup> The importance of a special reception area and procedures, which assists newly arrived prisoners to contact their families and to receive comprehensive information about the prison regime and where to seek help when in need, has been highlighted also by other literature, including WHO.<sup>55</sup> Foreign nationals, especially if non-resident, feel particularly vulnerable at this time and should receive the additional assistance to which they are entitled.”<sup>56</sup>

### 6.2 Registration

All prisoners are said to be registered on admission. The research team visited the registration offices in a number of prisons, where it was able to review the separate registration forms for remand and convicted prisoners. Remand prisoners include those who are under investigation, on appeal and whose cases are at the Supreme Court.

Prisoner files are manual, where original records, court verdicts, a photo and

<sup>53</sup> According to the US Department of Justice, National Institute of Corrections research, 50% of prison suicides occur in the first 24 hours and 27% occur during the first 3 hours (Hayes, Lindsay, M., Project Director, National Centre on Institutions and Alternatives, U.S. Department of Justice, National Institute of Corrections, Prison Suicide: An Overview and Guide to Prevention (1995); research published by the Royal College of Psychiatrists (UK) found that 17% of suicides in UK occurred during the first week of imprisonment, 28.5% within a month, 51.2% within three months and 76.8% within a year (Dooley, E., Prison Suicide in England and Wales, British Journal of Psychiatry, Royal College of Psychiatrists (1990); research carried out in Canada revealed that those in the initial phase of imprisonment show the highest rate of suicide (John Howard Society of Alberta, Prison and Jail Suicide (1990); according to research carried out by the UK NGO, Howard League for Penal Reform, in the UK 50% of those who take their own lives in prison do so during the first month. They point out that first night centres which have been put in place in a number of prisons in the UK have helped ease transition from the outside to prison life. The Howard League for Penal Reform’s research shows that a dedicated wing, or unit, where all new prisoners spend their first 48 hours at the prison can prevent suicides.

<sup>54</sup> The Howard League for Penal Reform, ‘Care, concern and carpets’: How women’s prisons can use first night in custody centres to reduce distress, 2006.

<sup>55</sup> Møller, L., Stöver, H., Jürgens, R., Gatherer, A and Nikogosian, H. eds., Health in Prisons, A WHO guide to the essentials in prison health, The World Health Organisation Europe (2007), p. 142.

<sup>56</sup> Official commentary on the Bangkok Rules, prepared by UNODC and agreed by the Inter-governmental Expert Group Meeting held in Bangkok between 23-26 November 2009, which developed the Bangkok Rules.



personal details of the prisoner and her finger print are kept. Key information is entered into a database on the computer which is connected to headquarters. All the information which is contained in the court documents of remand prisoners are registered in separate log books.

The registration of children is undertaken in the nursery of the prison or, if a male prison with a female section, in the female section of the prison.

Registration procedures and practices appeared largely in line with the requirements of the SMR and the Bangkok Rules, as far as can be ascertained from the limited files and documentations that the team was able to see.

### **6.3 Information and Assistance Provided to Prisoners on Admission**

The extent to which prisoners were informed about their rights and obligations on admission appears to vary from prison to prison. In a number of prisons the research team was informed that the social worker interview newly admitted prisoners and took note of personal details, including their family background, any previous offences, education, their and their husband's occupation, among others. At this time the social worker also provides the newly admitted women with information about the prison rules and regime. In addition, DOC has published a comprehensive handbook explaining prisoners their rights and obligations, including the rights of foreign prisoners to contact their consular representatives (with contact details) and their rights to a transfer back to their home countries, where bilateral prisoner transfer treaties exist. This has been produced in a number of languages most frequently spoken in prisons. For example, in the Central Women's Correctional Institution in Bangkok it had been published in Lao, Burmese, Vietnamese, English and German and there were plans to publish it also in other languages. Some of the foreign embassies were covering the cost of translation. In this prison the research team was informed that prisoners should be given a copy of this handbook on admission, but that there was a shortage and not all prisoners received a copy. In fact, none of the prisoners interviewed during the course of the assessment had received a copy of the handbook, including foreign national prisoners. In Ratchaburi Central and Remand Prison it was reported that prisoners are provided with written information about their rights and obligations on admission and if there are any changes to these, they are announced on the bulletin board in the central area of the prison garden. In Chonburi, prisoners are given information orally about their rights and obligations. They are also given a copy of the handbook which they can read but must return, as there are not enough copies. In Chiang Mai Correctional

Institution for Women the director explained that prisoners were given information both in writing and verbally and that in the case of foreign prisoners information was provided in English. Prisoners said that they were not given any information in writing, but some of their rights such as visiting rights were explained to them and they were informed about disciplinary offences. One prisoner said that there had been written information on rights and obligations on the wall in another prison in which she had been held, but not in Chiang Mai. In this prison, in particular, many of the prisoners who took part in the survey expressed frustration at the different rules that were allegedly applied by different staff, leaving the prisoners unsure about how to behave. In Pathum Thani Correctional Institution for Female Drug Addicts prisoners are informed verbally about illegal items and prison rules. Some information is provided in writing. The administration said that, in principle, they should be giving each prisoner a handbook, but because of the shortage they only had one in the common area which could be shared by prisoners.

As soon as a foreign national prisoner is admitted to prison, the consular representatives of the prisoner have to be informed and in general this requirement appears to be practiced in the prisons visited. One foreign national prisoner, who had been held in another prison before being transferred to Bangkok, said that her consular representatives had not been informed in the first prison where she was held and that she had not been aware of her right to contact them. Another foreign national prisoner interviewed by the research team was not aware whether or not her consular representatives had been informed, as she had had no contact with them and information had not been provided to her of such contact.

In the Central Women Correctional Institution in Bangkok, where the research team could not visit the remand section which also included the admission zone, due to security reasons on the day of the assessment, prisoners claimed that the admission zone was the most overcrowded part of the prison and that sometimes prisoners spent months and even years in this zone.

Based on interviews conducted, there was little indication that women's vulnerability at the time of their admission is specifically recognised (though it is not possible to comment on the attitude of staff towards newly admitted women in individual establishments), nor that they had received special assistance to contact relatives or legal counsel at this time. The very negative experience of prisoners held in the admission zone of the Central Women's Correctional Institution in Bangkok is of particular concern.

One of the key recommendations of this assessment is to ensure that all newly admitted women prisoners are provided with assistance and facilities to contact their families and relatives, and, where necessary, legal representatives, and that they receive full information about their rights, obligations, disciplinary procedures and the prison regime in writing and orally. Staff responsible for the admission of women should be specially trained to perform their duties in a professional and sensitive manner. Funds need to be allocated to translating and printing more copies of the handbook in different languages to be placed in the libraries of each prison, so that prisoners can refer to the handbook whenever they wish.

It is recommended that the admission areas are also improved to reduce the mental distress experienced at this time, in particular admission zones such as the one which was referred to by prisoners in the Central Women's Correctional Institution, Bangkok (and possibly others which the assessment did not cover), which should be improved to provide facilities that reduce rather than increase the shock and distress of detention during this first period, which is a time of particular vulnerability.

## 7. Nutrition

SMR require prisoners to be served sufficient wholesome and well prepared food, with nutritional value adequate for health and strength, at the usual hours each day and prisoners must have access to drinking water whenever they need it.<sup>57</sup> The Bangkok Rules add additional provisions in the case of pregnant women and breastfeeding mothers and children of women in prison which are covered in Section x.

During the assessment, the research team had an opportunity to review the daily and monthly menus, see the kitchens where meals were prepared and to see the food being served on that day in all prisons. The kitchens were clean the food prepared on the day of the assessment appeared wholesome and varied and the daily menus appeared reasonable. It was observed that separate food was being prepared for women of different religions and the research team was informed that special dietary requirements are also taken into account in the preparation of food. The budget for each prisoner's daily nutrition was said to be 40 BAHT (US \$ 1.33). There is an additional budget for pregnant women and women with children. Prisoners can supplement the food provided by the prison facility by purchasing additional food from the canteen or prison shop.

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<sup>57</sup> SMR, Rule 20

A large container with drinking water is also placed in each dormitory to which prisoners have access when they are in their dormitories. In some prisons prisoners can bring a bottle of water with them into their dormitories at night. In others this is not allowed.

It is difficult to form an accurate impression of the quality and quantity of food provided based on observations made during one visit. However, it is of concern that the lack of adequate food, the low quality of food and the shortage of meat and fruits, were very common complaints made by a high number of prisoners in almost all of the prisons visited, with the exception of Ratchaburi Central and Remand Prison. In one prison prisoners alleged that the menu displayed in the kitchen did not always match what prisoners were actually given, but that prisoners had received the displayed menu on the day of TIJ's visit. In addition, many prisoners said that the food sold in the shop was very expensive, sometimes with concrete examples with comparisons of the prices in the shop with prices in the outside world, and that they could not afford it on the low wages they received from the prison work they undertook (See *Section 12.3*). The situation is compounded by the fact that the amount of food that families can give the prisoners is restricted and sometimes not allowed at all.

In all prisons a very common and repeated grievance expressed by prisoners was the lack of water, though often not specified, generally this referred to water to wash, which is covered separately in *Section 8.4*. In Chonburi Correctional Institution for Women a high number of prisoners complained specifically at the lack of sufficient drinking water.

The number of complaints on the quality and quantity of food received does prompt concern about the adequate fulfilment of this very basic and key right of all prisoners, required by the SMR. The prices of food and other items which prisoners may purchase in the prison shop is another cause for concern. As prisoners earn extremely low – practically symbolic – wages, as discussed separately, those prisoners who have no relatives to help them with additional funds are at a great disadvantage. This problem was in fact highlighted again and again by prisoners, not only in relation to access to food sold in the prison shop, but also to other items, such as toiletries and sanitary articles, which are discussed separately. As for the drinking water containers in dormitories, perhaps there is a need to review whether or not their capacity is adequate to respond to the needs of the number of women who are currently held in prisons and to increase capacity where required. In any case, prison administrations should always allow women to take additional

water with them into their dormitories, as this represents no security risk.

It is recommended that a review is undertaken by DOC of the quality and quantity of food that can be provided with the budget allocated for this purpose, and the budget increased, if necessary. It is also recommended that regular checks are undertaken to assess practice in individual prisons, in order to ensure that this fundamental right of prisoners is reflected in practice to prevent feelings of discontent and the harmful impact of inadequate nutrition on the health of prisoners.

## 8. Hygiene and Healthcare

The SMR cover healthcare services in prisons in Rules 22 to 26. These rules require that healthcare services in prisons should be organised in close relationship with the general healthcare services in the community; the availability of the services of at least one qualified medical practitioner with some knowledge of psychiatry in every prison; prisoners who require specialist treatment should be transferred to specialised institutions or civil hospitals; and hospital facilities in prisons should have all the necessary technical equipment, medical supplies and suitably trained staff. They require also the services of a qualified dental practitioner in all prisons. Rule 24 covers medical examinations on admission, Rule 25 the responsibilities of the medical officer, which go beyond the care and treatment of individual prisoners, to inspecting the conditions and services in prison that impact on the health of prisoners.

The Bangkok Rules add many new provisions to these rules, taking into account women prisoners' additional and typical healthcare needs. These include the requirement to provide gender specific healthcare services<sup>58</sup>, individualised, gender-sensitive and comprehensive mental healthcare services<sup>59</sup>, HIV prevention, treatment, care and support<sup>60</sup>, treatment for substance dependence<sup>61</sup> and preventive healthcare services.<sup>62</sup> The rules also cover prisoners' right to medical confidentiality<sup>63</sup> and their right to be treated by female healthcare staff, if the

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58 Bangkok Rules, Rule 10 (1)

59 Bangkok Rules, Rule 12

60 Bangkok Rules, Rule 14

61 Bangkok Rules, Rule 15

62 Bangkok Rules, Rules 17-18

63 Bangkok Rules, Rules 8, 11

women so wish<sup>64</sup>. They place responsibility on prison authorities to ensure that women have a full medical examination on admission to prison<sup>65</sup>, including to determine whether or not they have been subjected to sexual abuse or other forms of violence prior to admission and to take appropriate action if women have been subjected to ill-treatment, outlined in detail in Rule 7.

In Thailand the Ministry of Health has overall responsibility for healthcare services in prisons. In practice the responsibility is shared with the Ministry of Justice, which has established its own medical centres in prisons, staffed by nurses who are employed by the Ministry of Justice and, in some prisons, by doctors. In most prisons doctors from the Ministry of Health visit prisons on a regular basis and where required prisoners are taken to community hospitals for treatment, accompanied by one or two female staff members who has to stay with the prisoner at all times. In addition there is a prison hospital in Bangkok, which has a separate section for women prisoners. Medical facilities in women's correctional institutions are better than those in central, provincial and district prisons, where doctors from the Ministry of Health visit the prisons periodically.

In most prisons, the research team was informed that all women who enter prison are required to get medical insurance coverage by paying 30 BAHT (around 1 US\$). This entitles them to regular medical check-ups and to treatment at the hospital. In some other prisons, for example, Chonburi, it was said that the prisoners did not need to take out medical insurance on entry. The prison administration asks for their documents to access their national medical insurance registration and if they are registered in another province or district, they change the registration to Chonburi. Prisoners' ID number are used to register them in the hospital and transfer all the medical information from the other province to Chonburi.

The research team was informed that the national insurance system applied only when a prisoner needed to be taken outside for hospital treatment. Basic treatment could be provided in the prison. Challenges are faced when the prisoner does not have an ID. For emergency cases, if the prisoner has no ID, they have to pay for the treatment.

Some foreign prisoners interviewed explained that foreign national prisoners faced a significant disadvantage in accessing medical treatment, because unlike the Thai

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64 Bangkok Rules, Rule 10 (2)

65 Bangkok Rules, Rule 6

prisoners, they were unable to take out national medical insurance on admission and reported that they could not receive medical treatment if they were unable to pay. The practice appeared to vary from prison to prison – in some, foreign national prisoners were said to receive treatment free of charge. In another, the prison healthcare staff said that they did not have any foreign national prisoners, but if they did, they would send a formal letter to the hospital for the hospital to provide treatment.

### 8.1 Medical Screening on Admission

The extent to which medical screening on admission was undertaken and the issues that were covered varied somewhat from prison to prison. The usual practice is for prisoners to be admitted to prison in the evenings, when a cursory initial check to determine urgent needs may or may not be undertaken. Generally prisoners have their full medical screening the following day, which is undertaken by the prison nurse. This usually includes measuring the prisoner's blood pressure and weight and asking questions about any current complaints and medical history. All this information is noted in the prisoner's medical file and if she needs medicines they will be issued by the nurse. Serious conditions which cannot be treated in prison are referred to the community hospital.

The prisoners have to fill out a form where they are required to put down any allergies and drug dependencies. In two prisons the research team was told that a urine examination is also conducted on admission to determine drug use background and in one that a urine examination to determine drug use is undertaken twice a year on a compulsory basis, to purpose of which is to ensure that the prison is free of drugs. In the Correctional Institution for Female Drug Addicts in Pathum Thani a blood test is also conducted on admission, which covers HIV, among others, and was said to be voluntary. But some prisoners said that, while the test was not forced, they had not been told that they could refuse the test. Others said that they were not aware that the test included a test for HIV. More is said on HIV and AIDS prevention, treatment and care below in *Section 8.3*.

In all prisons visited the research team was informed that on admission each prisoner is checked for any physical injuries. If such injuries exist, photos of the injuries are taken and put on their files. It was said that the purpose of the photos was to insure the institution against any subsequent allegations of ill-treatment.

The prison staff interviewed provided different answers as to the measures that

would be taken if the woman concerned complained of abuse by the police and wanted to make an official complaint. In one prison they said that they would refer her to the Rights and Liberties Protection Department of the Ministry of Justice. In another they said that she would have to consult with her lawyer and if there was a court order then the woman would be taken to hospital for an examination. In any case, any evidence gathered in the prison would not be valid because the examination needed to be undertaken by a full-time doctor in the hospital for it to be valid in a court. If it were a rape/sexual abuse case that needed immediate examination, and the prisoner wanted to complain, she would be asked to write a request and then would be taken to the hospital for an examination. In another prison the research team was told that they checked for physical injuries on admission and if they found anything they put on record how it happened. If there were a sexual abuse case, they would send the prisoner to the hospital to check for evidence and they would also report the case to the police. In another it was said that if a woman complained of ill-treatment in previous custody, the woman would be taken to hospital to get confirmation from a doctor. They said that they had never had a case where a woman complained of sexual abuse in previous custody. If such a case happened and it went to court, the woman would be assigned a lawyer by the court. In another the research team was told that if a woman alleged to have been subjected to sexual abuse and wanted to submit an official complaint, the prisoner could complain via the social worker. The social worker would submit a letter to the director of the prison and the director would submit the complaint to the police station. Another way would be for the social worker to contact the family so that they took legal action.

It appears that checking for physical injuries as an insurance policy for the institution is standard, while measures that would be taken if a woman complains of ill-treatment, including sexual abuse or rape, vary slightly from prison to prison. It is clear that any examination to determine ill-treatment, including sexual abuse or rape, needs to be undertaken by a full-time doctor in a hospital for the evidence to be valid in court. It seems that if women request such an examination, she will be taken to the hospital. However, most worrying was that staff interviewed in two of the prisons indicated that a report would be sent to the police, the very institution which is alleged to be responsible for the ill-treatment, rather than or as well as to a different or independent authority. There appeared to be no requirement for the prison staff to inform the prisoner of her right to make an official complaint. Only when asked did staff say that treatment would be offered to the women, but in none of the cases did the staff interviewed indicate that psychological support would be offered.

The different responses provided and the confusion encountered in some prisons when the question was put on how the administration would react in the case of alleged sexual abuse or other forms of ill-treatment in previous custody indicates the urgent need for the development of a set of guidelines on the measures that need to be taken if an indication of ill-treatment is detected or if a woman alleges abuse, in line with the Bangkok Rules, Rule 7. In addition, it is recommended that training is provided to staff responsible for admission on the guidelines.

The variations encountered in the scope of medical examinations on admission would indicate a need to develop a set of guidelines on medical examinations on admission to ensure that all prisons use the same standards. Since there are no doctors in the women's prisons, it is also important to ensure that nurses identify women who should undergo a medical examination by a qualified doctor and that those prisoners are either immediately transferred to a community hospital for a full medical examination or that they are given a full medical examination on the next visit of the doctor to the prison, depending on the urgency of the case.

## **8.2 Medical Confidentiality**

The principle of patients' right to medical confidentiality, provided in a number of international instruments including the International Code of Medical Ethics of the World Medical Association<sup>66</sup> and the World Medical Association Declaration of Lisbon on the Rights of the Patient,<sup>67</sup> is reflected in Rules 8 and Rule 11 of the Bangkok Rules. Rule 8 underlines women prisoners' right to medical confidentiality, including the right not to share information and not to undergo screening in relation to their reproductive health history; Rule 11 covers women prisoners' right to undergo medical examinations in private.

The extent to which prisoners' right to medical confidentiality was understood and respected also varied somewhat from one prison to another. There is a general awareness among all healthcare staff interviewed about the need for medical confidentiality and in all prisons some measures have been taken to protect prisoners' medical records, but in general it was felt that much more needs to be done to fully implement the principle of patients' right to medical confidentiality.

<sup>66</sup> Adopted in 1949, amended in 1968, 1983 and 2006

<sup>67</sup> Adopted by the 34th World Medical Assembly, Lisbon, Portugal, September/October 1981 and amended by the 47th WMA General Assembly, Bali, Indonesia, September 1995 and editorially revised by the 171st WMA Council Session, Santiago, Chile, October 2

In the Central Women's Correctional Institution in Bangkok the head nurse interviewed told the research team that each prisoner has a medical file which was kept confidential. Only medical staff had access to them and information was revealed to other staff only if the prisoner consented.

In Ratchaburi Central and Remand Prison the head nurse interviewed said that all medical files are kept in the main medical centre and only nurses and doctors had access. If a prison officer wanted to see any file she would have to make a request and the prisoner would need to consent. But there had never been a case that prison staff wanted to see the medical file of a prisoner. She said that there is a code for HIV and that this code is used even in the files, where the HIV status of a prisoner is not spelt out. There is a computer system to store medical information but as they are short of staff they are using only the manual paper system. When a prisoner is transferred to another facility the medical information is also transferred to that facility. On release if a prisoner needs continued treatment, she is said to be given all the medicines she needs to take home, as well as her medical file, so that she can contact the hospital herself, where necessary.

Chonburi Correctional Institution for Women also maintained separate medical files for each prisoner and some of the information was computerised. A password is needed to access the computer files. The nurses, officer assistant prisoners (trustee prisoners) and the director had access to the files. When the prisoner is taken to the hospital the prison healthcare staff share information with the hospital. The head nurse interviewed said that the filing cabinet was usually locked but at the time of the visit the lock was broken. Two trustee prisoners were working on the prisoner files, recording all information about the medical needs of prisoners into a log book during the assessment visit.

In Rayong Central and Remand Prison the healthcare staff in the prison, healthcare staff from the community and trustee prisoners were said to have access to the prisoner files. The director is said not to have access. The nurse said that the fact that trustee prisoners had access was not a problem because prisoners told each other about their HIV status anyway.

In Chiang Mai Correctional Institution for Women the research team was told that only medical staff had access to the medical files of prisoners and that the files were all locked up. The cabinets where files were kept did indeed have locks on them. Trustee prisoners (officer assistant prisoners) help with administrative issues and with the preparation of medicine packets for prisoners. The nurse writes out

the prescription, the officer assistant prisoner makes a copy of the prescription and puts the medicines into the package for the prisoners. Reportedly trustee prisoners can only know about the medicines other prisoners are taking, but nothing else. The medical files are not computerised.

In Pathum Thani Correctional Institution for Female Drug Addicts the medical files of prisoners are kept in a locked cabinet and only medical staff have access. The head nurse told the research team that the director did not have access to individual files either. Trustee prisoners also do not have access to the files. They are assigned to help with particular tasks, which do not involve access to the files. Some of the information in the files is computerised, but only the head nurse has access. The research team was told that even the second nurse had to ask for permission from the head nurse to access the information.

Healthcare staff told the research team that prisoners are examined on an individual basis and in private.

The level of access which trustee prisoners (officer assistant prisoners) had to medical files or other information about prisoners' treatment in a number of prisons is a matter of significant concern, breaching prisoners' right to medical confidentiality. As will later be discussed, a significant number of prisoners alleged that trustee prisoners use their power over other prisoners. The fact that such prisoners are also given access sensitive personal information is all the more worrying. In addition in some interviews with nurses the impression received was that medical confidentiality was important only with respect to the HIV status of a prisoner, which indicates a limited understanding of the principle of medical confidentiality, which covers all issues relating to the health status of a prisoner.

It is not difficult to see that the acute shortage in the number of healthcare staff in prisons is the key reason which prompts healthcare staff to seek the assistance of trustee prisoners. It is of utmost importance that the number of qualified healthcare staff working in prisons is increased, both to ensure medical confidentiality as well as to offer better quality, individualised healthcare services to women prisoners, thereby improving compliance with the Bangkok Rules. In addition, training for healthcare staff in particular, but also for all other staff, on the principle of medical confidentiality and measures that must be taken to put the principle into practice is recommended as a matter of urgency.

### **8.3 Medical Services in Prison**

One of the main areas where significant shortcomings were noted was in the provision of healthcare services in the women's prisons visited. The challenges faced in providing adequate healthcare to women prisoners were acknowledged by a number of prison directors themselves. A large majority of prisoners interviewed and who took part in the survey expressed dissatisfaction with the healthcare services, in particular access to healthcare staff, with long waiting periods, and the lack of medication. In a number of prisons prisoners commented that they were commonly prescribed "paracetamol" for all complaints. Dental treatment appeared to be generally very inadequate.

In some prisons prisoners were not happy with the attitude of nurses and in others with the attitude of staff, some of whom were unsympathetic to their healthcare needs.

In most prisons visited the healthcare staff appeared to be putting enormous effort into performing their duties as best as they could in very challenging circumstances, but the lack of adequate healthcare staff is exerting immense pressure on their capacity to perform their duties satisfactorily. The shortage of healthcare staff was a challenge acknowledged by the prison administration and, in particular, the healthcare staff themselves. In some prisons prisoners said that they were not taken to hospital unless their cases became very serious. The prison administrations complained that since security staff have to accompany prisoners to hospitals each time, challenges faced due to staff shortages, which they were experiencing in all areas, were further exacerbated by the frequent absences of staff who had to go to hospitals with prisoners. It would appear that the shortage of staff is affecting decisions on whether or not a prisoner can be taken to hospital, once again demonstrating the multiple ways in which the shortage of staff can impact on the management of prisons and the treatment of prisoners in line with international standards.

