

Women in detention

Putting the UN Bangkok Rules on women prisoners into practice

Comprehensive
guidance on
10 topics

Global perspectives

Interactive
self-assessments



Women in detention: Putting the UN Bangkok Rules into practice

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Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide.

We promote alternatives to prison which support the rehabilitation of offenders, and promote the right of detainees to fair and humane treatment. We campaign for the prevention of torture and the abolition of the death penalty, and we work to ensure just and appropriate responses to children and women who come into contact with the law.

We currently have programmes in the Middle East and North Africa, Sub-Saharan Africa, Eastern Europe, Central Asia and the South Caucasus, and work with partners in South Asia.

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Welcome

Welcome to this Workbook, *Women in detention: Putting the UN Bangkok Rules into practice*.

More than 700,000 women and girls are held in prisons around the world. Women are always a small minority in national prison populations – only 2–9 per cent on average. However, their numbers are growing every year, and at a faster rate than for men.

Historically, prisons and prison regimes have almost invariably been designed for the majority male prison population – from the architecture of prisons to security procedures, healthcare, family contact, work and training. As a result, the gender-specific needs and backgrounds of women in prison have largely been overlooked.

In 2010, the United Nations adopted the Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the ‘Bangkok Rules’) to give guidance on how to meet the specific needs of women in prison.

Sensitisation and training is a key aspect of implementing the Bangkok Rules at a national level. This Workbook has been designed to support prison staff, policymakers, healthcare practitioners, representatives of intergovernmental and non-governmental organisations, and other interested stakeholders, to put the Bangkok Rules into practice.

The Workbook draws on the UN Nelson Mandela Rules (revised Standard Minimum Rules for the Treatment of Prisoners), global good practice and research findings to provide practical guidance, using exercises and case studies.

At the end of the ten modules, you will have the tools and knowledge to design gender-sensitive policies and practices for women offenders and prisoners and apply them in your professional role.



All staff assigned to work with women prisoners shall receive training relating to the gender-specific needs and human rights of women prisoners.



Rule 33, Bangkok Rules



This course is also online!

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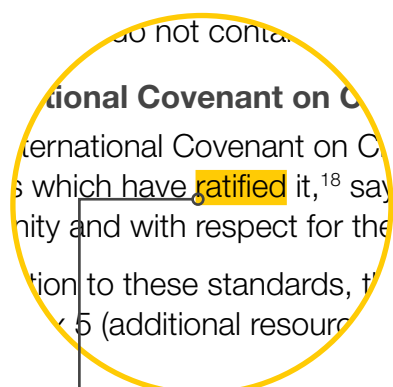
The e-course was developed in partnership with Human Rights Education Associates with funding from the UK Government.

Using the Workbook

Going through this Workbook will take some time. It is expected that each module will take a maximum of one hour to complete, but the Workbook is designed to be completed at your own pace.

You will be guided through each theme with the following material.

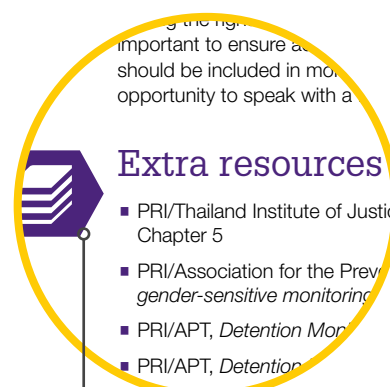
- ➞ Learning objectives and questions to be addressed in each module.
- ➞ Explanations as to how provisions in the Bangkok Rules can be interpreted, and measures to put them into practice.
- ➞ Brainstorming to develop new ideas.
- ➞ Exercises to check your understanding.
- ➞ Case studies to apply the Bangkok Rules.
- ➞ Examples of promising practice to inspire new thinking and provide solutions.
- ➞ Additional resources to delve deeper into specific topics.
- ➞ End-of-module quizzes to assess your understanding.



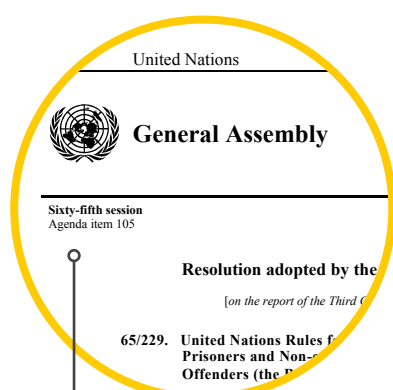
- Terms that you may not be familiar with are highlighted and explained in the glossary on page 169.



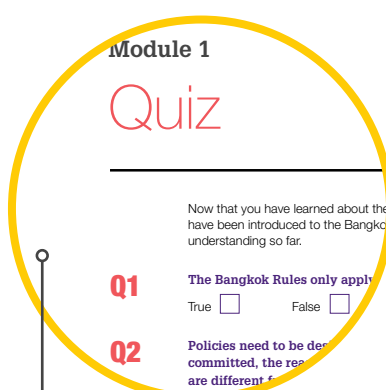
- Provisions of the Bangkok Rules and the other key instrument for the treatment of prisoners, the Nelson Mandela Rules, are highlighted throughout for easy spotting.



- Extra resources and reading materials for guidance on specific issues covered in each theme are listed at the end of each module.



- You can look up the full text of the Bangkok Rules at the back of the Workbook on page 155.



- At the end of each module is a three-question quiz you can take to assess your understanding. For each question that you answer correctly, you can score a maximum of three points.



- ➞ You will need to refer to the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*.

*Download a copy here: <https://www.penalreform.org/resource/standard-minimum-rules-treatment-prisoners-smr/>

Module 1

Introduction to women prisoners and the Bangkok Rules



Module 1

Introduction to women prisoners and the Bangkok Rules

Introduction

In 2010, the United Nations Rules on the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders were adopted by 193 member states of the UN, as the 'Bangkok Rules'. This represented an important step forward in recognising the specific needs of women in the criminal justice system and providing a comprehensive set of standards that should be applied in the treatment of such women. Until then, there were only a handful of relevant provisions in existing international standards.

Before learning about the specific Rules and what is required to put them into practice, it is important to understand the typical background of women offenders and their needs. It is also helpful to know how the Bangkok Rules fit in with other standards that exist.

Learning objectives

In this module you will cover the following topics.

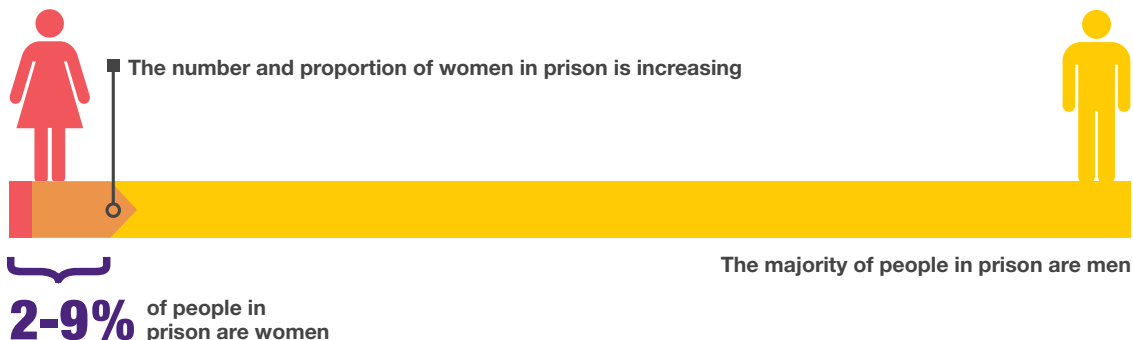
- ➞ Who are women prisoners?
- ➞ What are the needs of women prisoners?
- ➞ How does the criminal justice system discriminate against women?
- ➞ What is the principle of non-discrimination?
- ➞ Why does it not constitute discrimination if women prisoners' gender-specific needs are provided for?
- ➞ What is the international framework on prisoners' rights?
- ➞ What are the Bangkok Rules?



Who are women prisoners?

Women prisoners in numbers

Women and girls make up a minority of prisoners around the world. There are more than 700,000 women in detention globally, but they constitute only an estimated two to nine per cent of national prison populations.¹



Visit the World Prison Brief online to see what percentage of the prison population are women in your country: www.prisonstudies.org/highest-to-lowest/prison-population-total.

In recent years, the number of women in prison has increased significantly in most countries, and at a faster rate than that of men. However, because of the relatively small percentage of women prisoners around the world, women's characteristics and needs have tended to remain unacknowledged or little understood, and their needs are largely unmet.

Characteristics of women offenders



Case study: Julie Bilotta

In September 2012, Julie Bilotta was eight months pregnant and in **pre-trial detention** on drug and fraud-related charges at a prison in the Canadian capital, Ottawa. She started to experience labour pains, but prison staff ignored her. Nursing staff told her she was in 'phantom labour' and gave her indigestion medicine.

After continuing to complain, Julie was told to 'shut up' and was moved to a segregated cell. A guard told her, 'You should have thought about that before you got pregnant'.

Segregation cells are about the size of a closet, constructed of concrete with a steel bunk, a mattress, a steel toilet and sink, and a small window. There is a meal slot in the steel door that can only be opened from the outside, and prisoners must yell through it if they want a guard to come.

Only when the baby's feet emerged did nurses recognise that Julie was in labour, and staff called an ambulance. The baby was born in the cell, with respiratory problems. Julie needed a blood transfusion.

Julie was allowed to hold her baby in the ambulance on the way to the hospital after his birth. For the next three weeks, until she was moved to a halfway house, Julie was able to see him only through **'closed visits'** – meaning for a limit of 20 minutes and behind glass.



Julie Bilotta's story illustrates one of the more obvious needs of women prisoners – related to pregnancy and childbirth – and how, even in high-income countries, their needs can be overlooked. As Dawn Moore, a journalist writing on Julie's case, put it: 'Because the vast majority of lawbreakers are male, the prison as a primary tool of punishment has always had an "add women and stir" strategy, assuming that men and women are interchangeable when it comes to incarceration.'²

Pregnancy is one of the more obvious characteristics associated with women prisoners. However, there are many others that need to be understood.



Exercise 1.1

What characteristics of female offenders can you think of?

- 1.
- 2.
- 3.
- 4.
- 5.

See page 171 to check your answers.



Physical characteristics

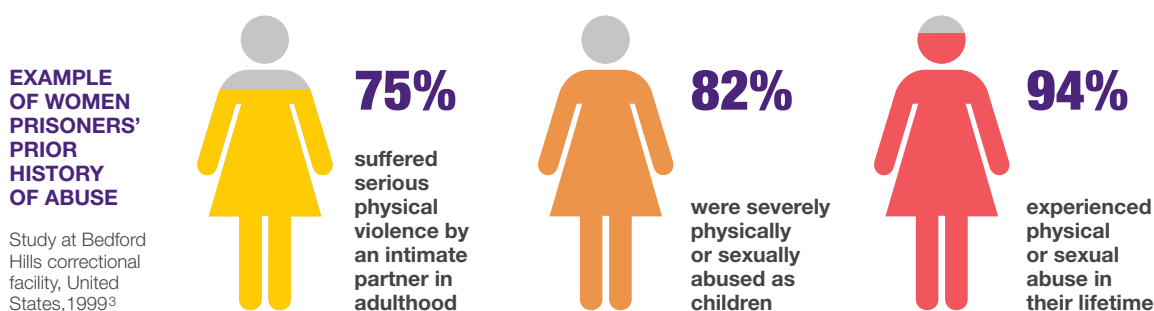
At the most basic level, women and men are physiologically different and have specific healthcare and hygiene needs. These extend beyond **pre- and post-natal care**. Women also may have been victims of sexual abuse before entering prison, and when in prison are particularly vulnerable to self-harm and physical abuse.

Type of offences

In contrast to male prison populations, only a small minority of women are convicted of violent offences. Women mainly commit petty crimes such as theft, fraud and drug-related offences.

Experience of violence

A high proportion of women in prison have experienced some form of violence in their lives. Research shows that prior emotional, physical, and/or sexual abuse often contributes to women's criminal behaviour.



Economic disadvantage

Offences committed by women are closely linked to poverty and are often a means of survival to support their family and children. The majority of women offenders and prisoners come from socially disadvantaged communities and groups. This is also true for male prisoners; however, **discrimination against women** in society results in unequal power relations and lack of access to economic resources. For example, women can be particularly vulnerable to being detained, either because they cannot afford legal representation, bail or fines for petty offences, or because the male family members on whom they depend are unwilling to pay on their behalf.

Family matters

Traditional gender roles often result in a particular stigma against women in prison. While women regularly support their partners in prison and upon release, women prisoners tend to be shunned by their spouses and often even by the whole family and community.

At the same time, women are often the sole or primary caretakers of young children, which means that even short periods of detention can have a greater impact on children and the wider family. In some cases, women are imprisoned during pregnancy or soon after giving birth and may have their children living with them in prison.

Other typical characteristics

A high percentage of women **offenders** are drug users, will have experienced violence, including sexual abuse, or have been involved in sex work. The typical female offender is young, unemployed, has a low level of education and has dependent children. They also lack information about their rights in criminal justice and prison settings.



What are the needs of women prisoners?

These specific characteristics mean that women have different needs that must be met when they are imprisoned or under **non-custodial measures**.

However, prison systems and prison regimes are usually designed for the majority male population. This includes everything from the architecture of prisons, security procedures, staffing of prisons and facilities for healthcare to family contact, work and training. As a result, many prisons tend not to meet the needs of women on multiple levels. Here are some common problems.

- The vast majority of women do not pose a high security risk, but security procedures such as intrusive body searches are commonly carried out unnecessarily.
- There is a shortage of healthcare services (including but not limited to reproductive healthcare) tailored to women's needs in prisons. Female doctors are often not available.
- Sanitary items are not available for women, although shaving items may be for men.
- Fewer work or rehabilitation programmes are available in women's prisons. Programmes for women are not geared towards employment after release.
- Because there are generally far fewer prison facilities for women (due to their small numbers), women offenders are often imprisoned far from home. This limits their contact with their families and results in women often being held at a higher security level than necessary.

In Modules 2–9 we will look at these issues in more depth and find out how to meet the needs of women prisoners by putting the Bangkok Rules into practice in all areas of the prison regime.

How does the criminal justice system discriminate against women?

A considerable proportion of women offenders are in prison as a direct or indirect result of the many forms of discrimination and deprivation they experience. While this discrimination often happens at the hands of their husbands or partners, their families and the community, it can also be built into criminal justice systems around the world.



Exercise 1.2

How might women be discriminated against in your criminal justice system?

HERE ARE SOME EXAMPLES OF SYSTEMIC DISCRIMINATION THAT WE HAVE COME ACROSS.

The Americas

Harsh drug policies adopted in the 'war on drugs' have discriminated against women, who are mostly imprisoned for low-level drug offences and are thus easy targets for law enforcement. For example, in the United States, in 2014, 24 per cent of women prisoners were serving sentences for drug crimes, compared to 15 per cent of men.⁴ In many Latin American countries, such as Argentina (68 per cent), Costa Rica (70 per cent) and Peru (66 per cent) the rates among female prisoners are higher still. In Ecuador, 77 per cent of women in prison were imprisoned for drug offences, compared to 33 per cent of the male prison population.⁵

Nicaragua

In Nicaragua, all cases of abortion have been criminalised. The penal code imposes prison terms on women and girls who seek or obtain an abortion, regardless of the circumstances. With abortion penalised, the risk of unsafe procedures is high, resulting in complications or long-lasting need for treatment.⁶

Sierra Leone

In Sierra Leone, women can be arrested and imprisoned for 'fraudulent conversion', with many cases simple matters of unpaid debt. Such a charge can result in a woman being detained for several months to several years for owing amounts as small as US\$100. This offence

disproportionately affects poor women who are dependent on petty trading to support themselves. Once arrested, women can remain in detention for long periods if a male family member is unwilling to provide a surety to secure their bail.⁷

Spain

Very few women commit violent offences, but of those who do, a significant number committed the offence against an abusive partner. In most countries, however, the impact of prolonged emotional and physical abuse is unlikely to be taken into account in the sentence women receive. It may even work against them. For example, in Spain, the fact of 'kinship' – that the

victim and perpetrator were related – may outweigh the history of abuse and lead to a harsher sentence.⁸

Jordan

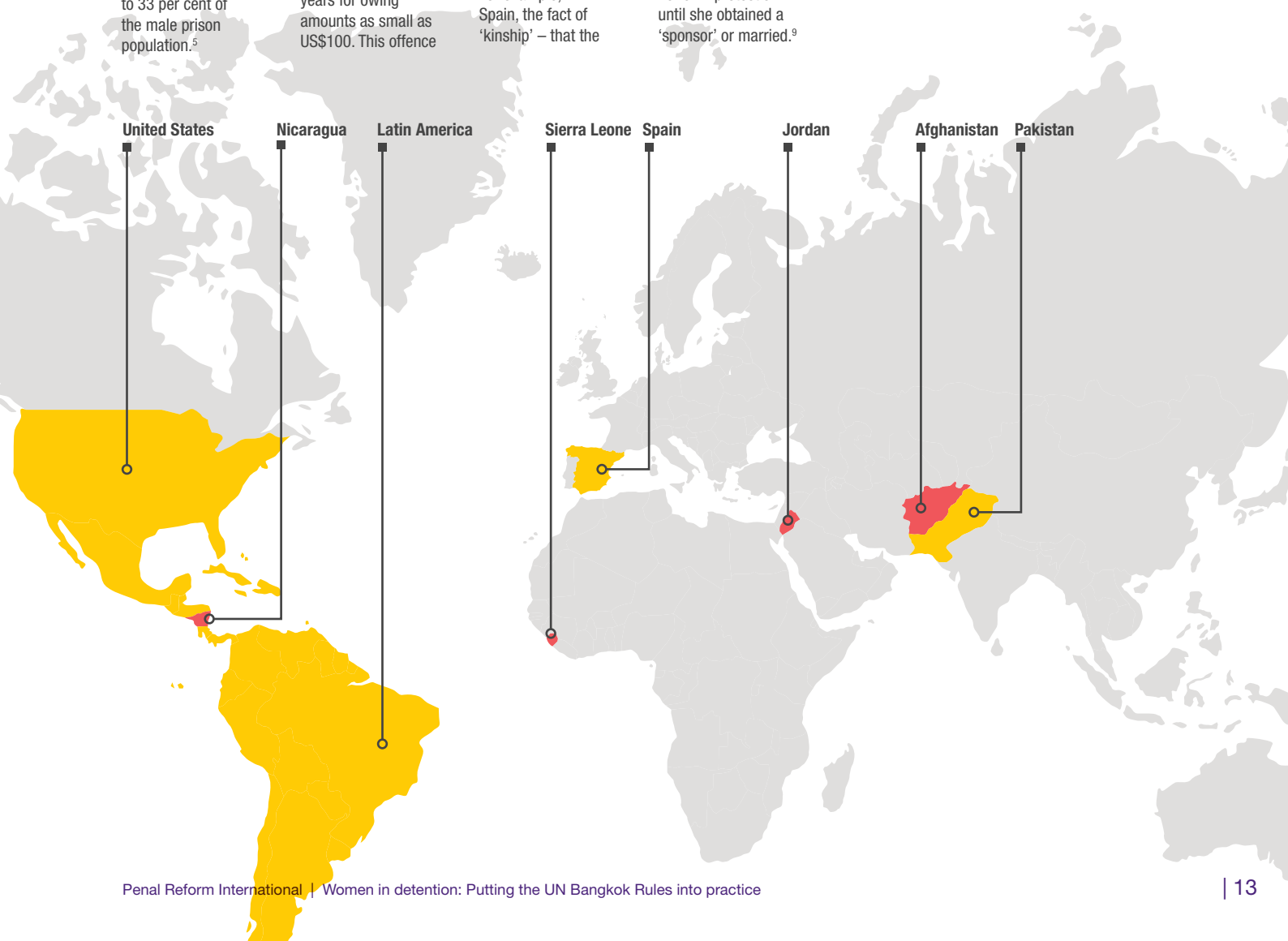
In Jordan (and some other countries) women are detained on the grounds of 'protection', sometimes for over a decade, because they are at risk of becoming victims of honour crimes. One woman, Maysun, was detained for at least 10 years after she was raped by her brother and nephew and received a three-and-a-half-year sentence for unlawful sex. After serving her sentence, the Governor, on the basis of a crime prevention law, insisted that she remain in prison for her own protection until she obtained a 'sponsor' or married.⁹

Afghanistan

In Afghanistan (and some other countries), victims of rape are charged with the crime of adultery ('zina'). To prove rape is extremely difficult, so rape victims are often penalised and imprisoned for adultery, and as a result are shamed and stigmatised by their families and communities.¹⁰ Furthermore, women are unable to approach 'jirgas' or 'shuras' (councils of male elders that are tasked with resolving criminal cases) without the assistance of a male relative, limiting their access to justice.¹¹

Pakistan

In Pakistan, there are many women detained pre-trial for long periods, even for minor offences and often for longer than the sentence attached to the alleged offence, as they have been abandoned by their families and are unable to pay bail themselves. This is particularly common in cases involving adultery or narcotics, where even after being proven innocent and acquitted, they carry the stigma of having been in jail. Women abandoned by their families are also more vulnerable to physical and sexual abuse by prison staff, as there are no relatives to pursue their case or to bribe the prison staff.¹²



What is the principle of non-discrimination?

All international standards share the core concept of **non-discrimination**, including discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The principle of non-discrimination is based on Article 1 of the Universal Declaration of Human Rights: 'All human beings are born free and equal in dignity and rights.' This concept applies to all human beings, including prisoners. However, because prisons and their systems are designed for the needs of the majority male prisoner population, discrimination against women prisoners is often inbuilt.



Example: Activities offered to male and female prisoners

This example from the state of New Hampshire in the USA gives a better picture of the issue. The image below compares the activities offered for imprisoned men and women in New Hampshire.¹³

ACTIVITIES OFFERED TO WOMEN

A course in Computers and business education ■ Library ■ Indoor gym ■ Small portion of a single room for a few sewing machines.

ACTIVITIES OFFERED TO MEN

Courses in: Computers and business education ■ Building trades ■ Vehicle trades ■ Culinary arts and cooking ■ Library and nine classrooms ■ Indoor gym ■ Chapel ■ Mental health services with treatment group rooms ■ A warehouse and maintenance shops ■ Hobby craft area ■ Several shops providing industrial and vocational training activities.



In 2011, a report by the New Hampshire State Advisory Committee¹⁴ observed:

'It is noteworthy that the vocational training opportunities made available to incarcerated men reflect the kinds of well-paying work from which women have been traditionally excluded... automotive mechanics, carpentry and the like, while the sole industry available to women at the Goffstown prison is sewing. The facts speak for themselves regarding the state's complicity in sex-based discrimination confronting incarcerated women within the state.'

The Committee's study found that the significant difference in services offered to women prisoners has resulted in exceptionally high **recidivism** rates for female offenders in New Hampshire. In 2005, the recidivism rate for women was at an unprecedented high of 56 per cent compared to 49 per cent for men.

The report found that: 'The failure of the state to provide comparable services in these respects seriously affects the ability of women offenders to maintain appropriate family relationships, impairs their mental and physical health, and inhibits their ability to prepare for productive and self-supporting work upon their eventual release from incarceration.'

'New Hampshire has an exceptionally high recidivism rate for female offenders and is one of only a few states in the country with a recidivism rate for women that exceeds the comparable rate for men. This is a powerful testament to the high cost that the state pays for its failure to address unequal conditions of confinement faced by female offenders.'

Overleaf is a case study to apply the principle of non-discrimination.



Case study: Inga Abramova

1. Facts

In October 2007, Inga Abramova was arrested in Minsk, Belarus, and found guilty of minor hooliganism. She was imprisoned for five days in **administrative detention**. When admitted to prison, she was searched by a male guard because there were no female staff at the facility. During the search, one of the guards poked her buttock with his finger, made humiliating comments and threatened to strip search her.

Inga was held in a cold cell located underground, one of the two cells designated for women's housing in this prison facility (male detainees were housed upstairs). The cell was cold and poorly lit. The bedding was dirty and the cell was full of spiders. There was a toilet bowl inside the cell separated from the rest of the cell only by a small screen.

Prison staff members were able to watch the prisoners through the door's peephole which had a view of the toilet. The guards made frequent comments about Inga, 'joking' that she would be 'taken outside and shot' and calling her 'the fourth', as that was the number of her bed in the cell.

2. The case

Inga complained about her treatment to government departments and courts in Belarus, but without success. She ultimately submitted a complaint to the **UN Committee on the Elimination of Discrimination against Women (CEDAW)**.

In her complaint, Inga claimed that she was subjected to inhuman and degrading treatment, and that the conditions of detention may have had an adverse effect on her reproductive health. She also argued that the prison facilities were not adapted to the detention of women.

She stated that only one detention block located in Minsk is staffed by female employees whereas the rest are staffed exclusively by men. She further claimed that her conditions were worse than those of male prisoners and that she was subjected to sexual harassment.

3. The Committee's decision

The Committee found that Belarus had failed to meet its obligations as Inga had been subject to sexual harassment and discrimination (based on her gender as a woman). The Committee:¹⁵

- reiterated that women prisoners should be supervised only by female officers (**Rule 81 of the UN Standard Minimum Rules**);
- ruled that discrimination against women encompasses violence directed against a woman because she is a woman and also ill-treatment that affects women disproportionately;
- stated that detention facilities which do not address the specific needs of women constitute discrimination (referring to the **Bangkok Rules**);
- and ruled that the disrespectful treatment Inga experienced from male staff constituted sexual harassment and discrimination.



Exercise 1.3

Which of the following factors in Inga's case were gender-related?

(Tick all that apply)

- | | |
|---|---|
| ☐ Underground cell location. (1) | ☐ Cold cell. (5) |
| ☐ Searched by a male guard. (2) | ☐ Cell full of spiders. (6) |
| ☐ Sexual harassment during search. (3) | ☐ Dirty bedding. (7) |
| ☐ Toilet exposed to peeping by male prison staff. (4) | |

Check your answers on page 171.

Inga's case shows that factors are gender-specific if they are directed against a woman prisoner because she is a woman or if they affect women disproportionately.

The Bangkok Rules provide guidance on what action is needed to uphold the principle of non-discrimination, by providing equality in all areas of a penal system and prison regime – from sentencing and providing healthcare in prison, through to post-release services.

Why does it not constitute discrimination if women prisoners' gender-specific needs are provided for?

Equal treatment does not result in equal outcomes. Discrimination comes in many forms – from the number of rehabilitation services available, to the fact that women offenders are often imprisoned far from home due to the small number of prison facilities available for women. To counter this systematic discrimination, policies that specifically address the needs of women prisoners need to be designed.

Bangkok Rule 1 declares that policies developed for female prisoners do not constitute discrimination against male prisoners. This rule supplements **Rule 2 of the UN Standard Minimum Rules (Nelson Mandela Rules)** which requires that each prisoner's needs are provided for, so that no prisoner experiences any discrimination in their treatment. Given the discrimination usually faced by female prisoners, proactive measures are needed to achieve equality for women.



Treating as equal those who are unequal not only leads to further inequality, it also leads to injustice.

Baroness Helena Kennedy (UK)¹⁶



This illustration demonstrates that treating everyone as equal does not lead to equity or justice.¹⁷

What is the international framework on prisoners' rights?

There are a number of standards that make up the international framework on the treatment of people in prison and those serving alternative sanctions.

These include the **UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)**, which were revised in 2015, and the **UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)**. Additionally, other international conventions and standards have principles that apply to the treatment of prisoners and offenders.

International legal standards

The UN Bangkok Rules supplement rather than replace the Standard Minimum Rules and the Tokyo Rules, filling the gaps related to specific needs of female offenders.

UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

The Standard Minimum Rules for the Treatment of Prisoners (SMR) were initially adopted by the United Nations in 1955. On 17 December 2015 a revised version was adopted following a four-year revision process. The revised Rules are known as the 'Nelson Mandela Rules'.



Resources on the Nelson Mandela Rules

The full text of the Rules can be found here: penalreform.org/resource/standard-minimum-rules-treatment-prisoners-smr/

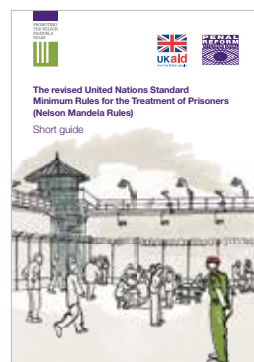
Visit our website to watch a two-minute **animated introductory video** on the Nelson Mandela Rules:

penalreform.org/resource/the-nelson-mandela-rules-an-animated-introduction/



You can also download a **short guide** which summarises the Mandela Rules:

penalreform.org/resource/short-guide-to-the-nelson-mandela-rules/



All available in multiple languages.

The Nelson Mandela Rules are a set of minimum standards for the treatment of prisoners and in many countries are the only reference point for the treatment of prisoners. The Rules have been used as a blueprint for the drafting of national prison rules.



There are a number of specific rules in the Nelson Mandela Rules relating to female prisoners, supplementing the Bangkok Rules.

- Women and men should be detained in separate facilities: **Rule 11(a)**.
- Women's institutions should provide specific accommodation for pre- and post-natal care and treatment: **Rule 28**.
- The decision on whether children are accommodated in prison with their parent should be based on the best interests of the child. Provision needs to be made for childcare facilities and healthcare services for children: **Rule 29**.
- Women prisoners should be supervised and attended to by female prison officers: **Rule 81(3)**.
- Women's institutions should be under the authority of a responsible woman officer: **Rule 81(1)**.
- No male member of staff should enter a women's institution unless accompanied by a woman officer: **Rule 81(2)**.