#### **(a) Primary and reproductive healthcare**

One of the six prisons visited (Central Women's Correctional Facility Bangkok) had a hospital in the prison grounds, while others had healthcare centres. The hospital has five wards: two general medical wards, one psychological ward; one TB ward (for prisoners with active TB); one ward for prisoners with HIV with additional infections and one for disabled prisoners, women who have just given birth and

sick children. The hospital is staffed by six professional nurses, one technical nurse, one psychologist and one pharmacist's assistant. Where the women's prison is part of a male prison, the healthcare centre and staff are shared between the male and female prisoners.

As already mentioned, prison nurses are employed in the prisons by the Ministry of Justice and doctors from the community healthcare services visit prisons periodically. The number of nurses and ratio of one nurse per prisoner varied from around 600 to 800 prisoners per nurse in women's correctional institutions to around 500 - 1500 prisoners per nurse in prisons where both male and female prisoners are held, taking into account also the male prison population (See Table 6 in Section 16.1). Doctors visit some prisons once a month, others once a week and others twice or three times a week. In one prison (Ratchaburi Central and Remand Prison) the doctor had not been visiting for some time as he had resigned and a replacement had not yet taken up position. He used to visit once a week to see female prisoners. In this prison the INSPIRE project provides women specific healthcare, including care of mothers and children, visiting every three to six months. A Taiwanese Jesuit foundation had also been providing medical check-ups for women prisoners, and had been twice since August 2012. In addition, a volunteer doctor from another hospital came every two months to the women's section where he held a separate clinic.

Gynaecologists visit once per week in Central Women's Correctional Facility Bangkok, in others they visited once a year. In all prisons visited, pap smears and breast screening is undertaken once a year by community healthcare services. Usually women prisoners are also trained to check themselves and if they report any suspicious condition a scan is undertaken. Dentists are also provided by the community healthcare services, visiting once a month or less often.

Where the requisite healthcare cannot be provided to prisoners in the prison hospital or healthcare centre, prisoners are taken to community hospitals for treatment. Some prisoners, who need ongoing treatment, are taken on a regular basis. At least one nurse accompanies the prisoners when they are taken to hospital, together with a security staff.

Medications are distributed to all the prisons by DOC and generally healthcare staff said that the medicines were sufficient to cover the needs, though many prisoners complained that they only received pain killers (paracetamol), medication for allergies and in some prisons, antibiotics.

Treatment for tuberculosis (TB) and HIV was being provided within the framework of a national programme with funding from the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund) in all prisons visited. In most prisons prisoners with TB were said to be receiving Directly Observed Therapy, Short Course (DOTS) treatment. (See Section 8.3 (c) for further details on HIV and AIDS treatment and care).

While all the nurses in the prisons were female, the doctors who visit are not necessarily female. When asked what the response would be if a prisoner asked to be examined by a female doctor, one senior nurse said that they would have to consider the reason for the request, but that they had never received such a request to date. The Director of Medical Services Division of the Department of Corrections (DOC) explained that if a male doctor examined a female patient a female nurse had to be present<sup>68</sup>, which is in line with the requirements of the Bangkok Rules.<sup>69</sup> It is not possible to say to what extent this rule is being applied in practice, but the research team did not receive any information to the contrary. Gynaecological examinations and pap smears appear to be provided by female nurses.

#### **(b) Mental health, suicide and self-harm**

The Central Women's Correctional Facility in Bangkok employs one psychologist responsible for 4517 women prisoners. There is a psychologist also in Chiang Mai Women's Correctional Facility, responsible for 1514 prisoners and a psychologist had been appointed to work in Pathum Thani Prison, responsible for 1626 prisoners, two weeks prior to the assessment. Other prisons did not have psychologists among the regular healthcare staff. Psychiatrists visit some prisons – in one prison (Chiang Mai) this was said to be once every two months; in another (Ratchaburi) - every three or four months. In Pathum Thani, the two doctors who came from the hospital three times a week also covered mental health issues, and could prescribe medicines for psychiatric problems. The research team was informed that the psychological or psychiatric care is generally limited to treatment with medicines. The community healthcare services themselves lacked psychiatrists, so the limited attention paid to prisons was not surprising. The acute shortage of psychologists and psychiatrists, coupled with the large number of prisoners and additional tensions and mental distress which overcrowded prisons generate, mean

<sup>68</sup> During the discussions of 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), Bangkok, 19 to 21 February 2013

<sup>69</sup> Bangkok Rules, Rule 10 (2)

that the individualised comprehensive mental healthcare, which does not rely on medication as a primary response to mental ill health, can hardly be applied in women's prisons in Thailand.

In all prisons the research team was informed that the medical examination on admission included a mental health check, though this was undertaken by the nurse in some, a psychologist, where they were available. If prisoners say that they have mental health problems and are prescribed medication at the time of their admission, the healthcare staff make sure that the women continue with the medicines which they have already been taking. In some cases the women will be referred to the visiting doctor, who may recommend that the woman sees a psychiatrist, or directly to the community psychiatrist. In Chiang Mai Correctional Institution the psychologist said that the medical examination on admission included checking for mental health problems as well as suicide risk. If they diagnose mental health problems or risk of suicide, they refer the prisoner to a psychiatrist or group therapy. She said that they had occupational therapy sessions conducted by the Chiang Mai hospital unit for occupational therapy three times a week for prisoners with mental health problems. These include prisoners with mood disorders, who make up 80 per cent of the population, major depressive disorders, schizophrenia and anxiety. However, the two nurses and psychologist employed in this prison apparently have to deal with around 70 to 100 medical examinations a day, which prompts a question as to how thorough the examinations can be or whether everyone can be covered. Indeed, comments by prisoners indicate that the practice often does not comply with the good intentions or aspirations of the healthcare staff.

In the Central Women's Correctional Facility in Bangkok there were around 20 prisoners in the psychiatric patients' ward. The head nurse said that the most common complaints were depression, schizophrenia, anxiety and adjustment disorders. One woman looked extremely distressed. She was said to be in a very poor mental state because her children did not visit her. The nurse said that there were suicide attempts, but that they were rare – less than ten a year. There are said to be more attempts and more successful attempts in the male prisons. When there is a suicide attempt, the social worker contacts the family. Self-harm was said to be rare here. The research team was informed that suicide and self-harm was very rare among women in other prisons as well.

A community group therapy activity, called "To be Number One" was being conducted in a number of prisons visited. The programme targets drug dependent

prisoners with mental health problems. In the Central Women's Correctional Facility the programme was offered every weekday morning and a total of 400 prisoners were participating. The programme includes dance, music, drawing and singing. The programme managers are working together with the Ministry of Mental Health. (Please also see *Section 12.2.2* on treatment programmes for drug dependence)

Religious programmes with meditation also aim to improve the mental health of prisoners and such programmes are available in all prisons.

Ratchaburi Central and Remand Prison deserves being singled out for a proactive policy of mental health promotion, which was visible in the relaxed and positive atmosphere in this prison. For example, whereas prisoners have to keep a distance between themselves and staff in most other prisons or kneel down when a member of staff passes by or when they talk to a member of staff, here there was an easy, constructive relationship between staff and prisoners which is actively promoted by the director. All prisoners interviewed commented on the kindness of staff and the good atmosphere in this prison, despite staff shortages. (See also *Section 12.1* for more on the prison atmosphere)

### **(c) HIV and AIDS prevention, treatment and care**

The Bangkok Rules require that in developing responses to HIV/AIDS in penal institutions, programmes and services be responsive to the specific needs of women, including prevention of mother-to-child transmission. In this context, prison authorities have the responsibility of encouraging and supporting the development of initiatives on HIV prevention, treatment and care, such as peer-based education.<sup>70</sup>

In all prisons visited considerable attention was being paid to the prevention and treatment of HIV and AIDS, to a large extent thanks to funding received from the Global Fund. Activities include voluntary testing and counselling, training of nurses by DOC, training and awareness raising among prisoners, selection and training of leader prisoners to motivate other prisoners to undertake testing and to raise their awareness and antiretroviral therapy (ART) treatment in the case of selected prisoners, based on medical assessments.

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<sup>70</sup> Bangkok Rules, Rule 14



Information gathered in individual prisons is set out below.

In Central Women's Correctional Institution in Bangkok voluntary HIV testing is offered once a year. Pre- and post-test counselling is provided by trained nurses. HIV positive prisoners with no complications live together with other prisoners. There were 176 on the day of the visit, comprising 3.9 per cent of the prisoner population, which was the second highest proportion among prisons visited. HIV positive prisoners with additional infections (21 prisoners) were accommodated in one of the hospital wards, where they are said to stay until their infections are treated, after which they return to their dormitories. Eighty-six prisoners were on ART. An education programme on HIV and AIDS was provided to prisoners.

In Ratchaburi Central and Remand Prison voluntary testing and counselling for HIV is offered. The head nurse (and acting doctor) explained that first a trained volunteer prisoner talked to the prisoners, explaining the purpose of the HIV test and consequences. If any prisoner decided to have a test, the volunteer prisoner informed the nurse, who provided pre-test counselling to the prisoner and gave her a consent form which she had to sign before the test could be conducted. The nurse then conducted the test herself and the blood sample was sent to the hospital. The nurse said that she goes to the hospital to get the test results herself and informs the prisoner herself about the results. If a prisoner is diagnosed with HIV the information is kept confidential and when the prisoner's medical file needs to be taken to hospital, the prisoner herself takes it. But, the nurse said that most prisoners told others anyway. Sometimes other prisoners helped care for prisoners with HIV. Prisoners with HIV were not separated from other prisoners unless they experienced health complications or unless they were receiving ART. The nurse explained that when TB and HIV patients are separated from the others, no sign which would indicate their health condition was placed on the doors of their rooms, and that they referred to the health condition as something other than HIV or TB. The programme includes the training of prisoners and prison staff on HIV, TB and Sexually Transmitted Infections (STIs). There were 10 HIV positive prisoners among women, compared to 45 among men on the day of the visit, thus 1.17 per cent of women and 1.15 per cent of men were living with HIV – a similar proportion – and the lowest among prisons visited.

Chonburi Women's Correctional Institution had also received funding from the Global Fund for a programme on TB and HIV and were in their third year. Within this programme awareness raising and education activities were being undertaken for prisoners and staff. A leader prisoner was said to be trained to provide education

on HIV and TB to other prisoners. HIV testing is voluntary here as well and the leader prisoner is trained to encourage other prisoners to take a test. STIs are also checked and if an STI is diagnosed prisoners are taken to the hospital for treatment. Prisoners with HIV whose condition is stable live with other prisoners. If their condition worsens they stay in one of the rooms near the medical centre and receive ART. On the day of the visit there were five women with TB and HIV, and 25 women with HIV, thus 2.43 per cent of the prison population were living with HIV.

Rayong Central and Remand Prison TB screening is undertaken among prisoners and a DOTS programme is implemented within the framework of the national programme. The nurse told the research team that there used to be a prisoner awareness raising programme on TB and HIV in 2007, but it had been discontinued. In 2009 a project had been initiated teaching a leader prisoner about TB and HIV, for her to teach other prisoners. As in other prisons visited HIV positive prisoners are not separated from others. HIV testing is voluntary except for those who have TB, in which case it is compulsory. There were 27 HIV positive prisoners, two women with HIV and TB, and three women with TB in the prison on the day of the visit. The proportion of HIV positive prisoners, including the two prisoners with TB, was 2.62 per cent.

Chiang Mai Correctional Institute for Women is also receiving funding from Global Fund. They offer voluntary HIV testing and counselling. Whenever a prisoner decides to have a test, she can apply to the healthcare staff to have one. In 2012, 400 tests were conducted and 17 prisoners diagnosed with HIV. HIV education and awareness raising activities are undertaken in the prison. Each year 180 prisoners are selected to be trained as volunteers and 50 among them are selected to be prisoner leaders to educate other prisoners and provide basic counselling. This programme was said to be on-going for the last three years. Some prisoners with HIV were said to be receiving ART. There were a total of 38 prisoners with HIV in the prison, including the 10 who had complications and were separated on the day of TIJ's visit. The proportion of HIV positive prisoners was 2.5 per cent.

Pathum Thani Correctional Institution for Female Drug Addicts also receives funding from the Global Fund. Voluntary testing and counselling for HIV is provided, though prisoners said that everyone had to have a blood test on admission and that this test included HIV. Prisoners claimed not to have been informed that they had a right to refuse the test. There has been an increase in HIV cases in the prison from just over 50 in October 2012 to 80 in January 2013. Thus the proportion of prisoners with HIV was 4.9 per cent, the highest proportion among prisons visited.

The head nurse interviewed said that this might be due to new admissions (taking into account that a considerable proportion of women in this prison may have been involved in sex work), as well as in the increase in the number of women being tested. They also diagnose other STIs, including herpes and hepatitis B, but these were not so common. Most of the HIV positive prisoners, apart from those who are receiving ART, are mixed with others, but other prisoners know that they have HIV. It is said that often other prisoners take care of them, reminding them to take their medicines. Twenty-five of the HIV positive prisoners were receiving ART and were held in a separate room, apparently to make sure that they took their medicines. The decision process on whether or not a prisoner could receive ART was described as follows: if a HIV positive prisoner experiences complications the nurses conduct a blood test for HIV to check viral load and to determine the presence of any other diseases. They also undertake a CD4 cell count (immune system assessment) to help in decision making. Then they discuss the results and decide whether the prisoner should be sent to hospital to start receiving ART. These tests are repeated twice a year. Within the framework of the programme, prisoners receive education on HIV prevention. A hundred prisoners are trained each year and 45 of them selected to become leader prisoners to educate others. The nurse said that it was thanks to this programme that more prisoners had come forward to receive HIV tests.

It is of concern that the principle of voluntariness does not appear to be applied in Pathum Thani prison when conducting tests for HIV. While it is assumed that if a prisoner refused to have a blood test, they would not be forced to take one, comments by many prisoners indicate that they were never informed that the blood test which they had to have on admission also included a test for HIV. This would also indicate that prisoners were not offered pre-test counselling, so they are not being prepared for the test either. It is strongly recommended that the way in which blood tests are conducted on admission be reviewed and if they do indeed include testing for HIV, this practice should be discontinued. Instead such testing should be offered to prisoners who have participated in an awareness raising programme on HIV and AIDS and conducted only following a voluntary application by prisoners and following a pre-test counselling provided by a qualified and trained nurse.<sup>71</sup>

It is not clear whether any measures are in place to prevent mother-to-child

71 WHO recommends that all testing and counselling services must include the five C's: informed Consent, Confidentiality, Counselling, Correct test results and linkage to Care, treatment and other services. <http://www.who.int/mediacentre/factsheets/fs360/en/>

transmission of HIV, including by offering such women ART, regardless of their CD4 cell count status.

#### 8.4 Hygiene

SMR require that adequate bathing and shower installations have to be provided to prisoners so that they can have a bath or shower as frequently as necessary for general hygiene.<sup>72</sup> The sanitary installations must be adequate to enable prisoners to comply with the needs of nature when necessary in a clean and decent manner.<sup>73</sup> SMR also provide that prisoners should have access to water and toilet articles for health and cleanliness, facilities to take care of their hair and in the case of men, the possibility to shave regularly.<sup>74</sup> The Bangkok Rules, Rule 5 supplement the SMR on the personal hygiene of prisoners, requiring that women's accommodation have facilities and materials required to meet women's specific hygiene needs, including sanitary towels, provided free-of-charge and a regular supply of water got for the personal care of children and women.

All dormitories visited had toilets and washbasin in a corner of the dormitory partitioned off with a low wall. There was little privacy, but constant accessibility during the time which the women have to be in their dormitories. Bathing areas are located outside in the prison grounds and the prisoners can wash twice a day – once in the morning when they get up and once after they finish work and before they return to their dormitories. The washing facilities consist of large, long pools filled with water, which prisoners can pour over themselves to wash. According to information received in some prisons, prisoners are allowed two buckets each and in one prison (Correctional Institution for Women in Bangkok) 10 to 12 bowls of water to wash themselves, and one bucket for their laundry. Some prisoner wings have showers. There are also toilets outside, but again with little privacy. All sanitary and washing facilities were very clean on the day of TIJ's visit. A very common complaint was the lack of time to wash, due to the very strict and tight prison timetable in all prisons with the exception of Ratchaburi, as well as the overcrowding in the washing area (for more on the prison regime see Section 12.1). The lack of enough water to wash was a grievance shared by many prisoners in all of the prisons. For example, one prisoner told the research team that the washing facilities were inadequate and there was a lot of competition to get to the water

72 SMR, Rule 13

73 SMR, Rule 12

74 SMR, Rules 15-16

in the morning, because they were given more water in the morning than at other times and everyone wanted to wash at this time. The washing area was very small with 600 prisoners sharing the same washing area. They washed in shifts of around 200 prisoners. Usually everyone had 10 minutes to wash. They usually woke up at 5 am, had to be in the bathing area by 6 am and at 7 am breakfast was served. Another prisoner in Bangkok said: “When we are going to take bath we have to hurriedly line up to wait to bathe - 20 prisoners at a time and we can only use 10 to 12 bowls of water but not more than that.” A prisoner in Chonburi said: “There is not enough time to wash, sometimes there is not enough water. Usually the water is drained at bedtime which make is difficult to use the toilets, and without water the toilet is very unclean.”

Some prison administrations also mentioned that in some seasons they confronted water shortages at which time they reduced the number of times prisoners could wash to once a day.

The DOC provides some hygiene articles to all prisons but these are not sufficient for the whole year so prisoners have to buy any additional hygiene articles which they need. Each prisoner is said to receive twelve bars of soap a year, ten sanitary pads per month, two bottles of shampoo per year, two toothbrushes per year and ten kg of washing powder per year. In two prisons the research team was told that sanitary pads provided were very insufficient. The prison shops store all hygiene articles, but prisoners complain that the prices in the prison shops are higher than in the community, and that with the low wages they receive for their work, they cannot afford to buy many things. Prisoners who do not have families to visit them and to buy hygiene articles for them are very much disadvantaged.

Given the special hygiene needs of women prisoners and the key role of hygiene in the prevention of disease and promotion of health, measures need to be taken to improve the provision of hygiene for women prisoners. It is recommended that the timetable be reviewed to extend bathing times, taking into account that the prisons are overcrowded far beyond their original capacity – a measure which will cost nothing in monetary terms. Secondly, it is recommended that prisoners are allowed more water for washing themselves and, ideally, such water should be running water, rather than water stored in large troughs, which can be unhygienic. It is also recommended that DOC reviews and increases its budget for the provision of hygiene articles for women prisoners, in order that they can be provided all of their needs, including adequate sanitary pads free-of-charge, as required by the Bangkok Rules.

See *Section 13* for pregnant women, breastfeeding mothers and women with children.

## 9. Safety and Security

The Bangkok Rules, rules on safety and security (Rules 17 to 25), supplement the SMR, Rules 27- 36 and 55, which cover discipline and punishment (Rules 27 to 32); instruments of restraints (Rules 33 to 34); information to and complaints by prisoners (Rules 35 and 36) and prison inspections (Rule 55). The Bangkok Rules add provisions on searching procedures, which require, inter alia, that the privacy and dignity of the women being searched be respected and protected,<sup>75</sup> that strip searches and invasive body searches be replaced by alternative screening methods<sup>76</sup> and that staff demonstrate competence, professionalism and sensitivity when searching children of women in prison.<sup>77</sup> They prohibit the disciplinary segregation of pregnant women, women with infants and breastfeeding mothers in prison.<sup>78</sup> They require that the prohibition of family contact should never be used as a disciplinary sanction against women prisoners, especially where children are involved<sup>79</sup>, and prohibit the use of restraints during labour, child-birth and immediately after birth.<sup>80</sup> The Bangkok Rules also include additional gender focused provisions supplementing the SMR’s provisions on inspections and complaints, which provide guidance on responses to complaints of sexual abuse and require inspection bodies to include women members.<sup>81</sup>

### 9.1 Discipline and punishment

Disciplinary punishments included in the Prison Act and Ministerial Regulations include warnings; deferring the promotion of the prisoner for a limited period of time; suspension of visits and communications for up to three months; reduction of suspension of the whole or part of a benefit or award; reduction of the prisoner’s class; solitary confinement for up to three months; and confinement in a dark cell without bedding up to two days in the case of women prisoners. A number of these

75 Bangkok Rules, Rule 19

76 Bangkok Rules, Rule 20

77 Bangkok Rules, Rule 21

78 Bangkok Rules Rule 22

79 Bangkok Rules Rule 23

80 Bangkok Rules, Rule 24

81 Bangkok Rules, Rule 25

provisions are not in line with SMR, the Bangkok Rules and the pronouncement and recommendations of UN bodies. These include confinement in a dark cell, the length of solitary confinement, the fact that pregnant women and women with small children are not excluded from solitary confinement and that suspension of visits can be applied to women, including women with small children, as has been discussed in Section 1.3. However, in practice confinement in a dark cell is said not to be used at all. The use of other measures varies from prison to prison.

In cases which are not considered to be serious, depending on the prison, the prison administrations issue warnings, require the prisoner to undertake daily military style training in the open or to sit outside their dormitory and meditate.

In some prisons suspension of visits can be used as a punishment for non-serious offences. In one prison (Correctional Institution for Women, Bangkok) such a punishment was considered to be a possible response to a more serious offence. In one prison (Correctional Institution for Female Drug Addicts, Pathum Thani) suspension of visits were said not to be used at all. The suspension of letters was not mentioned as a punishment in any of the prisons visited.

In some prisons it seemed that the suspension of visits would apply equally to women with children, in one, the visits of children and the carers of the children would not be suspended (Correctional Institution for Women, Bangkok). In one prison the prison administration said that the suspension applied equally to mothers with children but if a child would come to a visit, not knowing that his or her mother's visits had been suspended the administration would allow the child to see its mother. In addition, even if the prisoner had a suspension of visits, but applied to the prison administration asking to see her family, they would consider it on a case by case basis.

Serious offences may also be punished by the reduction of the class of the prisoner, which impacts on the prison term prisoners serve in practice, since the higher the class a prisoner has the more is her chances of benefiting from the reductions in sentences awarded with periodic Royal Pardons.

Almost all prison directors and/or deputy directors for security interviewed told the research team that solitary confinement was not used for women prisoners and that confinement in a dark cell had not been used for many years. In one prison the prison administration said that solitary confinement is sometimes used and the research team was able to see the room, which was of reasonable size for one

person (around 9-10 square meters), and had access to a toilet and TV. In this prison, if prisoners had a fight, they may be placed in isolation up to one month in serious cases, but usually isolation was said to be used for three to seven days. In all prisons the more common method of partial isolation was to require prisoners to remain in their dormitories during the day for a number of weeks or months, often together with other prisoners who had received a disciplinary punishment, being allowed to come out for meals and to wash.

The disciplinary process is similar in most prisons. In cases which are not serious the deputy director for security or another senior member of staff talk to the prisoner or prisoner(s) and decide on a penalty. For serious cases a committee made up of three prison staff is set up who decides according to the provisions of the Prison Act and Regulations. In one prison (Chonburi) the research team was told that the final decision must be sent to the DOC, who may disagree.

In three prisons prisoners reported that prisoners were punished very frequently and for very minor offences.<sup>82</sup> In three prisons more than one prisoner claimed that solitary confinement was used and not infrequently.<sup>83</sup>

The legislative provisions on disciplinary punishments are of serious concern which has been discussed separately in *Section 1.3*. In three prisons visited solitary confinement is not used at all on any category of woman prisoner, which is welcomed and is not only in line with the Bangkok Rules but also with pronouncement and recommendations of the UN in general. It is not clear whether or not disciplinary segregation is used on pregnant women, women with infants and breastfeeding mothers in the other three prisons visited, as the prison administrations claim that isolation is not used at all, which was disputed by some prisoners in these prisons, as mentioned above.

It is recommended that solitary confinement is not used at all in the case of women prisoners, as such isolation is harmful to mental health and international standards and bodies recommend that it is either not used at all or used in only exceptional circumstances.<sup>84</sup> At the very least, if used the period of such confinement should

82 Central Correctional Institution for Women (Bangkok), Chonburi Correctional Institution for Women, Chiang Mai Correctional Institution for Women.

83 Chonburi Correctional Facility for Women, Chiang Mai Correctional Facility for Women, Pathum Thani Correctional Facility for Female Drug Addicts

84 The Istanbul statement on the use and effects of solitary confinement, adopted on 9. December 2007 at the International Psychological Trauma Symposium, Istanbul.

be as short as possible, and it should never be used in the case of pregnant women, breastfeeding mothers and mothers with children, in line with the Bangkok Rules, Rule 22.