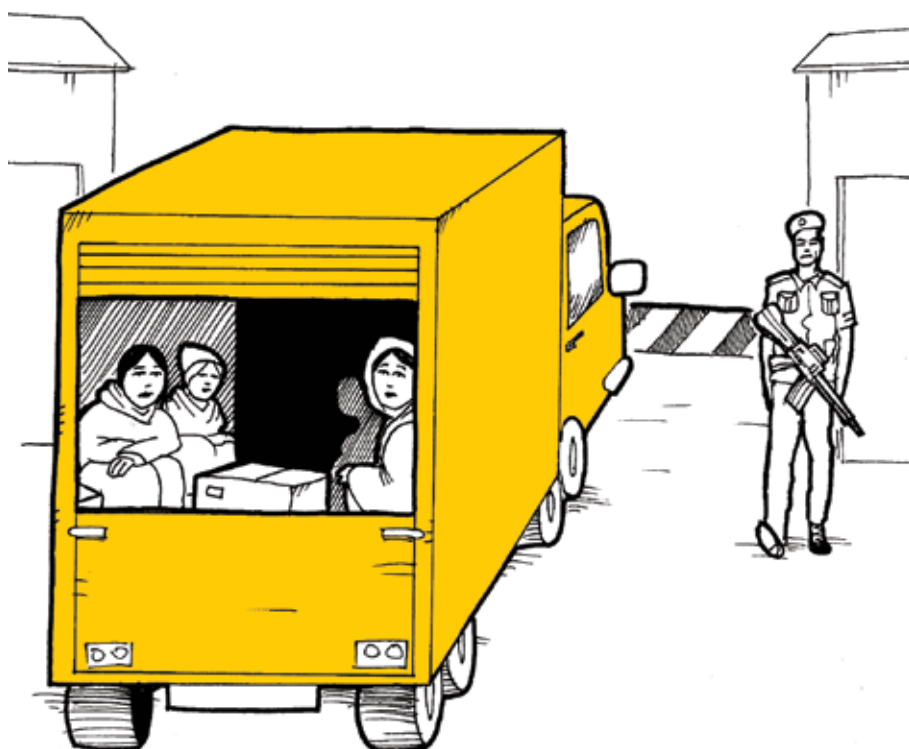
UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)

The UN adopted the Standard Minimum Rules for Non-custodial Measures (Tokyo Rules) in 1990. The Tokyo Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for people subject to alternatives to imprisonment. The Tokyo Rules are intended to promote greater community involvement in the management of community justice as well as to promote a sense of responsibility towards society among offenders. The Tokyo Rules do not contain any provisions specific to female offenders.

International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights, which is a legally binding treaty for those States which have ratified it,¹⁸ says that: 'All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person'.

In addition to these standards, there are a number of other relevant international standards. See Appendix 5 (additional resources) for more information.



What are the Bangkok Rules?

The adoption in 2010 of the **UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)** represented an important step forward in recognising the gender-specific needs of women in the criminal justice system. The Bangkok Rules provide standards that should be applied in the treatment of women offenders. The Bangkok Rules were also the first international instrument to specifically address the situation of the children of prisoners.

“

By voting for and hence supporting the Rules, all 193 UN member states acknowledged the existence of gender-specific characteristics of women in the criminal justice system and agreed to respect and meet the particular needs arising from these characteristics.

”



Why are they called the Bangkok Rules?

Because the Rules were initiated by the Government of Thailand, they are known as the Bangkok Rules. Princess Bajrakitiyabha of Thailand played a pivotal role in the development of the Rules.

What legal status do they have?

The Bangkok Rules are a so-called ‘soft law’ instrument, meaning they are not legally binding like conventions; however, they express a commitment by states. Over time soft law often emerges as good practice, and can thereby be as influential as treaty rules (legally binding conventions, e.g. the ICCPR).

Who do the Rules apply to?

The Bangkok Rules are applicable to:

- women prisoners under arrest and awaiting trial (pre-trial detention)
- women prisoners serving a sentence (convicted)
- women subject to **non-custodial measures** (pre-trial) or **non-custodial sanctions** (post-conviction)
- women offenders subject to **corrective measures**
- women detained under **‘protective’ custody**.

Some of the Bangkok Rules address issues equally relevant for male and female prisoners. The preamble to the Bangkok Rules states that some of these rules would apply equally to male prisoners and offenders, including ‘those relating to parental responsibilities, some medical services, searching procedures and the like’. See **Paragraph 12 in the Preamble of the Bangkok Rules**.



What issues do the Bangkok Rules cover?

For women prisoners, the Bangkok Rules cover the following issues:

- admissions
- personal hygiene
- healthcare services
- safety and security
- parental responsibilities
- discipline and punishment
- contact with the outside world
- **classification** and individualisation
- rehabilitation and reintegration
- personnel and training.

In Modules 2–10 you will look at each of these issues in more depth.

To whom are the Bangkok Rules addressed?

The Bangkok Rules are addressed to prison authorities and various other actors in the criminal justice system. This includes relevant government ministries, policymakers, legislators, prison authorities and staff, prison healthcare services, **probation** and parole services, and prison monitoring bodies.





Extra resources

- PRI's research series, Survey results from 7 countries: *Who are women prisoners?* (2014-15).
- PRI/Linklaters LLP, *Women who kill in response to domestic violence: how do criminal justice systems respond?*, 2016.
- United Nations Office on Drugs and Crime, Compendium of United Nations standards and norms in crime prevention and criminal justice, 2016: www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html
- United Nations, The United Nations Human Rights Treaty System, Fact Sheet No. 30/Rev.1, 2012: www.ohchr.org/EN/PublicationsResources/Pages/FactSheets.aspx

Module 1

Quiz

Now that you have learned about the characteristics and needs of women prisoners and have been introduced to the Bangkok Rules, there are three questions below to check your understanding so far.

Q1

The Bangkok Rules only apply to women prisoners convicted of a criminal offence.

True ☐ False ☐ (Please tick)

Q2

Policies need to be designed differently for women prisoners because the crimes committed, the reasons for their criminal behaviour, and their typical backgrounds are different from those of male offenders.

True ☐ False ☐ (Please tick)

Q3

Please match the following provisions with the relevant international standard(s).

(Draw a line)

No male member of staff should enter a women's institution unless accompanied by a woman officer. **(1)**

☐☐

Bangkok Rules. **(A)**

No women-specific provisions. **(2)**

☐☐

Tokyo Rules. **(B)**

The specific needs of breastfeeding mothers. **(3)**

☐☐

Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). **(C)**

Non-custodial measures. **(4)**

☐

Now check your answers on page 171 and mark your score here (one point per question).

Module 2

Non-custodial measures



Module 2

Non-custodial measures

Introduction

In Module 1, you were introduced to the Bangkok Rules and the international framework on prisoners' rights. We looked at the typical characteristics of female offenders and their corresponding specific needs. In this module we are going to learn about alternatives to imprisonment (non-custodial measures and sanctions) for female offenders.

Learning objectives

In this module you will cover the following topics.

- ➞ **Why are gender-specific alternatives to prison needed for women offenders?**
- ➞ **What should alternative measures for women look like, and when can they be used?**
- ➞ **Why must alternatives to imprisonment be gender-sensitive?**
- ➞ **Why and how should sentencing take account of characteristics of women offenders?**
- ➞ **What safeguards must be in place for the 'protective detention' of women?**



Why are gender-specific alternatives to prison needed for women offenders?

The unnecessary imprisonment of women

Discrimination and violence are common threads in the lives of many women who come into conflict with the law. Many are **imprisoned** for petty, non-violent offences and do not pose a threat to society. Those who do commit violent crimes have often done so as a direct or indirect response to violence and the associated trauma they have experienced.

Bearing in mind the typical backgrounds and characteristics of women **offenders** – as covered in Module 1 – the Bangkok Rules recognise that many female offenders do not pose a risk to society and that imprisonment has a disproportionately negative impact on their rehabilitation and their children's lives. They therefore encourage the development and use of gender-specific **non-custodial measures** as alternatives to imprisonment.

Non-custodial measures enable women to better meet their caretaking obligations and address the root causes of their offending. The measures can only do this, however, if they take into account the distinctive needs of female offenders.



Case study: Mrs E

Mrs E, a woman in her 30s, was held at one of Ghana's women's prisons with her baby. She told her story.

'A man came... and beat me at the farm where I was working. I used a cutlass to stop him, and I cut him [on his arm]. They [the authorities] fined me 350 cedi [around US\$200] but I have no money and no one to pay. I do not know who the baby's father is and my mother died. Only my father is left.'

Because she did not have any money to pay the fine, Mrs E was serving three years' imprisonment. Policy says that when her baby daughter is weaned or reaches one year of age, she must be placed in foster care until Mrs E is released.¹

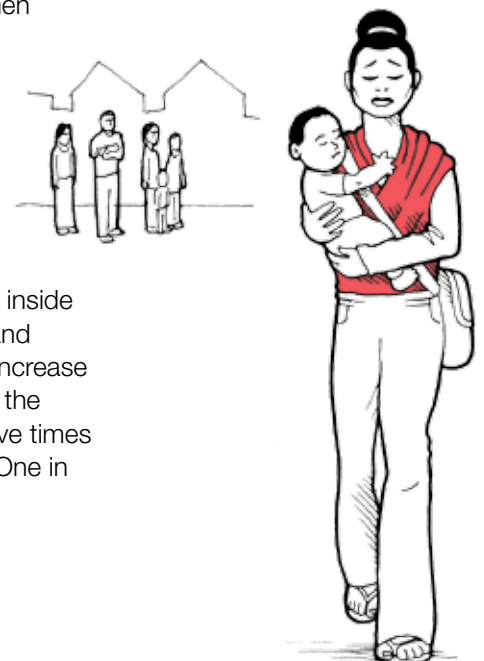
Mrs E's case shows how imprisonment of women is often a result of not having the financial ability to pay fines (or to afford bail). It is also an example of how gender-based violence can lead to an offence.

The costs of imprisonment to women

Prison is an ineffective and often damaging solution for women offenders. Because prisons are mainly designed for men and therefore do not meet the needs of women effectively, this jeopardises their ability to lead safe, law-abiding lives post-release.

The cost to children and family

Millions of children worldwide have a parent in prison. Tens of thousands of children live with their parent in prison. Even for a short time, part or all of a childhood spent inside a prison can have a damaging impact on a child's physical and emotional well-being. Research has shown that it may also increase the likelihood of the child coming into conflict with the law in the future. As one researcher found: 'Children of offenders are five times more likely than their peers to end up in prison themselves. One in 10 will have been imprisoned before reaching adulthood.'²



In many countries, it is not uncommon for a woman to lose custody of her children even while in **pre-trial detention** (and therefore presumed innocent of the alleged offence).

Stigmatisation and rejection from families and communities are disproportionately felt by women who have been in prison. As one woman in Kenya explained: 'My granddaughter who I take care of became pregnant when I was in custody and has now left school, and I am blamed for this.'³

The economic cost to imprisoned women

Women often experience economic difficulties after their release. These can include barriers to accessing employment, educational opportunities, social welfare and affordable housing.⁴

Such costs can be avoided by keeping women out of prison where imprisonment is not necessary or justified, both at the pre-trial stage and after conviction.

Prison as a last resort

The principle that imprisonment should be the last resort is stipulated in the UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules). It should only be used when there is a pressing societal need, as explained by the UN Human Rights Committee:

'The right to liberty of person articulated in Article 9 of the International Covenant on Civil and Political Rights requires that, as a basic principle, States resort to the deprivation of liberty only insofar as it is necessary to meet a pressing societal need and in a manner proportionate to that need.'⁵

What should alternative measures look like, and when can they be used?

The Tokyo Rules set out the fundamental principle that States should be aiming to increase the use of non-custodial measures or sanctions over imprisonment. The Tokyo Rules also outline types of alternatives that could be used.

- ➡ **Non-custodial measures** are alternatives to imprisonment in the case of pre-trial detention, for example bail or the requirement to report to a police station.
- ➡ **Non-custodial sanctions** mean that a sentence other than imprisonment is handed down following conviction for a criminal offence. These can include fines, restitution to the victim, a suspended or deferred sentence of imprisonment, probation and judicial supervision. Another form of alternative sanction is community service, which involves an offender working without pay for a certain number of hours benefiting the community.

In line with the Tokyo Rules which they supplement, the **Bangkok Rules (57, 58 and 59)** encourage the development and implementation of alternatives to imprisonment, and provide guidance on measures that can be taken to reduce the imprisonment of women.

Barriers to the use of alternative measures

There are some barriers to the optimum use of alternatives for women, including the following.

Sentencing

The same aggravating and **mitigating factors** are applied to men and women at the sentencing stage. Courts rarely take into account the typical background of women offenders, their caring responsibilities, or the typically low security risk



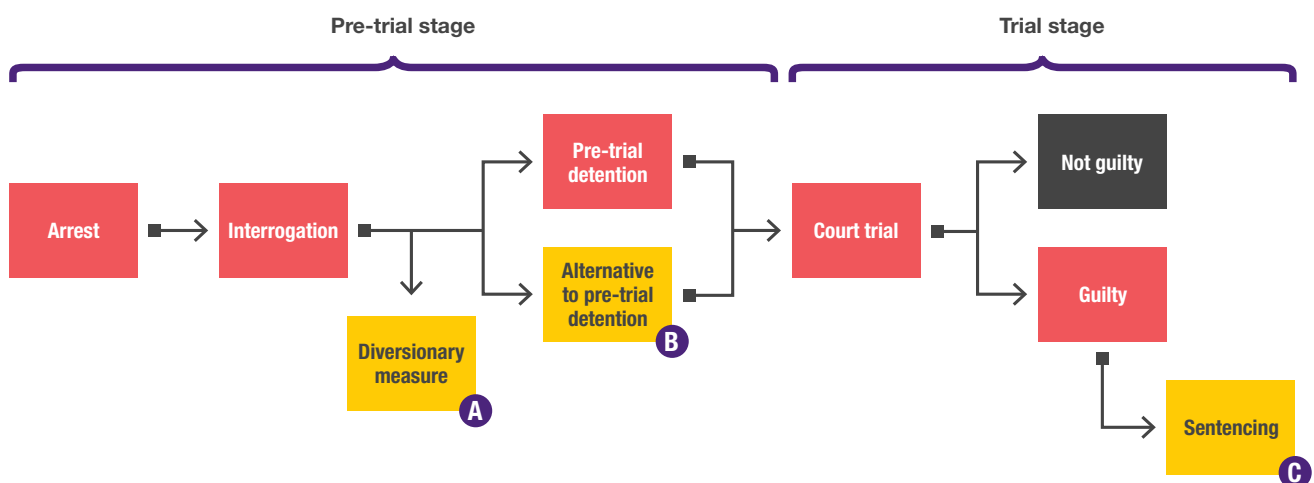
they pose to others. This means that many women are imprisoned even though they are not a threat to society and their social reintegration needs would be much better served by a non-custodial measure or sanction.

Shortage of alternatives suitable for women

A shortage of suitable alternative non-custodial measures and sanctions can limit the options available to authorities and courts. For example, in some countries mothers are more likely to be imprisoned because the alternatives – such as community service – have no childcare facilities.⁶ Another common reason for imprisonment is that a woman is unable to pay a fine, as we saw with Mrs E's case.

When can alternatives to imprisonment be applied?

There are various points in the criminal justice process at which a non-custodial measure can be applied, and non-custodial measures can take a variety of forms. Let's explore some of these through this diagram which shows the criminal justice process:



Diversiory measures A

A **diversionary measure** can be issued as early as at the police station. In exchange for avoiding prosecution and a lengthy judicial process, an accused person can be diverted to, for example, a specialised **drug court**, or offered participation in a **restorative justice process**.

Gender-sensitive diversionary measures can provide a much more suitable response to women's offending, limiting disruption to the lives of their family and children and to their employment.

Alternatives to pre-trial detention B

Many women are held in prison during criminal investigations. They have not been tried, and some may not have been charged. They may well be innocent. This type of detention is not a sanction, but rather a measure to safeguard a criminal procedure.

People awaiting trial should not necessarily be kept in detention. There needs to be reasonable suspicion that the person has committed the offence. Imprisonment must be **necessary and proportionate** to prevent them from absconding, committing another offence or interfering with the course of justice during pending procedures. Pre-trial detention is not legitimate when this objective can be achieved through other, less intrusive measures.

Such measures may include:

- bail
- seizure of travel documents
- requirement to appear before the court as and when required
- an undertaking not to interfere with witnesses
- periodic reporting to police or other authorities, electronic monitoring or curfews.

These types of less intrusive measures are important given the consequences of pre-trial detention for women.

Bangkok Rule 57 recognises the costs of pre-trial detention to women, and promotes the use of alternatives. The excessive pre-trial detention of women is due to factors such as not being able to afford bail or legal representation to challenge the detention – factors which affect women more than men.

Even when imprisoned for short periods of time, the physical, emotional, and social consequences of pre-trial detention for women can be acute and endure long after detention ends. They often lose their jobs and homes. They are separated from their children and worry about their welfare. Their relationships with their spouses and partners may also be harmed. These effects will have a relatively greater impact on women who are more likely to be primary caretakers, to have greater family responsibilities and to be stigmatised.

Any decision about alternative pre-trial detention measures should be gender-specific. For example, if bail implies regular reporting to authorities, transport to the respective police station or court must be affordable and feasible, and must not jeopardise caretaking responsibilities.

Sentencing **C**

Once a woman is convicted of a criminal offence, a sentence is handed down by the court. The Bangkok Rules require that any sentence enables the common problems leading to a woman's offence to be addressed, and should take account of any caretaking responsibilities and history of victimisation. As discussed, prison sentences should be the last resort.

Non-custodial sanctions are an alternative sanction to imprisonment and aim to:

- address the underlying causes of offending behaviour
- take into account the relationship between the offender, the victim and the wider community by considering the rehabilitative needs of the offender, the protection of society, and the interests of the victim.



Why must alternatives to imprisonment be gender-sensitive?

Non-custodial sanctions have been shown to be much more effective than imprisonment in reducing female re-offending and in promoting lasting rehabilitation. For example, many women prisoners have **mental health** care needs, are drug- and/or alcohol-dependent, or suffer from the trauma of domestic violence or sexual abuse. Sending them to a suitable gender-appropriate treatment programme addresses their needs much more effectively than the harsh environment of a prison.⁷



Example: Uwezo Initiative, Kenya

In Kenya, women may be given a Community Service Order (CSO) for which they engage in unpaid public work for the benefit of the community. At some of the locations where women serve their CSOs, economic empowerment programmes are available. For example, in Kibera, a neighbourhood of Nairobi, the Uwezo Initiative equips women with the basic entrepreneurial skills and capital in kind to help them set up small businesses. Women receive training and are able to identify businesses that they are interested in, ranging from selling second-hand clothes to running food kiosks. Uwezo supplies the women with the stock required.⁸

Because of the specific needs of women offenders, developing and implementing alternatives to imprisonment requires a gender-specific 'lens'. **Bangkok Rule 60** encourages the combination of a non-custodial measure with interventions that address the reasons why a woman comes into contact with the criminal justice system, and lists what some of these interventions could be. Any non-custodial measure or sanction must be designed for women.

Alcohol and substance dependence programmes

It is recognised that there are gender differences in substance dependence (eg. the reasons for why women use drugs and the types of drugs they use are different from men) and related complications that require different treatment approaches. In the delivery of community-based programmes, women may need gynaecological care, skills for negotiating safer sex, and opportunities to discuss issues such as violence and pregnancy.

Caretaking responsibilities

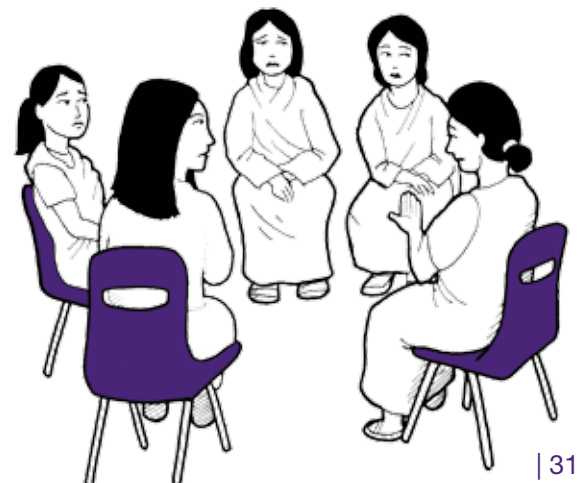
When issuing non-custodial sanctions, any caretaking responsibilities a woman has must be kept in mind in order to ensure that it is possible for mothers to participate while children have alternative care.

Women-only services

As mentioned in **Bangkok Rule 60**, women-only services provide opportunities, for instance for victims of violence to be in a place of safety from male violence, and may also help women overcome the stigma and shame they experience in cases of substance use.

Ensuring transport

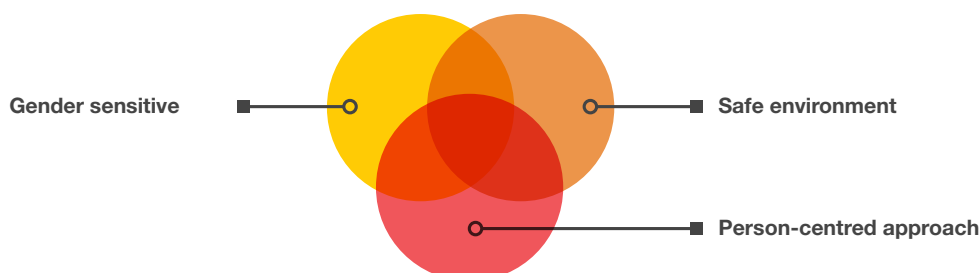
Non-custodial programmes can only function effectively if people can access them. As women may not have access to the family budget or be able to afford transport costs because of poverty, measures need to be put in place; for example, by providing free-of-charge transport services.





Example: Centre 218

Centre 218 in Scotland provides a safe environment for women offenders and adopts a person-centred approach where each woman has an individually-tailored programme of work based on her needs. Its gender-sensitive approach to providing a community-based programme contributes to addressing the root causes of women's offending and thereby preventing re-offending.⁹



Why and how should sentencing take account of characteristics of female offenders?

Bangkok Rules guidance on sentencing

Bangkok Rule 64 states that non-custodial sentences are to be preferred where possible for pregnant women and women with dependent children, while **Rule 61** requires that at the sentencing stage **mitigating factors** should be considered. These include:

- severity and nature of the criminal conduct
- caretaking responsibilities – this applies not just to children but to any other family members the woman cares for
- background factors such as domestic violence and poverty
- lack of criminal history.

Imprisonment should only be considered where the offence is serious or violent and/or the woman represents a continuing danger to society. Any decision to imprison a parent must ensure that the **best interests of any children** can be met, for example, that there is appropriate alternative care.

Exercises 2.1 and 2.2 will give you an opportunity to apply gender-sensitive sentencing to two real cases.



Case study: Mrs M

Mrs M is 35 years old and a single mother of three boys, aged 8, 12 and 16. She has been convicted of 40 counts of credit-card fraud, committed while she was under a suspended sentence for similar offences. The family lives in an area affected by gang violence and drugs.

Mrs M has already spent four months in prison, one month while awaiting trial and three months serving her sentence before being released on bail. Delays in her case provided Mrs M with the opportunity to demonstrate her capacity to develop legitimate business activities and provide for her family.



Exercise 2.1

Which of the following factors should be central to the judge's sentencing decision (referring to Bangkok Rule 61)? (Tick all that apply)

- ☐ Mrs M comes from an impoverished background. **(1)**
- ☐ Mrs M is able to participate in rehabilitation programmes in prison. **(2)**
- ☐ The potential impact on Mrs M's children of their mother being imprisoned. **(3)**
- ☐ Whether there would be any alternative care arrangements for the children if Mrs M were to be imprisoned. **(4)**
- ☐ The relative non-severity (non-violence) of the criminal conduct. **(5)**

Check your answers on page 171.



Case study: Mrs M (continued)

This is a case from South Africa. When it was first heard, the magistrate had asked Mrs M if her children would have somewhere to live if she was imprisoned. Satisfied that they would not end up homeless, the magistrate sent Mrs M to prison for four years.

On appeal in South Africa's Constitutional Court, the judge found that consideration of the welfare of Mrs M's children was inadequate as no social worker report had been sought. Crucial issues had been overlooked, including:

- the quality of alternative care available
- the potential impact of moving the three children on schooling and other activities
- how the children would be financially supported in Mrs M's absence.

A social worker report was requested for the appeal. This revealed that Mrs M's imprisonment would result in the children being separated and losing their home, neighbourhood and school routine. The court overturned the imprisonment sentence in order to protect the human rights of Mrs M's children.

The judge stated: 'The purpose of emphasising the duty of the sentencing court to acknowledge the interests of the children, then, is not to permit errant parents unreasonably to avoid appropriate punishment. Rather, it is to protect the innocent children as much as is reasonably possible in the circumstances from avoidable harm.'¹⁰

The court gave Mrs M a suspended sentence on the condition that Mrs M would repay the persons she defrauded, go to counselling and undertake community work for ten hours per week for three years.



Every child has his or her own dignity. If a child is to be constitutionally imagined as an individual... he or she cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them.



Verdict in the case of Mrs M, paragraph 18

The verdict for Mrs M set a legal precedent. In addition to ensuring the children had alternative care arrangements, the court looked at the full impact the imprisonment of their mother would have on them.

Rule 64 of the Bangkok Rules reflects these principles, which are grounded in the UN Convention on the Rights of the Child. The Convention requires any decision where children are involved to be based on the **best interests of the child(ren)**.

In cases where the court decides that a prison term is unavoidable, it has to take some responsibility for what happens to the children as a result, and take reasonable steps to minimise any damage.



Exercise 2.2

Read the four key facts of Katherine's case and match the relevant considerations for sentencing as provided in Rule 61. (Draw a line)

Key facts

At 15 years old, Katherine married Eddy and was pregnant with their first child one year later. After a few years together, Eddy began to violently attack Katherine. Once, she had to stay in hospital for two months.

One day when Eddy was drunk he attacked and strangled her. When she started to black out: 'I just reached out and found something. I didn't know what it was, but it was a little steak knife. I was trying to get him off me, I stabbed him.' Eddy died as a result of the injuries.

Katherine had no criminal record or history of violence.

Katherine's son was seven years old at the time and was traumatised by the death of his father and arrest of his mother.

Check your answers on page 171.

Sentencing considerations

- ☐ (A) Circumstances surrounding the crime, including domestic violence.
- ☐ (B) Risk posed to society, any previous criminal record, and nature of the crime.
- ☐ (C) Whether the offence was premeditated or unplanned.
- ☐ (D) Any impact on children.

The outcome of Katherine's case

Katherine's case was heard in a United States court. She pleaded guilty and was sentenced to five years of probation, conditional on her participation in a programme designed for women who were convicted and victims of domestic violence. She credits this programme with helping her cope with her past and move forward.

Katherine explained: 'It gave me the ability I needed to find myself, to be more empowered and have my own voice. My self-worth had been based on Eddy, a man who screamed hurtful words at me and beat me. [The programme] allowed me to rebuild my life because they gave me unwavering support that empowered me to develop myself.'¹¹

What safeguards should be in place for the 'protective detention' of women?

In some countries women are imprisoned on the grounds of 'protection', for instance when they may be at risk of violence from family members (often referred to as '**honour crimes**') or if they have reported being a victim of rape. This often happens when there are no or few safe houses or shelters and inadequate social welfare systems to support victims of violence.

'**Protective detention**' is an extreme and vivid example of the fine line between victimisation and imprisonment.

Bangkok Rule 59 states that non-custodial means of protection, such as shelters, should be used to protect women in need and provides specific conditions for situations when women are held in custody to protect them from violence. Protective detention must be temporary and only used when necessary. If it is employed:

- women must express a desire in writing to receive such measures of protection
- women must be free to leave whenever they wish, having received all information including the risks they may face
- staff should be trained to respond to particular needs including trauma
- accommodation must be strictly separate from prisoners
- psycho-social assistance and legal aid should be offered.



Case study: Maysun

Maysun was raped by her brother and nephew and became pregnant as a result. The doctor who examined her called the police because she was unmarried. She was detained in a correction centre in Amman, Jordan, for at least 10 years.

Her nephew was sentenced to seven years' imprisonment, and she received a sentence of three-and-a-half years for unlawful sex. Even after Maysun had served her time, the Governor insisted that she remain in the facility for her own protection, until she obtain a 'sponsor' or get married. She considered suicide because she was not permitted to leave and saw this as the only way to 'recover her freedom'.¹²





Exercise 2.3

Match the elements of Bangkok Rule 59 to the facts of Maysun's case.
(Draw a line)

Facts

Maysun was detained in a correction centre in Amman for at least 10 years for her 'protection'.

She was not permitted to leave until she obtained a sponsor or got married.

The Governor insisted that she remain in the facility following her sentence.

Check your answers on page 171.

Rule elements

- | | |
|--|---|
| <p>(1) ☐</p> <p>(2) ☐</p> <p>(3) ☐</p> | <p>(A) Custody to protect a woman shall only be applied when necessary and expressly requested by the woman concerned in writing.</p> <p>(B) Custody as a means of protection must only be a temporary measure.</p> <p>(C) Such protective measures shall not be continued against the will of the woman concerned.</p> |
|--|---|



Extra resources

- PRI/Thailand Institute of Justice, *Guidance document on the UN Bangkok Rules*, 2013: Chapter 1
- For information on non-custodial measures and sanctions see PRI, *Making Law and Policy that Work*, 2010
- PRI/Kenya Probation and Aftercare Service, *Community service and probation for women: a study in Kenya*, 2016
- PRI/Kenya Probation and Aftercare Service, *Community service and probation for women: lessons and recommendations based on a study in Kenya*, 2016
- For information on **administrative detention**, including on the grounds of protection in Jordan, see PRI, *Who are women prisoners?: Survey results from Jordan and Tunisia*, 2015
- UN Office on Drugs and Crime (UNODC), *Handbook of basic principles and promising practices on alternatives to imprisonment*, 2007
- UN Office on Drugs and Crime (UNODC)/International Committee of the Red Cross (ICRC), *Handbook on strategies to reduce overcrowding in prisons*, 2013

Module 2

Quiz

Now that you have learned about provisions in the Bangkok Rules relating to sentencing and the use of alternatives to imprisonment, see three questions below to check your understanding.

Q1

As part of a non-custodial sanction a woman is required to participate in a programme to address her drug dependency. The programme includes participants of all ages and a mixture of men and women. Do you think this complies with Bangkok Rule 60 in devising 'suitable alternatives for women offenders'?

Yes ☐ No ☐ (Please tick)

Q2

A woman defendant is in court for sentencing following a conviction for theft. She explains to the judge that if she receives a prison sentence her child would need to leave school and relocate to live with a relative. Is the court required to take this into account in sentencing?

Yes ☐ No ☐ (Please tick)

Q3

In cases where there are no safe alternatives to protect women from violence, does the state have an obligation to place such women in custody in a prison or other formal detention centre, provided the accommodation is separate from prisoners?

True ☐ False ☐ (Please tick)

Now check your answers on page 171 and mark your score here (one point per question).

Module 3

Allocation and admission



Module 3

Allocation and admission

Introduction

We have learnt in Module 2 that in many cases an alternative to imprisonment would better serve the rehabilitation of women offenders. Despite this, the female prison population is growing in all five continents. The number of women and girls in prison has increased by about 50 per cent since the year 2000, and over 700,000 women and girls are currently held in penal institutions.¹ It is important that prisons take measures to cater for their gender-specific needs. In this module, we explore the guidance provided by the Bangkok Rules for the allocation, admission and registration of women prisoners.

Learning objectives

In this module you will cover the following topics.

- ➞ **Why is the allocation of women prisoners important?**
- ➞ **What considerations are specific to women prisoners during admission?**
- ➞ **What measures should be taken if a woman is found to have been tortured or ill-treated?**
- ➞ **What factors are specific to women prisoners at registration?**



Why is the allocation of women prisoners important?

Keeping the principle of non-discrimination in mind, let's look at one area where special considerations must be addressed in the case of women **offenders**: their **allocation**.

One of the key factors that assists with the social reintegration of prisoners is their ability to maintain links with their families. **Bangkok Rule 4** recognises that because of the small number of women's prisons, women are often allocated to prisons far from their homes. Because of this, the travel time and costs of visiting a woman prisoner often pose major obstacles to regular visits.²



Case study: Margaret

Margaret, aged 23, is serving a prison sentence after she was convicted of **human trafficking** because she fled from her village to escape an arranged marriage and helped a number of girls to flee with her. Once **imprisoned**, it took Margaret over a year to contact her relatives because they did not have a telephone. The nearest female prison to her home is eight hours away and it can take up to two days to get there using public transport. Her family has visited only once. Margaret said that they simply cannot make the journey to visit because of cost and time.³



Exercise 3.1

In line with Bangkok Rule 4, which factors must be taken into account when allocating female prisoners? (Tick all that apply)

- ☐ The impact on the woman's ability to maintain links with her family. **(1)**
- ☐ The potential impact of allocation on her children. **(2)**
- ☐ The availability of service and rehabilitation programmes to assist with reintegration. **(3)**
- ☐ The cost for prisons to transport the woman to and from any court hearings. **(4)**
- ☐ The background and wishes of the woman. **(5)**
- ☐ That the woman will be detained separately from male prisoners. **(6)**

Check your answers on page 172.

What considerations are specific to women prisoners at admission?

Admission

The **Standard Minimum Rules** detail what type of information needs to be given to each prisoner upon admission (**Rule 54**). This includes prison laws and regulations, and how to seek information, access legal advice and make complaints.

The **Bangkok Rules** supplement this guidance with extra specifications that take into account the particular vulnerability of women as well as the reality that most women have children.

Anyone arriving at prison feels vulnerable. However, this initial period can be particularly distressing for women. Experiences from around the world have shown that this is because many women going into prison have just been separated from their children, and it is also due to the stigma of being imprisoned. Other common worries of newly-arrived prisoners are fears of the unknown and what will happen with their children. Many have withdrawal symptoms from drugs or alcohol.⁴

Suicides in prison are particularly high in the initial period of imprisonment, and even higher in the case of women. Half of those who take their own lives in prison do so during the first month in prison.⁵ Women held in **pre-trial detention** are particularly vulnerable. They attempt suicide much more often than women outside prison and men in pre-trial detention.⁶

“

The reception staff can appear quite solemn and somewhat regimental in manner, but this is mainly because they want to get you processed and accommodated as quickly as possible.

”

Ms Nateghi, woman prisoner, United States⁷



Example: Ms Nateghi

Ms Nateghi describes her memories of when she arrived at prison: ‘Coming into prison for the first time is, needless to say, a daunting experience. For remand prisoners, not knowing how long you may be staying there makes it even worse. All that is running through your mind (if it is not so numb that it can’t function) is the family you have left behind. How will your children cope without their mother? How will you cope without your partner for comfort? Depression, anger and resentment each take their turn to roll through you until you feel emotionally and physically drained... If you had started to gain comfort from getting to know the other new prisoners who came in with you, then it is soon lost as you are all split up and locked in separate cells. I remember walking down the wing hearing the prisoners shouting “New meat!” to each other, and having to take deep breaths to steady my rapidly beating heart. The harsh sound of steel-on-steel as your cell door is slammed and locked behind you is enough to send your already delicate nerves over, or at least close to, the edge. Then you are completely alone to adjust to and take in your new surroundings.’⁸



Promising practice: Scotland

In Edinburgh, Scotland, a peer support worker is assigned full time to the prison’s reception area. Their role is to speak to all new prisoners upon admission and give them an information booklet. In addition to this, each area for admission has a dedicated ‘meeter and greeter’ (another peer prisoner). ‘The main functions of peer support workers at [the prison] in Edinburgh are to answer questions and to provide basic information to prisoners at the earliest possible stage from a source credible to them. This in turn leaves prison staff more time to complete admissions procedures and interviews such as health checks and the core screen assessment of needs.’⁹

Care for any children

Because of the immediate consequences of the separation of children and mothers facing imprisonment, **Bangkok Rule 2** lays out what information and assistance must be given to women when they are admitted to prison, and to any children accompanying their mother.

The Rule states that mothers must be given access to information on alternative care options and the long-term consequences of arranging for such care, including how they can keep in contact and any visiting issues. Prisons should permit mothers to make arrangements for their children's care, even by allowing for a reasonable suspension of detention.

The best interests of the child must remain central to all decisions.

Having looked at issues arising at the admission stage, we will now review the Rules and build a checklist of what should be done when a woman arrives at a prison.



Exercise 3.2

Review Bangkok Rule 2 and Standard Minimum Rule 54 and build a checklist of what needs to be done at the admission stage.

Note: you can download a copy of the Standard Minimum Rules here:

www.penalreform.org/resource/standard-minimum-rules-treatment-prisoners-smr/

Check your answers on page 172.

A case of ticking the boxes?

Prisons need to fulfil the requirements we have just looked at effectively and meaningfully, and not just 'tick the box' to follow procedure. Ms C's story, on the next page, is one example of where her right to contact family upon admission was not meaningfully provided – which contravenes **Bangkok Rule 2**.



Case study: Ms C

Ms C, aged 21, was sentenced to 10 weeks' imprisonment and transported immediately to prison. Not expecting to go to prison, she was shocked as her solicitor had told her she would receive a community sentence. Upon arrival at prison, Ms C was allowed a phone call, but only for two minutes, which was not enough time to give the person she called all the necessary information before the line was cut automatically. As she had no money, she couldn't get credit for further time on the phone, and wasn't able to make another phone call for two weeks.¹⁰

Detecting and addressing torture or ill-treatment from previous custody at admission

All detainees are at heightened risk of torture or ill-treatment following arrest by police and during pre-trial detention.

However, women are more vulnerable to abuse in detention, in particular sexual abuse. This is due to their sex, typically lower social and economic status, and because they are usually even less aware of their rights than men.

The UN Subcommittee on Prevention of Torture observed the following in a report on its 2008 visit in Mexico: 'A large number of the women interviewed alleged that they had been subjected to cruel or inhuman treatment by the police, especially at the time of their arrest or during transport to police stations. In some cases, the allegations were later confirmed by prison directors, who reported confidentially to members of the delegation that many women had arrived at their prisons with evidence of numerous blows and visible injuries on various parts of their bodies.'¹¹

In international law, rape constitutes a form of torture when it is carried out by public officials. Other forms of sexual violence can also constitute torture, irrespective of whether national law defines them as such or not.¹²

The UN Convention against Torture prohibits torture and requires States to take effective measures to prevent it. The prohibition is absolute and non-derogable. This means that no exceptional circumstances may be invoked to justify torture.

Fear of complaining

Many women who are victims of violence in detention choose not to report their cases for fear of retaliation and because they do not expect that their complaints will receive an appropriate response from the authorities.

Many circumstances can discourage prisoners – particularly women prisoners – from issuing a complaint. These can include the fact that investigations are carried out by authorities that are not independent or impartial, or that part of the investigation may use humiliating techniques, such as physical examinations in cases of sexual assault. In many cultures women are also afraid of the stigma and shame associated with having been sexually abused or raped.

Medical screening to detect and prevent ill-treatment and torture

Medical screening on entry to prison is an essential step in preventing and combating ill-treatment and torture by law enforcement authorities. It is also vital for providing for the psychological and physical needs likely to arise from torture or ill-treatment.



Bangkok Rule 7, which supplements **Standard Minimum Rule 34**, details the prison authorities' responsibilities if the medical examination reveals that a woman prisoner has been subjected to ill-treatment or tortured during previous custody.

- Appropriate tests should be undertaken on a voluntary basis and treatment prescribed for any health complications.
- The woman concerned should receive the psychological support she needs whether or not she chooses to make a complaint.
- Any woman who has been diagnosed as having been abused in previous custody should be fully and clearly informed of her right to make a complaint.
- Adequate assistance should be provided to enable her to proceed with a complaint if she so wishes.
- The principle of confidentiality should be respected during this process, and the woman should be protected if she is at risk of retaliation.

In some circumstances and cultures women may not wish to take legal action against the perpetrators of abuse. It is important that their wishes are respected.



Promising practice: United States

The Prison Rape Elimination Act (PREA) in the United States, which was adopted in 2003, states that correctional officials are required to set an appointment with a medical or **mental health** professional within 14 days of the prisoner entering a new facility. Information given to a medical or mental health professional about prior abuse in a prison or other correctional facility must be shared only with other medical personnel or staff as necessary to determine a treatment and security plan. Officials must also provide a mental health evaluation and treatment to all prisoners who have been victims of sexual abuse in detention as necessary. These include follow-up services, treatment plans, and referrals upon release or transfer. Victims must receive mental health services for sexual abuse that are 'consistent with the community level of care'.¹³

Virginity tests

Medical examinations on admission to prison to detect any signs of sexual abuse or to determine sexual and reproductive healthcare needs should never be confused with **virginity tests**. Virginity tests constitute a gross form of **discrimination against women** and are a form of custodial violence.¹⁴ They should be explicitly prohibited as required by **Bangkok Rule 8**.



What factors are specific to women prisoners at registration?

Bangkok Rule 3 and **Standard Minimum Rule 7** detail the type of information that should be recorded when prisoners and any accompanying children are admitted. The Bangkok Rules filled an important gap by providing guidance to prison authorities on protecting and fulfilling the needs of children being admitted to prison with their mothers.

What is the purpose of registration?

The purpose of registration is to:

- ensure that all those who are housed in prisons, whether convicted prisoners or not, are accounted for as a safeguard against disappearances
- gather the information necessary to provide for the needs of all who are housed in prison. This includes the needs of children, e.g. schooling, healthcare and nutrition.

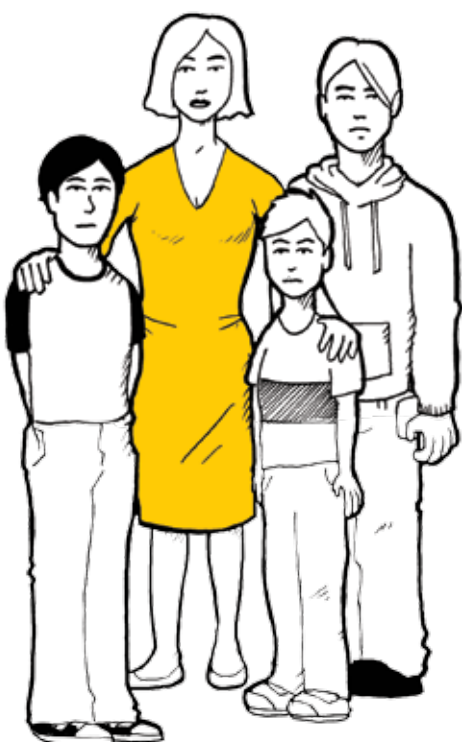
A woman prisoner may provide information on any children living outside the prison which can enable authorities to contact these children if necessary. This information can also assist women in keeping in touch with their children on a regular basis. All information about children of imprisoned mothers must be kept confidential and should never be used in a way which is not in the **best interests of the children**.

Health screenings are also required on entry to prison (see **Bangkok Rules 6 and 9**) so that health needs are taken care of in prison. We will look at what this entails in Module 4.

Registration of children

Noting contact details of any children who live in the community can, among other things, enable the prison to facilitate contact with the parent inside.

Registering children accompanying their mother to live in prison does not in any way imply that they may be treated as prisoners. Rather it is to ensure that their needs are met whilst housed in prison. Module 9 will cover the needs of children who are living in prison with their parent and how the prison authorities should meet these needs.





Exercise 3.2

Misa Sato has just arrived at a women's prison near Tokyo. She has four children, aged between three months and six years. Read Misa Sato's registration form and assess what is missing, in accordance with **Bangkok Rule 3** and **Standard Minimum Rule 7**.

Prisoner file:

Name	Misa Sato	Gender	Female
Home address	23 Yaesu, Chuo-ku, Tokyo 100-04234	Date of birth	20 December 1982
Authority committed by	District Court	Date and time of admission	1 October 2012 at 14.00
Convicted	Fraud	Arrest	3 March 2012 at 17.30 at home address
Property inventory	Yes	Emergency contact details	Nina Sato (Mother) Phone: 586-4598523 Address: 56 Chou-ku, Tokyo 0033-2156
Day and hour of release	1 October 2014 at 14.00		
CHILDREN ACCOMPANYING PRISONER			
Name	Molly Sato	Date of birth	5 July 2012
Age	3 months	Gender	Female

What information is missing?

Check your answers on page 172.



Extra resources

- PRI/Thailand Institute of Justice, *Guidance document on the UN Bangkok Rules*, 2013, Chapters 2 and 3
- PRI, *Access to justice: discrimination against women in criminal justice systems*, 2012

Module 3

Quiz

Now that you have learned about admission and registration procedures, there are three questions below to check your understanding.

Q1

If the medical examination at admission reveals that a woman prisoner has been ill-treated or tortured during previous custody, must she make a formal complaint?

Yes ☐ No ☐ (Please tick)

Q2

Why is the allocation of women prisoners important? (Tick all that apply)

- ☐ It has an impact on their ability to stay in contact with their family and friends, including their children. **(1)**
- ☐ They need to be able to get home easily when they are released. **(2)**
- ☐ If they have been a victim of violence, they may need distance from the perpetrator. **(3)**
- ☐ The programmes and services offered at a prison facility need to be designed to effectively rehabilitate a woman offender. **(4)**
- ☐ They should be placed close to the court that handed down their sentences. **(5)**
- ☐ It can help keep down the costs of the prison system. **(6)**

Q3

Why is it necessary for children to be registered when entering prison with their parent? (Tick all that apply)

- ☐ To safeguard against any risk of disappearances. **(1)**
- ☐ To ensure that necessary programmes and services are in place for everybody housed in the prison, whether they are a convicted prisoner or not. **(2)**
- ☐ So there will be a record of where the child is living for any schools, authorities etc. **(3)**
- ☐ To store the information in case the child commits a crime at a later date. **(4)**
- ☐ To ensure the prison's budget for nutrition and other services is adequate for the actual number of persons housed in the prison. **(5)**

Now check your answers on page 172 and mark your score here (one point per question).

Module 4

Hygiene and healthcare



Module 4

Hygiene and healthcare

Introduction

The Standard Minimum Rules for the Treatment of Prisoners give comprehensive guidance on providing healthcare to prisoners and the role of healthcare staff (**Rules 24-35**). The Rules reiterate key internationally agreed principles on healthcare, including that treatment and care should be at the same level standard as in the community.

The Bangkok Rules supplement these rules by providing guidance on how to fulfil the specific hygiene and healthcare needs of women. The Rules recognise the importance of providing adequate healthcare to preserve women's dignity, prevent disease and promote health. The Rules also address the provision of healthcare for children who are living with their mothers in prison.

Learning objectives

In this module you will cover the following topics.

- ➞ What are women's hygiene needs?
- ➞ What must be provided to meet women's hygiene needs?
- ➞ What are some of the particular healthcare needs of women prisoners?
- ➞ What are the principles of delivering healthcare in prison?
- ➞ How should women's right to medical confidentiality be protected?
- ➞ What healthcare issues should be covered by the medical screening on admission?



What are women's hygiene needs?

While men and women share some hygiene needs, women also have distinct hygiene needs which are crucial for their rights to dignity and health. These include, but are not limited to, needs relating to reproductive health. The **Standard Minimum Rules (Rule 18)** include the need to supply toiletry articles and items for men to be able to shave regularly, but lack provisions on women's needs such as sanitary pads. To address this, **Bangkok Rule 5** supplements **Standard Minimum Rule 18**.



Example: Argentina

Women in Argentina reported problems in accessing sufficient sanitary pads while in prison, describing it as 'a nightmare for girls with their periods' as they only received one roll of toilet paper per week.¹

What must be provided to meet women's hygiene needs?

Here are some of the key things that prison authorities should provide to every women prisoner (as stated in **Bangkok Rule 5**).

Hot water

Safe and regular access to hot water must be provided particularly when women are pregnant, breastfeeding, menstruating or going through menopause. In low-income countries where resources limit water availability, women should at least have access to sufficient water to fulfil their hygiene needs. Pregnant women should be allowed access to toilet and shower facilities more frequently than other prisoners. Water cannot be restricted as a disciplinary sanction.

Hygiene articles

Women should have easy access to hygiene articles **free of charge**. These include a sufficient supply of sanitary products to meet individual needs, soap, toothbrushes and toothpaste. The European Committee for the Prevention of Torture found that the failure to provide basic necessities such as sanitary pads in prison settings can amount to degrading treatment in violation of international law.²



We met women who had to beg, plead, and in some cases work within the facility just to get enough sanitary pads not to bleed through their clothes, and one woman who sat on a toilet for hours when the facility would not give her the pads she needed.

Human Rights Watch report on detained women in the United States³



Safe access

Access to water and hygiene articles needs to be provided in a safe environment.





Example: Chad

In Chad there is no specific prison for women. In some prisons, women and men are held in separate blocks or cells, but in other prisons there is no separation and women and men are housed together. In most prisons, men and women share facilities such as toilets, bath facilities or kitchens. This situation puts women at risk of rape or attack by male inmates, prison guards or staff, which violates their right to safety and privacy.⁴ Because women are accommodated in a section of a men's prison in many countries, prison authorities must ensure protection from violence and privacy for women when accessing basic services, such as bathing and laundry.⁵

General living conditions

General living conditions laid out in the **Standard Minimum Rules (Rule 42)**, including those relating to personal hygiene, light, ventilation and drinking water, must be guaranteed without exception to all prisoners at all times.



Exercise 4.1

Q1. Access to showers can be limited by the prison in cases of a disciplinary offence by a prisoner. (Please tick)

True ☐ False ☐

Q2. Women prisoners should be provided with sanitary items but may be charged for them. (Please tick)

True ☐ False ☐

Check your answers on page 173.



When your period starts unexpectedly, you are not allowed to wash until the next allocated shift for showering, which could be the next day.

Woman prisoner, Russia⁶



What are some of the particular healthcare needs of women prisoners?

Providing adequate healthcare in prison is a major challenge for all prison systems. It is common for prisoners to arrive with existing health concerns. Prison populations (both male and female) contain an over-representation of people with poor health and chronic untreated conditions, **mental health** problems, and health risks related to drug injection and sex work. In all regions there is a higher prevalence of HIV, tuberculosis (TB), hepatitis B and C among prisoners than in the general population,⁷ and there is an even higher prevalence of HIV among female prisoners compared to their male counterparts.⁸ The World Health Organization reports, for example, that TB notification rates are over 80 times higher in some European prisons than in the outside community.⁹

The prison environment can exacerbate these health problems. Existing conditions often deteriorate, and there is a heightened risk of disease transmission and an increased risk of mental illness. As a result, prisoners often develop a whole range of complex health issues.

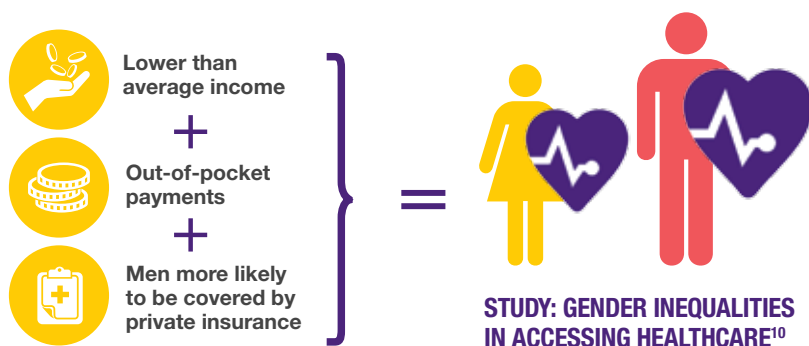
The right to health in prison

The right of each prisoner to the highest attainable standard of health is guaranteed in a wide range of international human rights instruments – including the International Covenant on Economic, Social and Cultural Rights (Article 12), which has been **ratified** by 164 countries. The violation of the right to health can in certain circumstances amount to torture or ill-treatment.

Women's health issues and prison

Women prisoners often have even greater and more complex health issues than their male counterparts. They may enter prison with health problems that have remained untreated for many years before prison.

- Women **offenders** typically come from even more disadvantaged backgrounds which may have exposed them to a heightened risk of contracting infections and diseases.
- Women may have faced barriers in accessing healthcare services before entering prison because of **discrimination against women** in society.



Healthcare and discrimination against women

There can be many factors, such as financial barriers, which prevent women from accessing healthcare in the community. Discrimination experienced by women in the community can result in women offenders arriving at prison with untreated medical issues.

In most prison systems there are inadequate facilities to address the specific healthcare needs of women and therefore they may receive unequal access to and poorer services compared to either male prisoners or women outside in the community.



Women clearly have special medical needs. The mere replication of health services provided for male prisoners is therefore not adequate.



UN Special Rapporteur on violence against women ¹¹



Complex health problems

We will now explore some of these health conditions and needs that women prisoners have in more depth.

Drug and alcohol dependencies

An international review in 2013 found that 10–24 per cent of women in prison suffered from ‘alcohol abuse or dependence’¹² and the World Health Organization estimates that at least 75 per cent of women entering European prisons have problems with either drug or alcohol use.

Sexual and reproductive health

Certain preventative healthcare measures are particular to women, such as screening for breast cancer and some issues related to menstruation and menopause. For example, some women may require the contraceptive pill to alleviate painful menstruation. Women may also have health needs arising from pregnancies, childbirth and abortions, or other reproductive complications.¹³

Problems arising from sexual and physical abuse

As we learned in Module 1, an overwhelming number of women offenders have experienced sexual and physical violence. These women may require special reproductive medical care or psychological treatment.

STIs, HIV and hepatitis

Women are more vulnerable to contracting **sexually transmitted infections (STIs)** than men. Because of intravenous drug use, sexual abuse, violence, sex work and unsafe sexual practices, a significant number of women enter prison with sexually transmitted infections, HIV and hepatitis. In West Africa, for example, HIV prevalence among women prisoners is twice that among male prisoners, and it is three times higher in Central Asia and Europe.¹⁴

Mental healthcare issues

Women who are admitted to prison are more likely to have existing mental health issues than their male counterparts. This may be because of the typical background and lifestyle of women offenders, which can be exacerbated by the trauma associated with going to prison.



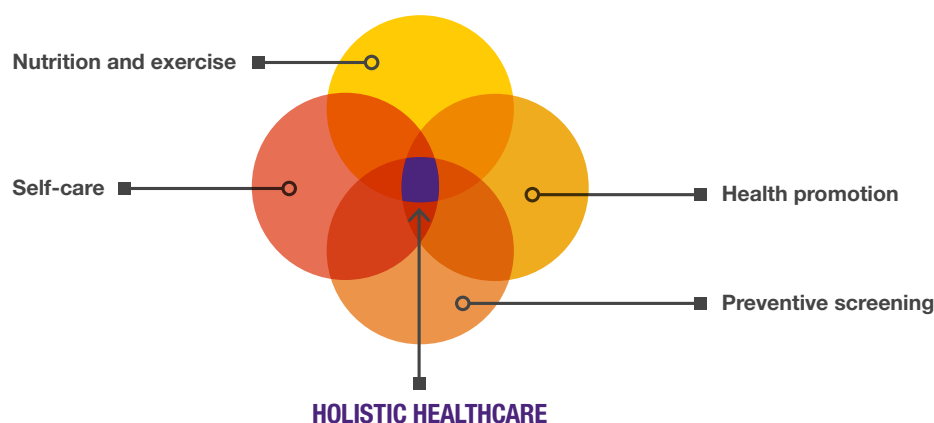
What are the principles of delivering healthcare in prison?

The overarching principle of prison healthcare is that it should be equivalent to that delivered in the community (outside prison). This well-established principle is reiterated in **Standard Minimum Rule 24** and **Bangkok Rule 10**. It is good practice for prison healthcare to be organised in close cooperation with community health services, thus ensuring **continuity of care** (Standard Minimum Rule 24 (2)).

Healthcare programmes must be designed in a gender-specific way in order to provide suitable care for women prisoners. Here are some key principles that should be kept in mind.

Services should be holistic

Because women entering prison often have a range of complex health needs, a holistic approach in addressing these needs is vital. A range of services should be offered, including health promotion, nutrition and exercise, preventive screening services similar to those available in the local community, and support with day-to-day health problems.



Promising practice: The Najayo Mujeres, Dominican Republic

The Najayo Mujeres, a prison for women in the Dominican Republic, employs eight specialist doctors, including psychiatrists, psychologists, gynaecologists, oncologists and dermatologists. All prisoners receive a dental check-up three times a year (or when there is an emergency) at the prison's well-equipped dental treatment centre. The facility has a laboratory, where specialists can conduct medical tests, including full blood tests and tests for pregnancy, hepatitis B and syphilis. The psychological service employs two psychologists and provides individual and family counselling, and various types of therapy, including for drug abuse and physical abuse. Each prisoner who enters the system undergoes a psychological needs assessment. Women can participate in sports, which contributes to their health and well-being.¹⁵

Preserving dignity

Every patient has a right to dignity when receiving healthcare, including prisoners. This issue may arise more acutely for women during medical examinations: women often feel vulnerable exposing their bodies because of cultural taboos or experiences of victimisation. Healthcare services should be designed and provided in a way that is culture- and gender-sensitive and ensures safety and privacy.¹⁶



Exercise 4.2

Bangkok Rules 10(2) and 11 outline the measures that should be put in place so that a woman's safety, privacy and dignity are respected. Read the following implementation measures and corresponding scenarios and decide if the proper procedure has been followed.

Q1. Measure: Health facilities should provide private interview and examination rooms or at least be partitioned off from the view of other staff or prisoners.

Scenario: Ms Kumar is having an ear examination. Because she doesn't need to undress, the doctor proceeds in a corner of the waiting room in the presence of other prisoners.

Was this procedure correct or incorrect? *(Please tick)*

Correct ☐ Incorrect ☐

Q2. Measures:

- Female prisoners should be seen by a female medical practitioner whenever possible. A woman prisoner may request a female medical practitioner without having to give an explanation for her preference.
- If there are no female physicians available a male doctor may undertake the examination; however, a woman must be present. Ideally this would be a female nurse, but where there is no female nurse available and as an exception to the principle that no prison staff should be present during examinations, a female staff member must be present.
- If the physician requests the presence of prison staff for security reasons, a female staff member can be present, but she should be out of hearing range to ensure doctor-patient confidentiality.

Scenario: A female medical practitioner is available to examine Ms Kumar's ear as well as other issues that have been troubling her. The doctor is concerned for her safety and requests that a female guard sit in the room.

Was this procedure correct or incorrect? *(Please tick)*

Correct ☐ Incorrect ☐

Check your answers on page 173.

The principle of informed consent

Standard Minimum Rule 31(b) stipulates that prisoners retain autonomy over their own health and must be able to give their **informed consent** to medical treatment, which means they must be in full knowledge of the risks and benefits of any treatment.

The principle of medical confidentiality

When prisoners see a doctor they are patients, just as they would be in the community. Prisoners' medical records are confidential (**Standard Minimum Rules 31 and 32**) and they must give their consent to disclosure of their medical information to anyone other than the doctor. **Bangkok Rule 8** explicitly reiterates the right of women prisoners to medical confidentiality, 'including specifically the right not to share information and not to undergo screening in relation to their reproductive health history'.

At the policy level, clear guidelines should be developed on medical confidentiality that include the explicit prohibition of **virginity tests** and prohibition of vaginal examinations without the consent of the prisoner.

In prison, steps need to be taken to ensure that:

- all medical records of prisoners are kept confidential
- prison rules include the principle of medical confidentiality
- health personnel provide officials with medical information only if the prisoner consents, and if the information will assist in the treatment and care of the patient (on a 'need-to-know' basis).

Exceptions to medical confidentiality

Rule 32 of the Standard Minimum Rules reiterates medical ethical and professional standards by stating that confidential medical information may only be disclosed if 'maintaining such confidentiality would result in a real and imminent threat to the patient or to others'.