The suspension of visits appears to be a type of punishment that is used quite frequently in at least four of the prisons visited. In one prison the punishment is not used at all which is in line with the Bangkok Rules and very much welcomed, in another it is not used in the case of women with children, which also partially complies with the Bangkok Rules. But the punishment is not explicitly prohibited in the Prison Act or Ministerial Regulations, including in the case of women with children, decision being left to the prison administration in most cases. It is recommended that suspension of visits be explicitly prohibited as a punishment in the case of all women prisoners, or at least in the case of women with children.

## 9.2 Searches

In all prisons visited the research team was told by the director and/or the deputy director for security that female security staff undertake a strip search of all prisoners on admission. The prisoner is asked to take off her clothes and given a towel to wrap around herself. A visual search is undertaken and the woman's hair and belongings are searched. It was said that invasive body searches were undertaken only in exceptional cases when there was a justifiable suspicion that a woman was hiding an illegal item on her body, and especially if the police had alerted the prison administration to the possibility. In one prison (Chonburi) the research team was told that a scanner is used to detect illegal items, though it was admitted that the scanner did not detect drugs. When asked who carried out the invasive body searches, some directors or security staff responded that the searches were carried out by nurses, others by trained female staff and in one case it was said that a doctor would be asked to carry it out, who would come from outside, as the prison did not have a doctor in any case. In one prison, the nurse first responded that in most cases invasive body searches were undertaken by a prison officer, but only in specific cases when there is a need to use instruments, would the nurse be asked to carry out the search. Later she said that no invasive body searches were undertaken and that prisoners were sent to the hospital for a scan.

However, senior nurses interviewed in two prisons contradicted the information provided by the prison management staff. They told the research team that invasive body searches were routine on admission and whenever a woman has to leave the prison and come back – for example to court or to hospital – with the exception of

women who were pregnant. When asked who carried out the searches, in one prison the nurse said that the searches were carried out by female security staff who had been trained by the nurse, and that she herself always had to be there to observe the process. In the other prison the nurse said that the search was carried out by security staff, who had not been trained. The nurse did not observe the searches and said that the staff learned on the job.

In the case of three of the six prisons visited (two of them those referred to above) prisoners also said that invasive body searches were routine whenever they left the prison and came back. In one prison where the nurse had not trained the staff and did not observe the searches, prisoners alleged that invasive body searches were sometimes carried out by trustee prisoners (officer assistants). In one prison where all prisoners were subjected to strip searches on admission (but not to invasive searches, as the prison only received transfers from other prisons), prisoners told the research team that trustee prisoners (officer assistants) were involved in the searches.

Pat down searches are carried out when women go back to their dormitories in the evenings and in some prisons also when they leave their dormitories in the mornings. Only pat down searches are carried out on children.

The fact that strip searches are carried out on a routine basis whenever a woman leaves the prison and comes back is of concern, violating the provisions of the Bangkok Rules. The fact that invasive body searches are routine in at least two prisons, and probably in three, whenever a prisoner leaves the prison and comes back, is a serious violation of the Bangkok Rules, Rule 20. The commentary to that rule notes "This Rule takes account the World Medical Association (WMA) Statement on Body Searches, where WMA urges all governments and public officials with responsibility for public safety to recognize that invasive search procedures are serious assaults on a person's privacy and dignity, and that they also carry some risk of physical and psychological injury. Therefore this rule recommends that to the extent feasible, without compromising public security, alternative methods should be used for routine screening of women prisoners."<sup>85</sup> It would appear that the excessive focus on security and the fear of drugs or mobile phones entering prisons has overridden concerns for the preservation of prisoners' human dignity and the

<sup>85</sup> Commentary to the draft united nations rules for the treatment of women prisoners and non-custodial measures for women offenders, endorsed at the Inter-governmental Expert Group Meeting which developed the Bangkok Rules in 2009. The Inter-governmental Expert Group Meeting was held in Bangkok between 23-26 November 2009. (For further information see: <http://www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings1.html>)

prevention of psychological and in at least one prison, possible physical harm to the prisoners.

Decisions as to who may be allowed to carry out invasive body searches are difficult. On the one hand, searches should never be carried out in a way which may humiliate the woman or cause physical harm, while on the other, the involvement of medical staff in body searches contravenes the principles of medical ethics, as any role of health-care staff in disciplinary or other security measures is in contradiction with their professional and ethical obligations as enshrined in the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>86</sup>

There exist a number of international and regional standards and principles which may be referred to for guidance. The most authoritative guidance is provided by the World Medical Association in their Statement on Body Searches of Prisoners.<sup>87</sup> The World Medical Association urges that, if body cavity searches have to be used in exceptional circumstances, they should either be carried out by a physician who is not the same person who will subsequently provide medical care to the prisoners or by female staff who have been trained to carry out such searches in a professional and sensitive way, without endangering the prisoner's physical and mental health.

These principles are being violated in one prison where the nurse had not trained the staff who carries out the searches and did not observe the process either. The allegations that searches were also conducted by other prisoners, if true, are totally unacceptable, not only endangering the physical health of the prisoner being searched but also violating SMR.<sup>88</sup>

In the prison where the search had to be observed by the nurse, the nurse said that she spent a large proportion of her day observing searches. Thereby she is taken away from her actual duty of providing medical care and treatment to prisoners, in circumstances where the prison is severely short of medical staff and therefore cannot adequately meet the needs. The fact that the nurse had to observe the

<sup>86</sup> Principle 3

<sup>87</sup> Adopted by the 45th World Medical Assembly, Budapest, Hungary, October 1993 and editorially revised at the 170th Council Session, Divonne-les-Bains, France, May 2005. (<http://www.wma.net/e/policy/b5.htm>)

<sup>88</sup> SMR Rules 28 provides that no prisoner shall be employed, in the service of the institution, in any disciplinary capacity, but that prisoners may be given responsibilities in relation to specified social, educational or sports activities, under supervision.

searches is in itself a positive initiative to protect the women from any harm (though not ideal as it involves the prison medical staff in a matter that is within the sphere of prison security). But the fact that such searches are carried out at all and on such a routine basis, in contravention of the Bangkok Rules, means that the prison nurse has to devote a large proportion of her valuable time to an activity which in essence is part of the security system of the prison.

It is urged that the routine practice of invasive body searches of all women prisoners being admitted to prison be discontinued. Such searches, if they must be used at all, should only be used in exceptional circumstances when there is genuine justification that a woman might be concealing an illegal item on her body. The search should be carried out by staff who must be trained to carry out such searches without endangering the prisoner's health and with full respect to women's privacy and dignity. Alternatively, women may be searched by a doctor or nurse, who are not members of the regular healthcare staff of the prison.

The routine strip searching of all women prisoners on admission should also be discontinued, in line with the provisions of the Bangkok Rules, Rule 20, and be used only in circumstances when there is genuine justification. Where strip searches are used, prison staff should ensure that women are not fully naked at any time and that their dignity and privacy is respected at all times.

The circumstances in which body cavity searches and strip searches may be carried out should be prescribed by law and thus included in the revision of prison related legislation recommended earlier.

### 9.3 Restraints

Pregnant women are taken to hospital to deliver their babies accompanied by either two prison officers or one nurse and one prison officer. No restraints are used during transport or delivery or following delivery. No restraints are used when pregnant women are taken to hospital for their periodic checks prior to delivery either. This information was confirmed by all staff and prisoners interviewed. In one prison the research team was told that restraints are prohibited in the case of all women. Only in exceptional circumstances if a prisoner is dangerous to herself and others will restraints be used. Thus the practice with respect to the use of restraints complies with the requirement of the Bangkok Rules, Rule 24.

#### 9.4 Information to and complaints by prisoners

Information to prisoners has been referred to in *Section 6.3*, covering admission procedures.

The law allows prisoners to submit complaints to the prison director, the DOC, Ministry of Justice, the National Human Rights Commission and the Ombudsman. If a prisoner wishes to complain to the DOC, he or she can write a letter and seal the envelope and submit it via the prison warden to the DOC. The letter cannot be opened. If prisoners wish to complain to the Ministry of Justice, the Ombudsman or the National Human Rights Commission, this must be done via the prison warden and DOC, who must forward the sealed complaint, unopened to the MOJ or Ombudsman. The Office of the Ombudsman is an independent agency and has the power to consider and investigate complaints lodged by any aggrieved citizen, including prisoners. Ombudsmen can investigate complaints and petitions received from prisoners and provide recommendations to the Department of Corrections. However, they are not empowered to act on a prisoner's behalf, nor do they involve themselves in a case unless an official complaint is received.<sup>89</sup>

In four prisons visited there were complaints' boxes where the prisoners could place their complaints to the director or outside authorities in a sealed envelope. Families of prisoners can also send complaints to the DOC. In these and other prisons, the prisoners can also hand over their complaints' letters to a warden in a sealed envelope to be forwarded to the relevant authority.

Directors said that complaints were usually dealt with internally. Two directors said that prisoners had never sent complaints to the DOC, MOJ or any outside authority.

The fact that different, confidential avenues of complaints, including to independent authorities, are available to prisoners is welcomed and complies with the provisions of the SMR and the Bangkok Rules.

However, the lack of any complaints to outside authorities, specifically highlighted by the directors of two prisons, is usually an indication that prisoners are either afraid of complaining, perhaps because they have been deterred or discouraged from doing so, or that they do not believe that any action will be taken in response to their complaints. Thus the lack of complaints is generally not a positive indication

<sup>89</sup> US State Department 2010 Human Rights Report: Thailand

of prison management practices. In addition, it is not clear to what extent prisoners are made aware of their right to complain on admission to prisons, as most do not receive a copy of the handbook and only limited information is provided to them, focusing predominantly on the prison regime and disciplinary offences (See *Section 6.3*). Most prisoners interviewed said that they had received very little information on admission and that they learnt about most of their rights and obligations from other prisoners on a day-to-day basis.

A functioning independent complaints' mechanism is key to ensuring that prisoners' rights are protected and promoted. Access to internal and external channels of complaint is a right of all prisoners, and not a privilege.<sup>90</sup> Prisoners should never be afraid of fulfilling this right and "unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied without undue delay."<sup>91</sup> In order for prisoner to fulfil their right to complain, they should be informed on admission on the procedures of submitting complaints in a language that they understand and they should never be discouraged from doing so. Bodies who have the authority to receive and act on such complaints should make every effort to respond to them in a timely manner and take the necessary action, where the complaint is found to be justified.

#### 9.5 Inspections

Internal prison inspections are undertaken by the DOC Office of Inspectors twice a year. The inspectors check whether the prisons are complying with the law and their budgetary needs. Some interviews suggested that the methodology used for internal inspections might be inadequate as they appeared to rely predominantly on the inspection of reports, forms and checklists completed by the prison directors, rather than a thorough assessment of in prisons visited.

By law, the Ombudsman, National Human Rights Commission and judicial officials can visit prisons, but such external inspections appear to be ad hoc and infrequent. In some prisons the directors could not recall when they had last had an external inspection, in one it was mentioned that the National Human Rights Commission (NHRC) had visited recently. The NHRC had female members on the team, as required by the Bangkok Rules. The report of the National Human Rights Commission was not publicly available, at least in English.

<sup>90</sup> SMR Rule 36

<sup>91</sup> SMR Rule 36 (4)

The International Committee of the Red Cross (ICRC) has been visiting security detainees in southern Thailand for eight years. At the beginning of 2012 it received access to all places of detention. At the time of the TIJ assessment mission ICRC had undertaken 60 prison visits, covering 40 prisons. They had completed a first survey which focused on health in detention. The ICRC reports are discussed confidentially with the authorities in charge.

It is felt that more attention should be given to ensure the regular external inspections of prisons by independent bodies to enhance the transparency of prisons, which, in the view of the author of this report, is an area of key concern. Prisoners' limited contact with the outside world, outlined in Section 10 below, is another area where the prison authorities' reluctance to promote transparency is reflected.

## 10. Contact with the Outside World

Contact with the outside world is covered in three rules of the SMR, one of which is relevant specifically to foreign nationals (Rule 38). Rules 37 and 39 provide that prisoners should be "allowed to communicate with their family and reputable friends..... at regular intervals, both by correspondence and by receiving visits" and that they should be "kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration." Visits and correspondence are not privileges, but rights and are critical to the protection of family life, access to justice and the mental wellbeing of prisoners.

The Bangkok Rules recognise women's especially strong need to keep in contact with their families, particularly where children are involved, and the extremely harmful impact of isolation from families and communities on women prisoners. Taking into account these factors and also recognizing the reality that many women are held far away from their homes due to the small number of women's prisons in most countries, the Bangkok Rules add additional provisions to enable women to maintain family links (Rules 26 to 28) and put responsibility on prison authorities to take measures to counterbalance the disadvantages women face in this respect.<sup>92</sup> The Bangkok Rules require that visits allow contact between mothers and children, that visits involving extended contact with children be encouraged wherever possible and that the environment in which visits take place be conducive

<sup>92</sup> Bangkok Rules, Rule 26

to a positive visiting experience.<sup>93</sup> The rules also address women's right to conjugal visits, in countries where such visits are allowed to male prisoners, taking into account that women are most often discriminated also in this respect. Rule 43 emphasises the importance of visits to women prisoners within the context of their social reintegration and reiterates the need to encourage them. Rule 44 requires prison authorities to consult women prisoners as to who can visit them, taking into account women's disproportionate experience of domestic violence.

The number of visits which women were allowed to have vary slightly in prisons visited in Thailand. Open or contact visits are allowed only one or two times a year in most prisons visited, but open visits had not taken place in practice for two years, according to prisoners in one prison and for an unspecified length of time, according to the director of another, because a visitor had tried to smuggle in illegal items in both of these prisons. In two prisons - Ratchaburi Central and Remand Prison and Pathum Thani Prison for Female Drug Addicts - more open visits were allowed as outlined below. Mothers or mothers whose children were in foster homes or orphanages had some additional visits in most prisons. Closed visits are allowed every day in most prisons, but once a week in one of the prisons visited. Visiting rights also vary also according to the classification of the prisoner and whether or not she has been convicted of drug trafficking involving over 1000 amphetamine tablets. In the latter case the women are usually allowed closed visits only once a week. The length of time allowed for each closed visit varies between 15 and 30 minutes.

Usually both family members and friends can come to closed visits, but only family members are allowed to have open visits. Visits by consular representatives and lawyers take place separately and appeared to be unlimited on week days.

In the Central Women's Correctional Institution in Bangkok only one open visit per year was allowed at the time of the assessment, but the director who had been in post for eight months, was considering introducing a second open visit per year, especially for women with children. She also explained that if the families of the women did not visit them the social worker of the prison contacted the family to try to encourage them to visit. In Rayong Central and Remand Prison the research team was told that two open visits per year were allowed, but these visits had not been granted for a significant length of time. The director of this prison, who had been in position for only for three months, said that the policy from DOC was

<sup>93</sup> Bangkok Rules, Rule 28



to allow two open visits per year. This was not being implemented in this prison, because the policy applied to prisons with no drugs problems or no smuggling of cell phones. But he was now thinking of allowing open visits for prisoners, particularly for women with children. He would use open visits as a privilege to be won for good behaviour. In Patum Thani Prison for Female Drug Addicts open visits were said to be allowed three to four times a year, but this apparently depended on the category of the prisoner. Prisoners who were considered to be in the “bad” category were not allowed open visits. Reoffenders are automatically categorised as “bad” on admission and have to serve a certain proportion of their sentence (it is understood that this can be around one to two years) to be eligible to take a test in order to be considered for upgrading to the basic category. Ratchaburi had the most lenient policy on open visits. In this prison all sentenced mothers and children are allowed contact visits once a month. In the case of other women, if the prison officer makes a recommendation, they may be allowed contact visits every three months. The open visit policy was introduced by the director of the prison. The visits for parents and children are the same for men and women. Family visits take place in the garden of the prison where families can sit together for one to two hours. Visits by friends are not allowed in this prison, due to an incident where a friend had tried to smuggle in an illegal item, which was a cause for great distress among prisoners, who said that many of them did not have families or their families were far away and could not visit, and they had relied on visits from friends to give them encouragement and comfort. In Chonburi prison prisoners close to release were allowed an additional two family visits per year.

In the Central Women’s Correctional Institution in Bangkok mothers whose children were staying in the prison nursery outside the prison (children aged between one and three) can receive visits from their children once a week. When children were placed in foster homes or orphanages, they could visit their mothers as many times as they wished.

The closed visits take place in a room where communication between the women and their visitors takes place via phones placed on either side of a glass partitioning, sometimes also with a metal grill. In some prisons there are stools in others prisoners and visitors have to stand. There is no partitioning between the prisoners themselves, which interferes with privacy. In one prison the visiting room has a long bar with a large rectangular microphone embedded into the bar on each side, separated by a glass partition as well as metal bars. The prisoner and visitor have to talk or shout into this microphone. The same arrangements applied to lawyers’ visits, though they are separated into separate booths, and the research team was



*Closed visiting room in one prison*

told that there was usually only one lawyer and prisoner in the booth, sometimes two. There were telephones on the walls behind the bars in the middle as well, on each side, so a second tier of visitors and prisoners can talk to each other also by phone. Prisoners said that when the room is filled with prisoners and visitors, there is a significant amount of noise.

The number of letters prisoners can send also depends on their classification. For example, in Chiang Mai Correctional Institution for Women excellent class prisoners’ right to send letters is not restricted, very good class prisoners can send letters twice a week, good class prisoners can send letters once a week, average class – twice every three weeks, bad class – once every three weeks and very bad class once every four weeks. (See *Section 11* for prisoner classification). Letters are not allowed to be more than fifteen lines according to a many prisoners interviewed.

All letters to and from families and friends are read by the security staff before

being dispatched or given to the prisoner. In some prisons it was observed that trustee prisoners (officer assistants) were helping with sorting and possibly also reading the letters, although this could not be verified. In one prison the research team was informed that in the case of foreign prisoners' letters the security staff sometimes asked other foreign prisoners to help read the letters. It was said that the prison administration used to have help from embassies with this task, but not any longer. In one prison, when asked why the prison administration had to spend so much valuable time reading all the letters being sent and received, taking into account the limited staff resources, the deputy director for security said that this was necessary because prisoners wrote negative things about prison staff and other prisoners. Such a justification cannot be regarded as a security consideration. A very large number of prisoners were very unhappy about the length of time it took for them to receive letters from home or for their letters to reach the recipients, due to the enormous amount of time needed to read every single letter by the security staff. For example in Chonburi, prisoners claimed that it took 2-3 weeks to receive a letter. In Ratchaburi, one prisoner said "it takes a very very long time for my relatives to receive a letter from me and for me to receive a letter from them as well. It is a problem for us because sometimes family or relatives need to contact us urgently." In the Central Prison in Bangkok, there were many complaints about the delays in the processing of letters. One prisoner said, for example: "All prisoners here want mental support from relatives or their loved ones. For me, there are two things. Every day I wait for the sound of announcement bell when my relatives come to visit and when letters arrive. If either of them is missing, I feel discouraged. For me, everything in the prison is alright. Except one thing, the letters are much delayed. Sometimes, it takes 1-2 months. I want this important problem to be solved. Since some prisoners who have no visiting relatives would depend on the incoming letters." Many other prisoners expressed the same sentiments, emphasising in particular that many prisoners' families were poor and lived far away from the prison, therefore unable to visit. The letters were the only communication which the prisoners depended upon, but the slow process caused immense mental distress.

Prisoners were not allowed to make phone calls with the exception of two prisons (Ratchaburi Central and Remand Prison and Chonburi Correctional Institution for Women), where they were allowed to make one phone call a week. In Chiang Mai, where the women had recently moved to a prison where male prisoners used to be held, women did not have access to telephones at the time of the TIJ visit, but it was said that telephones would be installed. Where phone calls are allowed, in order to make a call prisoners have to have a home telephone

(landline), house registration number and an ID card and they can only call their families. The research team was told by prisoners that most prisoners' families did not have landline phones as mobile phones were cheaper; if they did have phones, the prisoners did not have the necessary papers and often their homes were too far away and it was difficult to arrange for the documents to be delivered. All phone calls are subject to monitoring.

Since the language in which foreign prisoners speak cannot usually be understood and since they do not have ID cards or landline phones registered in Thailand, they are at an additional disadvantage, in that they are not allowed to make phone calls at all, in addition to not receiving visits from their families, due to their location. One foreign prisoner interviewed in the Central Women's Correctional Institution, who had served over five and a half years of her seven and a half year sentence, said: "There is no telephone contact with families. For foreigners, especially, this is a big problem. Many foreigners have a life sentence and never see their families. If they could at least talk to them that would help them a lot." She herself was lucky in that her embassy had shown an interest in her case and was assisting with family contact.

Prisoners cannot watch live television, but only programmes and films selected by the prison administration, which violates the provisions of SMR.<sup>94</sup> At least in some prisons prisoners do not receive any news from the outside world via newspapers or television programmes. In Chiang Mai for example a prisoner commented "We can't receive news from outside world. There is not even today's newspaper for us to read." A prisoner in Bangkok commented "I would like to know what is going on outside so I would like to read newspapers." Similar comments were received from prisoners in Ratchaburi Central and Remand Prison, where prisoners expressed a wish to watch the news on television.

Thus, the provisions of the Bangkok Rules in relation to the frequency of visits, preference to open visits, especially where mothers and children are involved (with no age limit) and the conditions in which visits take place are not being implemented in prisons visited at the time of writing. The disadvantage faced by women who are placed far away from their homes and who therefore cannot be visited as frequently as others is not being compensated for with permission for any or additional telephone calls. Foreign national prisoners are at a particular disadvantage.

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94 SMR, Rule 39

It is now generally held that there is no operational justification on security grounds for censoring all mail. For those prisoners who have been assessed as a high security risk it may be necessary to censor incoming and outgoing correspondence and also to have a list of approved correspondents. For other prisoners it should not be necessary to censor correspondence on a continuous basis. In most cases random or sample reading is likely to be sufficient.<sup>95</sup> Thus, a balance needs to be maintained between individuals' right to the privacy of their family life and security considerations and only the letters of those who are assessed to be a high security risk monitored, in line with Article 17 of the ICCPR, which provides that: "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." The Human Rights Council in its General Comment 16 on Article 17, has stated that: "..... In the Committee's view the expression "arbitrary interference" can also extend to interference provided for under the law. The introduction of the concept of arbitrariness is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances."<sup>96</sup>

Using any prisoner, including foreign prisoners, to help read the letters of other prisoners is an unsatisfactory practice, as all prisoners have a right to at least some degree of privacy with regard to their family life. However, where there is a genuine necessity to monitor the letters of any foreign national prisoner, and the only way to do this is with the help of other prisoners, the permission of the foreign prisoner should be sought so that she can have the possibility not to include personal information which she does not want to share with others in her correspondence.

Prisoners should be permitted to write more than fifteen lines in their letters, in order to promote a meaningful communication between them and their families and to help preserve relationships with spouses and families. The possibility to write more than a few lines, without any censorship of complaints or negative sentiments, can also help protect the mental wellbeing of prisoners who will benefit from sharing their thoughts and concerns with their loved ones. The current restriction is clearly designed to limit prisoners' space for airing any negative opinions or thoughts, while also taking into account the time limitations of prison staff to monitor thousands of letters. If policies on the monitoring of letters are reviewed

<sup>95</sup> Coyle, A, International Centre for Prison Studies, A Human Rights Approach to Prison Management, (2009) p. 103

<sup>96</sup> General Comment No. 16: The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Art. 17), 08/04/1988, The right to respect of privacy, family, home and correspondence, and protection of honour and reputation, Thirty-second session, 1988, para. 4

and revised, limited staff resources could be allocated elsewhere, including to security measures which are genuinely justified.

It is strongly recommended that a sufficient number of telephones are installed in all women's prisons and sections of prisons where women are held and that prisoners be allowed to use these phones on a regular basis. This may be a weekly or even a daily basis. Consideration should be given to relaxing the rules for using telephones to enable a larger number of women to benefit from this means of communication. The current lack of phones in many prisons and the very limited access to phones in others violate the Bangkok Rules<sup>97</sup>, hindering many women who are located far away from their homes and who therefore have no or very few family visits to benefit from this alternative means of direct communication. As regards addressing security concerns, there is a need to maintain a balance between the right to privacy of the prisoner and her family on one hand and the legitimate needs of security on the other. While the prison authorities need to be sure that prisoners are not using telephone calls to arrange illegal activities, they can do this by, for example, recording all calls and retaining the taped record for a specific period of time, similar to practice in some other countries. The only telephone calls which need to be listened to by staff as they are made are those by or to prisoners who have been assessed as presenting a high degree of risk,<sup>98</sup> which will be only a very small minority among women prisoners.

## 11. Prisoner classification

Rule 69 of SMR provides that, "...as soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment should be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions..." Rule 63 of the SMR emphasises the need for a flexible system of classification, and underlines that the same level of security does not need to apply to all prisoners in one institution. Also in line with the principle that the security measures to which prisoners are subject should be the minimum necessary to achieve their secure custody, it states that "... open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners..."

<sup>97</sup> Bangkok Rules, Rule 26

<sup>98</sup> Coyle, op. cit., p. 104

The Bangkok Rules supplement these provisions of SMR with additional, gender specific considerations. Rule 40 requires that prison administrators “develop and implement classification methods addressing the gender-specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners’ early rehabilitation, treatment and reintegration into society.” Rule 41 obliges prison authorities to ensure that such classification methods and tools “take into account the generally lower risk posed by women prisoners to others, as well as the particularly harmful effects that high security measures and increased levels of isolation can have on women prisoners; enable essential information about women’s backgrounds, such as violence they may have experienced, history of mental disability and substance abuse, as well as parental and other caretaking responsibilities, to be taken into account in the allocation and sentence planning process; ensure that women’s sentence plans include rehabilitative programmes and services that match their gender-specific needs” and that “those with mental health care needs are housed in accommodation which is at the lowest possible security level, and receive appropriate treatment.....”<sup>99</sup>

In Thailand there are six classes of convicted prisoners: excellent – very good – good – average – bad – very bad. Under section 11 of the Penitentiary Act, the Minister has the power to determine the classes of prisoners and to specify conditions for transferring from one class to another by way of promotion or retrogression<sup>100</sup>, which is in practice, performed by the prison administration. Classes of convicted prisoners are a basis for granting rights and privileges to prisoners, such as eligibility for royal pardon, good conduct allowances, appointment as a trustee prisoner, eligibility for public work outside prison and to parole, among others.

All prisoners are classified as “average category” on first admission, except for those who are reoffenders, who are classified as “bad category” when they are admitted. Prisoners can be upgraded to a higher category following an examination, to which they become eligible after they have served a specified length of time. The examination includes questions on “five moral precepts”, prohibited items, duties of a good citizen and “five dos and twelve don’ts” which relate to disciplinary behaviour in prisons. If prisoners complete certain prison programmes and if they are also of good behaviour, this can help them to be promoted to a higher level.

<sup>99</sup> Bangkok Rules Rule 41 (a), (b), (c), (d)

<sup>100</sup> *ibid*

Certain rights of prisoners who are classified as bad are restricted. For example, they may not be allowed open visits and may have less frequent closed visits in comparison to others. Most importantly, the class of the prisoner impacts on the length of the prison term which they must serve, as the periodic royal pardons can reduce the remaining term of prisoners who are classified as very good or excellent category much more significantly than those in lower categories, some of whom are not eligible at all for consideration.

There is no difference between the way in which this form of classification is applied to male and female prisoners.

In addition to the standard classification, prisoners also see a social worker on admission who takes note of their personal details. For example, in the Central Women’s Correctional Facility in Bangkok, the research team was informed that on admission the social worker asked prisoners about their family background, previous offences, education level and occupation of husband, among others. Later a committee evaluated the information and decided on the type of programme for each prisoner. However, sentence plans with a full programme of education, training and other activities are not developed for each individual prisoner.

In Pathum Thani Correctional Institution for Female Drug Addicts, however, a much more comprehensive classification process was said to be used in addition to the standard classification, described above. The research team was told that seven days after admission a social worker began to classify prisoners. Prisoners are asked about their background, career, offence, education, reasons for committing the offence. In addition a psychologist assesses the mental health of the prisoner.<sup>101</sup> The information gathered by the social worker is presented to a committee, which is made up of the prison director, two deputy directors and other senior officers. The psychologist and the social worker act as the secretaries of the committee. During the seven day period before they are classified, prisoners are reportedly given information about healthcare, education, disciplinary procedures and punishments, parole and services provided in the prison. This information is provided by the social worker, who also inquires what kind of support they need in prison. Following this process the prisoner meets with the committee, which considers the information provided by the social worker and decides on the type of work suitable for the prisoner. It was interesting that the main objective of the whole process appeared to be to decide on the type of work the prisoner could undertake. Indeed the

<sup>101</sup> The prison psychologist had been in position in this prison for only two weeks at the time of the TJU assessment.

director of this prison said “prisoners are classified after admission to assign them to particular types of work in order to control them.”<sup>102</sup> Accordingly, each prisoner will be assigned to a workshop or “factory”, as they were referred to. An educational programme may also be included. After six months a reclassification is undertaken to see if the prisoner should continue on the same programme. If, during these six months, the prisoner has interest in transferring to another factory, they can apply to the prison administration for a transfer.

In addition, there is a basic programme which all prisoners are obliged to complete. Prisoners who are illiterate must join the primary and secondary school education programme. The prison administration also encourages prisoners to go to a higher level of education after a certain time. The prisoners who join the education programme can also join the vocational training programme. They can choose – but they have to join at least one programme. There were said to be specific programmes for reoffenders and older prisoners.

Prisoners’ account of what happened on admission differed from that of the prison administration in some prisons. In Pathum Thani, for example, a prisoner said that “on admission a social worker speaks to newly admitted prisoners. The prisoners are in a group and this is more like a seminar or speech, not an assessment.” She said that afterwards they had to fill out forms and she was waiting to be assigned to work. Other prisoners said that they had never met the social worker or the psychologist. They said there was a committee, but that it was called a “unit distribution committee”. Its responsibility was to allocate prisoners to specific types of work.

None of the information received suggests that the provisions of the Bangkok Rules on the gender specific classification of women prisoners are being applied in the prisons visited. The purpose of the assessment and classification of prisoners appears to be limited to enable the prison administration to decide on the type of work, education and vocational training programme a prisoner will be assigned to, though individual sentence plans are not developed.

Prisoners are housed in different dormitories according to the length of their sentence, where possible, and where the overcrowding levels do not hinder such a separation. It is very much welcomed that prisoners with long sentences, life sentences and those who face the death penalty are not isolated from others and

<sup>102</sup> Interview with director of the Correctional institution for Female Drug Addicts, Pathum Thani, 30 January 2013

mix with other prisoners during the day.

It is recommended that the Bangkok Rules’ provisions on the gender sensitive assessment and classification of women prisoners and the development of individual sentence plans on the basis of such assessments<sup>103</sup> are introduced in Thailand’s women’s prisons. Taking into account the acute overcrowding, the size of the female prison population and the shortage of staff, including specialist staff such as social workers and psychologists, this may be a gradual process. However, it is a process that must start immediately if Thailand is committed to implementing the Bangkok Rules in their prisons. The gender sensitive assessment and classification of women prisoners is key to their successful social reintegration and form the heart of the Bangkok Rules’ objective of enabling women prisoners to be treated in accordance to their needs, rather than in accordance with standard rules applicable both to male and female prisoners.

## **12. Prison regime and prisoner rehabilitation**

### **12.1 Prison regime: Daily schedule of activities and prison atmosphere**

The philosophy underpinning the Bangkok Rules requires that a gender sensitive and flexible regime is applied in women’s prisons, where the particular emotional and mental healthcare needs of women are recognised, family relations and contact with community groups and NGOs are encouraged and constructive relationships between staff and prisoners are developed, so that staff get to know the individual prisoners and assist and support them as required. The Bangkok Rules also require that the regime in women’s prisons take into account the low risk women pose to themselves and others, which means that discipline and security measures should not be excessive, with more focus being placed on rehabilitation and social reintegration, with the assistance of agencies from the community.

In most prisons visited a feeling of strict discipline and tension was felt and observed, to a greater or lesser extent, on entering the prison. Obviously discipline and order is necessary in a prison setting, but observations during the assessment, information received on the daily schedule of the prison and comments made by prisoners in interviews and in the survey indicate that the timetable for daily activities and the strictness of the regime causes immense stress to the prisoners who are constantly in a state of hurry to fit in their daily tasks, including personal hygiene and meals, in

<sup>103</sup> Bangkok Rules, Rules 40, 41

the time allocated. Clearly, the overcrowding exacerbates the situation since each prisoner has less time to wash, to eat and to do her laundry and must queue for long periods to make purchases from the shop.

Depending on the prison and the season prisoners typically get up at around 5 – 5.30 am and go to the washing area by 6 am. Around 6.30 - 7 am breakfast is served and after breakfast the prison activities begin around 8 or 8.30 am which continue until 3 or 3.30 with a one hour lunch break. At 3 or 3.30 pm, the women have time to wash themselves and their laundry and dinner is served at 4 – 4.30 pm depending on the prison. In some prisons the timetable was particularly tight. Prisoners complained of not having enough time to wash, do their laundry and have dinner before having to return to their dormitories in the evening. In one prison four out of five prisoners interviewed said that they had not had dinner the previous evening and when asked why; two said because they had not had the time to finish all their tasks and have dinner in the time allocated one because the period between lunch and dinner was too short; and one because the food did not look good. For example, one prisoner who had not had time to eat explained “work finishes at 3 pm, then the items which we have made are checked. Food is served between 3.30 and 4. The washing is at the same time. You cannot eat after 4 pm. Between 4 and 5 pm, you do laundry and hang it up – you have to queue. You must be back in the dormitory by 5 pm” It is not clear to the research team the reason why dinner must be served so early with such a short time between finishing work and dinner and having to be back in the dormitories. Adding just one hour in the evening before dinner would make an immense difference to prisoners who can organise their personal needs better during this time and reduce their stress. It would also be a much healthier schedule of eating, both with regard to the time between lunch and dinner and dinner and breakfast, complying with the SMR which require that food should be served at the usual hours.<sup>104</sup> This small change would not cost any extra funds, but would perhaps impact on staff shifts which would need to be rearranged.

In most prisons concerns for security, exacerbated by the shortage of staff, appeared to have overridden the requirement to provide a rehabilitative prison atmosphere. While almost all the women were occupied in work and activities during the day, which contributes to protecting mental health, an excessively strict and rigid regime was being applied.

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<sup>104</sup> SMR, Rule 20 (1)

In a few prisons visited prisoners have to remain in one place during the day – e.g. in a workshop, in their dormitory or other places. Wandering around the prison yard freely is not generally permitted, with the exception of the lunch hour. In some prisons prisoners have to keep a distance from prison staff when they cross paths. For example in the Central Women’s Correctional Institution in Bangkok, the security staff explained that when staff and prisoners cross paths there has to be three meters’ distance between the officer and the prisoner. When the prisoner is talking to the prison officer, there has to be a distance of one meter. The prisoners have to call senior officers “mother” and junior officers “miss”. In many cases prisoners have to kneel down, sometimes on their knees, into a squatting position to show respect when a prison officer passes by. In Pathum Thani Correctional Institution for Female Drug Addicts, staff carried batons visibly which added to the atmosphere of tension and strict discipline.

As mentioned in the section on mental health, Ratchaburi Central and Remand Prison was different to the others in this respect. It had a very positive atmosphere, where effort had been made to reduce as far as possible the differences between the prison life and life at liberty, as required by the SMR. The Director of Administration, who was also the director of the women’s section of this prison, answerable to the Director of the Prison, said that the Bangkok Rules provided guidance. She added that the prisoners felt that there was no distance between prison staff and themselves. The staff tried to apply the Bangkok Rules and they saw positive results.

While there is no doubt that efforts are being made in all prisons visited to implement the provisions of the Bangkok Rules, it appeared that the underlying philosophy of the rules has not been adequately understood or introduced into prison management policies and practices.

Prisoner interviews confirmed that Ratchaburi Central and Remand Prison was an exception to this, with its gender sensitive management style which promoted constructive relationships between staff and prisoners and a more relaxed prison regime. Comments made by one prisoner merits being quoted, as it underlines the success of this approach in keeping order and discipline: “The prisoners’ relationship with staff is very good. It’s not like a prison here. You can talk normally to staff. We are treated well here. It’s like a home. The staff keeps no distance, they help the prisoners. Just think about it – there are so few wardens here, and so many prisoners. There are altogether four staff for 800 prisoners. At night there are only three. It’s only thanks to their good intentions and kindness that they can keep everything under control. Every day the director comes to visit. He comes every

day and plays with the children. The staff are good people. I don't know how the other prisons are, but I think this must be the best prison. I wonder sometimes myself how the guards can manage all the prisoners and be in control. I consider myself to be lucky. When I first came here I was a trouble-maker. But they treated me well and I changed. When I got a disciplinary punishment, it was to run around the yard ten times or to jump up and down. There is no beating here, no hitting."

This assessment recommends that, while recognising and respecting the need for discipline and order, some changes need to be made to the prison regime including the daily schedule of activities to improve the implementation of the Bangkok Rules. This requires a gender sensitive prison management approach to be adopted in all prisons which accommodate women prisoners, taking into account women's susceptibility to mental distress. In this context, it is strongly recommended that dinner should be served later to allow for prisoners to attend to their personal needs after finishing their work, which would include compliance with the SMR as well. It is also recommended that a more constructive relationship is encouraged between staff and prisoners, for which the Ratchaburi Central and Remand Prison may serve as a good example, to reduce tension and promote the mental wellbeing of prisoners, taking into account, among others, the Bangkok Rule, Rule 13, which provides that "Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support."

## 12.2 Education, vocational training and rehabilitation programmes

Bangkok Rules, Rule 42 supplements the provisions expressed in the SMR<sup>105</sup>, to develop individualised rehabilitation programmes for all prisoners. Rule 42 requires that women prisoners have access to a balanced and comprehensive programme of activities, which take account of gender appropriate needs; that the regime of the prison is flexible enough to respond to the needs of pregnant women, nursing mothers and women with children; that childcare facilities or arrangements are provided in order to enable women prisoners to participate in prison activities; that particular efforts are made to provide appropriate programmes for pregnant women, nursing mothers and women with children and services for women prisoners who have psychosocial support needs, especially those who have been subjected to physical, mental or sexual abuse.

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105 SMR, Rule 69

In addition, other rules of SMR, which have not been supplemented by the Bangkok Rules, should be implemented in all prisons, including women's prisons. These include Rule 60, which provides that "[t]he regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings"<sup>106</sup>; and Rules 61, which requires that the treatment of prisoners emphasize "not their exclusion from the community, but their continuing part in it." and that community agencies are, therefore, "enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners....."

In all prisons visited in Thailand it was noted that all women, with the exception of pre-trial detainees within a certain period following admission, sick prisoners and nursing mothers, were engaged in activities throughout the day. The range of activities varied somewhat from prison to prison, with work in prison workshops or "factories" being the main activity in most. Other programmes and activities included education programmes (different levels, including the possibility to acquire university degrees via distance learning), vocational training programmes, programmes for drug dependent offenders and to improve mental health, music, arts and yoga training programmes, training as hairdressers or in other beauty treatments, sports activities and special programmes for pregnant women and women with children in prison.

In the Central Correctional Institution for Women, for example, the number of women participating in a basic education course was 442; the number of women taking a university degree was 89; those taking part in a high level vocational training programme was 40 and those taking part in a short vocational training courses was 415 on 15 January 2013. These numbers may include women who were taking part in more than one course, so though not precisely correct, it represents approximately 22 per cent of the prison population. Nine-hundred and thirty-eight women were also taking part in Dhamma School (Buddhist meditation). The range of vocational training courses is impressive, including music, dancing, computer, brass instruments, classical guitar, violin, learning about natural herbs, making artificial flowers, costume design, make up, dried flower arrangements and knitting, among others, with high level vocational training courses including accounting and business courses.

In Ratchaburi Central and Remand Prison 104 prisoners were participating in

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106 SMR, Rule 60 (1)

a basic education course, 48 in a short vocational training course, 109 in longer and higher vocational training programme on 15 January 2013. This made up 34 per cent of the prison population on that day. The vocational training included small engine repairs, basic computer training, Thai massage, among others, with higher level vocational training programmes including agriculture, computer training and accounting. In addition there were other programmes not included in the statistics provided by the prison administration. The range of creative and therapeutic activities offered to prisoners in Ratchaburi Central and Remand Prison, despite the level of overcrowding and the shortage of staff, was impressive. For example, a group of prisoners were sitting in the canteen on the day of TIJ's visit, writing their stories to send to a newspaper which publishes them. They were also writing about the New Year activities they had had in the prison. This activity enabled prisoners to express themselves and gave them an opportunity to communicate with the outside world in a constructive manner which improved their confidence. Prisoners also have an opportunity to take part in yoga training. The research team talked to a yoga trainer, herself a prisoner, who had just finished a session on the day of the visit to this prison. She said that yoga training was available every day and that they had almost 50 prisoners participating. The yoga training is part of the Kamlangjai project. The research team also had an opportunity to conduct an individual interview with a prisoner who had become a yoga trainer in prison. She said: "I became a yoga trainer in prison and am only engaged in yoga now as an activity. Before this I was making flowers and I also finished training for working in a beauty salon. When the INSPIRE project started, I was selected to be trained by an Indian trainer and that's how I became a trainer. I also go to other prisons to train prisoners. I went to Koh Samui in May last year. Yoga makes me feel better. When I am released I am thinking of continuing with yoga training, maybe in my neighbourhood." She was waiting for her certificate from the INSPIRE project. She added that certificates helped reduce sentences.

In Rayong Central and Remand Prison 79 women were taking part in basic education programmes, 36 in higher level vocational training programmes, 20 in short vocational training courses and 100 in a girl scouts training programme. Thus the proportion of women taking part in education and vocational training programmes in this prison was low at 12 per cent, with around one per cent taking part in girl scouts training programme. It was not surprising, therefore, that a number of prisoners in this prison commented that they needed vocational training programmes and other activities to prepare them for release and prevent depression.

According to statistics provided by the administration of Chonburi Correctional Institution for Women, 164 prisoners were taking part in basic education programmes, 15 in higher education and 37 in vocational training programmes, which included business computer, electricians and home economics programmes in January 2013. This makes up 18 per cent of the prison population. A total of 686 prisoners (over 50 per cent) had taken part in 21 types of vocational training activities in 2012, including blanket sewing, boxing, picture framing, glass engraving, old style coffee making, Thai cuisine and processing of agricultural products among others. The variety of the vocational training offered and the proportion of women who participated is impressive. In addition to these, 495 prisoners had taken part in short vocational training courses in 2012, which accounts for another 41 per cent of prisoners (some perhaps having taken part in more than one course.) The education and vocational training courses were run by community institutions, colleges and universities.

In Pathum Thani Correctional Institution for Female Drug Addicts, 71 women were participating in basic education programmes and 9 in higher education programmes. Twenty five women were attending a long-term vocational training programme and a further 271 women were attending short vocational training courses, including a basic computer skill, computer repairs, foot massage, fresh and dried flower arrangement and Thai massage course, among others. Thus, 22 per cent of prisoners were participating in an education or a vocational training course.

The Chiang Mai Correctional Institution for Women offered a range of vocational training courses, both long and short-term, but the number of women participating was not provided by the administration. Short courses offered included: Thai cooking class and restaurant services, computer repair course, beautician's skills course, carpentry course, Thai massage. Long term courses offered covered sewing/ dress making; embroidery, weaving, arts /handicrafts and baking skills. Those who successfully complete the Thai cooking and restaurant services course may be allowed to work just outside the prison in a restaurant run by the correctional institution. In addition, there are programmes targeting repeat offenders, drug dealers, crimes against property, the details of which were not available.<sup>107</sup> The Chiang Mai Correctional Institution states that "the institution works in collaboration with external trainers from private and public sectors who are professionals and have expertise in the fields, providing vocational training on theory and practice. In addition, the Correctional Institution has adopted a

<sup>107</sup> Addiction Rehabilitation Programme: Therapeutic Community "Baan Aai Oon", Women's Correctional Institution, Chiang Mai, January 2013 (information received from the prison administration)



policy that encourages the engagement of the private sector in contributing to the vocational training programme through the use of prison labour. This programme helps prisoners to develop their skills and allows them to get used to working in a factory type environment.”<sup>108</sup> (See Section 12.3 for information on work in prison.)

Overall the range of education and vocational training courses offered to women prisoners was significant, with the exception, perhaps of Rayong Central and Remand Prison, though the proportion of women participating would ideally be higher. In all prisons visited there were very limited contacts with community groups, especially with NGOs which could support the prison administration in running a variety of programmes in prisons, to assist prisoners with their social reintegration. Contact with outside organisations had increased thanks to the Kamlangjai project in some prisons, and in prisons which had received a visit from the Princess interest from outside in the prison had also increased dramatically. However, the overall emphasis on security which limits prisoners contact with the outside world, due to fears of illegal items entering prisons, appears to have limited the possibilities of cooperation between prison administrations and organisations of civil society. As a result the immense benefits which the contributions of civil society can bring, not only in terms of contributing to programme delivery, but also improving prisoners’ mental health by enabling them to feel part of the community, are not being sufficiently utilised.

### 12.2.2 Treatment programmes for drug dependence

The Bangkok Rules Rule 15 provides that prison health services should provide specialized treatment programmes designed for women substance abusers, taking into account prior victimization, the special needs of pregnant women and women with children, as well as their diverse cultural backgrounds. Considering this provision of the Bangkok Rules and the fact that a very large proportion of women prisoners in Thailand are convicted of drug related offences, including drug use and possession, the assessment inquired particularly into programmes provided for women who were dependent themselves.

It should be emphasised that the research team did not visit or gather information about the separate custodial facilities set up to treat drug dependence, which are overseen by the Department of Probation and run by different governmental agencies, including the Royal Thai Army, Navy and Air Forces, the Ministry of Public

<sup>108</sup> Vocational Training in the Women’s Correctional Institution, Chiang Mai, Prison Administration Chiang Mai, January 2013. (information received from the prison administration).

Health, the Ministry of Interior, the police force and the Bangkok Metropolitan Administration.<sup>109</sup> These are drug treatment centres to which some people arrested on drugs charges may be diverted, depending on the offence, amount of drugs involved and on their dependence status.<sup>110</sup> Such diversion was made possible by the Narcotics Addict Rehabilitation Act, B.E. (2002).

It must be noted, however, that both the drug treatment provided in the facilities run by the agencies referred to above, as well as programme run in the Pathum Thani Correctional Institution for Women (see below), are compulsory treatment programmes, which have been strongly criticised by international bodies, including agencies of the UN. UNODC and WHO have stated, for example, that the key requirement in drug treatment is that it should be voluntary, and that the use of any long-term treatment for drug use disorders without the consent of the patient is in breach of international human rights agreements and ethical medical standards.<sup>111</sup> In addition, UNODC has stated that evidence of the therapeutic effect of this approach is lacking, both compared to traditional imprisonment as well as to community-based voluntary drug treatment.<sup>112</sup> It does not constitute an alternative to imprisonment because it is a form of incarceration. UNODC has noted that compulsory or involuntary treatment, without the consent of the patient, should only be used in specific cases of severe acute disturbance that pose an immediate or imminent risk to the health of the patient or to the security of society. Short-term involuntary treatment for the protection of the vulnerable individual should be applied for the shortest periods of time necessary, as a last resort, and it should always be undertaken by multidisciplinary teams and supervised by transparent legal procedures and be rigorously evaluated.<sup>113</sup>

Among the prisons visited, two had set up therapeutic communities (TC) for drug dependent prisoners. It was said that in total there were 23 prisons with therapeutic communities which have received the accreditation from the Ministry

<sup>109</sup> Richard Pearshouse, Compulsory Drug Treatment in Thailand: Observations on the Narcotic Addict Rehabilitation Act B.E. 2545 (2002) Canadian HIV/AIDS Legal Network January 2009

<sup>110</sup> The diversion scheme established by the 2002 Act can apply to people charged with drug consumption alone, or drug consumption plus one or more of the following charges: possession, possession for “disposal” (i.e., trafficking), or disposal. The amounts of drugs involved must be small in order to qualify the person for diversion (e.g. less than 100 mg of heroin or 500 mg [5 tablets] of methamphetamine). (ibid.)

<sup>111</sup> UNODC and WHO (2008) Principles of drug dependence treatment, Vienna, United Nations Office on Drugs and Crime

<sup>112</sup> UNODC, From coercion to cohesion: Treating drug dependence through health care, not punishment, Discussion Paper, New York, 2010. ([http://www.unodc.org/docs/treatment/Coercion/From\\_coercion\\_to\\_cohesion.pdf](http://www.unodc.org/docs/treatment/Coercion/From_coercion_to_cohesion.pdf)), p. 9

<sup>113</sup> Ibid., p. 11

of Health (MOH).