While confidentiality must be strictly observed, there may be certain circumstances where information needs to be disclosed in order to protect the rights and safety of other prisoners and of prison staff. Such transfer of information is exceptional.

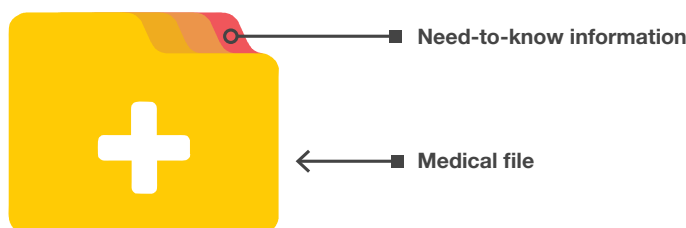
International Code of Medical Ethics of the World Medical Association



A case of tuberculosis is a typical example where full medical confidentiality cannot be maintained as there is a duty to prevent infection. Another example is when a woman is pregnant and needs **pre-natal care**.

The consent of the prisoner to disclosure must be sought in all circumstances. In many cases where medical confidentiality cannot be maintained, prisoners are likely to give their consent in the interest of receiving the necessary care. When the prisoner does not give consent for information essential to the health and safety of other prisoners and staff to be shared, healthcare staff may disclose information but only to the extent necessary to protect others, i.e. on a 'need-to-know' basis. For example, medical staff should not disclose the full medical case file.

**ANY DISCLOSURE
MADE UNDER AN
EXCEPTION TO THE
PRINCIPLE OF MEDICAL
CONFIDENTIALITY
MUST BE ONLY ON A
'NEED-TO-KNOW' BASIS**



The role of healthcare professionals

The same ethical and professional standards that apply to healthcare staff working outside prison apply to those working in prison, as reiterated in the **Standard Minimum Rules (24-35)**.

The role of healthcare staff in prison is to evaluate, promote and treat the physical and mental health of their patients (prisoners). Their role must be clearly separate from that of the prison administration. They must not be involved in prison management issues, such as disciplinary measures, and their clinical decisions must not at any time be overruled or ignored by non-medical prison staff.

What healthcare issues should be covered by medical screening at admission?

The Bangkok Rules and the Standard Minimum Rules recognise that a health screening on entry to prison is essential for providing adequate individualised treatment and care for each prisoner, as well as any accompanying children.

The comprehensive requirements laid out in **Bangkok Rule 6** take into account that because of the backgrounds or lifestyles of many women entering prison, this may be the first time in their lives they have had a medical examination or had access to a doctor.¹⁷

Urgency of medical screening

Bangkok Rule 6, which supplements **Rule 30 of the Standard Minimum Rules**, explicitly states that medical screening needs to be undertaken **promptly** after admission to prison. There are two reasons for this.

1. To ensure that the prisoner immediately starts receiving proper treatment for any health conditions.
2. To identify any signs of ill-treatment in previous detention or custody and take appropriate action.

‘Promptly’ or ‘as soon as possible’ means the day of admission except in exceptional circumstances. Sometimes it may not be practical or advisable to undertake the full screening immediately. Any urgent medical needs, including an assessment of whether the woman has been subjected to ill-treatment or torture, should be done on the first day. A comprehensive screening should be done within a week of admission.

Medical screening of children

Medical health screening of any children accompanying their parent into prison is an important part of providing appropriate care. Children are often affected by their mother’s circumstances. Therefore, they are likely to also have existing healthcare and psychological support needs when arriving at the prison.





Exercise 4.3

Mrs Almeida has just been admitted to Parc Women's Prison. You are a nurse with the healthcare team and have received the medical screening file ([see overleaf/ page 62](#)). Review the file and the guidance notes, and then answer the two questions below.

Q1. You have a few health-related concerns about Mrs Almeida, including her possible risk of HIV infection and symptoms of depression. You recommend to Mrs Almeida that she undergo tests for HIV. She responds, 'I don't want to do the test because if I am HIV positive I will be locked up by myself!'.

What should you do? (Tick all that apply)

- ☐ After explaining your reasons for requesting a test, refer her to a counsellor, stressing that the counsellor will explain and discuss the implications if she tests positive for HIV. **(1)**
- ☐ Explain that given her history in sex work, she has to take the test. Give her written information to read about the test and the implications for care and treatment if she tests positive for HIV. **(2)**
- ☐ Give her written information which stresses that the test is voluntary and explains what it involves and the implications if she tests positive for HIV. If she agrees to be tested, arrange for counselling. **(3)**

Q2. You are concerned about Mrs Almeida's symptoms of depression.

What should you do? (Tick all that apply)

- ☐ Prescribe sleeping tablets to help alleviate sleeping issues and recommend counselling. **(1)**
- ☐ Complete a full mental health assessment, including any risk of suicide and self-harm, with the assistance of a psychologist. **(2)**
- ☐ Explain that she will have to ask a prison guard on duty about who can help with mental healthcare issues. **(3)**

Check your answers on page 173.



Extra resources

- PRI / Thailand Institute of Justice, *Guidance Document on the UN Bangkok Rules*, 2013, Chapter 4
- World Health Organization, *Good governance for prison health in the 21st century. A policy brief on the organization of prison health*, 2013
- World Health Organization, *Prisons and health*, 2014

APPENDIX TO EXERCISE 4.3 (on previous page)

MEDICAL SCREENING, PARC WOMEN'S PRISON		
TYPE OF INFORMATION	MEDICAL STAFF TO COMPLETE	GUIDANCE NOTES
Date of admission	15 July 2007	
Date and time of examination	15 July 2007, 16.00	The examination should take place on the same day as admission (unless there are exceptional circumstances).
Name of prisoner	Mrs Julia Almeida	
Examiner	Dr Claudia Silva	It is important that the medical staff undertaking the screening are independent of the prison administration so they can remain impartial and objective.
Qualification/title of examiner	Doctor	In some prisons, arranging for a doctor to examine each prisoner on admission may pose challenges. In these cases, a qualified nurse may carry out the examination and report the findings to the doctor. The doctor should undertake a full examination within one week.
MEDICAL SCREENING		
Primary healthcare needs	Suffers from mild asthma. See below for specific healthcare needs.	Bangkok Rule 6 requires the health screening to determine primary healthcare needs. It is important to diagnose any existing health conditions from the beginning of women's imprisonment and to provide treatment.
Sexually transmitted infections and blood-borne diseases	Needs HIV testing given history in sex work and possible exposure. Screened for other sexually transmitted infections: test results pending.	Bangkok Rule 6(a) states that women prisoners may be offered testing for HIV. Any such testing must be voluntary and must be accompanied by pre- and post-test counselling. Information must be provided so that the woman understands the implications of the testing, counselling and follow-up procedures. HIV testing may add to the trauma of admission to prison so counselling is important. Healthcare staff should highlight the potential benefits of HIV testing and counselling, and offer or recommend HIV testing. However, staff should emphasise that testing is voluntary and that prisoners will be able to access HIV testing at any time during their imprisonment. Staff should refrain from offering testing to prisoners who may not be able to give informed consent at the time of admission, such as prisoners going through withdrawal from drugs. ¹⁸
Mental health	Patient has experienced some symptoms of depression which developed during the criminal trial, including insomnia or inability to sleep: feelings of helplessness: and unwillingness to receive visits from family and friends.	Bangkok Rule 6(b) requires any screening to cover mental health issues, including post-traumatic stress disorder and risk of suicide and self-harm. The screening must be undertaken by a qualified mental health practitioner. In cases where women are diagnosed with severe mental health problems, they should be referred to specialised healthcare services. This screening may be undertaken a few days after the woman has had a chance to settle in and overcome the initial distress of being admitted to prison.
Reproductive health	Patient has three children. Last child was born approximately one year ago. Patient experiences severe pain during menstruation. No other reproductive health complaints.	Bangkok Rule 6(c) recognises that one of the key gender-specific healthcare needs of women is related to their reproductive health. Under medical confidentiality principles (Bangkok Rule 8), women should not be forced to provide information on, for example, recent pregnancies. If a woman has undergone an abortion in a country where it is criminalised, she should never be forced to provide information about the person who conducted the abortion as a condition for medical treatment.
Substance dependence	Patient frequently used cannabis (on a daily basis) and is suffering from some withdrawal symptoms.	A qualified team of health specialists, including a psychologist where possible, should screen for substance dependence. Women who are found to be drug dependent should not be penalised, but rather offered treatment on a voluntary basis for the dependence. See Bangkok Rule 6(d).
Torture, ill-treatment and gender-based violence	No detection of any violence, ill-treatment or torture.	Bangkok Rule 6(e) recognises that the first period in police custody and pre-trial detention are the periods in which ill-treatment and abuse most commonly take place, and that women are particularly vulnerable during this period. Medical screening on entry is one of the essential components of policies that aim to detect such abuse. Bangkok Rule 7 outlines the responsibilities if ill-treatment or torture is detected.

Module 4

Quiz

Now that you have learned about hygiene and healthcare issues, there are three questions below to check your understanding.

Q1

Read Mrs Vidal's case and identify five concerns that violate the Bangkok Rules on hygiene and healthcare.

Mrs Vidal was admitted to a women's prison accompanied by her daughter Lizzy. Mrs Vidal was booked for a medical screening on arrival. While waiting for the medical appointment, Mrs Vidal and Lizzy were held in a cell with a toilet, but there was no running water available in the cell. Mrs Vidal requested some sanitary pads from a prison guard, which the guard provided for a fee.

After three days Mrs Vidal was called to a full medical screening. Mrs Vidal was told that Lizzy didn't need a medical screening and could stay in the childcare facilities while Mrs Vidal was seeing the doctor.

As part of the medical screening the doctor asked Mrs Vidal to fill in a long form including sections on her mental health, medical history and reproductive health. Mrs Vidal was unsure about completing the part on pregnancies and abortions, but did so as she did not want to get into any trouble.

1.

2.

3.

4.

5.

Q2

Read Mrs Bakowski's case and identify which guidelines on medical confidentiality have been violated. *(Tick all that apply)*

Mrs Bakowski has been diagnosed with polycystic ovary syndrome, which may prevent her from having children in the future. The doctor tells her that it is necessary for the prison governor to be aware of her condition so that she can attend a specialist clinic outside of prison. Mrs Bakowski agrees orally to this disclosure.

In a counselling session, Mrs Bakowski speaks about how she is coping with her diagnosis. Following this, the psychiatrist mentions it to the prison governor. The governor asks the prison guards stationed in the doctor's waiting room to fetch Mrs Bakowski's medical file, which is stored in an unlocked cupboard, so that he can read it.

- ☐ The patient must give written consent to disclosure of medical information to a third party. **(1)**
- ☐ Personal information should be effectively protected; if the files are kept manually they should be locked and accessible only to medical staff. **(2)**
- ☐ Patients should be made aware that by necessity the information will be shared within the medical team. **(3)**
- ☐ The principle of medical confidentiality applies to all medical staff. **(4)**
- ☐ No staff within a prison, with the exception of the healthcare staff, should have access to a prisoner's medical records or medical information. **(5)**

Q3

Select all the correct statements regarding the role of medical staff. *(Tick all that apply)*

- ☐ Whenever possible, women prisoners should receive medical treatment from women nurses and doctors. **(1)**
- ☐ If a non-medical staff member needs to be present for security reasons, it can be a female or male prison guard. **(2)**
- ☐ If a male doctor undertakes the medical examination because no female practitioner is available, a female nurse or staff member needs to be present. **(3)**
- ☐ Women prisoners can ask to be treated by a female physician if they explain why they would prefer this. **(4)**

Now check your answers on page 173 and mark your score here (one point per question).

Module 5

Specific health issues



Module 5

Specific health issues

Introduction

In Module 4 we looked at the hygiene and general healthcare needs of women in prison and at the overarching principles of healthcare in prison, including medical confidentiality. We reviewed the medical screening required at admission to prison. In this module we will go through the measures that should be taken to provide gender-sensitive care for specific health issues.

Learning objectives

In this module you will cover the following topics.

- ➡ **What should gender-specific HIV/AIDS prevention, treatment and care look like?**
- ➡ **How can substance dependency treatment be designed to meet women's specific needs?**
- ➡ **How should detention facilities provide for women's mental healthcare needs?**
- ➡ **What preventive healthcare services are necessary for women prisoners?**



What should gender-specific HIV/AIDS prevention, treatment and care look like?

As we learned in Module 4, the prevalence of HIV/AIDS in prisons is higher than in the general population. Women prisoners are more likely to contract HIV in prison than men, for several reasons.

- Most women in prison are from socially marginalised groups and are more likely to have been engaged in sex work and/or drug use.
- Women prisoners are more likely to use drugs in prison, including by injection.
- They are more vulnerable to sexual abuse.
- Some forms of risky behaviour, such as unsterile tattooing, are more common among women prisoners.

However, many prisons fail to prevent and properly treat HIV/AIDS among women.

- There are limited reproductive and **pre- and post-natal care** services available for women in prisons.
- **Antiretroviral therapy** is often not available, even for HIV-positive pregnant women, even though it could prevent mother-to-child transmission.
- Prison diets often fall below an adequate level of nutrition, which weakens prisoners' immune systems, making them susceptible to infections.
- While medical treatment for women with HIV/AIDS needs to be different from treatment given to men, prison health services usually fail to take the different needs of women into account.



For further guidance and background, download the briefing 'Women and HIV in prison settings' which explains why women are at more risk of contracting HIV in prisons and how to respond to this. www.unodc.org/documents/hiv-aids/Women_in_prisons.pdf.

Responding to HIV/AIDS in women's prisons

Any plan to prevent and provide treatment and care for HIV/AIDS in women's prisons must take into account the distinct physiology as well as the backgrounds and profile of women prisoners. This is required by **Bangkok Rule 14**.

Every plan needs to have a comprehensive range of interventions, which include the following 10 points.

1. Providing information on the transmission of sexually transmitted infections (STIs) and HIV, and ways to reduce those risks.
2. Providing access to essential prevention products (male and female condoms, sterile injecting and tattooing equipment).
3. Providing drug dependence treatment particularly designed for women's needs.
4. Providing access to reproductive health and family planning advice.
5. Involving women prisoners in developing and providing health programmes and services in response to HIV/AIDS.
6. Developing education initiatives with prisoners which can be delivered by prisoners themselves.
7. Providing appropriate diet and nutritional supplements, with extra care for pregnant or breastfeeding women.

8. Addressing the risky behaviour (such as injecting drugs) and stigmatisation of women. This is an important element to the prevention and treatment of HIV/AIDS, as this prisoner living with HIV reports:

“

It was a very lonely time for me. I experienced discrimination from other inmates; there is so much ignorance and fear still around HIV in prison. People did not want me on their wing, thought they couldn't drink from the same cup as I would use and didn't even want me using the same baths!

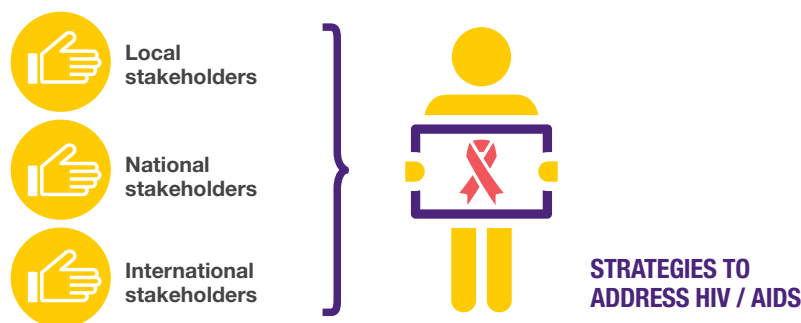
Prisoner living with HIV¹

”



9. Organising prison health in close relationship to the public health system (**Standard Minimum Rule 24**) to promote **continuity of care**. This is essential for people leaving prison who are HIV positive or living with AIDS so they can, for instance, continue to receive their medication and treatment without a break.
10. Cooperating and collaborating between various local, national and international stakeholders when developing and implementing HIV/AIDS strategies for prisons. Effective links between prison-based services and community services are particularly essential.

Note: **Bangkok Rule 9** stipulates that children born in prison, especially to HIV-positive mothers, need particular care and attention tailored to their needs.



Promising practice: Kazakhstan

PRI's Women's Health in Kazakhstan project, which included education on HIV/AIDS, helped reduce the transmission of HIV in a women's prison to zero cases in 2012. A nurse from Karaganda Women's Prison explained: 'The project helped me to understand how to work with women prisoners more effectively, and gave me necessary knowledge on HIV/AIDS and tuberculosis which helped to explain to prisoners ways of prevention. For the first time in my professional practice we used new informational tools such as films, group lessons, discussions and individual counselling. I am very proud that as a result of the project in 2012 we had no cases of HIV transmission in our previously very problematic women's prison.'²



Exercise 5.1

Ms T is serving a sentence in a women's prison and is HIV positive. Ms T is taken to external appointments at the HIV/AIDS centre outside the prison. However, she is very distressed that each time she has an external appointment she is accompanied by a different officer. Ms T is constantly handcuffed to a prison officer during her consultations with her HIV clinician.

As Ms T was displaying extreme levels of mental distress and nurses were concerned she was not sticking to the regime of the prison healthcare system, a new procedure was introduced and Ms T now has to collect her medication from a hatch that opens onto a communal area.³

Read Ms T's case study (above) and Bangkok Rules 10, 11 and 13. Which Rules were not followed correctly, and why?

Check your answers on page 174.

How can substance dependency treatment be designed to meet women's specific needs?

Women and substance dependency

Whether or not women are in prison for drug-related offences, substance abuse is common among prisoners and many women **offenders** enter prison with drug dependencies. Drug dependence has been consistently found to be over-represented in female prison populations, compared to the general population.⁴

Studies show that 10 to 24 per cent of women either abuse alcohol or are dependent on it before they are sent to prison. In Europe, it was estimated in 2002, that 75 per cent of women entering prison were problematic drug and alcohol users. While most prisons address illicit drug use to some extent, the use and abuse of alcohol is covered to a much lesser degree.⁵

Female prisoners have specific treatment needs related to the reasons for their substance dependency, and also the distinct way they use substances. Their needs are often linked with violence, trauma and **mental health** issues.⁶





However, prisons face challenges in responding to the needs of women who have substance dependencies. For example, where harm reduction services in prisons are provided they may be offered only to male prisoners. Facilities or programmes developed to meet the specific psychological, social and healthcare needs of women prisoners are very rare.



Example: Opioid substitution therapy

In Georgia, a 2008 survey of women's access to opioid substitution therapy (OST) in prisons found that methadone was available in some men's prisons but not in women's prisons. Furthermore, in Kyrgyzstan, funding shortfalls delayed the introduction of OST into women's prisons. When it was established, unlike the programme provided in eight men's prisons, no separate 'clean zone' was available to women, but those undergoing the treatment mixed freely with the other prisoners.⁷

An inadequate response to substance dependencies can have serious consequences for the physical and mental health of prisoners.



Case study: Ms McGlinchey

Ms McGlinchey, who had a long history of heroin addiction, was sentenced to four months' imprisonment for theft in December 1998. While in prison, she experienced heroin withdrawal symptoms, vomited frequently and lost significant weight. She was initially treated by a doctor. After a week in prison, her condition worsened and she was admitted to a hospital where she died in January 1999.

Her relatives brought a complaint to the European Court of Human Rights. The Court found that the prison authorities had failed to comply with their duty to provide her with the necessary medical care. They held that this constituted ill-treatment, in violation of Article 3 of the European Convention on Human Rights.⁸

The Bangkok Rules encourage **non-custodial sanctions and measures** as alternatives to imprisonment for women convicted of non-serious drug offences and who need substance treatment programmes (**Bangkok Rule 62**). This provision responds to research indicating that community-based drug treatment programmes are more effective in reducing **recidivism** than drug treatment in prison.

Responses in prison

There are two initial things to consider when addressing drug dependency in prison.

- Women who are found to be drug dependent in prison **should not be penalised** or prosecuted. Instead, their drug dependence should be treated as a healthcare problem.
- The use of any treatment for drug use **without the consent of the patient** is in breach of **Standard Minimum Rule 32**.

SUBSTANCE DEPENDENCY STRATEGY



Bangkok Rule 15 recognises that gendered differences in substance dependence, and related complications, require different treatment approaches for women prisoners. It explicitly states that any treatment programme needs to take into account:

- prior victimisation
- special needs of pregnant women and women with children
- diverse cultural backgrounds.

Any type of programme must be individualised and based on a careful needs assessment which looks at:

- any health needs, history of abuse or domestic violence
- experience of trauma and mental health problems common among women with substance dependencies
- pharmaceutical interventions (for example, opioid substitution therapy (OST)).
- aftercare and social reintegration





Promising practice: Lichtenberg Women's Prison, Germany

In Lichtenberg Women's Prison in Germany, a needle and syringe programme offers free and anonymous facilities for injecting drug users. This prevents some of the serious consequences of intravenous drug use, and is based on the fact that not all drug-dependent women are willing to stop injecting drugs.

The prison also provides a holistic approach through its drug addiction unit, which is divided into the basic unit and the 'motivated unit'. Usually drug-dependent women move into the basic unit at first. During the orientation phase, they are motivated to address their addiction and to live a drug-free lifestyle. Women can apply to move into the motivated unit which is divided into two flats. One flat accommodates women who are using **substituted medications**, and the other is for women who are drug free. All women have to participate in a urine sample programme to prove their abstinence and to prepare for a drug-free life.

Compared to those housed in the addiction unit, women housed in the substituted flat have increased hours out of their units and are not locked up at night, which encourages their sense of responsibility and group dynamics. The drug-free area offers even greater freedom and the opportunity to apply for **early release** into drug rehabilitation following an assessment.⁹

How should prisons provide for women's mental healthcare needs?

'Mental health' is defined by the World Health Organization (WHO) as a state of well-being in which every individual realises his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community.

According to the WHO, 80 per cent of women prisoners have an identifiable mental illness, many more than in the general population. In the United States, for example, 73 per cent of the women in state prisons and 75 per cent of the women in local prisons were found to have symptoms of mental health issues compared to only 12 per cent of women outside.¹⁰

Imprisonment can exacerbate existing mental healthcare needs of women who may feel the impact of separation from children, families and communities particularly acutely. However, despite these statistics, prisons are often not equipped to deal with women's mental healthcare needs.

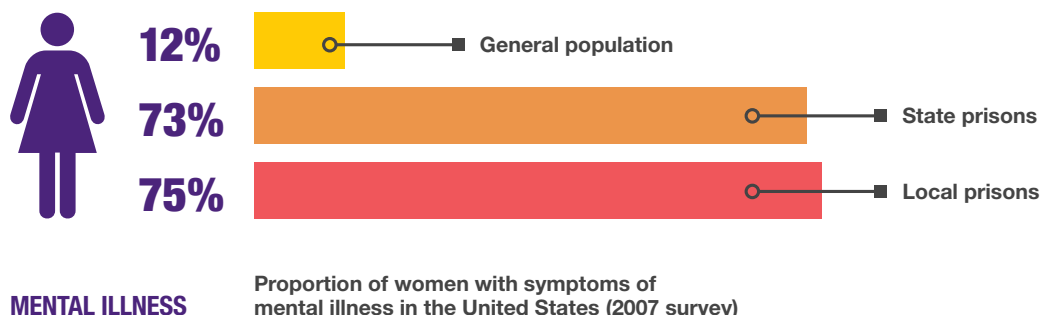
“

For those women that come into prison with mental health problems... all too often the answer remains: More medication! More lock-up! This is not the answer, and these women only deteriorate further in these conditions.

”

Woman prisoner, UK¹¹





Suicide and self-harm by women prisoners

We have previously looked at the reasons why women prisoners more frequently experience mental health issues, and in Module 3 we saw how their needs should be identified at admission to prison in order to provide appropriate care and support.

Research in some countries indicates that women in prison attempt suicide and self-harm at a much higher rate than male prisoners. Studies have shown that this is because of the high rates of mental health issues and substance dependency among women prisoners, and the effects of isolation.¹²

In some countries self-harm and suicide attempts are penalised, sometimes as criminal offences. This is counter-productive as it only increases distress and may cause the prisoner's mental state to deteriorate further.



Case study: Ashley Smith

Ashley Smith was in her mid-teens when she was sentenced to detention in New Brunswick Youth Centre, Canada, where she was regularly punished severely and placed in solitary confinement for non-compliance with institutional rules. Once 18, she was transferred to an adult facility. Over the next year of her life she was transferred between nine institutions, in all of which she was segregated and physically restrained for being 'disruptive'.

Prison psychologists recognised her mental health issues and diagnosed her with borderline personality disorder. This assessment did not lead to changes in her treatment, and she remained segregated. Ms Smith was frequently found tying cloth ligatures around her neck, and committed suicide while she was under suicide watch in a corrections institution.¹³

Ashley Smith's case illustrates the fatal consequences that can come as a result of the state's failure to address a young woman's mental health needs. Instead of receiving the necessary treatment and support while she was in custody, Ms Smith's mental health issues and associated behavioural issues were addressed through excessive periods of segregation and use of force and restraints.

In his report on the incident, the federal prison ombudsperson found that: 'Ms Smith's death was the result of individual failures that occurred in combination with much larger systemic issues within ill-functioning and under-resourced correctional and mental health systems.'¹⁴



Exercise 5.2

Select which measure(s) listed below are an appropriate response to women who have harmed themselves or attempted suicide. (Tick all that apply)

- ☐ Segregated housing or solitary confinement. **(1)**
- ☐ Therapeutic programmes such as peer support programmes. **(2)**
- ☐ Increased number of family visits. **(3)**

Check your answers on page 174.

What do the Bangkok Rules say on mental health?

Bangkok Rule 12 takes into account that mental healthcare needs are often inadequately understood and treated. Symptoms therefore tend to be addressed through medication only or the prisoner is punished for behaviour that stems from mental health issues.

Taking a holistic and gender-sensitive approach

Rule 12 requires the provision of an individualised and holistic approach that is gender-sensitive. Such an approach should involve:

- a varied, balanced and flexible prison regime
- access to education, vocational training and recreation
- family contact
- physical exercise
- a balanced diet.

Mental healthcare programmes must be appropriate for women, taking into account any trauma that a woman may have suffered and looking at the root causes of the mental healthcare issues.

Please note that **Rule 12** also addresses the mental healthcare needs of women who receive non-custodial sanctions.



Supporting the prison staff

Bangkok Rule 13 recognises that prison staff are an essential part of a gender-specific response to prisoner's mental health issues.

Training and capacity-building initiatives are necessary so that staff are aware of mental healthcare issues. They should understand how their treatment of a prisoner is an essential component of tackling behaviour that stems from such issues. Staff should be trained to detect mental health issues in prisoners, including any risk of self-harm and suicide, as required by **Standard Minimum Rule 76(1)(d)**. They should also be made aware of particular times when prisoners may be feeling high levels of stress and depression, for example before court hearings or after family visits.

Suicide and self-harm prevention

Bangkok Rule 16 requires the development and implementation of a strategy to prevent suicide and self-harm, in consultation with mental healthcare and social welfare services. Such a strategy is an essential part of a comprehensive policy on mental healthcare in women's prisons.

Education and awareness

Rule 17 addresses the importance of education and health awareness. There should be awareness-raising, education and information on healthcare in prisons, particularly taking into account the generally low education level among prisoners. Written material and information sessions should be provided on a regular basis as well as the opportunity to ask questions in confidence.

Role of healthcare staff

If healthcare staff consider that a prisoner's mental health (or physical health) has been or will be harmfully affected by their imprisonment, they must report it to the prison director (**Standard Minimum Rule 33**).

What preventive healthcare services are necessary for women prisoners?

In addition to education and awareness-raising about preventive healthcare measures, **Bangkok Rule 18** requires that prisons provide services such as pap smears and screening for breast and gynaecological cancers. These should be offered to women prisoners on an equal basis with women of the same age in the community.

Other preventive healthcare measures that are needed include the provision of contraceptive pills as necessary (for example, for problematic menstruation), and also access to condoms and dental dams to prevent the transmission of **sexually transmitted infections**. Sport activity, for example, is also a key preventive healthcare measure to maintain the physical and mental well-being of prisoners.



Promising practice: Thailand

In Thailand, yoga and t'ai chi practices were used in two projects that aimed to improve the health of women prisoners. Ten women prisoners from Ratchaburi Central Prison became instructors and travelled to Koh Samui women's prison to teach yoga. The project boosted the morale of the prison staff and built better relationships between prisoners themselves and between prisoners and staff.¹⁵



Extra resources

- PRI/Thailand Institute of Justice, *Guidance document on the UN Bangkok Rules*, 2013, Chapter 4
- International Drugs Policy Consortium, *IDPC Drug Policy Guide*, 3rd edition, 2016, Chapter 3.6
- World Health Organization (WHO)/ International Committee of the Red Cross (ICRC)/ UN Office on Drugs and Crime (UNODC), *Prisons and health*, 2014, Chapter 18
- UNODC/WHO, *Women's Health in Prison: Action Guidance and Checklists to Review Current Policies and Practices*, 2011
- UNODC, *HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response*, 2006
- WHO, *Preventing suicide in jails and prisons*, 2007
- UNODC/UNAIDS, *Women and HIV in prison settings*, 2008

Module 5

Quiz

Now that you have learned about the specific hygiene and healthcare issues relating to women prisoners, there are three questions below to check your understanding so far.

Q1

Should a prisoner with a drug dependence be obliged to undertake treatment?

Yes ☐ No ☐ *(Please tick)*

Q2

Should prison systems implement the same HIV/AIDS prevention and treatment plans for male and female facilities?

Yes ☐ No ☐ *(Please tick)*

Q3

If healthcare staff believe that imprisonment is having a harmful effect on a prisoner's mental or physical health, they should address the issues themselves.