In Chiang Mai Correctional Institution for Women a TC programme had been established in 2009 and improved in 2010 in collaboration with the Ministry of Health. In 2013 a new “addiction rehabilitation programme” with a four month duration was introduced to supplement the existing programmes, targeting 300 people in total. At the time of writing there were six months or 1.5 year programmes. Sixty-two prisoners were participating in the TC programme, reportedly on a voluntary basis. The participants must not be older than 35 years old, physically and mentally fit, and able to participate in the programme for more than six months to be eligible. One hundred more prisoners were expected to join within the following month. The daily programme includes cleaning, administrative work, morning activities, including a session which resembled an alcoholics’ anonymous group for drug dependent people, short-term vocational training courses, arts, dancing and yoga classes, with teachers from community institutions. The supervisor of the therapeutic community said that the programme addressed women’s particular needs – for example, they had family therapy, where families came to visit. They have group therapy and individual prisoners can also request counselling if they wish. Prisoners participating in this programme are entitled to open visits every three months in comparison to the yearly open visit entitlement of other prisoners.

In Pathum Thani Correctional Institution for Female Drug Addicts 254 prisoners were participating in the TC programme.<sup>114</sup> The programme is based on the Day Top Programme for drug dependence treatment developed in the U.S. The prisoners who can participate in the TC programme are first time offenders with sentences between 1.5 to 10 years. Their age must be less than 30 years. Other prisoners cannot join. Participation in the programme is not voluntary - all the prisoners who fall within the required category have to take part in it, but due to limited sleeping space they could only have 260 at a time. Prisoners are interviewed by the TC programme staff. An application form is filled out by the prisoner and the staff undertake a needs assessment, which includes an interview with the prisoner. Those who join stay in a separate dormitory and wear a distinguishing uniform. Those with long sentences participate in the 1.5 year programme, those with short

<sup>114</sup> The Daytop programme, one of the oldest drug-treatment programmes in the United States, is based on the therapeutic community model and emphasizes the role of peer interaction in their modes of treatment. Considered one of the most successful programmes of its kind, it is described as “a supportive emotional community in which people feel secure but at the same time are held strictly accountable for their behavior”. It is estimated that 85 percent of those treated stay clean. (<http://www.daytop.org/about.html>)

sentences participate in the 6 month programme. Young prisoners are encouraged to take part in education and those close to release - in skills training programmes as well. A psychologist provides counselling. Four assessments are undertaken during the programme. There are two types of assessment: (1) self-assessment (2) prison officer’s assessment. Success is assessed by the manner and how the participants conduct themselves and their compliance with disciplinary rules.

The prison TC team’s responsibility relates only to the period when the prisoner is in prison. The follow up is the responsibility of the Department of Probation. The prisoner’s file is kept for one year after release. The Department of Probation receives the conclusions noted in the prisoner file. However, the research team was told that the Department of Probation was extremely under-resourced, so they were not able to undertake a proper follow up of released prisoners. The prison also has a Memorandum of Understanding with the district community office. If a prisoner has not finished the programme in prison, the community office has funding to continue with the programme outside prison. This entails spending four days in a rehabilitation camp funded by the district community office.

In addition to the dedicated TC programmes in two facilities, a community group therapy project called “To be No. 1” was also running in a number of prisons visited (Bangkok, Chonburi and Chiang Mai), as mentioned earlier. The programme targets drug dependent prisoners with mental health problems, aiming to improve mental health. In the Central Women’s Correctional Institution for Women 400 prisoners were taking part in the programme and in Chiang Mai Correctional Institution for Women 700 prisoners were said to be participating in the “To be No. 1” programme.

Pharmacotherapies, such as detoxification, withdrawal and maintenance treatments (including opioid substitution therapy were not offered.

In prisons which did not have TC programmes the research team was told that only symptomatic treatment could be provided for prisoners experiencing withdrawal symptoms.

Both the TC and the “To be No. 1” programme are positive initiatives to address women’s substance dependence. It is recommended that the TC programme be expanded to other prisons where women are held as well, but it should be underlined that drug dependence treatment programmes should only be offered on a voluntary basis, as mentioned earlier. An assessment of the success rate of the

TC programmes in assisting women to overcome their dependencies would also be highly recommended to review and revise the components of the programme, if necessary.

### 12.3 Work

The SMR include very detailed provisions on work in prisons. They provide that sufficient work of a useful nature must be provided to keep prisoners actively employed for a normal working day and that prison labour must not be of an afflictive nature. The type of work provided should, as far as possible, increase prisoners' ability to earn an honest living after release. Prisoners should be able to choose the type of work they wish to perform, within the limits compatible with proper vocational selection and with the requirements of the institutional discipline. The organisation and methods of work in the institution shall resemble as closely as possible those of similar work outside institutions; the maximum daily and weekly working hours of the prisoners must be fixed by law or by administrative regulation. There must be a system of equitable remuneration of the prisoners and prisoners should be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family or they should be set aside as savings, to be handed over to the prisoner on release. Other rules cover safeguards in case prison industries are run by private contractors, safety and health, indemnification against industrial injury and occupational diseases.<sup>115</sup> The Bangkok Rules, Rule 42, supplement these and other rules (SMR Rules 65, 66, 70-81).

The Prison Act of Thailand, Section 22, states that convicted prisoners are required to work. Pre-trial detainees can work only on "work that concerns their cleanliness or health, or the sanitary conditions in any part of the prison".<sup>116</sup> Prisoners are not entitled to any wages, but the Ministerial Regulations may provide that any income derived by the work may be distributed as a reward to the prisoners and prison officials after the deduction of expenses.<sup>117</sup> The Ministerial Regulations, Rules 50 to 58 provide further details. On remuneration, the regulations state that the work of prisoners can be divided into profit and non-profit work and that for the profit work remuneration can be calculated from the capital, services and the profit.<sup>118</sup>

115 SMR Rules 71 - 76

116 Prison Act, Section 23

117 Prison Act, Section 24

118 Ministerial Regulations, Rule 57

Any further details on the calculation of prisoners' remuneration are not provided. These are perhaps provided in separate regulations of the DOC, which are not all available to the author.

The remuneration received by the prisoners depends on the work. But according to interviews conducted by prisoners and staff, an average monthly income would be around 70 – 150 BAHT (US\$2.5 – 5) per month. In some workshops or factories where prisoners perform more demanding work, they can earn up to 300 BAHTS (US\$10) or more per month. Those who undertake unskilled jobs receive even less and not all prisoners who work receive payment. Sometimes they receive goods, such as food or snacks instead.

According to information received by the research team during the assessment visits, there are two types of work and vocational training in prisons in Thailand: the first type is that in which the prison invests, purchasing the materials for the training and then training the prisoners, which has been partly covered in Section 12.2. The second type is when a private company from outside provides the materials. It was said that in both cases, 50% of the net profit goes to prisoners, 15% to the prison officer in charge and 35% goes to the prison for general spending. Work is allocated to according to the class of each prisoner and the prisoners' skills. In all



*A workshop in one prison*

prisons visited there were workshops or factories where a large number of prisoners were employed during the day from around 8.30 to 14.30 or 15.00, with a one hour lunch break, five days a week.

For example in Rayong Central and Remand Prison TIJ visited a number of workshops. In one 188 prisoners were making umbrellas for a private company. The company had provided the materials and had trained the prisoners. The pay the women receive depended on the class of the prisoner and the amount of work they do, but on average they received around 100 BAHT (just over \$3) per month. They work from 8.30 am to 14.30 with a break for lunch between 12.00 – 13.00 five days a week. In another workshop 184 prisoners were making ornaments. They were making basic products which would be given back to the factory outside to be finished. In another over 200 prisoners were making umbrellas –continuing on the work that had been started by the prisoners in the first workshop. In the canteen area women were engaged in a handicrafts project, making traditional Thai dresses. They were trained by the firm who provided the materials. The research team was told that remand prisoners could also work if they volunteered.

In Chonburi Correctional Institution for Women TIJ visited a number of workshops or factories. In a very large sewing workshop the work was provided by an outside firm, which also provided the material. The remuneration women received depended on the job they did with a maximum of around 300 – 400 BAHT per month (US \$10 – 13) per prisoner, with the lowest monthly salary being around 20 – 30 BAHT (US \$1 or less) per prisoner. The pay depended on the price negotiated with the outside firm which provided the work. The research team was told that prisoners volunteer for the job and they are selected according to their classification, skills and interest. If a prisoner wishes to change her job she would have to apply to a committee who would decide. In another factory 198 prisoners were working on producing football uniforms. The prison itself was providing vocational training in making handicrafts – the products are sold in the prison shop and include bags, artificial flowers and clothes.

While the assessment welcomes the fact that such a large proportion of women are engaged in work and vocational training activities, a significant concern is that the remuneration for the work is unacceptably low in all prisons. Many prisoners commented on the low wages they receive. This is a significant problem for those who do not have any relatives to give them money to buy necessities in the prison shop, such as hygiene articles and additional food. Given that DOC cannot provide sufficient hygiene articles, including sanitary pads for the whole year, women are

obliged to buy the additional articles they need, but are unable to do so with their current wages. The problem is compounded by the fact that the prices in the prison shops are generally higher than prices in the community. In Chiang Mai prison where many prisoners commented on the low pay and the high prices in the shop, one woman offered this example : “The pay for work is very little, not enough for daily expenses. Some articles for daily use, such as soap, detergent, we have to buy ourselves. The pay for sewing a T-shirt is only 8-9 BAHT (30 US cents).” Some prisoners complained that even these symbolic wages are sometimes paid with 2-3 months’ delay. The author cannot comment on what kind of arrangements have been made with the private companies providing the work and materials, but it seems reasonable to assume that they are making a considerable profit at the expense of the prisoners.

It is a key recommendation of this assessment that prisoners’ remuneration be reviewed and increased, while contracts with private companies should be subject to scrutiny by the DOC, as well as the Ministry of Labour, to ensure that prisoners’ working conditions and pay are similar to those in the outside world, as required by the SMR.<sup>119</sup>

### **13. Pregnant Women, Breastfeeding Mothers and Mothers with Children in Prison**

The SMR require women’s institutions to have special accommodation for all necessary pre-natal and post-natal care and treatment, that arrangements be made wherever practicable for children to be born in a hospital outside the institution and that if a child is born in prison, for this not to be mentioned in the birth certificate. They also require that, where dependent children are allowed to remain in prison with their mothers, a nursery be established, staffed by qualified persons, where the children can be placed when they are not in the care of their mothers.

The Bangkok Rules supplement the SMR with much more detailed guidance on the type and nature of the support and services that should be provided to these categories of women and their children, taking into account not only their healthcare and nutritional needs, but also the emotional and developmental needs of the children (Rules 48, 50 and 51). These rules require that such women receive adequate and timely food, a healthy environment and regular exercise opportunities, that women who have children with them in prison be able to spend maximum possible time with their children, that children living with their mothers

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119 SMR Rules 73 to 76

in prison be provided with on-going healthcare services, that their development be monitored by specialists, and that the environment provided for such children's upbringing be as close as possible to that of a child outside prison. The Bangkok Rules also, for the first time, provide international standards on the decision making process in relation to allowing children to stay with their mothers in prison and to the removal of children from prison (Rules 49 and 52). Rule 49 requires that decisions to allow children to stay with their mothers in prison be based on the best interests of the children. Rule 52 provides for decisions as to when a child is to be separated from its mother to "be based on individual assessments and the best interests of the child within the scope of relevant national laws", for the removal of the child from prison to be undertaken with sensitivity, only when alternative care arrangements have been identified, and, in the case of foreign-national prisoners, in consultation with consular officials. The rule also requires that, after children have been separated from their mothers and placed in alternative care, women prisoners be given the maximum possible opportunity and facilities to meet with their children.

As already mentioned in Section 9, Rule 24 prohibits the use of restraints on women during labour, during birth and immediately after birth.

The Penitentiary Act of Thailand, within its chapter on health and sanitation, provides that prisoners who are sick or pregnant shall receive proper treatment.<sup>120</sup> The Ministerial Regulations require a nursing home providing basic medical treatment for sick prisoners to be established in each prison and for pregnant women and women with new-born babies to be deemed as sick prisoners.<sup>121</sup> Children up to 16 may be allowed to stay with their imprisoned parent if there is nobody to look after the child or they may be sent to a special place established for the purpose.<sup>122</sup> Separate regulations issued by the DOC provide further details on keeping such children in prison and their treatment.<sup>123</sup> These regulations appear to limit the period in which a child can stay with his or her parent in prison to six months, when, following permission from the DOC the director of the prison can deliver the child to a facility provided for this purpose.<sup>124</sup> Detailed provisions are included in the Regulations of the DOC on the treatment of children staying with their parent

120 Penitentiary Act, Section 29

121 Ministerial Regulations, Rules 72 and 74

122 Penitentiary Act, Section 9

123 Regulations of the Department of Corrections (5th) on dependent children in prison, 27 March 1938 and Regulations of the Department of Corrections (16th) on dependent children in prison, 27 March 1938.

124 Regulations of the Department of Corrections (16th) on dependent children in prison, Rule 6

in prison.<sup>125</sup> For example, if the prisoner is unable to provide clothes and sleeping materials for her child, the prison must provide them within reasonable limits and according to needs; if a prisoner cannot provide instant food, the prison must do so. The prison management must provide a separate room for children separated from prisoners or they may stay with their mother or a prisoner who takes care of the child. Depending on the child's age and education status, he or she must be provided with primary education, vocational training or both. Responsibility for the education costs and care of dependent children is the responsibility of the parent, unless she is unable to pay whole or part of the expenses, in which case the prison has to cover such expenses within reasonable limits and as necessary.<sup>126</sup> New-born babies must receive appropriate medical treatment and care.<sup>127</sup>

If a child wants to go out of a prison, he or she must first receive the permission from a prison official.<sup>128</sup> A dependent child in prison has to accept education and duties the prison managements assigns to him or her and may be sent to be employed by the private sector or sent to the facility provided by the DOC for this purpose during his or her stay in prison.<sup>129</sup>

If the child is handed over to alternative care, he or she shall immediately be reunified with his or her parent, as soon as the parent is released.<sup>130</sup>

Some of these provisions give rise to concern, including the lack of more detailed provisions on the treatment and care of pregnant women and breastfeeding mothers and the fact that the needs of children living with their mothers in prison will only be provided if the parent cannot cover the relevant expenses. Of particular concern is the rule which obliges children living with their mothers in prison to accept duties assigned to them by the prison management and that which allows prison administrations to have the authority to send such children for employment in the private sector. Dependent children's right not to be treated as prisoners, but as free individuals, provided by the Bangkok Rules, is violated by these provisions.<sup>131</sup> The requirement for a child to ask the permission of a prison official to leave the

125 Ibid. Rule 7

126 Regulations of the Department of Corrections (5th) Rule 4

127 Regulations of the Department of Corrections (16h) Rule 7 (5)

128 Ibid. Rule 7 (7)

129 Regulations of the Department of Corrections (5th), Rule 5 (1) and (2)

130 Regulations of the Department of Corrections (16th), Rule 8

131 Bangkok Rules, Rule 49

prison can be reasonable, depending on the age of the child, but the permission should first be given by the parent of the child and the prison official's say in the matter may be limited to advice, given that the child is not a prisoner.

In practice much progress has been made since the adoption of the Penitentiary Act, the Ministerial Regulations and the Regulations of the DOC on dependent children, with more comprehensive care provided to pregnant women and breastfeeding mothers, with different age limits being applied to decisions to allow children to stay with their mothers in prison and the establishment of nurseries in some prisons. The improvement in the care of pregnant women and breastfeeding mothers and children living with their mothers in prison appears to be largely thanks to the Kamlangjai (or INSPIRE) project set up and supported by HRH Princess Bajrakitiyabha, which has focused on the needs of these categories of women and their children.

### 13.1 Pregnant women and breastfeeding mothers

In all prisons visited pregnant women deliver their babies in hospitals outside. Usually two prison officers and a nurse accompany the prisoner, but due to staff shortages sometimes only one prison officer and a nurse may accompany her. No restraints are used at any time during or after this process.

On admission women either declare that they are pregnant or their pregnancy status may be established during medical examinations on admission, if the woman requests a pregnancy test. Sometimes women do not know that they are pregnant – in such cases the pregnancy may become apparent later on. Those who are pregnant are registered with the hospital outside to see the doctor, by appointment and they have regular medical check-ups in the hospital. For example, in one prison a prisoner told the research team that when women are six months' pregnant a monthly check-up is started and when they are eight months' pregnant, a check-up is undertaken every week. After the baby is born, when it is time for the baby to get its vaccines, prison staff take the baby to the hospital for it to receive vaccines. Children also receive regular check-ups, by appointment at the community hospital. All mothers interviewed were satisfied with the medical care they received, including during the delivery of their baby.

Pregnant women can wash before the other prisoners and they receive additional food. The type of food they were given varied somewhat from prison to prison, but generally includes eggs, soups, milk, sometimes additional meat and fruits.

The babies who were no longer being breastfed also receive special food, such as specially prepared rice and porridge. Pregnant women, nursing mothers and children living with their mothers in prison also receive appropriate clothing and medicines. The funding for pregnant women and children's additional food is provided by DOC. The INSPIRE project of HRH Princess Bajrakitiyabha, provides funds for additional food, training for staff responsible for women with children and healthcare.

In some prisons training is provided by the staff from the local hospitals to teach pregnant women about pregnancy and how to prepare for delivery.

### 13.2 Mothers and children in prison

Children can stay in prison with their mothers up to the age of one. Then, if there is no family or relative to take care of the child and if the prison has a nursery for children between one and three years old, they are put in the prison nursery, located in the prison grounds, but outside the actual prison. The research team was informed that children receive their regular vaccinations. If the mother has HIV/AIDS the child is included in the HIV/AIDS prevention programme for close monitoring.

In prisons where there are nurseries for the one to three age group (only the Bangkok Central Correctional Institution for Women, among those visited), the prison administration tries to find a home for the child with a foster family or volunteer group when a child reaches the age of three. In prisons where there are no nurseries for children of these ages, the children are usually removed from prison when they reach the age of one.<sup>132</sup> They are then either taken by a family member to be looked after or placed in alternative care. Usually there is a family member to take care of the children; if not, the prison administration is obliged to find an alternative care arrangement. In Chonburi Correctional Institution for Women, for example, it was explained by the director that when the baby is one year old the prison administration contacts the family to take the baby. If there is no family, they contact the Social Welfare Department to find a foster family. In some cases, where a foster family cannot be found, the children will be sent to orphanages. A social worker then comes and interviews the mother who has to provide her consent and sign a paper to that effect. The Social Welfare Department takes into account the age of the child when allocating him or her to a carer or an

<sup>132</sup> In Rayong Central and Remand Prison children were allowed to stay with their mothers in the prison until the age of 3.

institution, depending for example on the closeness to education facilities. The prison administration needs to make sure that the women know the address of their children. Prisoners can contact their children and the foster parents with the help of the prison social worker, if they are unable to get news from them. The prison administrations also work with the foster homes to arrange for the child to visit the prison on a regular basis.

Individual assessments are not undertaken to decide whether a child can be removed from prison – the age is fixed.

During the night pregnant women and women with children stay in separate dormitories, which are less crowded than others. During the day they usually stay in a separate room or nursery within the prison premises together with their children. In the Central Women's Correctional Institution in Bangkok trained carer prisoners look after the babies, while the mothers take care of their laundry, have their shower or go to have their meals. The nursery in the Central Women's Correctional Facility in Bangkok had a pleasant, child friendly environment with toys and colourful pictures on the walls. There were enough space and facilities to meet the needs of the women and their children. On the day of the visit there were 46 pregnant women, 15 baby boys and 13 baby girls in the prison. The children were in the nursery with six carers. The mothers were taking part in activities in another building. The mothers fed their babies in the morning, at noon and in the afternoon.

In Ratchaburi Central and Remand Prison there was also a pleasant – but small-child-friendly nursery for mothers with children in prison. One woman in this prison had a baby of 1 year and 6 months with her. This was because there was no carer outside and the woman was going to be released soon. Such flexibility is very much welcomed.

In Chonburi Correctional Institution for Women there was no separate nursery for pregnant women and mothers with children, so they remained in their separate dormitory during the day. The women had to stay in their dormitories during the day, but could go out for washing and for meals, and they could sit just outside their dormitory in the open air. The research team was told that they could take part in education or vocational training, but usually they were too concerned about their children to do that.

In Rayong Central and Remand Prison mothers and children stayed together in the nursery during the day. At night they sleep in a special dormitory. In this prison mothers can keep their children with them up to the age of three. The nursery within the prison premises was child friendly, with toys, but very hot on the day of the visit. The women had access to a shower and a toilet, which were partitioned off. There was also a small kitchen and breastfeeding area. The women said that they stayed here all day with their babies.

In Chiang Mai Correctional Institution for Women there was a nursery for pregnant women and mothers with children. This was a large, rather bare room with some cots and toys around and the grocery shop at the other end of the room. The shortcomings of this accommodation may have been due to the fact that the women had recently moved to this prison, which was previously a prison for men and not in very good condition. Refurbishment was planned at the time of the visit, including the establishment of a nursery. The research team was told that children could normally stay here until they were one, but sometimes the administration allowed the children to stay longer if the mother was close to release. Usually, when the children reached the age of one, they are either sent to the family of the women or a charity which tries to find a home for them. If the charity finds a home for the children, the prison administration tries to arrange for the child to be brought to the prison to see her/his mother three or four times a year. The frequency of such visits appears to be very insufficient. The administration also provided the research team with detailed information on the care of pregnant women, the delivery of the baby and the care of children living with their mothers in prison. According to this information, if a woman is found to be pregnant on admission, she will be registered with the antenatal care unit of the local hospital and according to the stage of her pregnancy will be taken for a medical check by the doctor every 4 weeks or on a weekly basis and blood tests will also be performed when the prisoner has been pregnant for more than 20 weeks. Delivery takes place at the hospital and the woman remains in the hospital for two days. Following transfer to the prison, the mother receives follow up examinations up to 6 weeks after delivery and if there are any complications she will be taken to the hospital for assessment and treatment. Nursing mothers are provided information on breastfeeding. If the mother has HIV or other serious illness milk powder is used to feed the baby. The mother also receives training on healthcare for herself and her baby.

The attention and resources allocated to the treatment and care of pregnant women, breastfeeding mothers and children living with their mothers in prisons

are welcomed. Improvements can be made to ensure that the dormitories and day-time accommodation areas of these categories of women always have sanitary facilities, including showers and toilets, so that they are accessible all the time and so that these categories of women do not have to share the overcrowded washing areas on a daily basis. In addition, as already mentioned in Section 4 on prison conditions, the space allocated to pregnant women, breastfeeding mothers and women with children in prison is grossly inadequate. This situation needs urgent attention to improve compliance with the SMR and the Bangkok Rules. Generally, the impression received during the visits to the prisons was that these categories of women did not have access to a range of physical activities appropriate to their condition. More could be done, such as introducing yoga, tai chi and other exercise programmes for pregnant women, breastfeeding mothers and mothers with children in prison.

The main concern of the assessment is that the separation of children from their mothers is not based on individual assessments, as required by the Bangkok Rules.<sup>133</sup> Thailand is not alone in having rigid age limits set by law for children staying with their mothers in prison. Similar to many other countries, the rules do not take into account the different individual circumstances of each woman and her child. It is recommended that the requirement for individual assessments be introduced in law and practice before a decision is taken to remove a child from prison, based on the principle of always taking into account the best interests of the child. At the very least, and following the principle of individualisation, some flexibility should be introduced to the laws and rules applying to the removal of children from prison, based on individual assessments. The establishment of nurseries for children between the age of one and three is also strongly recommended in all prisons where women are held, so that children can remain close to their mothers until they reach the age of three and maybe longer, depending on their individual circumstances. It is also recommended that all women whose children have been removed from prison or who have children who remained outside when the mother was imprisoned, be entitled to have open (contact) visits with their children on a regular (at least monthly) basis, at least until the children reach the age of 18, provided that this is in the best interests of the children.<sup>134</sup> (See also *Section 10, Contact with the Outside World*)

<sup>133</sup> Bangkok Rules, Rule 52

<sup>134</sup> See Bangkok Rules, Rule 52 (3)

#### 14. Preparation for Release and Post-release Support

Bangkok Rules, Rules 43 to 47, cover social relations and aftercare, supplementing SMR rules 79 to 81. These rules once again emphasise the importance of enabling women prisoners to maintain social relations, in particular with their families, requiring prison authorities to encourage and, where possible, facilitate visits to women prisoners, having consulted the prisoners as to who is allowed to visit them.<sup>135</sup> They require that prison authorities utilise options such as home leave, open prisons, halfway houses and community based programmes to ease women's transition from prison to liberty<sup>136</sup>, and, in cooperation with probation and/or social welfare services and organisations of civil society, to design and implement comprehensive pre- and post-release reintegration programmes which take into account the gender-specific needs of women.<sup>137</sup> The rules also require additional support to be provided to released women prisoners in cooperation with services in the community.<sup>138</sup>

The research team was informed that the DOC had increased its focus on preparation for release programmes. In the long term, the vocational training and work programmes offered in prisons are regarded as an essential component of prisoners' preparation for release. In the shorter term, different prisons have been applying different policies to prepare prisoners for release. For example in the Central Women's Institution in Bangkok a restaurant has been established in the prison grounds, but outside the gates of the actual prison itself, which is managed by the prison administration, and open to the public. Some prisoners work here as part of a pre-release preparation programme. The director said that she was also trying to make an agreement with a Christian foundation to cooperate with the prison administration to help families of prisoners and prisoners themselves following release.