True ☐ False ☐ *(Please tick)*

Now check your answers on page 174 and mark your score here (one point per question).

Module 6

Searches and disciplinary measures



Module 6

Searches and disciplinary measures

Introduction

This module covers searches, discipline and punishment; instruments of restraint; information for and complaints by prisoners; and prison inspections.

The provisions on safety and security in the Bangkok Rules and Standard Minimum Rules for the Treatment of Prisoners are based on the understanding that security in prisons can be maintained and improved by respecting the human rights of prisoners. For women prisoners this includes taking their gender-specific needs into account.

Learning objectives

In this module you will cover the following topics.

- ➞ **What are some of the issues around searches?**
- ➞ **How should searches of women prisoners and visitors be conducted?**
- ➞ **What elements should search policies include?**
- ➞ **What are the rules and issues on restraining prisoners?**
- ➞ **What do the Bangkok Rules say about disciplinary measures?**
- ➞ **How should inspection and complaints mechanisms meet the needs of women prisoners?**



Searches

Searches include all personal searches, including pat-down and frisk searches, as well as strip and invasive searches. A strip search refers to the removal or rearrangement of some or all of a person's clothing so as to permit a visual inspection of a person's private areas. Invasive body searches involve a physical inspection of the detainee's genital or anal regions. Other types of searches include searches of the property and rooms of prisoners. Visitors to prison are also frequently searched.

Searches are a highly sensitive issue for all prisoners. Women prisoners may be especially sensitive to searches because of their gender and because many have previously experienced violence.

“

We strip ourselves each day in front of persons unknown to us... at home we do have a sense of 'laaj' [shame and dignity] and it is assumed that when we come here as prisoners we have lost all the fine emotions that a woman has.

Woman prisoner, India¹

”



In some countries women are subjected to strip searches on a routine basis. These are sometimes carried out in the presence of male staff members or in a humiliating way. There have been reports of women harming themselves following degrading treatment during searches.

HERE ARE SOME EXAMPLES OF INAPPROPRIATE PRACTICES CARRIED OUT IN DIFFERENT PARTS OF THE WORLD.

Zambia

Elderly inmates at Mukobeko Maximum Prison in Zambia reported in 2013 that prison authorities carried out searches which involved inserting their fingers into women's private parts. The inmates complained that this was routinely conducted on Saturdays, and said officials were in search of valuables and money.²

Greece

Until 2011, prisoners in Greece who refused to undergo an invasive body examination upon arrival to prison were placed in segregation for several days and forced to take laxatives. Authorities said these types of searches are now undertaken only in exceptional circumstances and by trained doctors. However, the European Committee for the Prevention of Torture reported that the practice was still going on when it visited prisons in Greece in January 2013.³

Afghanistan

Reports indicate that people charged with drug trafficking undergo intimate searches upon arrest. These searches are carried out by male personnel in the presence of male and female onlookers. Women are often humiliated by male police staff members during the process.⁴

Australia

In 2012, the Special Rapporteur on violence against women reported that many Australian prisons require women to undergo highly invasive and often traumatic strip searches that are not proportional to preventing illegal items from being smuggled into prison.⁵



“

We are strip searched after every visit. We are naked, told to bend over, touch our toes, spread our cheeks. If we've got our period, we have to take the tampon out in front of them. It's degrading and humiliating. When we do urines it's even worse, we piss in a bottle in front of them. If we can't or won't, we lose visits for three weeks.

Woman prisoner, Australia⁶

The Special Rapporteur on violence against women described the improper touching of women during searches carried out by male prison staff as 'sanctioned sexual harassment'.

UN Special Rapporteur on violence against women⁷

”



How should searches of women prisoners and visitors be conducted?

The **Standard Minimum Rules (Rule 81)** explicitly state that women prisoners should only be supervised by women officers. Despite this, there is increasing use of mixed staff in some countries. This leads to male staff carrying out searches of women prisoners as well as searches of female visitors.

The principle that searches **should only be carried out by someone of the same sex** – reiterated in **Bangkok Rule 19** – has been emphasised by various international and regional bodies in order to prevent the sexual abuse and humiliation of prisoners.

What elements should search policies include?

Rules on searches

The Standard Minimum Rules and the Bangkok Rules recognise that some search procedures may amount to serious assaults on a person's privacy and dignity, and can carry the risk of injury. **Bangkok Rules 19-20** and **Standard Minimum Rules 50-52** require that:

- searches are governed by law and regulations
- any decision on whether to conduct a search should consider whether it is necessary and proportionate
- search procedures respect the dignity and privacy of the prisoner, and must not be used to harass or intimidate
- invasive body searches only be employed as a last resort
- the findings of searches are recorded.

Different rules apply to invasive or body cavity searches for male and female prisoners. Intrusive searches should only be conducted **in private** and **by trained staff** of the same sex as the prisoner. See **Standard Minimum Rule 52(1)**.

Bangkok Rule 20 and **Standard Minimum Rule 52** state that strip or invasive body searches should be replaced by scans and other alternative screening methods. Such searches may only be carried out in exceptional circumstances, when absolutely necessary.

If deemed necessary, a search should be undertaken in **two steps** – meaning that the detainee is asked to remove their upper and lower clothing at separate times so that they are never fully naked.

Role of healthcare staff in searches

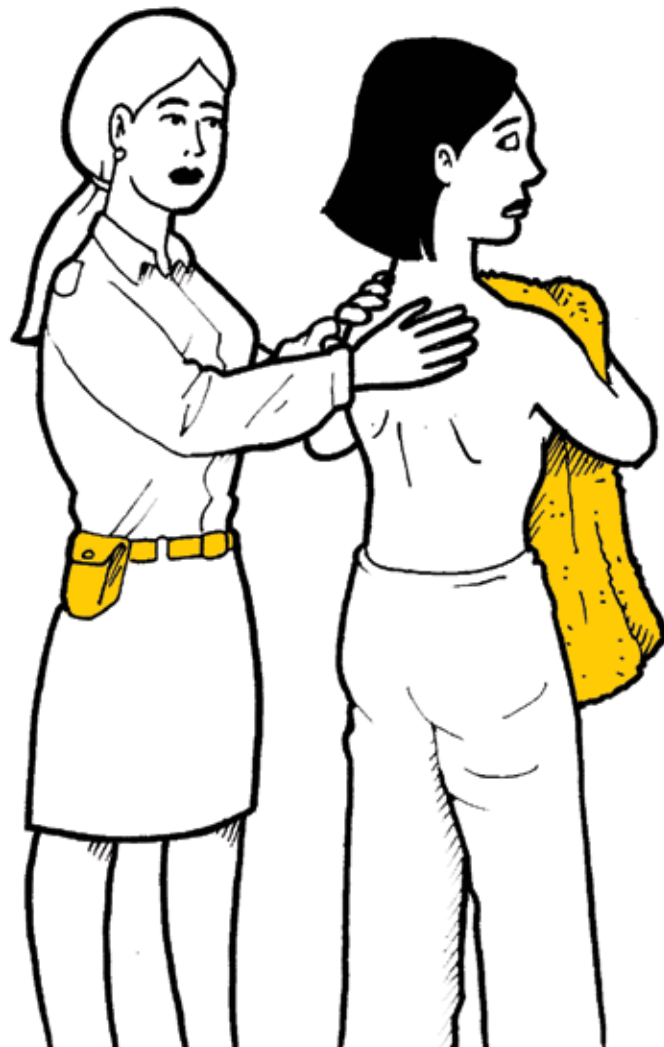
The Standard Minimum Rules incorporate medical ethics and the World Medical Association's guidance on searches.

Standard Minimum Rule 52(2) stipulates that body cavity searches should be conducted only by qualified healthcare staff.

However, it emphasises that such searches should not be carried out by the same healthcare staff who provide medical care to the prisoner on a day-to-day basis. This is in line with medical ethics and is based on the fact that a search is a security measure and would therefore compromise the prisoner-patient relationship.⁸



Read the World Medical Association's Statement on Body Searches of Prisoners:
www.wma.net/en/30publications/10policies/b5/.





Exercise 6.1

Bangkok Rules 19 and 20 and Standard Minimum Rules 50–52 outline what should be put in place so that a woman's safety, privacy and dignity are respected in search procedures. Read the following implementation measures and corresponding scenarios and decide if the proper procedure has been followed.

Q1. Measures:

- A scan or other screening method should be used to detect any contraband.
- If invasive body searches are unavoidable, they should be carried out either by a medically trained female staff member who is not part of the regular healthcare service of the prison or by female staff with sufficient medical knowledge and skills to safely perform the search.
- Any invasive body search should be undertaken only after written authorisation is sought from the prison's chief executive officer with the reason for the search explicitly stated on the record.
- If a physician carries out the search, the physician should explain to the prisoner that the usual conditions of medical confidentiality do not apply during this imposed procedure and the results of the search will be revealed to the authorities.
- Records should be kept on any search carried out, reasons for the search, the identities of those who conducted it and any results of the search.

Scenario: As a prison guard you have received credible information that a woman prisoner is concealing heroin in her body. Because you fear for the prisoner's health, namely any consequences of the drugs leaking, and there is no scanner available, you decide that an invasive body search is unavoidable. The female prison nurse is asked to perform the search.

Was proper procedure followed? (Please tick)

Yes ☐ No ☐

Q2. Measures:

- Any search should be carried out by exposing only parts of the body (the person should not be completely naked), and in a manner that provides privacy from other prisoners and staff members not required for the search.
- A sufficient number of female staff members should be designated to carry out searches of women prisoners and should be provided with appropriate training, including measures to protect prisoners' right to dignity.
- Male staff should be prohibited from undertaking searches of female prisoners.
- Guidelines on searches should be developed and disseminated to all staff.

Scenario: A woman is suspected to have hidden a cell phone after a visit by a friend. A decision is made by the head of the prison to search the prisoner. A female staff member, who has completed training on searches, escorts the prisoner into a private room and carries out the search. The prisoner is not naked at any time and is given a clear explanation as to why the search is being carried out.

Was this procedure correct? (Please tick)

Yes ☐ No ☐

Check your answers on page 174.



Promising practice: Moscow, Russia

The practice of carrying out an internal physical search of every woman prisoner upon admission to the Moscow Women's Remand Prison was abolished in 2003. Although designed to prevent drugs from being brought into the prison, the practice did more harm, by disrupting prison management and damaging prisoners, than it helped reduce drug smuggling. The searches are now only carried out in individual cases where there is an identified security need. Evidence suggests that criminal activity has decreased rather than increased since this change took effect.⁹

Searching visitors

Visitors to prison are also searched frequently. Issues around providing the right environment for visits will be addressed in Module 7.

Children who are visiting their parents in prison and those living with their mothers in prison may be subjected to searches, often unnecessarily. For example, the UN Subcommittee on Prevention of Torture received many complaints in Brazil relating to the intrusive and humiliating search procedures in place for visitors, including elderly women and children, who had to undergo strip searches and intimate searches.¹⁰

Searches of visitors, at a minimum, must be subject to the same safeguards as searches of prisoners and take account of their status as non-prisoners. This is required by **Standard Minimum Rule 60**.

The experience of visiting family in prison can be traumatic for children. **Bangkok Rule 21** requires that any searches of children be carried out in a way that protects their dignity, whether they are in prison with their mother or visiting. Procedures should be established for searching children, clearly defining under what circumstances there may be a search, by whom and in what way.

Standard Minimum Rule 60(2) prohibits body cavity searches for children entirely.

What are the rules and issues relating to restraining prisoners?

Standard Minimum Rules 43(2) and **47-49** place strict restrictions on the use of body restraints on prisoners. The Rules specify that restraints:

- may never be used as a punishment or disciplinary sanction
- may only be used as a precaution against escape during a transfer
- are only legitimate if no lesser form of controlling an actual risk is available, and they must be removed as soon as possible (and are always removed when a prisoner appears in court)
- must not be used longer than strictly necessary.

They also prohibit the use of any restraints that are inherently degrading or painful, including chains or irons, and stipulate that to reduce the use of restraints (or to reduce their intrusiveness), prison staff must be trained in control techniques (**Standard Minimum Rule 49**).





Use of restraints in childbirth

While **Standard Minimum Rule 47(2)** provides that restraints can be used to prevent escape, there is no reasonable chance of a woman escaping during labour, while giving birth or after birth. Any use of restraints at these times is therefore in violation of this Rule.

Despite this, in some countries there is widespread use of restraints when women are in labour and during delivery. For example, in the United States, many states still use shackles on women prisoners while in labour.

Bangkok Rule 24 and **Standard Minimum Rule 48(2)** explicitly prohibit any kind of body restraint during labour, during birth, and immediately after birth.

Serious health concerns can arise from the use of shackles while women are in labour. As physician, Dr Patricia Garcia explains, 'Women in labour need to be mobile so that they can assume various positions as needed and so they can quickly be moved to an operating room. Having the woman in shackles compromises the ability to manipulate her legs into the proper position for necessary treatment. The mother and baby's health could be compromised if there were complications during delivery, such as hemorrhage or decrease in fetal heart tones. If there were a need for a C-section (caesarean delivery), the mother needs to be moved to an operating room immediately, and a delay of even five minutes could result in permanent brain damage for the baby.'¹¹



Exercise 6.2

In which of the following circumstances is the use of restraints permitted?
(Tick all that apply)

- ☐ During a transfer of a prisoner from one prison to another. **(1)**
- ☐ During transportation of a pregnant prisoner to give birth at the hospital. **(2)**
- ☐ As a disciplinary measure after a prisoner has smuggled contraband into prison. **(3)**

Check your answers on page 174.

What do the Bangkok Rules say about disciplinary measures?

The Bangkok Rules supplement the Standard Minimum Rules on disciplinary measures. They recognise the harmful impact some measures have on the successful rehabilitation of women prisoners, and also on their children and family.

Prohibiting family visits

Contact with family members, especially children, is crucial in supporting the rehabilitation of women prisoners. **Bangkok Rule 23** therefore prohibits limiting family visits, especially with prisoners' children. This Rule supplements **Standard Minimum Rule 43(3)**. See Module 7 for more detail.

Solitary confinement

The **Standard Minimum Rules (Rule 44)** define solitary confinement as confinement for more than 22 hours per day without meaningful human contact. Interpretation of 'meaningful human contact' should recognise the suffering that any person will experience if deprived of contact with other human beings.

Given its devastating effect on physical and mental health, **Rule 45 of the Standard Minimum Rules** stipulates that solitary confinement should be used only:

- in exceptional cases
- as a last resort
- for as short a time as possible
- after authorisation by a competent authority
- and subject to independent review.

The UN Special Rapporteur on Torture has stressed that prolonged or indefinite solitary confinement (which is defined as confinement for more than 15 days) can amount to torture and ill-treatment.¹² It is therefore prohibited by the Standard Minimum Rules, in recognition of research that has documented its extremely harmful psychological and sometimes physical effects.

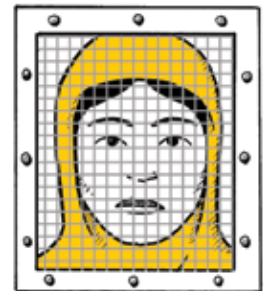
Prison administrators should be sensitive to the distress women prisoners often experience when in isolation. They should take into account the particular risk of self-harm and suicide among women, and how their experience of violence affects them.

“

After just two months in solitary confinement, my mind began to slip. I suffered from insomnia, nightmares, hallucinations, and emotional detachment, and often had violent panic attacks.

Woman prisoner who spent three months in solitary confinement in the USA¹³

”



Segregation or solitary confinement of mothers

Using segregation or solitary confinement as a disciplinary measure raises particular concerns in circumstances when children are affected and effectively penalised by their mother's confinement. This practice can also be harmful to the mental health of women prisoners, and even more so for pregnant women and women who have recently given birth.

Bangkok Rule 22 explicitly prohibits the use of solitary confinement or segregation for pregnant women, women with infants and breastfeeding mothers. The Standard Minimum Rules reiterate this prohibition in **Rule 45(2)**.

Meghan's case illustrates the importance of prohibiting segregation for pregnant women.



Case study: Meghan

Meghan, a prisoner in Illinois, USA, was pregnant and suffering from mental health issues. Because of her pregnancy she needed extra sleep. When, one day, a guard decided Meghan didn't get up fast enough for mealtime, she was sent to solitary confinement as punishment. Placement in solitary caused Meghan to miss her pre-natal vitamins. It also meant social isolation for an expectant mother who was fighting clinical depression.¹⁴

Adopting a constructive approach to rule-breaking

To avoid the use of solitary confinement or segregation in cases where women prisoners are breaking prison rules or regulations, a constructive gender-sensitive approach should be adopted.

The following excerpt is from the UN Office on Drugs and Crime's *Handbook for Prison Managers and Policy-makers on Women and Imprisonment*, and explains the concept of **dynamic security** which builds on a positive relationship between prisoners and staff.



It is now acknowledged that safety and security in prisons depend on creating a positive climate which encourages the cooperation of prisoners. External security and internal safety are best ensured by building positive relationships between prisoners and staff. This is the essence of dynamic security which should be employed. The concept of dynamic security includes:

- *developing positive relationships with prisoners*
- *diverting prisoners' energy into constructive work and activity*
- *providing a decent and balanced regime with individualised programmes for prisoners.*¹⁵



The Standard Minimum Rules require prison staff to receive training on how to apply dynamic security, and also on how to better manage disruptive or violent prisoners by preventing and defusing difficult incidents, through negotiation and mediation for example. **See Rule 76(1)(c).**

In women's prisons an emphasis on dynamic security is especially suitable, due to the harmful effects high-security measures have on women's mental well-being and social reintegration prospects. Using disciplinary measures only when strictly necessary should be an essential component of a gender-sensitive approach to prison management.

One of the first steps that can be taken to ensure safety and security in women's prisons is to introduce a gender-sensitive **classification** system. This enables careful differentiation of women, based on the risk they pose to themselves and others. We will look more closely at this in Module 8 on prisoner rehabilitation.

How should inspection and complaints mechanisms meet the needs of women prisoners?

Independent monitoring and the use of complaints mechanisms and procedures provide a safeguard to ensure a balance between safety and security in prison. An effective complaints mechanism is required by the Standard Minimum Rules, as it is in the interest of good order and discipline. Whether major or minor, complaints which are ignored or are not adequately answered can be major sources of conflict in prisons.

It is fundamental that prisoners are given an opportunity to make complaints and requests to authorities and independent bodies. Without access to such recourse, they are likely to express their frustration through violence, self-harm or damage to property.

The Bangkok Rules recognise that prisoners can be at risk of retaliation from staff if they complain, particularly in cases of sexual abuse. The Rules therefore require that immediate protection is given to women who complain of sexual abuse.

Complaints

Standard Minimum Rule 56 provides that every prisoner has the right to make complaints to the prison director, his or her authorised staff, external inspectors, the central prison administration and judicial authorities. Complaints can also be made through the prisoner's legal representation.

Each complaint should be responded to without delay. Prisons must ensure complaints can be made safely and confidentially. (See **Standard Minimum Rule 57**.)

It should be noted that due to the risk of bias and retaliation in cases where prison staff are allegedly involved in abuse, the detaining authorities should not be the ones to assess, let alone reject, complaints. If the prisoner had to disclose the nature and content of their complaint, the safeguard would be pointless.

Supplementing these Standard Minimum Rules, **Bangkok Rules 25(1) and (2)** require investigation of all complaints by independent authorities, with full respect for the principle of confidentiality, and without exception. The Rule includes more detail on the response and support that should be provided to women prisoners who make a complaint, including in cases of sexual abuse. Any complaint or request should be recorded in the prisoner file management system, unless it is confidential. See **Standard Minimum Rule 8(d)**.

Information on the right to complain

At the admission stage, every prisoner should be given written information on their right to make complaints about their treatment and how this can be done. This is required by **Standard Minimum Rule 54**.

When providing this information, prison officials need to consider:

- providing it in more than one language for prisoners who do not speak the majority language
- posting information in common areas around the institution
- illustrating the rules and regulations so they are understandable to illiterate prisoners.

See **Standard Minimum Rule 55** which describes how information should be shared.



Protecting those who do complain

The following example illustrates the importance of policies and mechanisms to prevent intimidation of prisoners trying to make complaints.



Example: Complaints in Hong Kong

It is reported that in Hong Kong, before inspectors come to visit to a prison, the prison officers will inform the prisoners and ask if they would like to make a complaint. If so, the officers try to find out the nature of the complaint. If the complaint is deemed to be sensitive, the officers ensure that the prisoner 'misses' the visit, for instance through mandatory drug testing at the time of the visit or by simply locking the prisoner in a room. If given an opportunity to make a complaint, a prisoner must do so publicly in front of approximately 45 prisoners and prison officers.¹⁶

This type of setting for making complaints creates an environment of fear and intimidation and clearly violates the Standard Minimum Rules and the Bangkok Rules. **Bangkok Rules 25(1) and (2)** take these factors into account and give guidance on how complaints of abuse should be properly investigated.



Exercise 6.3

Q1. Match the following actions with the appropriate measures set out by Bangkok Rule 25. (Draw a line)

Actions

Claimants should be protected against retaliation.

Claimants should be offered counselling.

Claimants of physical and sexual abuse should be given the appropriate medical advice.

All claims should be kept confidential and be investigated.

Measures

(1) ☐ (A) If a woman prisoner alleges abuse by a staff member, leave of absence of the alleged perpetrator should be considered while the investigation is taking place. Segregation is not an appropriate measure unless it has been explicitly requested by the prisoner.

(2) ☐ (B) Prisoners should have access to independent, qualified healthcare practitioners, such as psychologists with experience in dealing with gender-based violence.

(3) ☐ (C) Complaints submitted should not be subject to censorship; all complaints relating to abuse should be investigated.

(4) ☐ (D) If a woman has been sexually abused, she should see a community-based health service. Those who become pregnant as a result of abuse should receive special care and counselling.

Check your answers on page 174.

Q2. Match the following actions with the appropriate measures set out by Bangkok Rule 25. (Draw a line)

Actions

Claims should be investigated by competent and independent authorities.

(1) ☐

Claimants of physical and sexual abuse should be given access to legal aid.

(2) ☐

Investigations should be made with full respect for the principle of confidentiality.

(3) ☐

Measures

(A) There should not be personal or institutional connections between the investigators and the detaining authority.

(B) Mechanisms and safeguards should be developed to ensure that complaints are kept confidential. This includes preventing information from being passed on to other parties (e.g. media and family) without consent.

(C) Information and access to a lawyer free of charge should be offered to women who wish to take legal action.

Check your answers on page 174.

Safeguards against abuse: Inspections

Bangkok Rule 25(3) supplements **Standard Minimum Rules 83–85** which require regular inspections of penal institutions. Independent inspections of prisons promote and improve the implementation of rules on the treatment of prisoners. They are an important safeguard for both prisoners and prison staff.

Recognising this, the Standard Minimum Rules require a two-fold system to be put in place that includes internal monitoring by the central prison administration as well as external, independent monitoring. The Rules list the authority inspectors should have and clarify reporting and follow-up procedures.

Having the right composition, expertise and experience among members of monitoring bodies is important to ensure actions taken are properly informed. **Bangkok Rule 25(3)** requires that women should be included in monitoring bodies. This can help to provide women prisoners with the opportunity to speak with a female member of the monitoring team if they wish.



Extra resources

- PRI/Thailand Institute of Justice (TIJ), *Guidance Document on the UN Bangkok Rules*, 2013, Chapter 5
- PRI/Association for the Prevention of Torture (APT), *Women in detention: a guide to gender-sensitive monitoring*, 2nd edition, 2015
- PRI/APT, *Detention Monitoring Tool: Body searches (Factsheet)*, 2nd edition, 2015
- PRI/APT, *Detention Monitoring Tool: Instruments of restraint (Factsheet)*, 2nd edition, 2015
- UN Office on Drugs and Crime, *Handbook on Dynamic Security and Prison Intelligence*, 2015
- American Civil Liberties Union, *Worse than second class: Solitary confinement of women in the United States*, April 2014

Module 6

Quiz

Now that you have learned about searches, disciplinary measures and complaints/inspections mechanisms there are three questions below to check your understanding.

Q1

For which categories of women prisoners is the use of solitary confinement prohibited? *(Write below)*

Q2

Indicate whether these statements comply with the Bangkok Rules and Standard Minimum Rules.

If there are no female staff members present, a male staff member may carry out a search for security reasons. **(1)**

Compliant ☐ Non-compliant ☐ *(Please tick)*

No staff member may carry out a search on a woman prisoner unless they have undertaken the relevant training. **(2)**

Compliant ☐ Non-compliant ☐ *(Please tick)*

The medical staff of the prison can carry out an invasive body search. **(3)**

Compliant ☐ Non-compliant ☐ *(Please tick)*

Q3

When should prisoners first be given information on their right to make complaints about their treatment, and how this can be done? *(Write below)*

Now check your answers on page 174 and mark your score here (one point per question).

Module 7

Contact with the outside world

VISITING
ROOM



Module 7

Contact with the outside world

Introduction

In Module 3 we learned why it is important that women prisoners have contact with their families and should therefore be allocated to a prison close to their communities. In this module we will look at issues around prisoners' contact with the outside world, including with family and friends, and with their legal representatives. We will cover obstacles women prisoners face in accessing legal representation, which is crucial to accessing justice.

Learning objectives

In this module you will cover the following topics.

- ➡ **How can prisons facilitate and encourage visits and communication with families?**
- ➡ **Can family contact be limited as a disciplinary measure?**
- ➡ **How should family visits to women prisoners be arranged?**
- ➡ **What particular issues do women offenders face in accessing legal representation?**

VISITING
ROOM



How can prisons facilitate and encourage visits and communication with families?

Fewer visits than men

In many prisons around the world, women receive fewer visits than men. For example, it was reported that in England and Wales half of all women on remand (in **pre-trial detention**) received no visits from their family, whereas only a quarter of men received no visits.¹

Owing to the relatively small number of women prisoners, there are fewer women's prisons and consequently women are often housed far away from their families and communities. In large countries, the distance between prisoners and their families can be as much as 2,000 km.² This is a major barrier for families trying to visit women prisoners. Visiting can be further compromised where public transport facilities are inadequate, expensive or non-existent, or if women are not permitted to travel alone. In Ghana, for example, women prisoners are less likely than their male counterparts to be delivered necessary items, including food, because there are fewer prison facilities for women and so many are in prisons far from their homes.³

Additionally, women may receive fewer visits than men because of stigmatisation, rejection by their families or cultural differences in gender roles.



Example: Mexico

In Mexico, Indigenous women in detention are unlikely to receive family visits or phone calls because it is so expensive for family members living in impoverished communities located far from the prison to call or visit. Research found that 24 per cent of Indigenous women were visited by their family just once a year, and concluded that this lack of contact impedes their rehabilitation.⁴

The importance of visits and communication

Visits are essential for many reasons. Being isolated from families and communities can have a harmful impact on women prisoners. Contact with family and friends can improve the mental well-being of prisoners and deprivation of contact can have a serious, negative impact on women's **mental health**. If women have children outside prison, they suffer from the separation itself and the fear that their children will be taken away from them permanently.⁵

Research worldwide has shown that inadequate communication with family members and children has a detrimental effect on the social reintegration of women **offenders**.

Resuming relationships with friends and family is one of the challenges prisoners face when returning to their communities after release from prison. Reoffending rates have been shown to be lower where prisoners have returned to live with their families after release. For example, in England and Wales, a study showed that 69 per cent of those who received no visits while in prison reoffended, compared to 49 per cent of those who received visits.⁶

In many countries, when resources are scarce and adequate supplies are not provided by the authorities, prisoners depend on visitors providing them with (additional) food, medicine and other necessities.⁷



Ensuring prisoners have contact with the outside world

The **Standard Minimum Rules (Rules 58(1) and 63)** provide that prisoners should be allowed to communicate with their family and friends at regular intervals, both by correspondence (letters, phone calls, and where available through email or other electronic means) and by visits. They also say that prisoners 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'.

The Bangkok Rules recognise women's strong need to keep in contact with their families, particularly their children, and the extremely harmful impact of isolation.

Bangkok Rule 4 and **Standard Minimum Rule 59** require, as far as possible, for prisoners to be allocated to a prison close to their home. Recognising that in reality women are often allocated far from their homes, **Bangkok Rule 26** requires measures that counterbalance the disadvantages this causes. Authorities should encourage and facilitate contact between women and their families by all reasonable means. Where visits are not possible or infrequent owing to the distance between the woman and her family, telephone contact and communication through other means (email, phone, letters) are all the more important.

Bangkok Rule 43 recognises that visits are an important prerequisite to ensuring women prisoners' mental well-being and social reintegration.

Protecting women prisoners

While maintaining contact with family and friends is crucial, women prisoners should be consulted about the visitors they receive. This is particularly important given women prisoners' disproportionate experience of domestic violence. **Bangkok Rule 44** captures this principle. Being visited by the perpetrator of such violence is likely to cause distress and fear.





Exercise 7.1

What practical steps do you know of and/or could be taken to encourage and facilitate visits to women prisoners?

Check your answers on page 175.



Promising practices: Enabling contact with the outside world for women

The Philippines

In two women's prisons in the Philippines, prisoners can speak with their relatives who live far from the prison using Skype. This is a low-cost way of ensuring contact on a regular basis.

Scotland

In Scotland, the prison system has developed a standard that requires family visits to be given high priority. When prisons are inspected, this standard is used to evaluate visiting practices and procedures by looking at a range of measures.

- Family members are able to take part in the induction system for new prisoners.
- Visits are not cancelled for administrative or for non-emergency operational reasons.
- Visiting time is not reduced by long administrative procedures on entry.
- Basic visit entitlements are not related to assessments of prison behaviour.
- **Closed visits** are not imposed as a punishment and any decisions to allow only closed visits are regularly reviewed.
- If visitors are banned, the reasons are made clear, and the decision can be appealed and is reviewed at regular intervals.
- If a prisoner is transferred the family is given adequate notice.⁸



Exercise 7.2

In Hong Kong, prisoners do not have the right to make phone calls. National law specifies that telephone calls are granted on a case-by-case basis under special circumstances or at the head of the institution's discretion where they 'consider it justifiable to approve on compassionate grounds'.⁹

This policy is compliant with the Bangkok Rules by granting telephone calls on a discretionary basis. (Please tick)

True ☐ False ☐

Check your answer on page 175.