In Ratchaburi Central and Remand Prison, a centre with workshops is being constructed outside the prison, from environmentally friendly natural materials, to prepare prisoners for release. Prisoners close to release will be allowed to come out of the prison to work in this centre during the day and to learn how to manage their own budget. They will go back in during the night. The budget for

<sup>135</sup> Bangkok Rules, Rules 43 and 44

<sup>136</sup> Bangkok Rules, Rule 45

<sup>137</sup> Bangkok Rules, Rule 46

<sup>138</sup> Bangkok Rules, Rule 47



the construction had been approved by DOC and the prison administration was making efforts to ensure that the centre was completed as soon as possible.

In Chiang Mai Correctional Institution for Women prisoners who are near release are asked what their needs are and the prison administration tries to set up a programme focusing on needs that are shared by a number of prisoners, depending on their funds. They also provide prisoners with money for transport. In addition prisoners who successfully complete the Thai cooking and restaurant services course, referred to in Section 12, may be allowed to work just outside the prison in a restaurant run by the correctional institution, which contributes to their preparation for release.

In Pathum Thani Correctional Institution for Female Drug Addicts the research team was told that the follow up of prisoners who had completed the therapeutic community programme was the responsibility of the Department of Probation. However, the Department of Probation was extremely under-resourced, so they were unable to undertake a proper follow up of released prisoners. The prison also has a Memorandum of Understanding with the district community office. If a prisoner has not finished the programme in prison, the community office had funding to continue with the programme outside prison. This entailed spending four days in a rehabilitation camp funded by the district community office.

The very comprehensive programme of work, vocational training and education, provided in all prisons visited represents a very significant contribution to the social reintegration of prisoners, increasing their chances of employment following release.

However, the shortage of specialist staff, such as social workers and psychologists, in all prisons and the lack of adequate resources, coupled with the limited possibilities to cooperate with organisations of civil society or community organisations which work with prisoners or former prisoners, as well as the lack of resources also of the probation department, appear to have prevented the introduction and implementation of the more comprehensive and individualised pre-and post-release support programmes put forward in the Bangkok Rules. As we have seen in the section on contact with the outside world, prisoners' contact with their families is also limited, with open contact visits being very infrequent, which is not conducive to the maintenance of social relations between prisoners and their families. Rule 43 of the Bangkok Rules is therefore in general not being fully applied.

An additional challenge that needs to be taken into account in the context of Thailand is that many women serve very long sentences before being released. They may be quite young when first imprisoned, but middle-aged or older when they are released. This long break from life in the outside world, disruption of relationships and institutionalisation necessitates additional effort to be put into assisting with such prisoners' reintegration. One approach would include a review of the sentence terms for some offences in the first place, taking into account women's caring responsibilities and the mitigating circumstances of their offence, before deciding on imprisonment or the length of imprisonment, which has been referred to in Section 4, and is not the main focus of this assessment. In addition, pre-release and post release support programmes need to be developed targeting in particular prisoners with long sentences, who need additional support with adapting to life outside, as well as housing, healthcare, possibly reunification with family members and employment, among others.

#### **15. Pre-trial prisoners**

The SMR includes special provisions which apply to prisoners under arrest or awaiting trial, set out in rules 84 to 93, consistent with their unconvicted status and therefore the presumption of their innocence. These rules cover the special privileges this category of prisoners should be allowed, as well as their right to inform immediately their families of their detention, to receive visits from them, their right to apply for free legal aid and to receive visits from their legal advisers, among others. The rules do not make specific reference to the particularly vulnerable status of pre-trial detainees and any measures to protect them from ill-treatment and abuse. The Bangkok Rules, Rule 56 takes account of women's particular risk of abuse, in particular sexual abuse, during this period, because of their gender<sup>139</sup>, and other typical vulnerabilities, such as lack of education and legal awareness, which can increase their susceptibility to intimidation and coercion. It underlines the responsibility of States to put measures in place to protect women from any abuse or sexual harassment or violence during this period.

Pre-trial prisoners were held separately in prisons where separate facilities were available. In others, they were mixed together with the sentenced prisoners, but usually held in separate dormitories. Many of the remand prisoners in the prisons visited were still under investigation. They had been "entrusted" by the police (and were referred to as entrusted prisoners) because of the limits on the custody time in

<sup>139</sup> See for example, Report of the Committee against Torture to the General Assembly Forty-fifth session (1–19 November 2010), Forty-sixth session, (9 May–3 June 2011), Un Ref: A/66/44, paras. 15 and 19

the police station.<sup>140</sup> In prisons, their custody period can be extended seven times by 12 days, for a total of 84 days, by law.

Interviews and observations made during the assessment indicate that pre-trial prisoners' rights do not differ significantly from that of convicted prisoners, with some exceptions. For example, the research team was informed that they were offered work and take part in other activities, but were not obliged to work, in line with the SMR.

Visiting facilities with lawyers were available in all prisons visited, and lawyers' visits were not restricted. Specific measures to protect remand prisoners from abuse did not appear to be in place. However, since such prisoners were held in women's facilities and supervised by women staff, it is not deemed that they were at particular risk of abuse. Interviews and information gathered suggested that such risks were much higher during the period of police custody and investigation.

Video conferencing facilities were available for communication between remand prisoners, the police (in the case of entrusted prisoners) and the courts (in the case of detained persons), but interviews suggested that video conferencing was used mainly to extend the detention of remand prisoners rather than as a forum to ask and respond to questions about the case.

Interviews also suggested that offenders were detained all too frequently and often because the women could not afford to pay the bail amount that was set.

## 16. Institutional Personnel and Training

### 16.1 Staffing

There were, at the time of writing, 2138 women staff in Thailand, 283 of whom were employed at headquarters. All staff in the correctional institutions for women are female, including the director, as required by the SMR and the Bangkok Rules. The women's sections of male prisons are also staffed by female staff, though, at least in the two such prisons visited, the director for both the male and female sections of the prisons was male.

<sup>140</sup> The Penitentiary Act, Section 4 differentiates between a detained person and a convicted person. A detained person means a person detained by virtue of a warrant. (Section 4(4)). A "entrusted person" means a person entrusted to be kept in custody, without a criminal warrant, in compliance with the Criminal Procedure Code or other laws.

Specialist staff, such as nurses, social workers and in some prisons, psychologists, are employed in the prisons. All specialist staff the research team met were also female.

The number of specialist staff employed in each prison visited, where information was provided, is shown in the table below.<sup>141</sup>

**Table 6: Healthcare staff, psychologists and social workers in prisons visited**

Prison facility	Healthcare staff	Psycho logist	Social worker	Prison population in January 2013
Bangkok	7 nurses	1	4	4517
Ratchaburi	3 nurses*	0	1	854 (4700 including male and female prisoners)
Rayong	4 healthcare staff**	0	2	1104 (3900 to 4000 including male and female prisoners)
Chonburi	2 nurses	0	1	1222
Chiang Mai	2 nurses	1	2	1514
Pathum Thani	2 nurses	1	3	1626

\* The 3 nurses are responsible for both the male and the female section of the prison.

\*\* Information provided by the prison administration. On the day of the the research team visit there were 2 nurses in the facility. This may be due to the fact that the other two nurses indicated by the prison administration are responsible for the male section of the prison or that the other two refer to other healthcare staff.

The ratio of prisoners to specialist staff is very high in all prisons. As has already been discussed, there are no doctors in the prisons on a constant basis. The ratio of nurses to prisoners is very low. For example, in Bangkok the ratio of prisoners to one nurse is 645; in Ratchaburi, taking into account the prison population for both the male and female sections, 1566:1; in Rayong 552:1; in Chonburi 616:1; in Chiang Mai, 757:1; in Pathum Thani 813:1. While the prisons are visited by doctors on a regular basis and women can be taken to hospital for treatment, the lack of a qualified doctor to undertake the initial comprehensive health assessment of

<sup>141</sup> The information is based on written information provided by the prison administrations, supplemented by interviews conducted during the prison assessment.

women prisoners on admission and who is accessible to prisoners on a daily basis, coupled with the acute shortage of nurses is a cause for serious concern.

In three of the prisons visited there were no psychologists, and in others only one, which is deemed to be extremely insufficient to ensure provision of the comprehensive and individualised mental healthcare required by the Bangkok Rules.

Similarly there is an acute shortage of social workers: for example 1 to 1129 prisoners in Bangkok, 1 to 854 prisoners in Ratchaburi, 1 to 552 in Rayong, 1 to 1222 in Chonburi, 1 to 757 in Chiang Mai and 1 to 542 in Pathum Thani. In at least two prisons visited social workers and other specialist staff had to carry out security staff duties due to the shortage of security staff as well. Given that the role of social workers is extremely important in the implementation of the Bangkok Rules, including in encouraging and facilitating contacts between women, their families and children, among many other responsibilities relating to the social reintegration of women prisoners, the insufficiency of this category of staff is clearly limiting the implementation of the Bangkok Rules.

The shortage of all levels of staff, including and especially medical staff, is a key reason why the prison administrations have resorted to assistance by trustee prisoners, which is a practice that does not have a place in good prison management, puts vulnerable prisoners at risk and has led to the violation of the principle of medical confidentiality in some prisons. (See Section 17)

The research team was told that women staff do not face any discrimination at work, but all staff working conditions were difficult and that they were under significant stress, no doubt, exacerbated by the levels of overcrowding and the shortage of staff. Working hours are long. Many staff are said to leave the service, moving when and if they get another opportunity elsewhere. For example, in the Central Women's Correctional Institution in Bangkok, many staff who had studied law had moved to jobs as attorneys. There are also a lot of staff going on regular sick leave and resigning.

One director said that their main problem was the lack of staff. "We only have 47 staff, including the director and all administrative staff, to supervise over 1000 prisoners. There should be double this number to be able to manage the prison properly. We should have two wardens and a nurse to accompany prisoners when they go to hospital, but sometimes we do not have enough wardens so only one warden and one nurse goes. This is a problem in all prisons, because the regulations

allow us to have only a certain number of staff. If a member of staff retires or is transferred to another prison, that staff will not be replaced and the position is cancelled. DOC knows about the problem, but they have to work according to the regulations, therefore there is a need for them to revise the regulations and change these rules. DOC should conduct a survey and find out what each prison needs. Security prison staff need to be increased, the staff responsible for education need to be increased – there are currently three staff for over 1000 prisoners in the education section. We have only 6-7 prison guards".

Staff have to work normal daily working hours as well as night shifts. Each member of staff has a night shift every second day. In the Central Women's Correctional Facility the first night shift is from 4.30 pm to midnight; the second one from midnight to 2 am; the third one from 2 am to 5 or 6 am. Sometimes staff exchange shifts so that those who have small children can stay with them. As DOC's budget is limited, the recruitment of new women staff is said not to be taking place, so prison administrations have to manage with what they have.

## **16.2 Staff training**

All prison staff are said to receive a four month basic training for new officers at DOC's Correctional Staff Training Institute. The training includes the use of firearms, physical training, self-defence and training on the Prison Act and Prison Regulations (Ministerial Regulations and Correctional Regulations). Prison staff must undergo further specialised training in order to be promoted to a higher position. These include the prison superintendent training course, followed by the senior correctional administration training. There are additional specialised training courses and seminars on specific topics. One director commented that the courses for higher level staff and specialised courses were not sufficient to cover all prison officers. Only selected officers could participate. She noted that the funding of the DOC was not sufficient.

There is also training provided by the Ministry of Justice for staff of all departments within the ministry. These trainings are for middle level and high level officers. However since all departments of the ministry can take part, the opportunities for DOC staff participation was said to be limited.

Training on the Bangkok Rules was introduced in 2011 and integrated into the programme. The plan is to train all female staff on the Bangkok Rules. So far, DOC has conducted training for 50 staff in 2011 over 10 days and 166 staff in 2012

in three groups, over ten days each. There were plans to train another 150 staff in three groups in 2013.

The total number to be trained each year depends on the budget. Priority had been given to women staff employed in women's prisons, followed by women staff employed in the women's sections of male prisons. The prisons with no female prisoners will be a low priority. Each prison selects and sends two staff to the training. If the prison is small the quota is one member of staff and more from larger prisons.

The training course has three main sessions: a theoretical session, a field study and a panel discussion. The theoretical session covers the requirements of the Bangkok Rules, the field study is undertaken to one of the selected women's correctional institutions and a public health service in Thailand. Directors of women's prisons and other experts are invited to the panel discussions. The Head of Training emphasised that the purpose of the training was to teach staff to think about what they must do to put a particular rule into practice. The training aimed to change their attitude. The emphasis is said to be on how to implement the Bangkok Rules and the participants of the course are encouraged to be creative. Non-custodial measures are not a particular focus but the participants are informed about them.

DOC has also included three hours of training on the Bangkok Rules in the basic training of all staff. In 2013, 269 staff were to receive this basic training.

There are also efforts to integrate the provisions of the Bangkok Rules into different levels of training programmes, including the higher level in-service training programmes. For example, a seminar on strategic planning was to be conducted in 2013 on the implementation of the Bangkok Rules, which would be for 30 senior level staff. In addition the requirements of the Bangkok Rules are going to be included in DOC's key performance indicators and the directors of women's prisons will have to sign a commitment to implement them.

The research team was informed that senior experts will undertake monitoring to assess the implementation of the Bangkok Rules. These will include inspectors of DOC, in addition to which inspections will be undertaken by the Thai Red Cross, Kamlangjai Project staff and the Ministry of Justice. Their inspection will include the evaluation of the performance of staff who have been trained by the DOC training institute on the Bangkok Rules. They will expect to see a certain level of progress in all prisons. The Director of Training will be judged by the performance of the staff

who have been trained on the Bangkok Rules.

The DOC Training Institute also has programmes to teach staff to communicate in English in order to enable their communication with English speaking foreign national prisoners. Four groups are trained each year. In 2013 the communication with foreign national prisoners is said to have been emphasised by the Director General as Thailand.

In a number of prisons visited the directors said that they were encouraging the implementation of the Bangkok Rules, which had been distributed to all staff members of the prison. In addition specific parts of the Bangkok Rules, which are relevant to the performance of particular staff had been brought to the attention of those staff members. Staff were made aware that they had a duty to put the Bangkok Rules into practice.

However during interviews with directors and senior staff it was noted that staff appeared to have the impression that the Bangkok Rules were primarily about mothers with children and pregnant women. One director said for example: "the prison is run according to the Bangkok Rules, but the Bangkok Rules are not so relevant for us, because there are no pregnant women and women with children here".

Another important point noted was that some senior level staff were not aware of the SMR, which the Bangkok Rules supplement. One director said that she knew about the SMR, but that they were very old. Equally worryingly, she said that they knew what the prison directors and staff were supposed to do, but if they do not do these things there would be no negative consequences for them, as neither the SMR nor the Bangkok Rules were part of national legislation. They were therefore not enforceable. She added that their training was on the Prison Act and Regulations, in particular the Prison Act. The Bangkok Rules was not a law but something HRH Princess Bajrakitiyabha had wanted introduced. They were trying to become a model based on the Bangkok Rules, but since neither the SMR nor the Bangkok Rules were set in law, there was no motivation to implement their provisions. The only outcome of implementing them would be the achievement of international standards.

These comments highlight a fundamental point, which is the need to incorporate the provisions of the Bangkok Rules into the national legislation on prisons, in order for them to have more force. Clearly more resources, including human resources,

need to be made available, as well, to enable their implementation. Another factor highlighted by these comments, is that the understanding of the need to implement the Bangkok Rules, whether or not part of national legislation, has not been internalised – i.e. mental attitudes have not changed. In particular, that the implementation of the Bangkok Rules would not only improve the treatment, mental and physical wellbeing of women prisoners, but that it would also improve prison management, reduce tension and create a positive prison environment for prisoners as well as staff, has apparently not yet been understood by many staff, even at senior level.

There is also a need to speed up the training provided on the Bangkok Rules. With the current training of 150-170 staff each year, all the female staff may only be trained in around 12 years. Taking into account the turnover of staff as well, which was indicated to be quite rapid, it seems that more staff needs to be trained each year to speed up the implementation of the Bangkok Rules in all prisons where women are held.

### **17. Trustee prisoners (officer assistants)**

In all prisons visited prison staff, including healthcare staff, were assisted by trustee prisoners, referred to as “officer assistants”. This is to a large extent due to the shortage of staff. However, the prison administration also uses trustee prisoners to report to them on the conduct of other prisoners. Indeed, in one prison the head of security openly stated that they use them as “spies”, to inform on others. Although in all prisons the research team was told that trustee prisoners did not have power to punish prisoners or have any authority within a disciplinary process, prisoners complained that trustee prisoners used their power over them, informed on them to prison staff and even influenced the promotion of prisoners to higher classes. Concern has already been expressed at trustee prisoners’ access to medical information, breaching the principle of medical confidentiality.

The research team considers this situation to be of serious concern due to the abuses that may result from giving prisoners any kind of supervisory role over others. Such an arrangement violates the spirit of SMR, Rule 28 (1) which states that “[n]o prisoner shall be employed in the service of the institution, in any disciplinary capacity”. Using trustee prisoners in any prison management capacity and in particular in roles where they can influence the disciplinary process, by informing on other prisoners, is not considered to be good practice, as it can lead to abuses at worst, and at best, to tensions, suspicions and violence within the prison, not

conducive to a positive, transparent prison atmosphere. This procedure also has great dangers. If an informant is discovered, the other prisoners can vent their anger with violence. Informants can give inaccurate information in order to victimise other prisoners or maintain their control over them. The development of a system where staff get to know prisoners as individuals, as part of a policy of dynamic security, will lead to much more trustworthy information about security and control issues.<sup>142</sup>

On the other hand, this situation clearly cannot be resolved only by individual prison administrations, since the challenges they face due to staff shortages are immense. The staffing levels of prisons need to be increased considerably so that there are sufficient staff to fulfil all the responsibilities currently being entrusted to trustee prisoners and so that a policy of dynamic security can be implemented, eliminating the reliance of prisoner informants. The increase in staffing levels should include an increase in the number of specialist staff in all prisons, including healthcare staff, psychologists and social workers, in order to improve the implementation of the Bangkok Rules.

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142 Coyle, A., *A Human Rights Approach to Prison Management*, ICPS, 2002

- Sentence lengths
- Issues leading to current offence
- Mental health and abuse histories
- Rehabilitation and re-integration needs

### 1.1 Internal review of existing instruments

Several existing survey instruments were reviewed in preparation for the survey development, after which a new draft questionnaire was developed, based on the criteria outlined in the Bangkok Rules.

### 1.2 Revision and translation of the questionnaire

The survey was revised several times in concert with TIJ staff and the consultants, with the senior TIJ researcher and former Director General of the DOC providing final review. The final version of the questionnaire is available on TIJ's website. It was translated into Thai with careful quality control to ensure that the Thai version and the English version were congruent.

### 1.3 Pre-test with representative women at the Central Women's Correctional Institution, Bangkok

As part of survey development, the survey was pre-tested on two groups of women drawn through purposive sampling to represent those participating in the survey throughout the Thai correctional system. Pre-tests are conducted to learn how the questionnaire will perform in the field. Social science standards call for pre-testing to determine, among other things, how participants respond to, or interpret, the questions; how the questionnaire flows; length of time needed to complete the questionnaire; and to identify any problems in the process or the instrument. Several recommendations offered by the prisoners who participated in the pre-test were incorporated into the next version of the survey and related documents. Two groups of six women participated in the two pre-tests. After pre-test revisions were incorporated, the survey administration documents were prepared for a pilot-test.

### 1.4 Pilot test

Following standard social science protocols, the survey instruments were revised according to the results of the pre-test. After revision, another version of the survey

## IV. SURVEY OF WOMEN PRISONERS: BACKGROUNDS, CHARACTERISTICS AND OFFENCE HISTORIES

### 1. Introduction

This section describes the development, administration and results of the questionnaire administered among women prisoners in Thailand (the survey). The survey was developed by the TIJ in collaboration with the consultants. The construction of the survey was grounded in the information required by the Bangkok Rules set out in Rules 67 to 69. The purpose of the survey was to learn about the background and characteristics of women who are presently in Thai prisons and correctional institutions.

The survey was developed in 2012 and administered in 2013 to research these issues in prisons. It included the following sections:

- Ability to read and write Thai
- Demographics, including age, marital status, region of residence and number of children
- Contact with children and family
- Educational and employment background
- Sources of support prior to imprisonment
- Past and current offence history
- Sentence/pre-trial status
- Legal representation

was developed and administered to inmates at the Central Women's Correctional Institution, Bangkok as a pilot test. Pilot-testing is intended to test both the utility of the instrument and the overall approach to administration. Typically, few changes are made in the substance of the survey during the pilot, with the emphasis on finalizing the survey administration procedures. One group of 30 prisoners who were randomly selected by the prison participated in the pilot.

During the pilot, TIJ staff prepared the room and supplies necessary for the survey, interacted with facility staff, issued the Survey instructions, answered questions, read the survey when needed, and collected and reviewed the completed Survey with the women participants. They were also responsible for securing the completed surveys to ensure that no facility staff were able to view the completed instruments.

### **1.5 Survey protocols**

Concurrent with the development of the survey questionnaire, protocols were developed to structure the administration of the survey and training for the TIJ staff. After the pilot test, the protocol was finalized and included:

- Preparing the facility for survey administration
- Welcoming inmates into survey room
- Survey orientation
- Answering questions
- Offering to read questionnaire to those with reading limitations
- Reviewing completed surveys
- Collecting and protecting the confidentiality of completed surveys after administration
- Survey cleaning and coding
- Preparation for analysis

It should be noted that the TIJ staff quickly established competency in all aspects of the survey development and administration. As a result of these advanced skills, it was decided that TIJ staff would be able to administer the survey independently during the site visits without direct supervision by consultants.

### **1.6 Analysis Plan**

An analysis plan was also developed in collaboration with a national statistical consultant. This plan involved:

- Drafting of code book and code sheet
- Training of TIJ staff in data entry and cleaning
- Agreement on expected output: quantity-frequency format for quantitative items
- Plan for analysing open-ended comments

### **1.7 Sampling**

A purposive sampling frame was developed with the goal of constructing a sample that was representative across facility type, offence categories and sentence lengths. TIJ staff provided statistical summaries of the women's prison and remand population that allowed for the development of the categories to be included in the survey. These categories were based on sentence length and, in the case of pre-trial prisoners, on the category of the charges.

There was no attempt to construct a statistical representative sample, given the size and spread of the female inmate population. In addition, since the survey was to be conducted on a totally voluntary basis, there could be no guarantee that the proportion of participants would replicate exactly the same proportions of those sentence and offence categories in the total female prison populations. A more statistically representative sample would not have been possible as such a sample would need to be about three times larger (about 1400 inmates minimum) than that planned for this first administration of the Survey.

The facilities selected for study were chosen as examples of the different types of facilities housing female prisoners and for their geographic locations.

Table 7 displays the distribution of sentence lengths at year-end 2012 according to official statistics of the DOC and the calculation of the numbers of women needed to represent similar proportions to reach a sample size of 450, among convicted prisoners.

**Table 7: Target number of sentenced women prisoners in survey sample**

	Percentage in total female prison population	Corresponding target number in survey sample
less than a year	7%	32
1 to 2 years	18%	81
over 2-5 years	36%	162
over 5 years to 10 years	16%	72
over 10 to 20 years	10%	45
over 20-50 years	12%	54
life and death penalty	1%	4
		450

Although 450 was the original goal sample of sentenced women prisoners, it was impossible to achieve such exact numbers, given the need for voluntary participation, among other practical factors. The survey participants also included pre-trial detainees, where effort was made to include a sample with proportions of offences (charges), to reflect similar proportions in the general female pre-trial detainee population. This was largely achieved with respect to all the prison population. (See Table 12)

Consequently, in practice, the sample was made up of 441 (83%) women convicted of offences and 90 (17%) pre-trial detainees, with two women not answering this question. In all, 533 women, from six facilities, participated in the study.