Safeguarding the right to family contact

Bangkok Rule 23 prohibits the limitation of family contact for women prisoners, especially contact with their children, as a disciplinary measure. In Module 6 on searches and disciplinary measures we briefly looked at this rule which supplements **Standard Minimum Rule 43(3)**.

This takes into account that prohibiting contact as a disciplinary measure can significantly harm prisoners' mental well-being, without producing any benefits in disciplinary terms. Indeed, the behaviour of prisoners who break prison rules usually benefits from increased family contact rather than less.

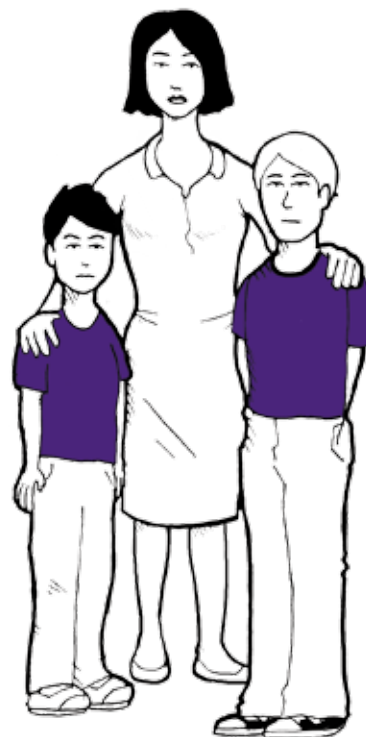
Taking into account women prisoners' strong need for regular contact with their families, it is clear that total prohibition of contact would constitute an extreme form of punishment for women. It would also punish their families and children, which would violate the principle of acting in the **best interests of the children**.

How should family visits to women prisoners be arranged?

The conditions of a visit strongly affect the quality of a visit, and the environment is also likely to have a significant impact on the number of visits women receive.

In many countries the conditions of visits are very poor; for example, visitors and prisoners are separated by wire mesh or glass, and can only communicate through an earpiece. Such precautions are not necessarily based on an individual security risk assessment and negatively affect the quality of the visit. Other practices, such as invasive body searches, can also discourage visits.

Bangkok Rule 28 gives guidance on the environment in which visits should take place. It recognises that mothers and their children have strong needs for close physical contact. The Rule also requires a child-friendly environment to reduce any distress felt by the children.





Promising practice: Thailand

In the women's section of Ratchaburi Central and Remand Prison in Thailand, mothers and children are allowed **contact (open) visits** once a month. Other women can have open or contact visits every three months based on the recommendation of a prison officer. The policy of increasing the number of open visits in Ratchaburi was introduced to improve the maintenance of family links. This differs from most other women's prisons in Thailand, where the rules on open visits are much more restrictive. At Ratchaburi, the open visits take place in a relaxed atmosphere in the garden of the prison grounds and can last for around one and a half to two hours.

Conjugal visits

A conjugal visit is a scheduled visit in which a prisoner can spend time with a visitor in private, usually their spouse or long-term partner. These visits help to maintain a couple's intimate bond, including their sexual relationship. The couple usually spends the visit in a small unit which contains, at a minimum, a bed, a shower and other sanitary facilities.

In many countries male prisoners have the right to conjugal visits, but their female counterparts do not.

For example, in Chile, women prisoners are generally prohibited from having sexual relations with their partners. Two pilot programmes were introduced, allowing conjugal visits to women. However, female prisoners were only eligible for conjugal visits if they had already been sentenced and if certain requirements were met, such as having a stable partner, good behaviour, and if the absence of **sexually transmitted infections (STIs)** was verified. Male inmates were not required to meet any such criteria, but had the right to conjugal visits.¹⁰

To address such **discrimination against women**, **Bangkok Rule 27** and **Standard Minimum Rule 58(2)** require that prisons allow conjugal visits equally to both men and women. Facilities for conjugal visits need to be made available in women's prisons, as stipulated in the Standard Minimum Rules, to ensure equal access.



Promising practice: Belgium

In the women's prison in Brussels there is a small apartment where partners (and other family members) can come to stay for 24 hours with their loved one who is imprisoned.

Reproductive rights of women prisoners

Reproductive rights recognise that all couples and individuals should be able to decide freely and responsibly the number, spacing and timing of their children.¹¹

It is good practice to provide condoms and other contraceptives if requested to avoid pregnancies and to prevent transmission of sexually transmitted infections (STIs).



What particular issues do women prisoners face in accessing legal representation?

In addition to having contact with their families, it is important that women prisoners are able to have contact with legal representation. This can be both a source of information and also a help in ensuring that prisoners' needs are addressed. However, women prisoners face a number of issues in accessing legal services.

At the pre-trial stage, having access to legal representation is essential for the accused to understand the charges, to ensure that procedural rights are observed in order to safeguard a fair trial, and to prepare an effective defence. Legal representation is also key to ensuring that an accused person's case progresses since legal representatives can put forward motions relating to the trial or detention (such as motions for bail).¹²

Research has shown that defendants have a significantly better chance of acquittal when they are not deprived of their liberty while preparing their defence (for example, when granted bail rather than held in **pre-trial detention**). However, women offenders often lack resources to pay bail as an alternative to pre-trial detention.¹³

Women in prison need access to legal representation for matters that arise beyond their criminal case, such as child custody, family law, housing and other legal matters as a consequence of their arrest or conviction. Legal advice may also be crucial to filing a complaint about violence and abuse suffered in prison (as discussed in Module 6 on searches and disciplinary measures).

Barriers to legal representation for women offenders

Women often lack the financial resources to pay for legal representation, or cannot access money because they are financially dependent on male family members who control the family budget. The majority of offending women come from socially disadvantaged groups, have low levels of education and lack information on their rights. They therefore often need particular assistance from authorities in accessing legal representation.

“

Not a single female prisoner had been provided with legal representation.

”

UNODC report on women in one prison in Afghanistan¹⁴



What do the Bangkok Rules say?

Against this backdrop, **Bangkok Rule 26** reiterates that prisoners' access to legal representation is not limited to the pre-trial period and lays out measures to provide meaningful access. These include:

- providing women with information about their legal rights
- providing facilities for meetings with lawyers
- providing interpretation services if required
- working with civil society and paralegal services who can deliver legal representation
- assisting contact with lawyers, legal aid or paralegal aid providers.

We have already seen that **Bangkok Rule 2(1)** states that prison authorities should ensure that the information provided to women on admission to prison includes written information about their right to access legal representation with contact details of legal aid and paralegal services. This Rule supplements **Standard Minimum Rule 54(b)**.



Exercise 7.3

Prisoners' right to legal representation extends to those who wish to seek advice on their treatment in detention. *(Please tick)*

True ☐ False ☐

Check your answer on page 175.



Extra resources

- PRI/Thailand Institute of Justice (TIJ), *Guidance Document on the UN Bangkok Rules*, 2013, Chapter 6
- PRI, *Briefing on the UN Principles and Guidelines on Access to Legal Aid*, 2013
- PRI, *Ten-point plan on reducing pre-trial detention*, 2016
- UN Office on Drugs and Crime (UNODC)/UN Development Programme (UNDP), *Handbook on early access to legal aid in criminal justice processes*, 2014

Module 7

Quiz

Now that you have learned about contact with the outside world for women prisoners, there are three questions below to check your understanding.

Read the case of Mrs V from Ghana and then answer questions 1 and 2.

Mrs V was beaten and raped by her husband routinely for eight years before she reached breaking point and poisoned her husband. She was imprisoned 12 years ago and has not received any visits for the last three and half years since she was transferred to a prison far away from her family.

Mrs V is illiterate. She did not have a lawyer in court and no provision was made for one. This meant she could not exercise her right to appeal the initial verdict. She only had an opportunity to tell of her experiences of violence at the first hearing, but not during the five additional hearings.¹⁵

Q1

The brother of Ms V's deceased husband has requested a visit with Mrs V. The prison authorities give him permission without consulting Mrs V, assuming that since Mrs V has not been visited for so long, she would welcome any visitor. Is this a correct procedure?

Yes ☐ No ☐ (Please tick)

Q2

The prison authorities want to ensure that Mrs V has access to information about her legal rights and how to find legal representation. They provide her with a booklet detailing all the relevant information. Did they fulfil their obligations under the Bangkok Rules?

Yes ☐ No ☐ (Please tick)

Q3

In a women's prison in Santiago, Chile, inmates have the right to receive visits twice a week between 2pm and 5pm. However, security procedures delay visitors and create long queues, shortening the potential length of visits.¹⁶

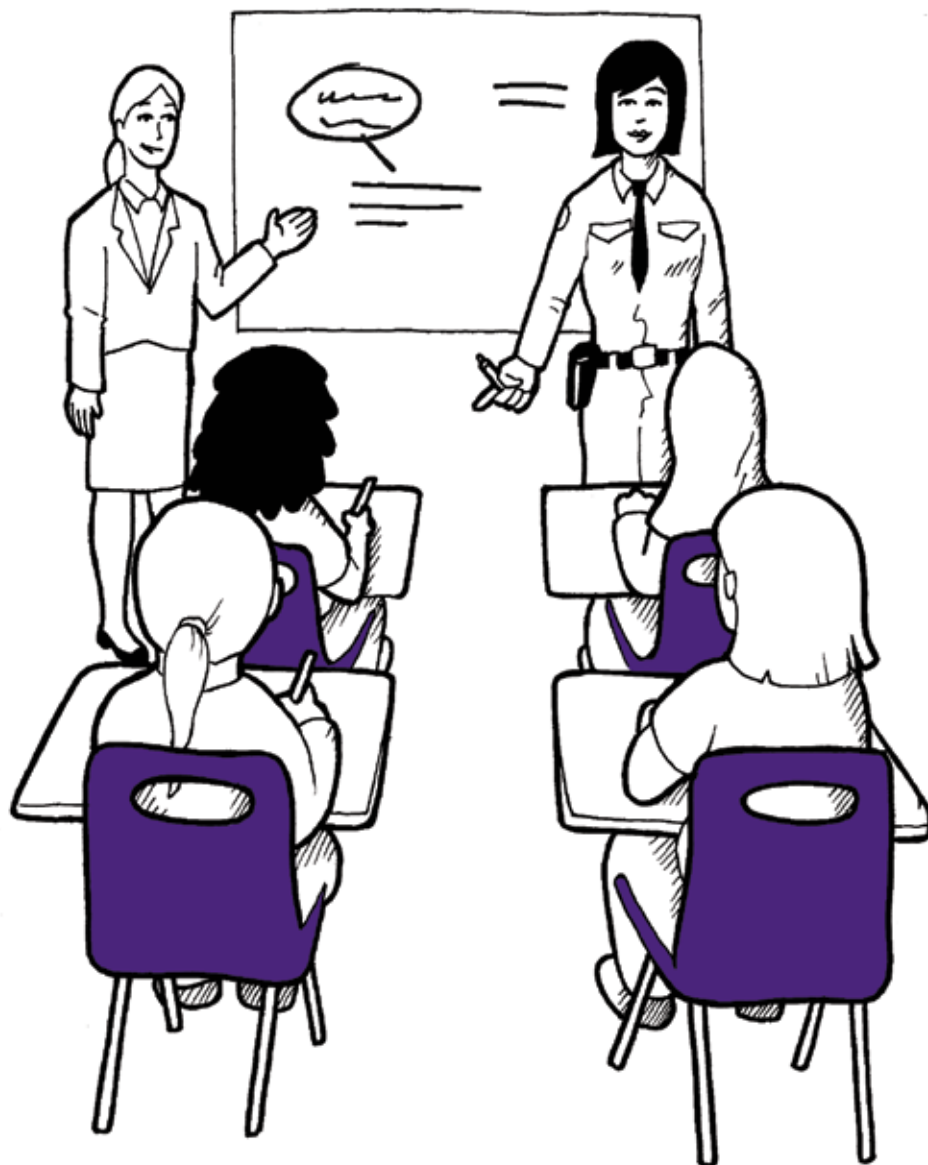
What measures could be taken in compliance with Bangkok Rule 26 to avoid the long queues? (Tick all that apply)

- ☐ Allow for alternative visiting times. **(1)**
- ☐ Implement a system whereby visitors are charged a fee. **(2)**
- ☐ Limit the type of visitors prisoners can receive (e.g. only immediate family). **(3)**
- ☐ Review the security controls to ensure more efficient procedures. **(4)**

Now check your answers on page 175 and mark your score here (one point per question).

Module 8

Rehabilitation for women prisoners



Module 8

Rehabilitation for women prisoners

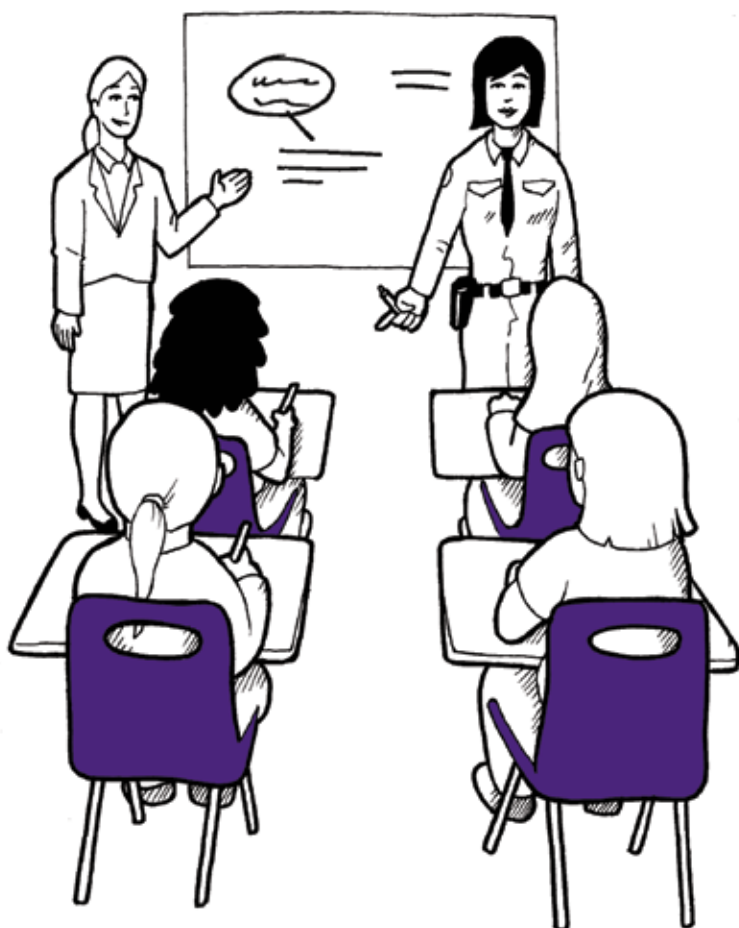
Introduction

The topics covered in Modules 1–7 of this course relate to specific issues around the treatment of women in prison, and how the Bangkok Rules recognise and address their needs. Building on this and keeping in mind the typical characteristics of women offenders, this module will address the provision of holistic, comprehensive and effective rehabilitation programmes for women prisoners which meet their gender-specific needs.

Learning objectives

In this module you will cover the following topics.

- ➡ How can **classification** and risk assessments be carried out in a gender-sensitive way?
- ➡ How should gender-specific rehabilitation and **early release (parole)** programmes be designed?
- ➡ How should prison authorities provide adequate rehabilitation programmes for women prisoners?
- ➡ What practices enhance women prisoners' prospects for social reintegration after being released from prison?



The purpose of and justification for a prison sentence is ultimately to protect society. However, this can only be achieved if the period of imprisonment is used to support the **offender** in leading a law-abiding and self-supporting life after release (as stated in **Rule 4 of the Standard Minimum Rules**).

The Bangkok Rules build on the Standard Minimum Rules by taking into account the specific social reintegration requirements of women prisoners. A comprehensive, balanced and gender-specific programme of activities should be offered (as required by **Bangkok Rule 42** and **Standard Minimum Rules 91, 92 and 95–108**). Before looking at different types of rehabilitative activities, we will consider the gender-specific issues of **classification**.

How can classification and risk assessment be carried out in a gender-sensitive way?

Classification of prisoners

Classification and **allocation** are crucial to ensure that suitable rehabilitative services and programmes are offered to each prisoner.

As underlined in **Standard Minimum Rule 93**, the two-fold purpose of classification is to separate from others those prisoners who are likely to exercise a bad influence, and to divide prisoners into classes to facilitate their treatment with a view to social rehabilitation.

The same level of security is not necessary or appropriate for all prisoners in one institution. A one-size-fits-all approach to classification neither improves prison security nor contributes to the objective of prisoner rehabilitation.

Individual classification of prisoners should take place as soon as possible after admission. However, the classification system should be flexible in order to allow prison officials to adapt to changes in situation. Classification processes should avoid imposing a high-security regime 'to be on the safe side'.

Over-classification of women prisoners

Women are often discriminated against in classification processes. This can result in their 'over-classification', meaning they are held at a higher security level than necessary. If the specific needs of women and girls are to be met, prison authorities must develop and implement gender-specific classification procedures and allocation policies.



Example: Thailand

In Thailand, some men's prisons house a small number of women prisoners in a separate section. There is only one male officer responsible for classification in these prisons. When women are uncomfortable with sharing all relevant information with a male prison guard, a gender-sensitive classification of women is difficult to achieve.¹





Example: Australia

In Australia, there are not enough women's prisons, so sometimes women are detained in maximum-security prisons with male prisoners, which increases the risk of abuse.²

Over-classification not only places unnecessary security restrictions on prisoners, but also limits women prisoners' access to available programmes. This potentially reduces their chances of successfully reintegrating into society.³

Wrongly assessing risk

Risk assessments often wrongly perceive prisoners' needs as 'risk factors'. For example, a prisoner who displays symptoms of depression or another **mental health** issue can receive a higher-security classification which can lead to greater isolation. Instead, his or her mental health issues would be better addressed through a holistic programme of treatment and support in a lower-security setting. This is a common problem in women's prisons because of the high rates of mental health illness among women offenders.

Classification methods

Bangkok Rules 40 and 41 require the development and implementation of classification methods that are gender-specific and ensure appropriate rehabilitative plans. The methods and tools needed for this should be developed by a team of qualified specialists, including social workers, psychologists and medical specialists.



Promising practice: The Philippines

In the Philippines, a prisoner's induction takes place over five or six days and includes interviews with psychologists, sociologists and medical experts, after which an individual plan is drawn up.⁴





Exercise 8.1

Ms Chan was sentenced to a two-year prison term for assault of a police officer. The assault incident took place when the police officer arrived to take her daughter away from her after neighbours reported that Ms Chan had attempted to commit suicide. When admitted to prison, Ms Chan was displaying symptoms of depression and said she was desperate to see her daughter.

Bangkok Rule 41 details what an assessment and classification should entail. List the underlined excerpts of Rule 41 below that are relevant to Ms Chan's case.

➡ Bangkok Rule 41(a) and (b)

The gender-sensitive risk assessment and classification of prisoners shall:

(a) 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;

(b) 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.

Relevant elements of Rule 41 to Ms Chan's case:

Check your answers on page 175.

Access to rehabilitation programmes: pre-trial detainees

As **pre-trial detainees** are presumed to be innocent by definition, rehabilitation programmes are not applicable to pre-trial detainees. For example, in Samoa pre-trial detainees are excluded from prison activities.⁵

However, it is counterproductive to deny pre-trial detainees access to activities and programmes that would allow them to spend their time in prison productively. This is particularly the case in countries where justice systems are slow or ineffective resulting in pre-trial detainees spending months or even years in prison waiting for their trial.

Any activity accessible to sentenced prisoners should therefore be offered to pre-trial detainees on an equal basis. One reason for this is it can help to maintain the mental well-being and contribute to a more conducive prison environment.

How should gender-specific rehabilitation and early release (parole) programmes be designed?

Overarching principles

Gender-specific, but not gendered

In many prisons, rehabilitation activities offered to women prisoners are assumed to be gender-specific because they teach skills traditionally thought of as appropriate for women, often without offering alternatives.



Although education is an important means of helping women gain self-confidence and life skills and of reducing their chances of re-offending, a lack of research and information on their particular educational needs remains. In many countries, the quality and range of programmes is poorer than for those provided for men and, where they are offered, they often reflect traditional female roles such as sewing, kitchen duties, beauty care, and handicrafts.

UN Special Rapporteur on the right to education, writing on women in detention⁶



Equal access

Because women make up such a small proportion of prison populations, they often face discrimination in accessing rehabilitation programmes. This is even more likely in overcrowded prisons and also where a female 'wing' is attached to a male prison.

This excerpt from a UN report on Abomey prison in Benin in 2008 illustrates this point. 'Activities for women were limited by the fact that they were in theory separated from the men prisoners and therefore their access to communal facilities such as the prison market were curtailed... They appeared not to have equal access to the training courses and workshops provided for some male prisoners, nor to the education classes provided to male adolescent detainees. Many women expressed the wish to be allowed to participate in the various workshops.'⁷

In designing rehabilitation programmes, it is important to remember that since women's needs are different from those of men, equal treatment and equal opportunities do not necessarily ensure equality.



Promising practice: Georgia

A rehabilitation programme for women prisoners in Georgia included training for women on starting their own business. Participants learned about the principles of the market economy and business legislation. With support from advisers, women prisoners developed a business plan that they would be able to use when released from prison.⁸

A multi-stakeholder approach

In nearly all penal systems around the world, many stakeholders are involved in the treatment and rehabilitation of prisoners. **Bangkok Rule 46** requires that prison authorities design and implement comprehensive programmes in cooperation with other stakeholders outside prison. In creating an individualised rehabilitation programme, prison authorities should take into account each woman prisoner's wishes, skills and capabilities.



Exercise 8.2

List all the different stakeholders that you can think of who should or could be involved with providing support for pre- and post-release programmes for women prisoners.

Check your answers on page 175.



Promising practice: Afghanistan

A 2007 report on Afghanistan noted exemplary cooperation among NGOs and UN agencies involved in the prison sector through monthly coordination meetings and other activities. Twenty activities in women's prisons were organised by NGOs, funded by international donors and supported by the UN. These included providing free legal aid, organising family visits and monitoring the situation of the prisoners' children outside. Their support also involved counselling women prisoners and providing medical care, including by supplementing the diet of pregnant and breastfeeding women in one prison.⁹



How should prison authorities provide adequate rehabilitation programmes for women prisoners?

The following components should form part of a rehabilitation programme.

Education, work and skills training

Education, paid work and vocational skills training are important components of any rehabilitation programme in prison. Specific conditions of work for prisoners are detailed in the **Standard Minimum Rules (96–103)**. For example, any work should be useful for a prisoner's job prospects after release or be for pay, and should take place in safe and legal conditions. Prisoners must not be employed in a disciplinary capacity.

The typical background of women offenders suggests that rehabilitation programmes should emphasise training and work to increase women's chances of earning a living wage after their release.

Psychosocial support

Bangkok Rule 42(4) highlights one of the most important needs of many women in prison, which is psychosocial support for those who have been victims of violence. Unless appropriate support and counselling are provided, the impact of prison and victimisation could damage their prospects of social reintegration. Support and counselling should be carried out by or in coordination with qualified mental healthcare professionals from the community.

EXAMPLES OF REHABILITATION PROGRAMMES FOR WOMEN

Argentina: Employment

Women who work while imprisoned in Argentina earn wages at the rate of 14.5 pesos per hour, an amount which matched the Argentinian minimum wage. A portion of these wages is set aside for each woman to be used upon her release, with the rest available for her personal use in prison.¹⁰

Mozambique: Schooling

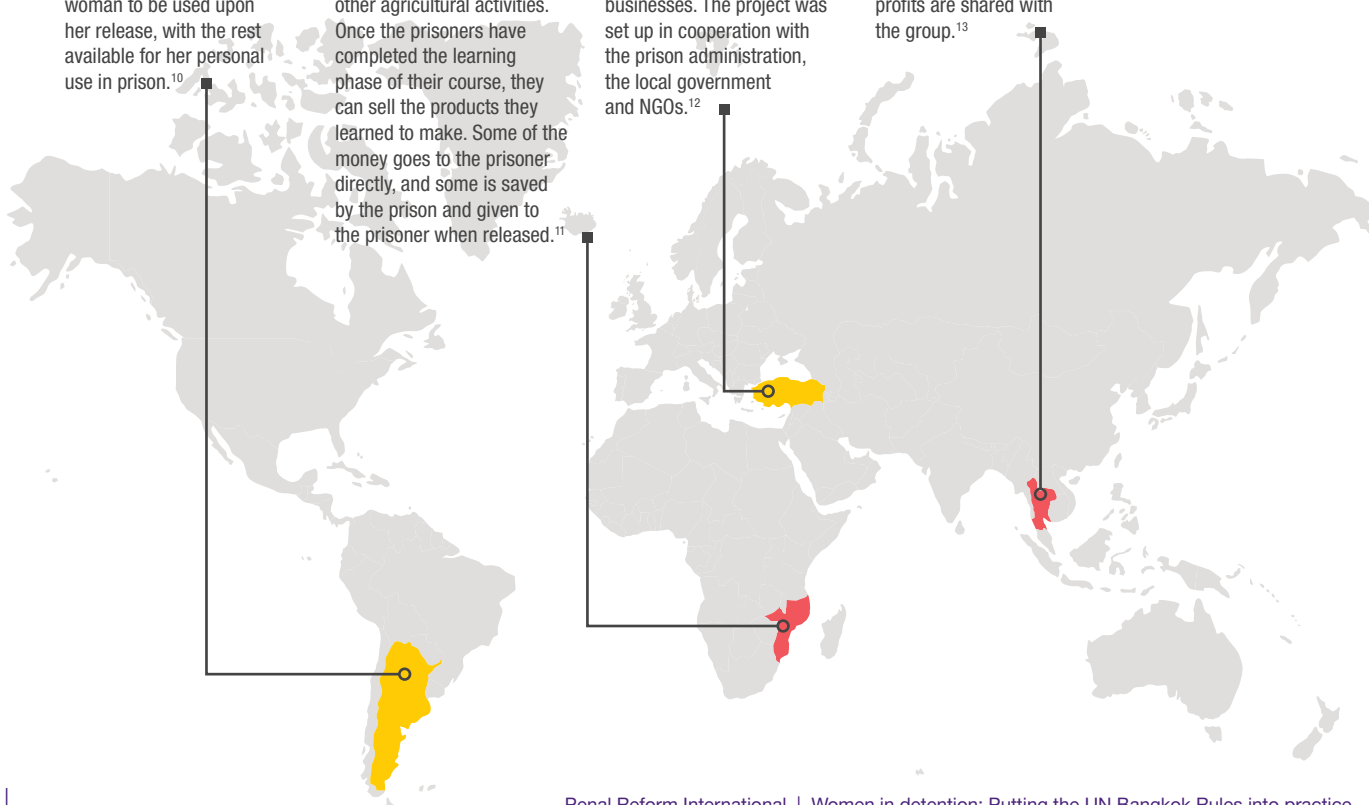
The Ndhlavela Women's Prison in Mozambique has a school on site which uses the national curriculum. It also runs technical and professional training classes, including dress making, animal husbandry and other agricultural activities. Once the prisoners have completed the learning phase of their course, they can sell the products they learned to make. Some of the money goes to the prisoner directly, and some is saved by the prison and given to the prisoner when released.¹¹

Turkey: Business opportunities

In Turkey, a pilot project started in January 2013 in which up to 50 women prisoners in Aliğa prison were assisted by a phone and internet operator to establish their own businesses. The project was set up in cooperation with the prison administration, the local government and NGOs.¹²

Thailand: Handicraft products

Under the Participatory Action Research (PAR) project, women prisoners can participate in the production of toys, such as wool knitted dolls. These are sold, and the profits are shared with the group.¹³





Promising practice: Lebanon

Several times a week for six months, a drama therapist held sessions with the women of Baabda Prison in Beirut, giving them a space to talk about their experiences and express themselves. The project culminated in a theatre play based around the women's own stories performed in the prison in front of invited guests, including government ministers, prison authorities and the women's families. Many of the women involved felt empowered by the experience. One woman who took part in a flamenco dance for the play remarked: 'For the first time I learn how to move this body of mine, as if I was imprisoned in a body that didn't belong to me.'¹⁴

Flexibility for pregnant women and women with small children

Unless there is sufficient flexibility in the prison regime, women who are breastfeeding, pregnant or have small children may miss out on activities because of time restraints or logistics. **Bangkok Rule 42(3)** requires that special efforts be made so that these women have access to such programmes. Separate programmes should be arranged for pregnant women and breastfeeding mothers where possible, and childcare facilities should be provided.



Enhancing women prisoners' reintegration prospects post-release

Early conditional release (parole)

As long as prisoners receive adequate support, assistance and supervision, parole or **early conditional release** can significantly assist with their social reintegration by enabling their gradual, planned resettlement.

Bangkok Rule 63 aims to ensure that those responsible for making decisions on early conditional release take into account women prisoners' caretaking responsibilities, given the negative impact imprisonment has on any children, and also the specific reintegration benefits of an early release, given women's generally low security risk.

Furthermore, prison authorities and other actors involved should coordinate to ensure that women released on parole receive the assistance and support they need during the transition period from prison back into society.



Promising practice: Australia

In Australia, the Boronia Pre-Release Centre for Women is a minimum-security facility that prepares women prisoners for re-entry into the community. Women at the Centre make decisions about their education, employment, health and family. All women are employed and provided with training that is linked to jobs in the community. For example, women can sign up for traineeships and take jobs with local non-profit organisations and businesses. The Centre provides residential-style housing, similar to that of a suburban neighbourhood. There is a café, supermarket and canteen.¹⁵



Promising practice: Samoa

In Samoa, to assist in their reintegration, women prisoners are allowed to spend weekends at home (with a curfew). Because most women offenders do not pose a flight risk, most get this opportunity. To avoid the stigma of being visited by police officers, women are visited by other village representatives, including church ministers and village mayors. The probation office monitors the offenders based on an assessment provided by these village representatives.¹⁶



Post-release support

Once a woman is released, she may lose the support network established in prison. This can be through loss of contact with people in that support network or because the support services are overburdened. A post-release plan should be put in place from the start of the sentence.



Case study

A woman was imprisoned in Luzira Prison in Uganda while pregnant. She was released after being imprisoned for 10 years with her child. Because all of her relatives had abandoned her, she had nowhere to go upon release. Speaking of the difficulties she experienced at this time, the woman said, 'Despite the fact that I was happy about being freed from jail, it was a trying moment since I was homeless.

'Being homeless and unemployed, I could not take care of the child. I made the toughest and most painful decision of my life of leaving my daughter behind.' That day, she cried as she walked out of prison. 'I said bye to my daughter as I left and promised the authorities that I would come for her as soon as I got a job and accommodation,' she narrates.

Fortunately an the NGO, Mission after Custody, provided her with accommodation until she found a job as a housemaid.¹⁷



Although many of the problems women face during the transition from prison to the community are similar to those of men, the scale of their post-release needs can be very different. Due to social stereotypes, women are likely to suffer particular discrimination after release from prison, and are more likely to be rejected by their families and lose their parental rights. A survey of women in judicial detention in Jordan showed that nearly half of the women had been stigmatised by their family and community as a consequence of their conviction and imprisonment. One woman stated that she felt 'fear of facing society after I leave prison because of my reputation from being in prison'.¹⁸

If they were in a violent relationship prior to their imprisonment, women may have to establish lives for themselves separate from their previous partners. This may be fraught with economic, social and legal difficulties.

Supplementing **Standard Minimum Rule 90**, **Bangkok Rule 47** requires that additional support be provided following the release of prisoners. This includes psychological, medical, legal and practical help to facilitate their successful social reintegration. Prison services should consider establishing a special unit responsible for resettling prisoners. Such units should cooperate with families of prisoners, **probation** services, or relevant social welfare agencies and NGOs in the community to prepare and implement a resettlement plan for each woman.

Healthcare

Women prisoners may have ongoing health issues and there must be **continuity of care** following their release from prison.

In a survey conducted by PRI in Georgia in 2013, 40 per cent of women prisoners said that the continued treatment for health problems would help them build a new life following release.¹⁹

Standard Minimum Rule 24(2) recognises the need for treatment and care to be continued – without a gap – when prisoners are released, and emphasises the importance of a close relationship between the prison and community health services. Prison healthcare staff should provide community health services with all the necessary medical information and should inform the prisoner about this transfer of information. The woman should also be given a copy of her medical file.

Any treatment for substance dependency should also be continued. For example, prescribed methadone should be given to prisoners on the day of their release.²⁰

Women prisoners are more likely than men to have mental health issues. These issues may be exacerbated by the stress of leaving prison and the loss of support received in prison. Women with mental health issues need continued support after release.

Homelessness

Becoming homeless is one of the most common consequences for women who are imprisoned, and is a major factor leading to reoffending. This is true globally, as the following examples demonstrate.



Examples: Women prisoners' homelessness following release

Georgia

In a survey by PRI, 36 per cent of women prisoners said that they had lost their accommodation as a consequence of imprisonment. Finding housing had been a problem for 63 per cent.²¹

England and Wales

A 2016 found that of the 6,700 women released from prison in England and Wales in one year, 60 per cent did not have a safe home to go to.²²

Afghanistan

A woman who is released from prison cannot sign a property rental agreement without a man's signature, which restricts her ability to lead an independent life.²³





Exercise 8.3

Drawing on Bangkok Rules 46 and 47, suggest two steps that could be taken to prevent prisoners from becoming homeless upon release.

1.

2.

Check your answers on page 176.

Summary: Support for women post-release

Here are some of the questions that should be asked in any policy on preparing women for release and post-release support.

- What are the typical challenges faced by women prisoners upon release?
- What measures can be taken to provide support?
- Who is willing to assist in providing support (NGOs, probation services, social welfare agencies)?
- What budget and funds are available for support services?
- What procedures are in place to enable prison healthcare services to work closely with community healthcare services to ensure continuity of care?
- What is the policy for referring medical files from prison to the community health services?



Exercise 8.4

Read the following scenario and then select which steps could be appropriate for Miss Orzy.

Miss Orzy is going to be released from prison in a few days. In an interview with a counsellor, she mentions that she is worried about where she will stay for the first night after her release. She also expresses concern about how to get in touch with her aunt who has been looking after her daughter. She is also worried that her aunt will refuse to let her see her daughter.

What support could be offered to Miss Orzy? (Tick all that apply)

- ☐ Provide clear and comprehensive information about support services available and agencies responsible, including their contact details. **(1)**
- ☐ Provide transportation or financial assistance. **(2)**
- ☐ Offer to provide support to re-establish contact with Miss Orzy's aunt. **(3)**
- ☐ Give contact details of legal aid services (and relevant NGOs). **(4)**

Check your answers on page 176.



Extra resources

- PRI/Thailand Institute of Justice (TIJ), *Guidance Document on the UN Bangkok Rules*, 2013, Chapter 7
- UN Office on Drugs and Crime (UNODC), *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*, Criminal Justice Handbook Series, 2012, Section VIII on women offenders
- Dignity – Danish Institute against Torture/Jo Baker and Therese Rytter, *Conditions for women in detention*, 2014, Chapter VII

Module 8

Quiz

Now that you have learned about rehabilitation for women prisoners, there are three questions below to check your understanding.

Q1

When deciding where a woman prisoner is allocated and whether she should be placed in a high- or low-security facility, what considerations does Bangkok Rule 41 require? *(Tick all that apply)*

- ☐ Lower security risk generally posed by women prisoners. **(1)**
- ☐ Harmful effect that increased levels of isolation can have on women prisoners. **(2)**
- ☐ The size of the prison. **(3)**
- ☐ Information about the woman's background. **(4)**
- ☐ Parental responsibilities. **(5)**
- ☐ Available rehabilitative programmes that match the woman's needs. **(6)**

Q2

Read the following and indicate whether the practices underlined are compliant or not compliant with the Bangkok Rules.

Your prison has very limited resources to offer rehabilitation activities. A universal programme **(A)** is developed and run in cooperation with local NGOs **(B)** and a government agency. Education classes are only given at one grade level **(C)** according to the secondary school curriculum and sport afternoons **(D)** are run where women can either play football or take a dance class.

A childcare service **(E)** is provided which enables mothers to participate. Breastfeeding mothers can only participate every second week **(F)**.

Compliant

Not compliant

Q3

It is the role of external agencies to provide rehabilitation services such as counselling for women who have experienced physical, mental or sexual abuse.

True ☐ False ☐ *(Please tick)*

Now check your answers on page 176 and mark your score here (one point per question).

Module 9

**Pregnant women, breastfeeding mothers
and mothers in prison with their children**



Module 9

Pregnant women, breastfeeding mothers and mothers in prison with their children

Introduction

This module covers the standards which relate to particular support for women in prison who are pregnant, breastfeeding mothers, and mothers with children. It also looks at what the Bangkok Rules say on the sensitive and complex issue of deciding whether or not children should stay with their mothers in prison, and if so what type of treatment children should receive.

Learning objectives

In this module you will cover the following topics.

- ➡ **How should prison healthcare services provide pre-natal and post-natal treatment for women prisoners?**
- ➡ **What should be taken into consideration when deciding whether a child should live in prison with his or her parent?**
- ➡ **When children are living in prison with their parent, what measures should prisons implement to comply with international standards?**



How should prison healthcare services provide pre-natal and post-natal treatment for women prisoners?

With more and more women in prison around the globe, there are larger numbers of women who are pregnant, breastfeeding or in prison with their children. The Bangkok Rules supplement the healthcare provisions in the Standard Minimum Rules, with detailed guidance on the healthcare and other needs of these women, as well as the needs of their children.

As we learned in the modules on healthcare, prison health services are often under-resourced and understaffed. As a consequence, provision often falls below the standard of healthcare women receive in the community, and **imprisoned** pregnant women rarely receive adequate **pre- and post-natal care**. Sometimes healthcare is limited to trying to cope with health concerns such as HIV or tuberculosis (TB).¹

For example, a pregnant prisoner in Ghana had to pay her own taxi fare or walk 30 minutes to the hospital, accompanied by an officer, when the prison did not have a vehicle to take her to the hospital for her monthly check-ups.²



Exercise 9.1

A prison authority has devised a checklist of questions to help it assess whether it is providing suitable **pre- and post-natal care** for women.

Read the checklist below. Which aspect of Bangkok Rule 48 has not been included?

- Are pregnant women accommodated in cells or dormitories with adequate hygiene and sanitary facilities, regular access to hot water, ventilation, fresh air and heating?
- Are pregnant women and women who have recently given birth examined regularly by a qualified healthcare practitioner?
- Is a programme of health and diet customised for each woman?
- Are the nutritional and other healthcare requirements of these women provided for by the prison authorities?
- Is written information provided about the key issues related to pregnancy, giving birth and healthcare following the delivery of the baby? Does this include what they can do to improve their and their children's health and how to prepare for delivery?
- Is such information provided in multiple languages, including those languages most frequently spoken among women prisoners in the particular prison, and is it explained orally to women?

What part of the Rule has not been included in this checklist?

- ☐ Guidance on providing for breastfeeding mothers. **(1)**
- ☐ Nutritional requirements of pregnant prisoners. **(2)**

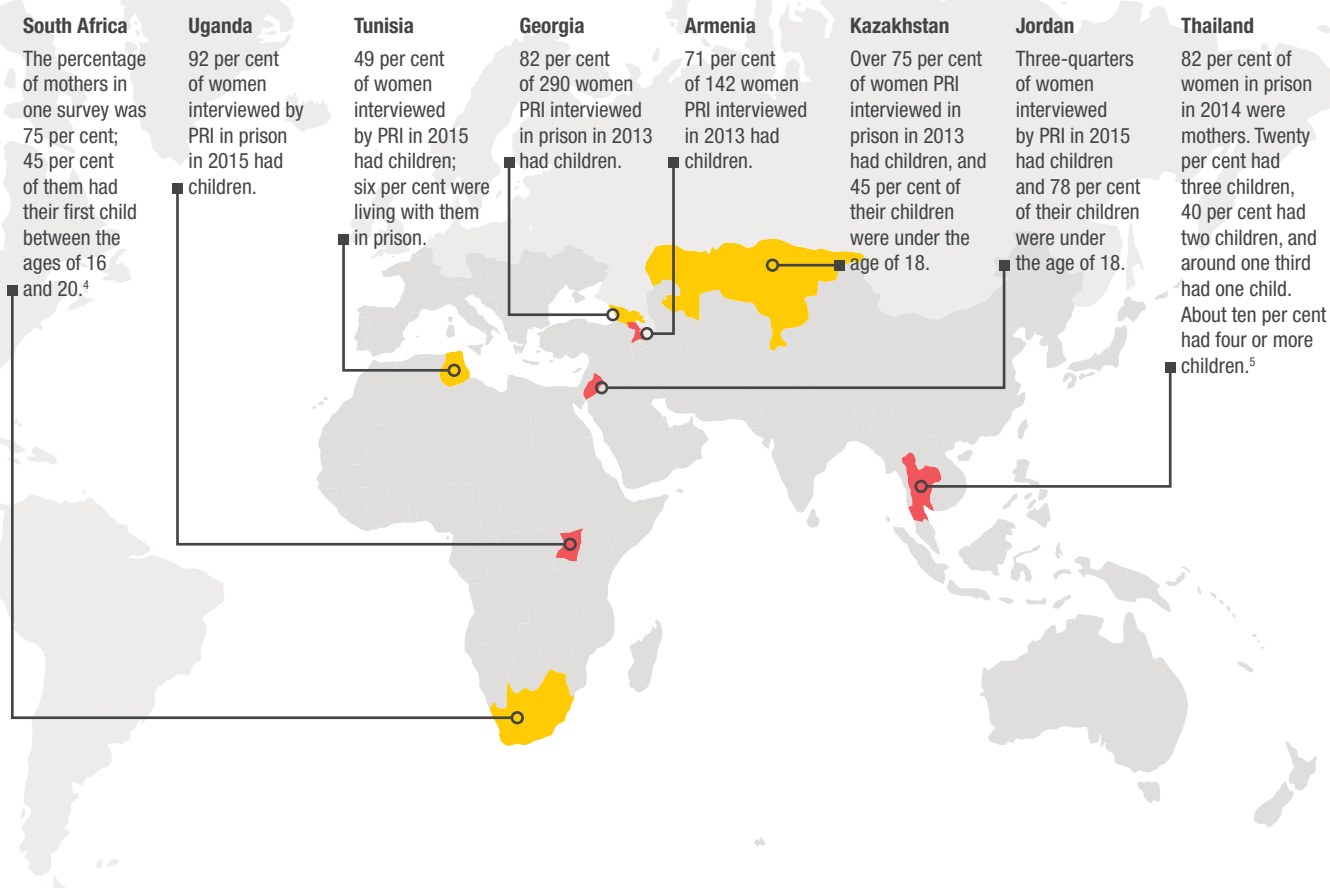
Check your answers on page 176.

Note: Bangkok Rule 48(3) draws attention to women who have given birth shortly before their admission to prison, but whose children remain outside. They also need to be provided with post-natal treatment and support. When a baby is not in prison with her or his mother, these specific needs of the mother can easily go unnoticed.

Children of prisoners

As discussed earlier, millions of children around the world are affected by the imprisonment of one or both parents.

Here is a snapshot from around the world showing how many imprisoned women are mothers and the number of children in prison with them.³



The rights of children of imprisoned parents

A parent's criminal actions and the state's judicial response affect a child's human rights, including the right to physical and emotional development and to be cared for.



Case study: Antonio

'When I was four years old, my mother started doing drugs. She used to be in and out of jail, and she started going to prison when I was seven years old. That's when we first got taken from her. Her friends took me to Social Services, dropped me off, left me there. I've been in about 18 different group homes since then, and three or four foster homes. I don't care how bad whatever we were going through, I still wanted to be with my mom. One foster home I was in, I called the lady there my grandmother, 'cause she took care of me. She always made sure that I got in touch with my mom. Even if my mom was locked up and tryin' to call collect, she could call there. My grandmother knew that mattered in my life.'⁶



Case study: Ahmed

'When I was five, my mother's parental rights were terminated... I just knew from her expression, her tears, begging the judge, what had happened. I was reaching out to her, begging, trying to have that last hug. They picked me up and just took me away. Me screaming and yelling, "Mommy, I'm sorry, I won't be bad again."'⁶



Children of prisoners are the 'invisible victims of crime and the penal system'. They have done nothing wrong, yet they suffer the consequences of their parents' criminal behaviour whether they go into prison with their parent or stay outside.⁷

Scotland's Commissioner for Children and Young People



Promising practice: Africa

In November 2013, the African Committee of Experts on the Rights and Welfare of the Child adopted a General Comment which gives further guidance on upholding the rights of children when their parents or primary caregivers are in conflict with the law.

The **General Comment** reiterates many of the same principles in the Bangkok Rules, and elaborates on measures to implement these, including by:

- emphasising the importance of treating such children in a way that is nuanced, informed and based on actual information about their situation
- reiterating the principle of non-discrimination which means these children have the same rights as other children regardless of the status of their parent or caregiver
- noting that the **best interests of the child** should always be taken into account, and a non-custodial sentence should always be considered when sentencing (in line with the Bangkok Rules).



Read more about the General Comment in a Short Guide at www.penalreform.org/resource/short-guide-general-comment-no1-children-incarcerated-imprisoned/.



What should be taken into consideration when deciding whether a child should stay in prison with his or her parent?

Should children live in prison with their mothers?

When a woman with a young child receives a prison sentence, a difficult question arises: should the child be separated from his or her mother or accompany her into prison? Since women are often the main or sole caretaker of children in most regions, this is a complex challenge faced in many countries.

The primary consideration is the **best interests of the child**. This means that any decision about whether a child should live with their mother in prison or in alternative care in the community must be based on careful consideration of the best interests of the individual child concerned.

This is enshrined in international law, including:

- **Bangkok Rules 49 and 52**
- **Standard Minimum Rule 29**
- Article 3 of the UN Convention on the Rights of the Child.

What is the 'best interests of the child' principle?

In the UN Convention on the Rights of the Child, the term 'best interests' broadly describes the well-being of a child. A child's well-being is determined by a variety of individual circumstances. Interpretation and application of the term must conform with international law.⁸

Almost all countries allow babies and children to live in prison with their mothers. In most prison systems, there is legislation stipulating the maximum age children can stay with their mothers, which usually ranges from six months to six years. Usually these laws are applied rigidly, with little consideration of the individual circumstances and needs of each child. Often officials pay little attention to the implications of a policy that separates children from their mothers at a young age. Such a policy fails to assess the relevant factors in individual cases.

“

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 3, UN Convention on the Rights of the Child

”





Exercise 9.2

The following policy is not in compliance with Bangkok Rules 49 and 52(1).

Policy: Children born in prison can stay with their mothers up to the age of three, or in exceptional cases, four. When they reach the age limit, children are put into orphanages.

Which measures from the list could be implemented to help the prison authorities make sure they are in compliance? (Tick all that apply)

- ☐ Remove the imposed age limit and replace with assessments of each case. **(1)**
- ☐ House children in prison until the end of their mother's sentence. **(2)**
- ☐ Base any decision on the best interests of the child. **(3)**
- ☐ Increase the age limit for how long children can be housed in prison with their mothers. **(4)**
- ☐ Implement a process where both mother and child can express their views. **(5)**

Check your answers on page 176.

Who should be involved in the decision?

Child welfare agencies should have primary responsibility for assessing what the best interests of the child are, in coordination with healthcare specialists and others involved with the child in prison. The decision-making process should include the mother and child. Children's participation in any decision affecting them is important to ensure the right decision is made, and is required by Article 12 of the Convention on the Rights of the Child.



Promising practice: Finland

In Finland, all placements of children whose primary caregiver is in prison are made after consultation between prison and child welfare authorities. All women must commit to taking good care of their child as part of their sentence.⁹

Points to remember

- **Bangkok Rule 64** states that where possible non-custodial sentences are preferable for pregnant women and women with dependent children.
- **Paragraph 12** of the preliminary observations of the Bangkok Rules states that some rules apply equally to male prisoners and **offenders** who are fathers. This includes those Rules relating to parental responsibilities.





Exercise 9.3

Ben is nearly three years old and has lived in a rural prison with his mother since birth. He and his mother have had no contact with his father, whose whereabouts are unknown.

Below are considerations that should form part of the assessment in deciding whether Ben should be moved into alternative care (based on the best interests of the child principle). **Match the considerations with corresponding facts from Ben's case.** (Draw a line)

Q1.

Considerations

Conditions in prison.

(1) ☐ ☐ (A)

Quality of care the child is expected to receive outside prison.

(2) ☐ ☐ (B)

Remaining length of mother's sentence.

(3) ☐ ☐ (C)

Views of the child, mother and other family members.

(4) ☐ ☐ (D)

Facts

Ben would live with his aunt and cousin in a safe neighbourhood.

Ben and his mother share a small cell with three other inmates and two other children.

Ben's mother is expected to be in prison for another three years.

Ben said he would like to go to live with his cousin for a while. His mother agrees it is better for Ben to live outside prison.

Q2.

Considerations

Access to education and recreational possibilities/ impact on child's development.

(1) ☐ ☐ (A)

Suitable alternative care arrangements outside prison.

(2) ☐ ☐ (B)

Opportunities to visit mother in prison.

(3) ☐ ☐ (C)

Healthcare in prison.

(4) ☐ ☐ (D)

Facts

Ben suffers from eczema, which is worsened by the conditions in prison.

A retired, supportive aunt has offered to care for Ben until his mother's release from prison.

The aunt's house is approximately two hours from the prison and open visits could take place twice a month.

The prison has a nursery, but most of the children are infants under the age of one.

Check your answers on page 176.

Separation process

The time following a decision to remove a child from his or her parent in prison and place him or her in suitable alternative care can be a traumatic time for those involved. Therefore, any separation should be done in a sensitive manner. See **Bangkok Rule 52(2)**.

Prison authorities and welfare agencies should provide information to the mother and child about the alternative care arrangements. This should include information on how the mother and child will be able to keep in contact with each other following the separation. After being separated, the mother should have access to facilities to meet her child and have the maximum time possible with him or her. See **Bangkok Rule 52(3)**.

When children are staying in prison with their parent, what measures should prisons implement to comply with international standards?

The treatment of children in prison with their mothers

When a decision is made for a child to accompany their parent to prison, the time spent in prison is often during the child's formative years. This has an immense impact on their futures. The reality of prison overcrowding in many parts of the world means that children end up living in poor conditions, with little or no access to health services or education facilities.¹⁰

Growing up in prison can be a distressing and traumatic experience for children, and each child will have a different experience of and response to parental imprisonment.

Bangkok Rule 49 and **Standard Minimum Rule 29(2)** aim to address these issues by requiring that children in prison with their mothers should never be treated as prisoners. However, perhaps partly because they are not prisoners, prison policies, programmes, staff training and budgets rarely take into account the needs of these children adequately.

Read below three examples of prisons that have not provided for the healthcare and well-being of children staying in prison.

Papua New Guinea ■

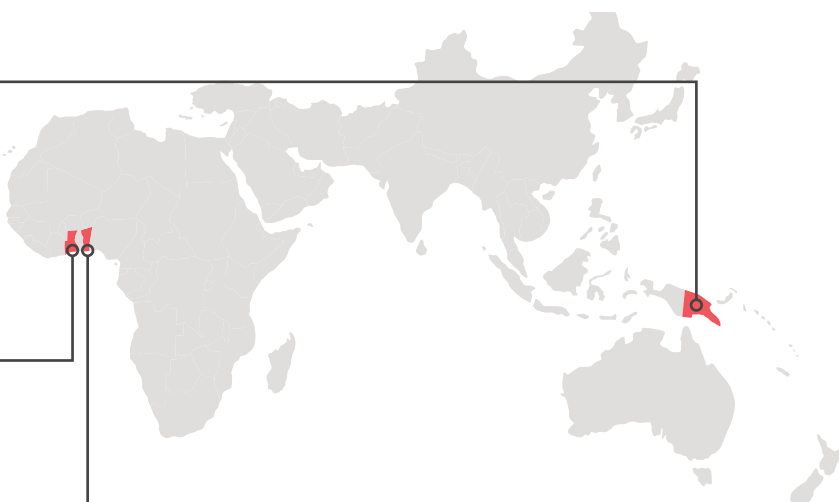
It was reported by the UN Special Rapporteur on violence against women that in one prison in Papua New Guinea there was only a one-bed cell which sometimes had to house as many as seven women and nine children. The prison did not provide food or other necessities for babies and children.¹¹

Ghana ■

A report found that in Ghana food was not allocated for babies in prison. Women with babies depended on help from prison guards, visitors, churches and NGOs. However, not all prisoners received visitors and thus only received additional food when fellow inmates shared with them.¹²

Benin ■

In Benin's Cotonou Prison it was reported that children up to the age of four were allowed to live with their mothers. However, the prison's budget did not include children, either in the provision of sleeping space or of food. As a result, women prisoners had to split their already meagre rations to feed both themselves and their children.¹³



Earlier in the course we looked at the prison's obligations towards children in terms of searches, admission into prison, registration, medical screening, etc. The Bangkok Rules also provide guidance on adequate prison conditions for children housed with their mothers.

To reduce the impact of living in prison, **Bangkok Rule 51(2)** requires that efforts be made to eliminate as far as possible the differences between life inside and life outside prison for children. This includes efforts in the areas of healthcare, education and other activities.

At times when children in prison are not being cared for by their parent, prisons should ensure they are placed in internal or external childcare facilities with qualified carers. **See Standard Minimum Rule 29(1).**



Promising practices: Children living in prison

Read five examples below showing how prisons are providing for children living with their imprisoned mothers.

Mexico

At the Prevention and Rehabilitation Centre for Women in Jalisco, Mexico, an early-childhood education facility for children aged six months to three years provides education at the same standard as that in the community.¹⁴

Spain

In Spain, there are external mother units which allow convicted mothers to live with their children outside the prison. Each family has a separate apartment and children attend school in the community. Mothers must commit to parenting classes and other educational activities if required to.¹⁵

Belgium

At the women's prison in Brussels, a local crèche offers a place for any children living in prison with their parent each morning.¹⁶

Tunisia

In early 2015, a mother and baby unit was opened at Manouba women's prison near Tunis, with support from PRI. The unit is situated outside the internal walls of the prison in a small villa with a garden in light, spacious conditions. Previously children were crammed into cold dormitories with their mothers, surrounded by other prisoners, many of whom were smoking.

New Zealand

In New Zealand, mothers whose babies live with them in prison must enter into a parenting agreement with the Corrections Department's Chief Executive. This includes notice that the mother is responsible for the care of her child and identification of an alternative caregiver in case of emergency or when the child's placement ends. Reciprocally, the Chief Executive must provide parenting information, education and support for the mother, necessary health checks for the child, and ensure the mother has adequate access to counselling to support her role as a mother in prison.¹⁷





Exercise 9.4

Bangkok Rules 9 and 51(1) give guidance on the provision of healthcare for children living with their mothers in prison. Assess this scenario and consider which element of the Rules is not complied with.

Patricia, aged three, accompanies her mother into prison. During the admission process, Patricia is seen by a paediatric doctor and a child counsellor, who together draw up a plan for her dietary and other healthcare needs. This is done in consultation with Patricia's mother and their doctor outside prison. The paediatrician schedules an appointment to see Patricia in 12 months' time and tells her mother to see the prison nurse if Patricia has any health issues.

Which element of Bangkok Rules 9 and 51(1) is not complied with?

(Tick all that apply)

- ☐ The child shall undergo a health screening, preferably by a child health specialist. **(1)**
- ☐ Suitable healthcare, at least equivalent to that in the community, shall be provided to the child. **(2)**
- ☐ The development of children living with their mothers shall be regularly monitored by specialists. **(3)**
- ☐ The child shall be provided with ongoing healthcare services. **(4)**

Check your answers on page 176.

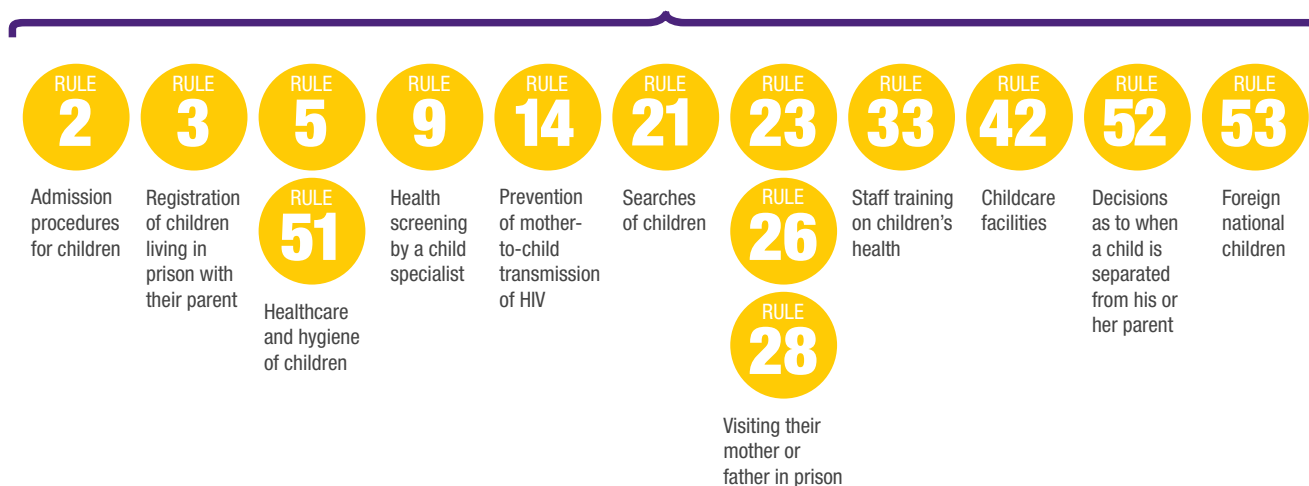
Bangkok Rule 33(3) requires that prison staff be given basic training on the healthcare of children so that they can respond appropriately in times of need and emergencies. This is in recognition of the reality that in many prison systems specialist healthcare staff are not always or immediately available to respond to these children's needs.



Other rules on children of imprisoned parents

As mentioned earlier, the Bangkok Rules were the first set of international standards that provide guidance on the treatment of children living in prison with their parent. Here is a helpful overview of the different provisions relating to children in the Bangkok Rules.

BANGKOK RULES CONCERNING CHILDREN OF IMPRISONED PARENTS



Extra resources

- PRI/Thailand Institute of Justice (TIJ), *Guidance Document on the UN Bangkok Rules*, 2013, Chapter 8
- *UN Guidelines for the Alternative Care of Children*, 2010
- PRI/African Committee of Experts on the Rights and Welfare of the Child, *A short guide to General Comment No. 1 on Article 30 of the African Charter on the Rights and Welfare of the Child*, 2014
- PRI, *A shared sentence: Children of imprisoned parents in Uganda*, 2015
- Children of Prisoners Europe, *Children of imprisoned parents: European perspectives on good practice*, 2nd edition, 2014

Module 9

Quiz

Now that you have learned about the needs of mothers and children in prison there are three questions below to check your understanding.