The survey was conducted on a confidential basis. In order to achieve the above described representative proportions, prison administrations pre-selected in advance the requested proportions of prisoners to participate in the surveys. The research team was assured that the prisoners would only participate if they were willing to and volunteered to do so. At the time of the survey prisoners were again informed that the survey was voluntary. No prisoner among those who had already volunteered declined to participate. The survey was conducted on an anonymous basis, in the sense that the names of prisoners were not noted, but the prison administrations obviously knew the names of those who were participating.

The approach to sampling was based on representing select women throughout the system rather than within any single facility. Thus, the data reported below describes women throughout the DOC of Thailand.

## 2. The Background of women prisoners

This section covers literacy rates and other demographics including age, marital status, and country and region of residence.

**Literacy:** Given that this survey was based on self-reports through individual surveys, establishing the degree of literacy among the women participants was a crucial first step. Both the spoken survey orientation and the first question of the survey asked women to assess their level of reading and writing. The question in the Survey was posed as follows:

“How would you rate your ability to read and write Thai? Tick the box that most closely fits you.”

- |                                 |                                  |                                  |
|---------------------------------|----------------------------------|----------------------------------|
| I do not                        | <input type="checkbox"/> read    | <input type="checkbox"/> write   |
| I have big problems with        | <input type="checkbox"/> reading | <input type="checkbox"/> writing |
| I have some problems with       | <input type="checkbox"/> reading | <input type="checkbox"/> writing |
| I do not have any problems with | <input type="checkbox"/> reading | <input type="checkbox"/> writing |

While less than 2% indicated they were unable to read, 65% (n=348) said they had big or some problems with reading. Conversely, just about one-third (n=175) indicated they had no problem with reading Thai.

These literacy rates for the survey sample appear to be somewhat lower than those revealed during pre-testing and piloting. These results call into question how well women understood the questionnaire, despite best efforts to ensure that the questions were clear enough for all literacy levels. It may be that women in the Bangkok Central Women’s Prison had higher rates of literacy and educational preparation than women imprisoned throughout Thailand. Given this reported low-level of literacy, the responses described below should be read with some caution, at least in some cases. However, the consultants are confident that these data can be used for operational and planning purposes in implementing the Bangkok Rules.

A slightly larger number (67%) of women indicated they had some or big problems with writing, with just 31% indicating no problems with writing.

No participant asked for a survey in English and about 8% (n=41) asked to have the survey read by TIJ staff.



**Recommendation:** The data on literacy levels suggest a need to provide more educational programmes, with an emphasis on functional literacy.

**Age groups:** The Survey also asked women to report their age: the largest proportion of women (43%) said they were between 26 and 35 years of age. The next highest category was 36 to 45 at 24%. About one-fifth of the women were less than 26 years of age; about 10% were between 46 and 55 with just under 5% indicating an age over 55.

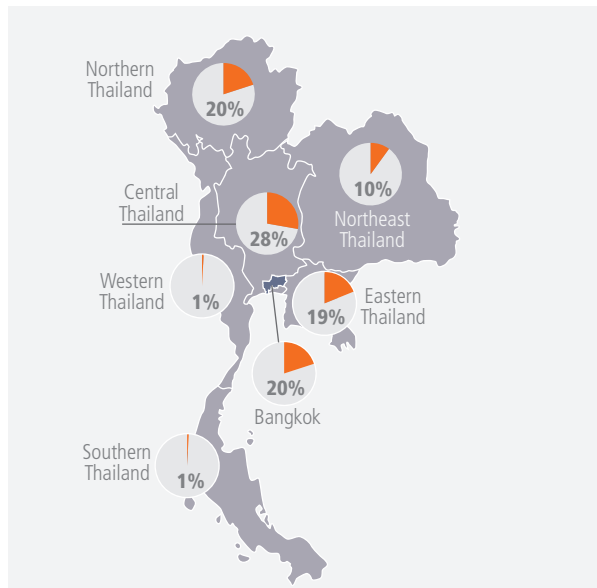
**Marital status:** When asked about current marital status, about 70% of the entire sample was evenly distributed across three major categories, as shown here:

- Single 23%
- Married 23%
- Separated 22%

Other marital statuses included seven per cent divorced; ten per cent widowed and 16% living together.

**Nationality:** Almost the entire sample (99%) indicated a Thai nationality. Table 8 shows their location within regions in Thailand.

**Table 8: Region of Residence within Thailand**



Less than 1% of the respondents said they were from outside of Thailand.

**Recommendation:** Our sampling strategy did not capture sufficient numbers to allow any speculation as to number of non-Thais/ foreign nationals held in Thai prisons for women. This area of concern requires additional data collection to determine how many non-Thai women are incarcerated and their specific needs as outlined in the Bangkok Rules.

### 3. Family, children and visits

The Survey asked a series of questions about the children of women inmates, children's current place of residence and issues related to visiting and contact with their children. Similar questions about contact with family members were also asked.

**Number of children:** About 82% (n=436) of the women said they had children. Of this group almost 40% said they had two children; another third indicated having one child and 20% said they had three children. About ten per cent had four or more children.

**Ages of children:** Almost half of the children were said to be over six and under 18 years of age. Another third of the children were under 6 years of age, with the remainder (about 20%) over 18 years of age.

**Children's residence:** When asked where these children lived, just about half said their children lived with some member of the respondent's family. Just over one-fifth lived with their father's family and about 19% lived with their father. Only nine women (about 2%) said they did not know where their children were living. The remaining children lived in a variety of places, including by themselves (7%); and with other friends or relatives (less than three per cent).

**Contact with children:** Just under ten per cent of the women said they did not have any contact with their children. This contact was by letter (45%) or visits (another 45%). Less than one per cent of the women said they kept in contact via telephone.

The respondents with children were asked to identify their problems in keeping in contact with their children during their imprisonment. Multiple responses were allowed in this item. Just about 16% (n=120) of the responses indicated that they

did not have any problems. The primary problems with keeping in contact with their children are displayed in Table 4.

**Contact with family:** When asked about contact with family, 94% of the women responded that they had on-going contact with their family. This contact was also primarily by letter (50%) or visits (47%). As with contact with children, very few women (about one per cent) said this contact was through the telephone. In terms of problems in contacting family, similar patterns were found and also displayed in Table 9. Health problems among family members that complicate contact were mentioned by about five per cent of the women.

Many of the open-ended comments, summarized at the end of this section, related to problems with keeping contact with children and family.

**Table 9: Why women’s families and children could not keep in contact with the women prisoners on a regular basis**

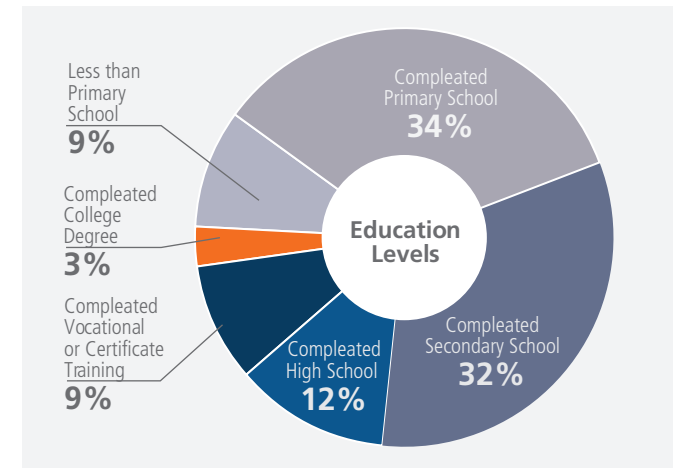
Reason	For children	For family
Too far to travel	26%	25%
Too expensive for them to travel	23%	24%
Too busy to visit	11%	15%
No telephone in the facility	10%	10%

**Recommendation:** Contact with family and children has been shown to contribute to community reintegration. The Thai corrections system should examine barriers to visiting for each facility and determine the best way to improve access and contact with families and children. The corrections system may also want to consider a system-wide visiting programme to provide support and transportation to facilitate such contact. Consideration for placement closer to family residence or children’s residence should also be given. (See also Part III, Sections 5 and 10). Increasing telephone access at low cost is also recommended. (See also Part III, Section 10)

#### 4. Education

We asked questions about educational levels. Table 10 shows these results:

**Table 10: Educational Levels**



**Recommendation:** As shown in the literacy responses and this table, women in Thai prisons have low literacy and educational rates. The development and implementation of programmes aimed at improving literacy and overall educational levels should be pursued. Vocational training should be expanded. (See also Part III, Section 12.2)

#### 5. Work history

The next question asked women how they were supported in the year prior to imprisonment and their earnings.

**Table 11: Sources of support prior to imprisonment**

Solely worked to support self/ children/family	55%
Both partner and inmate worked	33%
Did not work	11%

Of the 55% of women in the first category, about half said they supported themselves by this work; 29% said they worked to support themselves and their family and another third said they worked to support themselves and their children.

When asked if their earnings were “enough to live on”, just over half said that their earnings were “not enough to live on”; another 47% said it was “just enough to live on” with only 10% indicating that they earned “more than enough to live on.”

In this section, we also asked if women had ever been involved in sex work of any kind. Less than 10% of the women answered “yes,” but the sensitive nature of such a question may interfere with a valid response. Again, caution should be used in interpreting these results.

**Recommendation:** Although the majority of women said that they had worked to support themselves, about half said they did not earn “enough to live on.” This finding suggests a need to develop vocational training that improves the socio-economic status of women during incarceration which better prepares women for re-entry. (See also Part III, Section 12.2)

### 6. Offence history and current offence

In this section, we described responses on self-reports on past convictions and present offence.

**Offence history:** One-third of the women said that they had previous convictions, with the remaining two-thirds indicating that this was their first imprisonment. Of the 176 women who had prior convictions, 67% had only one prior conviction; another 22% said they had two prior convictions, with the remaining 11% having three or more prior convictions. These findings differ somewhat from the official records that found, in May 2012, only 11% of the women’s population were repeat offenders.

Those with prior offences also supplied information about their prior offences (with the survey allowing multiple responses). The wide majority (87%) said they had been convicted for drug-related offences.

Past narcotic violations included:

Use	35%
Possession	40%
Sales	45%

Less than eight per cent had been convicted of past property offences, with less than three per cent convicted for offences against life.

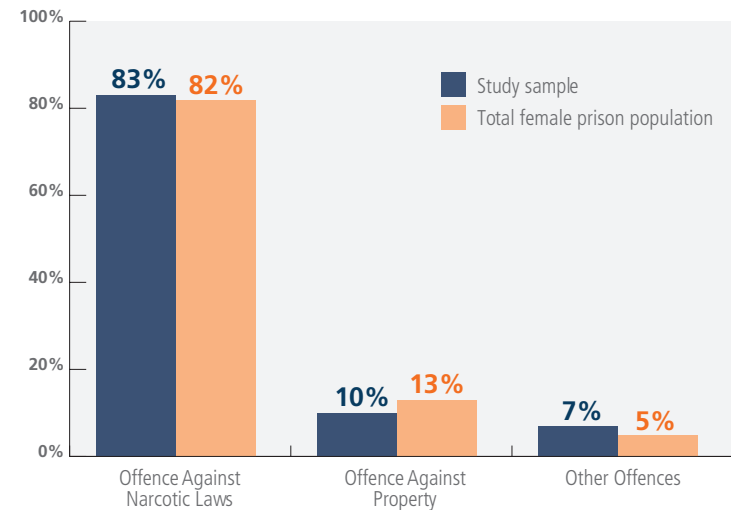
**Recommendation:** Re-entry services should be targeted to both first-time and repeat offenders. Given that two-thirds of the women were first-time offenders, in-prison and community programmes should be designed specifically for women early in their justice system involvement. For those who are repeat offenders, programmes should be designed to assess and address their rehabilitation needs.

**Legal status:** 83% of the population had been convicted with 17% on remand status.

**Legal representation:** When asked about legal counsel, 45% of the women said they did not have a lawyer during their trial; 26% indicated they had a private attorney and another 17% said they were represented by a public defender. About three per cent said they had a volunteer lawyer and almost ten per cent indicated they had not yet been tried.

**Current offence:** The next question asked women to indicate the offence for which they were currently held or serving time. Table 12 displays these offences.

**Table 12 Current Offences (charges and convictions)**



The sample is fairly close to the offence distribution of the entire female prison population at the time of the study, as can be seen in Table 12.

Within the narcotic law violations, the following pattern emerged:

**Table 13 Narcotic Law Violations**

Sales	70%
Possession	26%
Use	10%

(Multiple responses were allowed)

**Table 14: Self-reported sentence lengths**

Sentence	Sample percent
6 months or less	2%
Less than 1 year (including 1 year)	4%
More than 1 year, up to 3 years	26%
More than 3 years, up to 5 years	21%
More than 5 years, up to 8 years	14%
More than 8 years, up to 12 years	10%
More than 12 years, up to 15 years	3%
More than 15 years	13%
Life	5%
Death penalty	1%
<b>Total (n=461)</b>	<b>99%</b>

**Current sentence length:** Table 14 shows the self-reported sentence lengths of those women with knowledge of their sentence length. Thirteen per cent of the survey participants said they did not know the term of their sentence.

**Issues leading to the current offence:** We also asked women to indicate issues they reported as leading to their current offence and allowed multiple responses to this question. These responses are displayed in Table 15.

There were multiple responses to this question, totalling 1148 responses. Half of the responses were related to economics: financial reasons accounted for 306 or 27% of the responses, with “to support family” mentioned 260 times or 23%.

“Bad judgement” was listed as a response 176 times (15%), with drug use or dependence mentioned 123 times (11 %). “Emotional or psychological issues” were cited 64 times (6%). Ignorance of the law was mentioned 67 times (about 6%).

**Table 15: Issues leading to offence**

Issues	Number	Percentage
Financial	306	26.66
Drug use or dependence	123	10.71
To support family	260	22.65
To protect children	17	1.48
Coerced by spouse/boyfriend/girlfriend	13	1.13
Pressured or influenced by friends	31	2.70
Domestic violence or other abuse	-	-
Self- defense to protect self	8	0.70
Bad judgment	176	15.33
Emotional or psychological	64	5.57
Did not know law	67	5.84
Wanted to do it	19	1.66
For the fun of it	38	3.31
Other, i.e.	23	2.00
Claimed not guilty	14	1.22
Bad luck (being at the wrong place at the wrong time)	6	0.52
Forced by other people	1	0.09
Want to buy things/materialism	1	0.09
No criminal intention	1	0.09
Non-response	3	0.26
<b>Total</b>	<b>1,148</b>	<b>100.00</b>

## 7. Drug use history

Another series of questions asked about substance abuse dependence, relationship to current offence and any treatment history.

**Table 16 Drug and alcohol dependence and relation to current offence**

	Yes	No
Dependence on drugs	21%	79%
Drug use involved in current offence	47%	53%
Dependence on alcohol	7%	93%
Alcohol involved with current offence	6%	94%
Treatment for substance abuse problems	10%	90%

**Recommendation:** While these findings do not suggest a significant drug problem among the women prison population, other data (e.g. offence category questions) and experience do show that substance abuse may be significant problems among women offenders. More focused research is needed to determine more accurately the extent of drug dependence among the women in prison in Thailand. It is felt that it would be beneficial to develop best practices in women-centred and culturally-relevant substance abuse treatment for women during imprisonment and continued at re-entry.

## 8. Mental health and past abuse

The results from this section should also be interpreted with caution. Of the entire sample, only 42 women (8%) indicated any mental health problems. As will be discussed in the research recommendation section (see Part VI), these sensitive questions may require further investigation through more focused methodologies, such as personal interview or review of clinical files and service utilization. The pattern of the questionnaire items may have also influenced these results. During the survey process, some women remarked that their mental health problems began during imprisonment and included stress, depression and anxiety.

Just about one-fifth of the women said they had harmed themselves or otherwise attempted suicide at some time in their lives. Of the women who mentioned these

experiences, almost all (91%) said this had happened before their imprisonment.

**Recommendation:** Assessing psychological and mental health status may be beyond the scope of a social science survey. Clinical interviews may be the best way to determine the existence and distribution of such problems among women in the Thai prison system. Additional research could then lead to development of women-centred and culturally-appropriate mental health treatment, based on the findings, both within prison and during re-entry.

**Forms of abuse:** The majority of women (61%) reported that they had not been physically harmed during their lives; with one-fifth indicating physical abuse one or two times in their lives and another 17% reporting such abuse multiple times.

Of those reporting such abuse, almost 70% said this abuse was perpetrated by a spouse or partner. Just over 16% indicated that they were physically harmed by someone else they knew, with just under 8% saying another family member abused them. Just under 7% mentioned that they were harmed by someone they did not know.

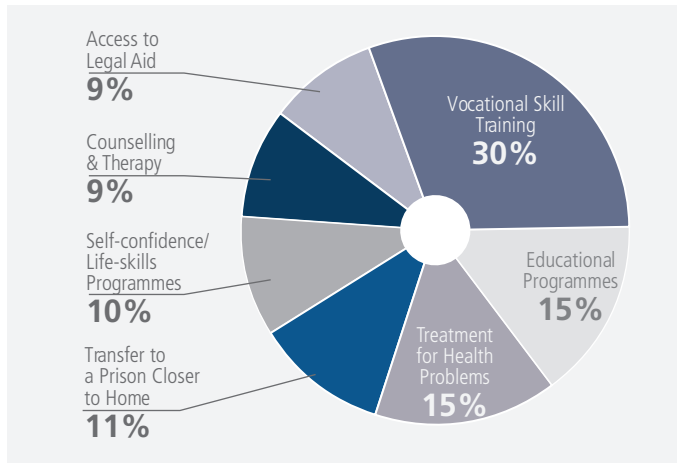
A much smaller number (less than five per cent) said they had been sexually harmed at some time in their lives, with half of those reporting this sexual abuse by someone they knew. Twenty per cent said they were harmed by a spouse or partner with one-quarter reporting sexual abuse by someone they did not know.

Again, these results should be interpreted with caution.

## 9. Preparation for release and post-release support

The final section of the questionnaire asked women to provide information regarding their needs during imprisonment and upon release. Again, the Survey solicited multiple responses, for a total of 1448 mentions. Table 17 summarizes these responses.

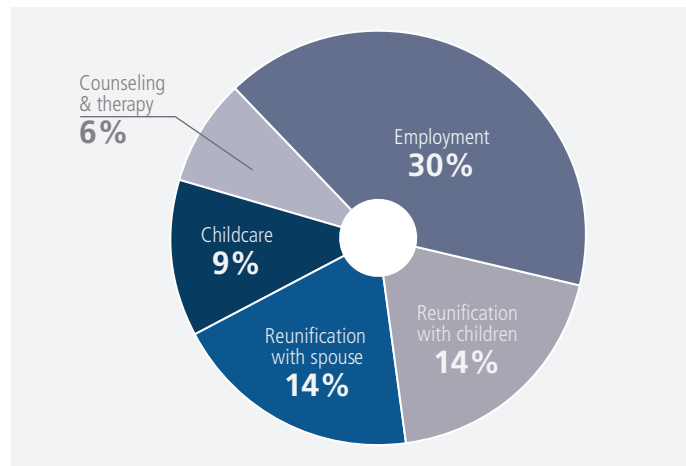
**Table 17 Needs during imprisonment to assist with social reintegration following release**



Fourteen women said transfer to their home country was needed.

Finally, we asked women to indicate the kind of help they would need to assist in their re-entry. A summary of their 1591 responses (based on multiple responses) is shown in Table 18.

**Table 18 Needs following imprisonment to assist with social reintegration following release**



Other needs mentioned at less than five per cent included:

- Access to legal aid
- Treatment for health problems
- Housing
- Transportation
- Parenting skills
- Other support services

**10. Additional comments from prisoners**

The survey orientation and the instrument asked women to provide additional comments at the conclusion of the survey. Most comments related to conditions of imprisonment and life in prison and have been integrated into other parts of the report.

Comments related to background issues were in the following categories.

**Reasons for committing crimes:** There were multiple mentions of financial problems, drug use and criminal peers or family members.

**Concerns about family and children:** Many women stated that their families and children lived in reduced circumstances due to the women's imprisonment; these families had medical, financial and other problems. Worries about children's difficulties and lack of parenting were chief among these concerns.

## Case examples

### Case 1

She is 40 years old and is divorced. She is from Bangkok. Has one daughter who is 7 years old. Her daughter is living with her father's (the prisoner's former husband's) family.

She was convicted of forgery of signatures on 7 cheques with a total value of 4 million BAHTS. sentenced to 12 years and 9 months, which was reduced by royal pardon on Mother's Day to 10 years and 11 months. She is in the good category.

She used to work in the finance department of a construction company. She was responsible for the salaries of staff. The wife of her boss was responsible for all the transactions, but when problems occurred all the blame was put on the prisoner. The wife had asked her to take all the blame and promised that if anything happened to her she would take care of her. When the police questioned her she confessed and took all the blame. The police did not believe that she could have committed the offence involving so much money on her own, but she insisted that she was the only one. The police asked her if the wife of the boss was involved, but she said she was not. All the evidence was against her anyway. For a long time after her imprisonment the wife did not visit her at all, but she had recently visited her. The prisoner used to have a good salary where she worked.

During her trial she had a lawyer, who she knew. She did appeal her sentence but with no result, she decided not to go to the Supreme Court, as it would have been very costly and probably of no use. She accepted her karma.

Her daughter has not been visiting her because her former husband's family does not allow her to – they have not told the daughter that her mother is in prison. They told her that the mother had gone abroad. She feels very sad about this but trying to keep herself calm. She has a mother and relatives who visit every week and give her support. She looks forward to seeing her daughter again when she is released which gives her strength.

During the first few months her husband used to visit her, but not any longer. She got divorced after her imprisonment. Three months after she was imprisoned she received divorce papers to sign.

## V. INTERVIEWS WITH WOMEN PRISONERS: CASE EXAMPLES

Five or six interviews in each prison, with a total of 34 interviews were conducted with women prisoners on an individual basis in private. Only the prisoners themselves, the consultant and a TIJ staff member were present during the interviews. The interviews were used as an opportunity to gather more detailed information about the types of offences and the circumstances of the offences which had led to the women's detention or imprisonment, as well as about their backgrounds, family circumstances and prison experiences. The information about cases was not checked with other sources, so the veracity of statements cannot be known.

All women interviewed had been charged with or convicted of property or drug offences. One woman claimed that she was framed, a few claimed that they had acted on instructions from superiors without understanding the personal risks, others that they had been presumed guilty because they were with a boyfriend or spouse who was selling drugs at the time of the arrest. Some said that they had got into the drug business because of their relationship with their boyfriends; others explained that they had started selling drugs due to financial needs. In a significant number of cases the length of the prison terms received by those who had been convicted seemed excessive and disproportionate to the offence committed.

The comments and observations of the women on their prison experiences have been used to inform the assessment itself and are not repeated here.

Some of the case examples are provided below. Names of prisons and any particularly distinguishing factors have been omitted to protect the confidentiality of the information received.

**Case 2**

She was imprisoned on 30 May 2012. She is on remand, has appealed and is waiting for the highest court decision. She was charged 5 years ago. She has been in remand waiting for the decision of the Supreme Court. Before this she had another case, which was dismissed, but the prosecution appealed the verdict. She was never told that the prosecutor had appealed and thought that that case was over and done with. She was told about the old case when she was arrested on the new case. Now they have both been combined. The family had no idea that an appeal had been submitted by the prosecutor.

The first offence was for the sale of drugs and she is facing a 16 year sentence. In the second case she was with her boyfriend who had 3 tablets for his personal use – they were arrested together. She confessed – was facing a 1 year sentence, which was reduced to 6 months. Then she found out about the old case where she has been sentenced to 16 years as a result of the appeal by the prosecutor. She is now in contact with the legal department of the prison to see what she can do. She never met her lawyer for the first case after the trial. She asked for a copy of the verdict and documents from the court's clerk, and saw that the lawyer had been trying to help her, but she was not told. If she had known she would have fought against the appeal earlier.

In response to the question as to why she had committed the first offence, she explained that back then her father had just committed suicide and she was in Bangkok where she met a young man who invited her to go south with her and she agreed. She did not even understand his language very well, it was different. They went to a hostel, were sleeping in separate rooms and the police found drugs and money in his room. They did not find anything in hers. He got a 15 year sentence.

**Case 3**

30 years old, single, never married, no children. She has been in prison for 8 years. She used to work as an accountant. She has a BA in accountancy. Her sentence is 13 years and 4 months. It has been reduced by 1 year and 4 months with a royal pardon.

She was convicted of selling drugs. Her boyfriend was selling the drugs, but they were together in the car. The police stopped the car and found the drugs – amphetamine. The boyfriend received the same sentence and is in prison in the

male prison. They are not communicating. They could communicate but she has chosen not to – they are separated.

She had a lawyer, but she was not satisfied with her lawyer. At the beginning she had the same lawyer as her boyfriend, but that lawyer did not perform very well. He made empty promises. A friend of her sister recommended a new lawyer – but she was not happy with him either. Also gave empty promises and did not fulfil them.

When she came to prison she suffered depression for a long time. But it wasn't bad enough for her to require medication. She was scared to ask for counselling or therapy. Gradually she adjusted and got used to being in prison. At first there was nobody to talk to, but with time she started talking to other prisoners. This helped her a lot. She was very young and older prisoners taught her things explained how the prison worked, which helped her a lot.

**Case 4**

27 years old, single. She has a high school degree. She has been in this prison for 2 years and 7 months. It is the first time that she is here. Her sentence is 11 years for selling drugs (amphetamine).

She does not come from a happy family. She grew up with her grandmother because her mother abandoned her when she was 7 months old. Her father then remarried. The brother of her father used to beat her. He usually did this when he came home drunk. She used to be very scared and then she realised that the only way out was to work or find someone to take care of her. So she started working in the market.

She had a boyfriend who had cancer. The money she earned was not enough for her to contribute to the treatment of her boyfriend. She wanted to ensure that he got the best treatment for cancer and decided to sell drugs just for this time to get the money. She needed 90,000 BAHT (around US \$3000).

Her boyfriend died a year ago. The last time she saw her was on Valentine's Day, in 2012. Next she heard, he had died.



### Case 5

Aged 33, divorced. She got divorced before her imprisonment. She has one son, 12 years old. She has a high school diploma. She worked as a sales woman – had a small food and drinks stand, selling rice porridge and water. She earned enough money. She used to also save some money. She was convicted of selling drugs.

Her case was dismissed at the court of first instance. She received 8 years at the appeals court (the prosecutor had appealed). She hired a private lawyer, and her sentence was reduced to 5 years and 4 months at the Supreme Court. She has been in prison twice but connected to the same offence. She had 5 pills on her. When the police came her friends threw some of her pills away which ended up in a different location. So she had two cases: one for the pills on her, the other for the pill that had landed somewhere else. She received 2 years for the first case and served it.

She has served 2 years and 2 months of the second sentence. Her parents and brother visit her once a month. Her son doesn't know that she is in prison. She and her parents decided together not to tell him. On the first imprisonment he was told that she was in Kuwait, where she has an aunt. On this occasion he thinks she is in Koh Samui, where they have relatives. So she is not writing to her son and if she did her brother would not give him the letters. She suffered a lot of depression at the beginning, but is better now.

### Case 6

Aged 37, married with traditional marriage, no children. Convicted of burglary (with another person). Her boyfriend went gambling in a house next to another house where a burglary took place. He had parked his car in front of that house. He called her to ask her to come and get the car but did not tell her that a robbery had taken place there. By the time she got there the police had taken the number plate of the car. She took the car home, and then was arrested by the police - she had to admit that it was her car. Because her boyfriend is a habitual gambler and everyone knew that, he was an immediate suspect. The police suspected her of acting with him, saying "you are his wife, how could you not know?" The police asked for 20,000 BAHT in order not to charge her. She was afraid to get charged with bribing a police officer so she did not pay and was referred to the court. When she was in the prison on remand the same police officers came to have a meeting with her but she tried to avoid them. She hired a private lawyer. The lawyer went to the owner

of the house that had been robbed to find out what had actually been stolen. He said that many things were stolen but the neighbours said that nothing had been stolen.

She was sentenced to 6 years by the appeals court. The court did not believe her story. She was very upset and angry. She thought about going to the Supreme Court, but then decided that it must be her karma and accepted it. She had had an abortion before and thought that this was perhaps her karma for that.

### Case 7

Aged 43, married, no children. She has been convicted of theft and sentenced to 6 years, which was reduced by royal pardon to 5 years, and she has served one year of her sentence.

She came with her husband and uncle in two cars to the city. Her husband and uncle wanted to steal a buffalo. They separated when they arrived – her uncle went to steal a buffalo and she and her husband went to the beach. They were separated for 3 days from the uncle and after 3 days she was going back home with her husband, without the uncle, when her husband, who was very dependent on drugs, wanted to buy some amphetamine. The place to buy the drugs was in the same area where the buffalo had been stolen. She and her husband ran into the police on the way and they checked their ID cards and asked them to go to the police station, because they had arrested 2 people who had stolen a buffalo and her name was similar to the one. Her uncle was there. The police asked her if she knew him and she told them that he was her uncle. Then they asked her if they came to the city together. She told them that they had but that they had then separated. The police then said "this is the same gang" and put her in police custody. Then the police sent the case to the court. She got bail. The case took 13 years and finally she received the verdict from the Supreme Court. Her husband died during the appeal and she was sentenced to 6 years. The uncle is in prison too – he got 4 years only because he confessed. She had hired a private lawyer – somebody found the lawyer for her. He was not good. She had to spend 130,000 BAHT on him (around US\$ 4,250).

### Case 8

Her boyfriend was selling drugs and at the beginning she didn't know this. After a while she got to know this because her boyfriend gave her the drugs to keep and

when the police came they found the drugs on her – 42 tablets of amphetamine. She confessed at the court of first instance. She appealed on the basis of her caretaking responsibilities for her children. She confessed because otherwise her sentence would have been 4 years and 400,000 BAHT. She got half.

### Case 9

She is 26, married. Her husband is in prison too. They are both pre-trial – same case. They are charged with selling drugs: 130,000 tablets and 1.6 kg of crystal meth. There were five of them. Her husband has confessed and taken all the blame, because he was the one who committed the offence.

When she found out that her husband was involved in selling drugs she tried to separate from him. She was staying with her mother. She had a minimarket, where her husband was staying. One day they went to a funeral together and she went back with him to the minimarket because she wanted to clean up. Her husband was keeping the drugs there. The other men were also there. The police arrived, found the drugs and arrested them all. Her husband said immediately that she was not involved, but they took her with the others to the police station, and because she was still registered with her husband they arrested her too. She spent 3 days at the police station, where they gave her advice about how to get bail, but she couldn't get bail because the amount set to pay by the court was too high.

She is fighting her case. She has been in prison for 6 months. She is at the investigation stage – the verdict will be in June. She is very stressed and worried about her case, about her mother and children outside. She met with her husband once in the room outside. They were allowed to talk for one hour about the circumstances of the case. They also write to each other – they are allowed 15 lines each time. She meets her lawyer once a month or every two months.

### Case 10

Aged 31, had boyfriend but separated, with one son aged 6. She has been sentenced to 8 years, convicted of selling drugs (400 tablets). Her boyfriend had picked her up in his car to take her somewhere. He had tablets in the car, but she didn't know, although she did know that he was in the drugs business. They were caught and her boyfriend was sentenced to 25 years as his case is more serious. They have separated now.

She has served one year in this prison. She fought against her sentence but failed. She received the verdict of the Supreme Court last year. The case is 9 years old. She hired her own lawyer. She was on bail during this time. After the verdict of the court of first instance she was imprisoned.

### Foreign prisoners

#### Case 11

She is 27 years old, single with no children. She was convicted of drug trafficking. Her original sentence was 10 years. Then she got two reductions to her sentence by royal pardon, and her sentence was reduced to 7 years and 4 months. She has served 5 years and 8 months of her sentence and will be released next year in October.

She came to Thailand when she was 20 years old. She finished medicine at university, worked in her own country for 1 year and 8 months and then came to work in a hospital, or that what she thought. When in her own country she was contacted by a woman who asked her if she would like to work in a hospital in Phuket. She agreed. But on arrival they found cocaine in her bag. But the bag was not her bag although it had her luggage tag on it. It was similar but it didn't have her things in it. She doesn't understand when and how it happened because she had two transits before she came to Phuket and everything was alright in those airports. At first she was given a lawyer who only spoke Thai. Then she wrote to her embassy and her family sent her a lawyer, who tried to help her

She was first arrested in Phuket and spent 1 year and 6 months in Phuket prison. They did not contact her family immediately. Nobody in Phuket told her that she had the right to contact her embassy. One of the prisoners in Phuket spoke English and she found out from her that she could contact her embassy. So she wrote a letter to her embassy. When she came to this prison she was told that she could contact her embassy and that she could write to her family every week. The embassy helps her all the time with contacting her family. She exchanges letters with her family every two months.

#### Case 12

She is 32 and single and has no children. Her original sentence was 35 years, which was reduced with 4-5 royal pardons. Her current sentence is 16 years. She has

served 12 years and 7 months. She was convicted of drug trafficking – she brought drugs from Pakistan to Thailand.

She is from a poor family. One day a woman contacted her in her home country and asked her if she would like to work in a restaurant in Thailand. The woman said that as commission she would take part of her salary. When she arrived in Thailand the woman took her passport and said that she should sell her body to earn a living. She refused. Another woman from her country introduced her to a Nigerian man who said that he would arrange for a passport and buy her ticket home if she would bring drugs in from Pakistan. She accepted. She had been in Thailand for only 20 days. So she went to Pakistan. When she returned with the drugs she was arrested at the airport. Her friend was with her. She was taken to the police station where she remained for 14 days. Then she was brought here. She has had no lawyer. The court appointed a lawyer, but he could only speak Thai and she was not given an interpreter. When she was in the police station she contacted her embassy and someone from her embassy came once but the embassy was not told when she was going for trial to court so nobody was there at her trial. She never had an interpreter during the whole process. She signed papers in Thai, which she could not understand. She could not tell her story because she could not communicate.

## VI. SUMMARY OF RECOMMENDATIONS

The following are recommendations to DOC and individual prison facilities, based on the findings of the assessment and survey among women prisoners. This list summarises recommendations already made in the body of the report. While a number of these recommendations require additional resources, others require no investment at all in monetary terms. They need only a change of focus with a proper balance between security and rehabilitation and an increase in the links between prisons and the outside world.

- To undertake a thorough review and revision of all the primary and secondary legislation and rules which govern the management of prisons and correctional facilities in Thailand to bring them in line with the provisions of SMR and the Bangkok Rules, and to revise all prison staff training curricula and materials on this basis.
- To take measures in law and practice, to reduce the size of the female prison population, including by: reviewing and revising sentencing policies, to take into account mitigating factors, the vulnerabilities and caring responsibilities of women offenders, in line with the provisions of the Bangkok Rules; increasing the use of alternatives to imprisonment; considering the reduction of the current very long prison terms, especially in the case of first-time offenders; and considerably improving the implementation of early conditional release (parole), in line with Rule 63 of the Bangkok Rules, to stabilise and reduce the size of the female prison population.
- To review the criteria used for the allocation of women prisoners, in light of the provisions of the Bangkok Rules, to ensure that more women can spend

their prison terms closer to their homes, and to develop a DOC regulation on the transfer of women prisoners closer to their homes, as soon as they have become eligible for such a transfer and provided that they request such a transfer. These recommendations may necessitate the expansion of the capacity of some of the provincial and central prisons to accommodate more women. If the provisions of the Bangkok Rules on non-custodial measures and sanctions are implemented, and the sentencing of women reviewed also on the basis of the Bangkok Rules, as recommended above, then perhaps there would not be a need to expand capacity.

- To ensure that all newly admitted women prisoners are provided with assistance and facilities to contact their families and relatives, and where relevant legal representatives, that they receive full information about their rights, obligations, disciplinary procedures and the prison regime in writing and orally. Staff responsible for the admission of women should be specially trained to perform their duties in a professional and sensitive manner. Funds need to be allocated to translating and printing more copies of the handbook in different languages to be placed in the libraries of each prison, so that prisoners can refer to the handbook whenever they wish. The handbook itself may benefit from a review and updating.
- To improve the conditions in admission areas to reduce the mental distress experienced at this time, in particular admission zones such as the one which was referred to by prisoners in the Central Women's Correctional Institution, Bangkok (and possibly others which the assessment did not cover), which should provide facilities that reduce rather than increase the shock and distress of detention during this first period, which is a time of particular vulnerability.
- To ensure that all prisoners undergo a thorough medical examination promptly after admission to prison, covering all the areas set out in the Bangkok Rules, Rule 6. There is a need to develop a set of guidelines on medical examinations on admission, to ensure that all prisons use the same standards. It is also important to ensure that nurses identify women who should undergo a medical examination by a qualified doctor and that those prisoners are either immediately transferred to a community hospital for a full medical examination or that they are given a full medical examination on the next visit of the doctor to the prison, depending on the urgency of the case.

- To review the way in which blood tests are conducted on admission in the Correctional Facility for Female Drug Addicts in Pathum Thani and if they do indeed include testing for HIV, to discontinue this practice. Instead such testing should be offered to prisoners who have participated in an awareness raising programme on HIV and AIDS and conducted only following a voluntary application by prisoners and following a pre-test counselling provided by a qualified and trained nurse.<sup>143</sup>
- To develop guidelines on the measures that need to be taken if an indication of ill-treatment is detected or if a woman alleges abuse, in line with the Bangkok Rules, Rule 7 and to provide training to staff responsible for admission on the guidelines.
- To introduce measures to assist women who do not have legal representation to access legal counsel, taking into account the findings of the survey which indicate that 45 % of women had not had lawyers at the time of their trial. The Bangkok Rules require specifically that assistance is provided to women on admission to access legal counsel.<sup>144</sup> offence
- To introduce the Bangkok Rules' provisions on the gender sensitive assessment and classification of women prisoners and to develop individual sentence plans on the basis of such assessments in Thailand's women's prisons. Taking into account the acute overcrowding, the size of the female prison population and the shortage of staff, including specialist staff such as social workers and psychologists, this may be a gradual process. However, it is a process that must start soon if Thailand is committed to implementing the Bangkok Rules in their prisons.
- To develop guidelines or standards on ensuring medical confidentiality in prisons, to take measures to put these guidelines into practice in all prisons and to train healthcare staff as well as other staff on medical confidentiality. In this context trustee prisoners' access to the medical information of other prisoners should be discontinued in prisons where it occurs.
- To increase the number of qualified healthcare staff working in prisons, both to ensure medical confidentiality as well as to offer better quality,

143 WHO recommends that all testing and counselling services must include the five C's: informed Consent, Confidentiality, Counselling, Correct test results and linkage to Care, treatment and other services. <http://www.who.int/mediacentre/factsheets/fs360/en/>

144 Bangkok Rules, Rule 2

individualised healthcare services to women prisoners, thereby improving compliance with the Bangkok Rules.

- To undertake a review of the quality and quantity of food that can be provided with the budget allocated for this purpose, and to increase the budget if necessary. It is also recommended that regular checks are undertaken to assess practice in individual prisons, in order to ensure that this most basic and essential right of prisoners is reflected in practice to prevent feelings of discontent and the harmful impact of inadequate nutrition on the health of prisoners.
- Given the special hygiene needs of women prisoners and the key role of hygiene in the prevention of disease and promotion of health, it is felt that measures need to be taken to improve the provision of hygiene for women prisoners. It is recommended that the daily timetable in the prisons be reviewed to extend bathing times, taking into account that the prisons are overcrowded far beyond their original capacity – a measure which will cost nothing in monetary terms. Secondly, it is recommended that prisoners are allowed more water for washing themselves and ideally such water should be running water, rather than water stored in large troughs, which can be unhygienic. It is also recommended that DOC reviews and increases its budget for the provision of hygiene articles for women prisoners, in order that they can be provided all of their needs, including adequate sanitary pads free-of-charge, as required by the Bangkok Rules.
- To urgently increase the number of open visits allowed to women prisoners and in particular to women prisoners with children. Such visits should take place much more frequently, for example, once every month or at least once every three months.
- To review and revise policies on the monitoring of letters with a view to discontinuing reading all letters, which is not justified by security concerns. Only the correspondence of a small number of prisoners, who are considered to be a security risk, may need to be subject to censorship. Thus limited staff resources could be allocated elsewhere, including to security measures which are genuinely justified.
- Not to put restrictions on the length of prisoners' letters, so that a meaningful communication between them and their families is promoted and relationships with spouses and families are preserved.

- To install a sufficient number of telephones in all women's prisons and sections of prisons where women are held and to allow prisoners to use these phones on a regular basis. This may be a weekly or even a daily basis. Consideration should be given to relaxing the rules for using telephones to enable a larger number of women to benefit from this means of communication. As regards addressing security concerns, there is a need to maintain a balance between the right to privacy of the prisoner and her family on one hand and the legitimate needs of security on the other. While the prison authorities need to be sure that prisoners are not using telephone calls to arrange illegal activities, they can do this by, for example, recording all calls and retaining the taped record for a specific period of time, similar to practice in some other countries. The only telephone calls which need to be listened to by staff as they are made are those by or to prisoners who have been assessed as presenting a high degree of risk, which will be only a very small minority among women prisoners.
- To allow women prisoners to watch live television programmes, so that they can keep in touch with the daily news and developments in Thailand and around the world.
- Not to use solitary confinement at all in the case of women prisoners, as such isolation is harmful to mental health and international standards and bodies recommend that it is either not used at all or used in only exceptional circumstances. At the very least, if used, the period of such confinement should be as short as possible, and it should never be used in the case of pregnant women, breastfeeding mothers and mothers with children, in line with the Bangkok Rules, Rule 22.
- To prohibit the suspension of visits as a punishment in the case of all women prisoners.
- To discontinue urgently the routine practice of invasive body searches of all women prisoners being admitted to some prisons. Such searches, if they must be used at all, should only be used in exceptional circumstances when there is genuine justification to suspect that a woman might be concealing an illegal item on her body. The search should be carried out by staff, who must be trained to carry out such searches without endangering the prisoner's health and with full respect to women's privacy and dignity. Alternatively, women may be searched by a doctor or nurse, who are not members of the regular healthcare staff of the prison.

- To discontinue the routine strip searching of all women prisoners on admission, in line with the provisions of the Bangkok Rules, Rule 20, and to undertake such searches only in circumstances when there is genuine justification.
- To prescribe by law the circumstances in which invasive body searches and strip searches may be carried out, if at all.
- To make efforts to increase the proportion of women participating in education programmes taking into account the findings of the survey conducted among women prisoners, which indicated that 65 per cent of women had difficulty reading, and 67 per cent had problems with writing.
- Noting that vocational training in prison and employment following release made up the largest proportion of responses given by women to the question as to what would improve their social reintegration prospects, it is recommended that efforts are made to increase the proportion of women taking part in vocational training programmes, to improve women's prospects of social reintegration.
- To encourage organisations of civil society to work in women's prisons, delivering programmes and providing services, thereby reducing the burden on prison staff and increasing the range of programmes on offer, while at the same time strengthening the positive impact of such programmes on prisoners who will benefit from the additional links with the outside world.
- To increase the number of psychologists and social workers in women's prisons so that the mental healthcare needs of women prisoners are routinely assessed on entry and to start the process of developing individualised psycho-social counselling programmes for those women who are in need of such support. Social workers have an important role to play in assistance with the maintenance of family links, visits and many other practical challenges which arise from women's imprisonment. They should be able to focus on their work rather than being diverted to undertake security related responsibilities. The increase in the number of specialist staff can also enable the development of comprehensive pre- and post-release support programmes to women prisoners, including special programmes for prisoners who have served long sentences and will need additional support during their re-entry period. In this context it is recommended that links and cooperation with probation services should be strengthened, to improve the post release support provided to women prisoners.
- The transparency of prisons in Thailand needs to be increased considerably. In this context a key step that should be taken is the setting up of a system of independent monitoring of prisons, with membership from independent experts and civil society organisations. Monitoring needs to be undertaken on a regular and unannounced basis and recommendations submitted to the Ministry of Justice and prison authorities. The authorities should have a responsibility to respond to such recommendations and the reports of the monitoring body should be accessible to the public.
- To increase staffing levels in women's prisons in general. The current overall ratio of around 1:20 is a very unsatisfactory ratio, well below the internationally recommended ratio of 1:3. The shortage of staff and overcrowding in prisons can be a source of immense tension, while also hindering staff to perform their duties satisfactorily. Such shortage also leads to the use of trustee prisoners as support which has no place in good prison management practices. The staffing levels of prisons need to be increased considerably so that there are sufficient staff to fulfil all the responsibilities currently being entrusted to trustee prisoners and so that a policy of dynamic security can be implemented, eliminating the reliance of prisoner informants.
- To speed up the training provided on the Bangkok Rules. With the current training of 150-170 staff each year all the female staff may only be trained in around 12 years. Taking into account the turnover of staff as well, which was indicated to be quite rapid, it seems that more staff needs to be trained each year to speed up the implementation of the Bangkok Rules in all prisons where women are held.

**The following are the recommendations for future research activities:**

- Sampling: While the purposive sampling approach used here was appropriate for this pilot survey, a more representative, and perhaps larger, sample should be considered in future. This approach would involve more rigorous sampling procedures and include every facility for women in Thailand and employ more formal randomization. Use of more rigorous sampling procedures would enable a more sophisticated statistical analysis of data.
- Items (questions): Although every attempt was made to address issues raised in the Bangkok Rules in the development of individual questionnaire items, several areas require more investigation. As noted in the narrative section in Part IV, sensitive questions attempting to measure substance abuse, mental

health, personal abuse and similar issues may have been less successful in this pilot. Further research on such issues using validated instruments is suggested. Additionally, the questionnaire and its utility should be reviewed to determine the addition of other areas of interest to prison managers, policy makers and advocates for women in prison.

- Supplemental methodologies: Related to the recommendations about the nature of the items, additional methodologies should be considered to collect data both on some of the more sensitive questions and to explore critical issues more deeply. For example, abuse backgrounds and mental health needs may be better understood through the use of personal interviews, review of clinical files and other methodologies.
- Cultural context and language requirements: Administration of this survey outside of Thailand (e.g., other ASEAN countries), would require a careful review of the cultural and linguistic issues in modifying this survey.
- Several additional areas of study can be considered, including:
  - ♦ Violence and safety among imprisoned women
  - ♦ Interaction between staff and prisoners
  - ♦ Process and outcome evaluations of existing programmes
  - ♦ Recidivism and other outcomes
  - ♦ The process of re-entry and reintegration
  - ♦ The effects of imprisonment on children of women prisoners
  - ♦ Staff training needs for working with female offenders.
- Finally, while this study focused on imprisoned women in collecting data related to the Bangkok Rules, research should be planned to examine the related areas of non-custodial measures and other alternatives to incarceration for women.

## Appendix 1: Programme Of Prison Visits

### 15 – 16 January 2012

#### Central Women’s Correctional Institution, Bangkok

##### Day 1

- 9.30 Arrive Central Women’s Correctional Institution, Bangkok  
Interviews with correctional officials / prison assessment
- Afternoon Prison assessment
- Evening Return back

##### Day 2

- 9.30 Arrive Central Women’s Correctional Institution, Bangkok  
Survey of women prisoners
- Afternoon Interviews with women prisoners
- Evening Return back

### 17 – 18 January 2012

#### Ratchaburi Central and Remand Prison, Ratchaburi Province

##### Day 1

- 9.30 Arrive Ratchaburi Central and Remand Prison  
Interviews with correctional officials / prison assessment

Afternoon Prison assessment

**Day 2**

Morning Survey of women prisoners (Ratchaburi Central Prison)

Afternoon Interviews with women prisoners

Evening Return to Bangkok

**21 – 22 January 2012**

**Chonburi Women's Correctional Institution, Chonburi province**

**Day 1**

9.30 Interviews with correctional officials / prison assessment

Afternoon Prison assessment

**Day 2**

9.30 Survey of women prisoners

Afternoon Interviews with women prisoners

Evening Depart Chonburi province for Rayong province

**23– 24 January 2012**

**Rayong Central and Remand Prison, Rayong Province**

**Day 1**

9.30 Arrive Rayong Central and Remand Prison  
Interviews with correctional officials / prison assessment

Afternoon Prison assessment

**Day 2**

9.30 Survey of women prisoners (Rayong Remand Prison)

Afternoon Interviews with women prisoners

Evening Return to Bangkok

**28 – 29 January 2012**

**Chiang Mai Women's Correctional Institution, Chiang Mai province**

**Day 1**

9.30 Arrive Chiang Mai Women's Correctional Institution  
Interviews with correctional officials / prison assessment

Afternoon Prison assessment

**Day 2**

9.30 Survey of women prisoners

Afternoon Interviews with women prisoners

Evening Return to Bangkok

**30 – 31 January 2012**

**Correctional Institution for Female Drug Addicts, Phatum Thani**

**Day 1**

9.30 Arrive Correctional Institution for Female Drug Addicts,  
Phatum Thani  
Interviews with correctional officials / prison assessment

Afternoon Prison assessment

Evening Return to Bangkok

**Day 2**

9.30 Arrive Correctional Institution for Female Drug Addicts,  
Phatum Thani  
Survey of women prisoners

Afternoon Interviews with women prisoners

Evening Return to Bangkok