Q1

Since a child housed in prison with his or her mother is not a prisoner, the cost of any specialised medical care for that child, including with a paediatrician, is the responsibility of the mother or family.

True ☐ False ☐ (Please tick)

Q2

What considerations should be taken into account when deciding whether a child should be separated from his or her mother in prison? (Tick all that apply)

- ☐ Availability of appropriate alternative care outside prison. **(1)**
- ☐ The child's views. **(2)**
- ☐ The cost of housing a child in prison. **(3)**
- ☐ The child's level of education. **(4)**
- ☐ Conditions and services available in prison. **(5)**
- ☐ The mother's views. **(6)**

Q3

In applying the principle from Bangkok Rule 51(2) that the environment provided for the upbringing of children inside prison shall be as close as possible to that of children outside prison, what elements should be included in prison policies? (Tick all that apply)

- ☐ Healthcare and monitoring of physical and psychological development. **(1)**
- ☐ Age-appropriate education. **(2)**
- ☐ Rehabilitation programmes. **(3)**
- ☐ Maximum opportunity for the child to spend time with his or her parent(s). **(4)**

Now check your answers on page 177 and mark your score here (one point per question).

Module 10

Specific female groups in detention



Module 10

Specific female groups in detention

Introduction

In this module we will look at the particular needs of specific female groups in detention: foreign nationals, women in pre-trial detention, girls, minorities and Indigenous peoples. Most of the issues are covered in other modules, including healthcare, rehabilitation programmes and protective measures. We will therefore briefly recall some concepts covered previously, and highlight specific issues for these groups. The module will then highlight two new issues: rehabilitation programmes for Indigenous and minority women and the transfer of foreign national women to their home country.

Learning objectives

In this module you will cover the following topics.

- ➡ How should criminal justice systems respond to offending by girls?
- ➡ In what circumstances can girls be housed in 'protective' custody?
- ➡ What measures can be employed to prevent abuse of women in pre-trial detention?
- ➡ How should rehabilitation programmes cater for Indigenous peoples or women from minority groups?
- ➡ How can authorities address the specific challenges faced by foreign national women prisoners?



How should criminal justice systems respond to offending by girls?

Girls in detention are disproportionately detained for offences that often reflect concerns about their moral conduct, such as prostitution, breaching dress codes, obtaining abortions, running away and being ‘beyond parental control’.¹

They are one of the most vulnerable groups in detention because of their age, gender and small numbers. Despite their small numbers, prison systems need to put in place special measures for girls in detention which take into account their distinctive needs, so that they have the same access to their rights as other prisoners and are not treated unfairly.

Against this background, the use of **non-custodial measures** in the community can better serve the large majority of girl **offenders**, with constructive support offered by social services and others. Diverting them to suitable gender-appropriate alternatives to detention will address their needs and the causes of their offending much more effectively than the harsh environment of a prison.²

Recognising this, **Bangkok Rule 65** requires that any decision responding to girls’ offending behaviour takes into account the gender-based vulnerability of girls, and reiterates the principle that institutionalisation of children should be avoided and only used as a measure of last resort.

Meeting the needs of girls in detention

Girls have unique needs related to their age and gender. The Bangkok Rules provide guidance on the types of measures that should be implemented to meet these needs. For example, **Bangkok Rule 39** addresses the needs of girls who are pregnant, stating that the provision of healthcare must be provided on an equal basis with that for adult female prisoners. The Rule also recognises that girls may be at greater risk of health complications during pregnancy owing to their age.

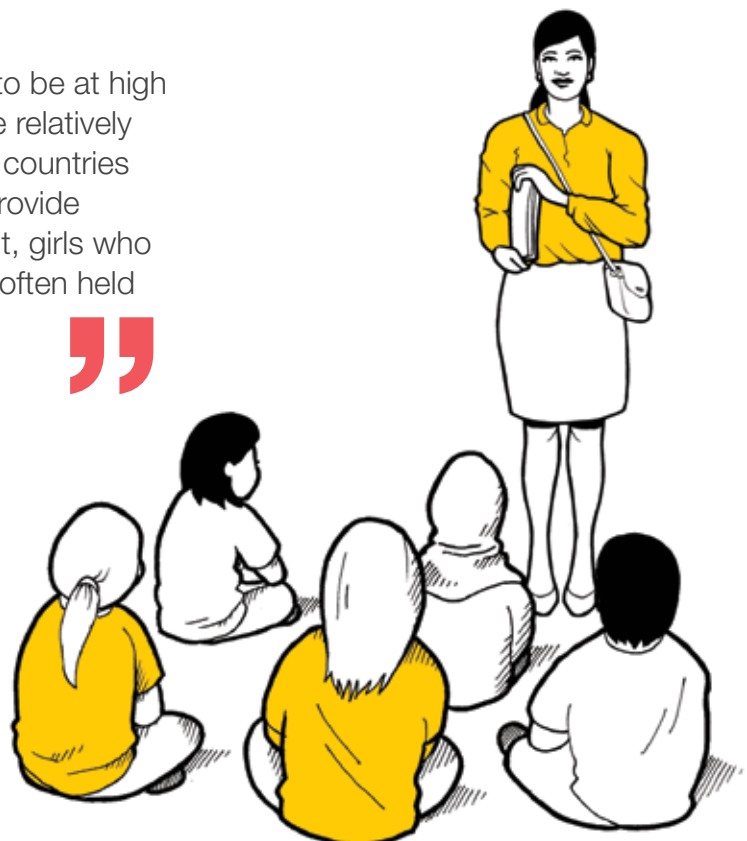
Often girls in detention face disadvantages in accessing the services and programmes that are available for boys. Their rehabilitative needs are frequently overlooked, perhaps due to their small numbers. **Bangkok Rule 37** therefore requires that girls have equal access to education and vocational training as boys.

“

When deprived of liberty, girls continue to be at high risk of violence and abuse... [D]ue to the relatively low numbers of girls in detention, many countries do not make special arrangements or provide segregated facilities for them. As a result, girls who are alleged or recognized offenders are often held in detention together with adult women.

UN Special Representative of the Secretary-General on Violence against Children³

”





Exercise 10.1

Match the following measures with the corresponding excerpts from Bangkok Rules 36–39. (Draw a line)

Measures

Girls are strictly separated from boys and adult female prisoners.

(1) ☐

Educational opportunities are made available to both boys and girls, in cooperation with community service providers.

(2) ☐

Every girl has an individual gender-sensitive health assessment at admission to detention.

(3) ☐

Girls have access to a gynaecologist and pre- and post-natal care if they are pregnant or have given birth.

(3) ☐

Rule

(A) Juvenile female prisoners shall receive support and medical care equivalent to that provided for adult female prisoners.

(B) Prison authorities shall put in place measures to meet the protection needs of juvenile female prisoners.

(C) Juvenile female prisoners shall have equal access to education available to juvenile male prisoners.

(C) Juvenile female prisoners shall have access to age- and gender-specific health programmes and services, including counselling.

Check your answers and read further explanation on page 177.

In what circumstances can girls be held in 'protective' custody?

Module 2 looked at how prisons are sometimes used as places for accommodating women in 'protective' detention, for example to protect those who are victims of violence or 'honour' crimes.

In some countries, girls are also imprisoned under so-called 'protective' detention. Like boys, girls who are lost, separated from family, or homeless should be supported by social service institutions. Yet in some countries they find themselves in 'protective' detention because of non-existent or poorly developed child protection systems.⁴

For example, research in juvenile rehabilitation centres in Afghanistan found that 14 per cent of girls were in detention because they were lost or without shelter. In this case, detention appears to be being used as a tool for social control as no boys were reported to be in detention for those reasons.⁵

In some countries victims of rape may be detained to ensure they will testify against their rapist in court. This practice is unacceptable, further victimising women and girls and putting them at risk of further abuse. Most importantly, victims will be discouraged from reporting rape and sexual abuse if there is a risk they will be detained.⁶

Girls should only be held in 'protective' detention in exceptional cases, when there is no alternative and it is absolutely necessary. **Bangkok Rule 59** provides specific conditions for when a woman or girl is held under 'protective' custody.





Exercise 10.2

The Borstal Youth Centre in Nouakchott, Mauritania, is a place for the detention of boys between the ages of 13 and 18, both on remand and serving their sentence following a conviction. When a delegation from the Committee for the Prevention of Torture in Africa visited the Centre a pregnant girl was also staying there. The Director informed the delegation that she had been sent to the Centre by authorities for her own protection as members of her family had threatened to kill her for having a baby.⁷

Based on the facts given above and the standards in Bangkok Rule 59 and Standard Minimum Rule 11, assess which point(s) below either require further enquiry by the Committee's delegation to assess conformity with international standards, or violate international standards.

1. Protective custody must be temporary.
2. Accommodation should be separated from other prisoners.
3. Protective custody must be expressly requested by the woman or girl concerned.
4. The woman or girl must be free to leave whenever she wishes, having received information including about the risks she may face.
5. Detention is supervised by a judicial or other competent authority.

Further enquiry needed

Violate international standards

Check your answers on page 177.



What measures can be employed to prevent abuse of women in pre-trial detention?

All detainees are at heightened risk of torture or ill-treatment during the initial period after arrest. This is the time when detainees are more likely to be coerced and pressured to confess or provide information to detaining authorities. Women and girls are particularly vulnerable to sexual abuse and other forms of violence during this period owing to their gender and typically low level of education.



Exercise 10.3

Which safeguards should be put in place to prevent such abuse in pre-trial detention (in line with Standard Minimum Rules 68 and 119 and Bangkok Rules 6 and 56)?
(Tick all that apply)

- ☐ Access to a legal representative. **(1)**
- ☐ Medical examination upon admission to prison. **(2)**
- ☐ Placing pre-trial detainees in isolated cells. **(3)**
- ☐ Providing facilities for prisoners to contact their families. **(4)**

Check your answers on page 177.



Read more about pre-trial detention in this factsheet which lists the relevant standards, identifies types and situations where there is a risk of ill-treatment. PRI/APT, *Pre-trial detention: Addressing risk factors to prevent torture and ill-treatment*, 2015, available at www.penalreform.org/resource/detention-monitoring-tool-factsheet-pretrial-detention/

How should rehabilitation programmes cater for Indigenous peoples and women from minority groups?

Indigenous peoples are over-represented among prisoners in a number of countries. In some countries, racial and ethnic minorities represent over 50 per cent of the prison population, yet programmes that address both their gender-specific needs and their cultural, spiritual and religious requirements are largely lacking.⁸

Bangkok Rule 54 requires the development of programmes and services that address the particular needs of minorities and Indigenous peoples. Prison authorities should work together with the women prisoners themselves, and with Indigenous and minority community groups. This principle supplements **Bangkok Rule 42** and the principle of non-discrimination provided for in **Standard Minimum Rule 2**.

To put the principle of non-discrimination into practice, prisons need to adapt programmes and their regimes to meet the individual needs of prisoners.



Promising practice: Australia

In Queensland, Australia, custodial centres coordinate programmes in which elders, respected persons and spiritual healers work with Indigenous peoples. A number of centres work closely with Indigenous organisations, including community justice groups, to provide support and assistance to Indigenous prisoners. Links with Indigenous communities have also been forged through visits by senior officers from a number of correctional centres to community justice groups.⁹



Exercise 10.4

Lowanna, an Aboriginal woman, is serving a sentence in an Australian prison. The authorities need to design a gender- and culturally-sensitive rehabilitation programme to suit her needs and address her history of alcohol dependency. She understands English but communicates primarily in an Aboriginal English dialect.

To set up a rehabilitation plan, the prison authorities ask Lowanna to complete a written survey in English. The authorities also approach the Aboriginal community leaders for advice and invite members of Lowanna's family to attend a consultative family meeting at the prison.

The three points below are from a Practice Resource on working with Aboriginal People and Communities which provides advice on communicating with Aboriginal people in a culturally relevant way, as required by **Bangkok Rule 54**.¹⁰

Which point was *not* followed in Lowanna's case? (Please tick)

- ☐ Think about the language used (written, verbal and non-verbal) when communicating with Aboriginal people. **(1)**
- ☐ Be aware and respectful of relevant extended family and kinship structures when working with Aboriginal people. Ensure that extended family is included in important meetings and in making important decisions. **(2)**
- ☐ Establish community advisory groups with local leaders and Aboriginal organisations to ensure culturally relevant and sensitive service development and delivery. **(3)**

Check your answers on page 177.

The design of rehabilitation programmes should also take into account the needs of foreign national women, who increasingly make up a large proportion of female prison populations in some regions of the world. We will now explore other issues faced by this group of women prisoners and look at how prison authorities can address these concerns.



How can authorities address the specific challenges faced by foreign national women prisoners?

Foreign national prisoners are prisoners who do not carry the citizenship of the country in which they are imprisoned. It equally refers to prisoners who have just arrived in the country of imprisonment and those who have lived there for extended periods, but who have not been naturalised.

In some countries the number of foreign national prisoners comprises over 50 per cent of the total prison population, and is growing. This is a result of globalisation, migration and human trafficking.¹¹

Discrimination

Foreign nationals are often disadvantaged in the criminal justice system owing to discrimination, increasingly punitive measures applied to foreign nationals in many countries, limited awareness of rights and procedures, and lack of access to legal representation.¹²

Foreign national women prisoners are:

- generally assumed – without proper consideration of an individual's profile and circumstances – to be a flight risk by courts and often remanded to pre-trial detention unnecessarily
- often convicted of non-violent crimes, such as drug offences, as a trafficking victim or for false identification
- affected by increasing criminalisation of irregular entry and stay.

Please note: Trafficked persons must not be detained, charged or prosecuted for irregular entry into a country or for infringements of other immigration laws. This is to avoid criminalisation, which limits trafficking victims' access to justice and protection.¹³



Contact with family

As we have seen in previous modules, contact with family and friends is essential for many reasons. It can improve the mental well-being of prisoners and is an important element of rehabilitation. Being isolated from their families and communities can have a harmful impact on all women prisoners. Foreign national women often face particular challenges. They are more isolated than other prisoners since they are usually completely cut off from families and communities who live abroad, and there may be language barriers which exacerbate the isolation.



Example: Turkey

Read this extract from the report of the visit to Turkey by the UN Working Group on Arbitrary Detention in 2007, explaining how foreign national prisoners are prevented from keeping in contact with their families.

'According to prison administrators and detainees interviewed by the Working Group, detainees are only allowed to call one number in their home country and the consular representatives of their home country have to certify to the Turkish authorities that this number actually belongs to a family member of the detainee. Many consulates apparently fail to cooperate with this procedure. As a result, detainees from those countries are simply deprived of all possibility of reaching their family by phone.'¹⁴



Exercise 10.5

Bangkok Rule 26 requires measures to counterbalance disadvantages faced by women detained far from their homes. Can you think of three measures that could be taken by prison authorities?

- 1.
- 2.
- 3.

Check your answers on page 178.



Promising practice: Bulgaria

A project that was run by the Bulgarian Charities Aid Foundation, called 'Adopt a Prisoner', involved a team of volunteers who visited foreign national prisoners and acted as a temporary foster family when the prisoner's own family members were unable to travel to Bulgaria to visit. Another project, 'The Family Hospitality Programme', involved another team of volunteers who looked after the needs of visiting family members.¹⁵

Admission process

As discussed in Module 3, anyone arriving at a prison feels vulnerable. However, a woman's experience can be particularly distressing. Experiences from around the world have shown that this is because many women going into prison have just been separated from their children and because of the stigma they may face from being imprisoned. For foreign national women there is the extra distress of language barriers, a different culture and practical issues with contacting their families.

Bangkok Rule 2(1) provides guidance on what should be provided to newly arrived women prisoners, supplementing **Standard Minimum Rule 54**, which lists the specific items of information that should be communicated to new prisoners.

- Foreign nationals should be informed of the right to contact consular representatives and provided with facilities to contact both consular representatives and family members.
- Facilities must be provided for prisoners to access legal advice (and legal aid if required).
- Written information must be provided about the prison regime and rules, how to seek information and make complaints, in a language the prisoner understands.

Transferring foreign national prisoners

Some countries have agreements that allow for foreign national prisoners to be transferred to their home country. Such a transfer can alleviate some of the challenges they face and thereby assist in their social reintegration. However, any transfer must be subject to certain conditions.

A key principle in any transfer is that it should serve the purpose of social reintegration. It should not constitute an additional punitive measure. In most cases a transfer should only be conducted if prisoners consent to serve their sentences in their home country. This is set out in Article 7 of the *UN Model Agreement on the transfer of foreign prisoners and recommendations for the treatment of foreign prisoners*.¹⁶

Bangkok Rule 53 reflects this principle, stating that a transfer should only be pursued with the **informed consent** of the detainee, for example following an application for transfer from the woman concerned.

Note: In 2008, the European Union (EU) established a system for transferring prisoners within the EU, and in some well-defined circumstances removes the requirement of informed consent. This was introduced through Framework Decision 2008/909/JHA.

If a foreign national woman is serving her sentence with an accompanying child, and if the child is going to be removed from prison, consideration should be given to relocating the child to his Specific female groups in detention home country (see **Rule 53(2)**). A decision to relocate a child should only be taken if alternative care is available in the home country, and in consultation with the mother, family members, relatives or agencies who will care for the child, and should be based on the **best interests of the child** and the individual circumstances of the case.





Promising practice: Australia

This example illustrates a process which aims to ensure informed consent from prisoners who may be transferred to or from Australia.

Prisoners who may be transferred to or from Australia are sent a letter from the Attorney General's Department outlining things such as:

- the transfer process
- terms and legal consequences of a transfer
- for those who may be transferred to Australia, that any remissions, amnesties or pardons granted by the sentencing State will be recognised
- that independent legal advice is recommended.

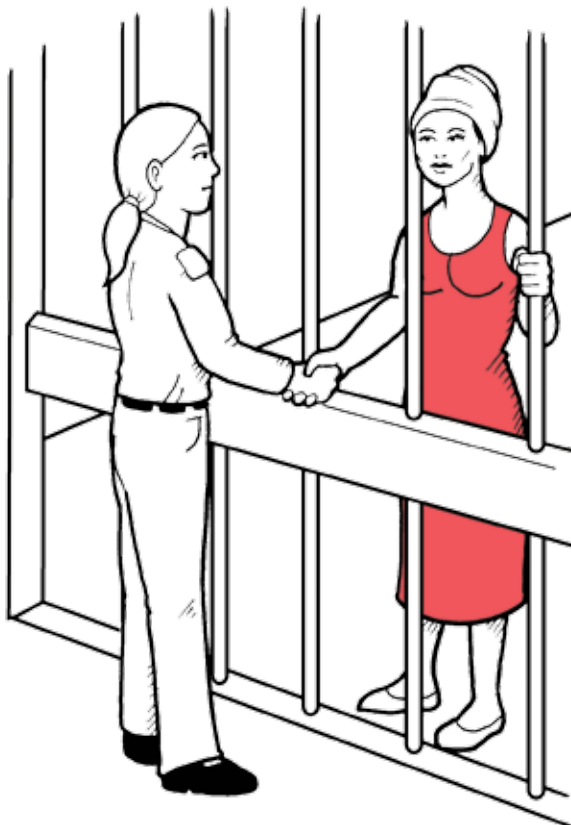
A consent form must be signed by the prisoner and witnessed, usually by an Australian Government official. Overall, this process ensures the prisoner's consent is both informed and voluntary.



For more information on this issue see the Handbook on the International Transfer of Sentenced Persons from the UN Office on Drugs and Crime. Available at: www.unodc.org/unodc/en/organized-crime/news/2012/handbook-transfer-of-sentenced-persons.html

Requirement not to transfer

The UN Convention against Torture (Article 3) prohibits transfer of a prisoner to his/her home country where there is a risk of ill-treatment or torture.





Exercise 10.6

Ms G, an Armenian national, is serving a sentence in the UK. She was given a small brochure in English with information about the possibility of a transfer to Armenia. When receiving it, Ms G pointed at the brochure, shrugging her shoulders. The prison officer set up an appointment with the Armenian consulate who explained the process of transfer. The prison then began the procedure for her transfer to take place under the UK-Armenia agreement on transferring prisoners.

A letter then arrived for Ms G informing her that a risk assessment had been undertaken and there was no belief that she was at risk of ill-treatment, torture or reprisals in her home country. The letter stated that she would be leaving the UK within the next seven days to serve her prison sentence in Armenia.

Below is a list of actions that are required by authorities before any transfer takes place. Read Ms G's story and select those that were missed in her case. (Select all that apply)

- ☐ A transfer should never occur if there is a belief that the woman would be at risk of ill-treatment or torture in her home country. **(1)**
- ☐ Foreign national women should be provided with comprehensive and clear information about the possibility of transfer. **(2)**
- ☐ The information provided about a possible transfer should be in a language the prisoner understands – or orally in the case of women who are illiterate. **(3)**
- ☐ Any transfer should be considered as early as possible after a sentence has been handed down. **(4)**
- ☐ A risk assessment should be undertaken about possible reprisals, for example in cases of drug mules. **(5)**
- ☐ A transfer should only occur if an application has been made by the prisoner or informed consent has been given by the woman concerned. **(6)**

Check your answers on page 178.



Extra resources

- PRI/Thailand Institute of Justice (TIJ), *Guidance Document on the UN Bangkok Rules*, 2013, Chapter 9
- Penal Reform International/Interagency Panel on Juvenile Justice (IPJJ), *Neglected needs: girls in the criminal justice system*, 2014
- United Nations Special Representative of the Secretary-General on Violence Against Children, *Safeguarding the rights of girls in the criminal justice systems*, 2015
- UN Office on Drugs and Crime (UNODC), *Handbook on the International Transfer of Sentenced Persons*, 2012
- UN Office on Drugs and Crime (UNODC), *Handbook on Prisoners with Special Needs*, 2009

Module 10

Quiz

Now that you have learned about specific female groups in detention there are three questions below to check your understanding.

Q1

Regardless of age, a girl who has committed a criminal offence should receive the same sentence that an adult female offender would receive for the same offence.

True ☐ False ☐ (Please tick)

Q2

Bangkok Rule 36 requires that prison authorities put protective measures in place for girls. Which of the measures below is not compliant with international standards?
(Tick all that apply)

- ☐ Ensure medical examination on admission to detect any abuse or ill-treatment. **(1)**
- ☐ Accommodate girls in isolation so they are separated from adult detainees. **(2)**
- ☐ Provide specific training for guards who are responsible for girls in detention. **(3)**
- ☐ Ensure girls in detention have information on how to make confidential complaints. **(4)**

Q3

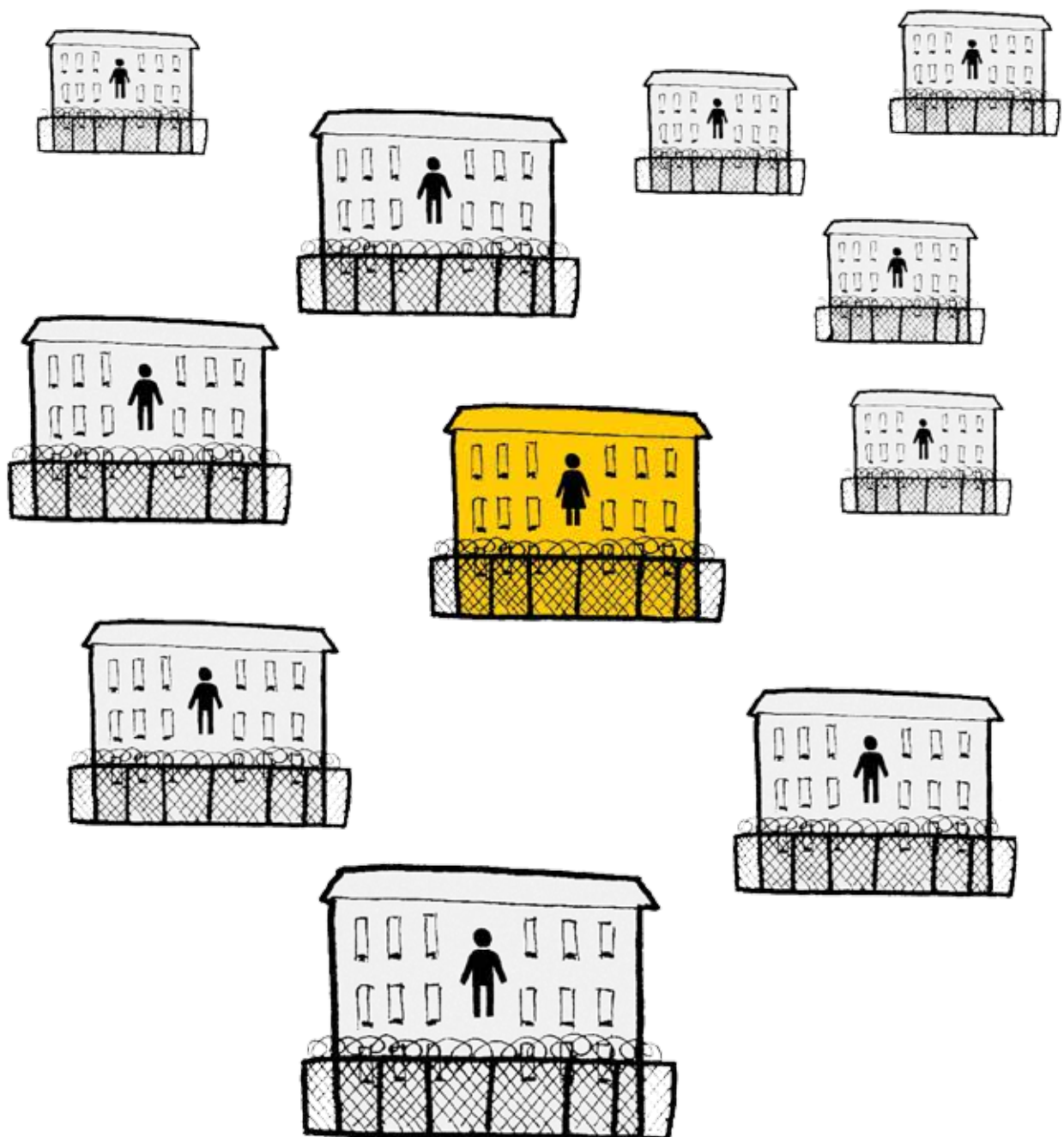
Bangkok Rule 54 requires that programmes and services be sensitive to religious and cultural backgrounds. A prison has decided to offer a course in anger management to a group of Indigenous women prisoners. The prison authorities meet with a local organisation which offers the course and set up a timetable. Circle the relevant part of Rule 54 that was missed in this process.

Bangkok Rule 54:

Prison authorities shall recognize that women prisoners from different religious and cultural backgrounds have distinctive needs and may face multiple forms of discrimination in their access to gender- and culture-relevant programmes and services. Accordingly, prison authorities shall provide comprehensive programmes and services that address these needs, in consultation with women prisoners themselves and the relevant groups

Now check your answers on page 178 and mark your score here (one point per question).

Appendices



The United Nations Bangkok Rules

See overleaf for the full text of the 70 United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

- ⇒ Pull out and staple together for easy reference.
- ⇒ The full text of the UN Bangkok Rules can be downloaded in other languages at www.penalreform.org/priorities/women-in-the-criminal-justice-system/international-standards/
- ⇒ This version has been updated to reflect the re-numbering of the revised Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), adopted in 2015.



United Nations

A/RES/65/229



General Assembly

Distr.: General
16 March 2011

Sixty-fifth session
Agenda item 105

Resolution adopted by the General Assembly

[on the report of the Third Committee (A/65/457)]

65/229. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*

[...]

I. Rules of general application

1. Basic principle

[Supplements rule 2 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)]

Rule 1

In order for the principle of non-discrimination embodied in rule 6 of the Standard Minimum Rules for the Treatment of Prisoners to be put into practice, account shall be taken of the distinctive needs of women prisoners in the application of the Rules. Providing for such needs in order to accomplish substantial gender equality shall not be regarded as discriminatory.

2. Admission

Rule 2

1. Adequate attention shall be paid to the admission procedures for women and children, due to their particular vulnerability at this time. Newly arrived women prisoners shall 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 as well.

2. Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.

* The Bangkok Rules supplement the UN Standard Minimum Rules for the Treatment of Prisoners (SMR). This version has been updated to reflect the re-numbering of the revised SMR which were adopted in December 2015 as the Nelson Mandela Rules (See Resolution 70/175).



A/RES/65/229

3. Register*[Supplements rules 6 to 10 of the Nelson Mandela Rules]**Rule 3*

1. The number and personal details of the children of a woman being admitted to prison shall be recorded at the time of admission. The records shall include, without prejudicing the rights of the mother, at least the names of the children, their ages and, if not accompanying the mother, their location and custody or guardianship status.

2. All information relating to the children's identity shall be kept confidential, and the use of such information shall always comply with the requirement to take into account the best interests of the children.

4. Allocation*Rule 4*

Women prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services.

5. Personal hygiene*[Supplements rule 18 of the Nelson Mandela Rules]**Rule 5*

The accommodation of women prisoners shall 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 to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.

6. Health-care services*[Supplements rules 24 to 35 of the Nelson Mandela Rules]***(a) Medical screening on entry***[Supplements rule 30 of the Nelson Mandela Rules]**Rule 6*

The health screening of women prisoners shall include comprehensive screening to determine primary health-care needs, and also shall determine:

(a) The presence of sexually transmitted diseases or blood-borne diseases; and, depending on risk factors, women prisoners may also be offered testing for HIV, with pre- and post-test counselling;

(b) Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm;

(c) The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues;

(d) The existence of drug dependency;

(e) Sexual abuse and other forms of violence that may have been suffered prior to admission.



A/RES/65/229*Rule 7*

1. If the existence of sexual abuse or other forms of violence before or during detention is diagnosed, the woman prisoner shall be informed of her right to seek recourse from judicial authorities. The woman prisoner should be fully informed of the procedures and steps involved. If the woman prisoner agrees to take legal action, appropriate staff shall be informed and immediately refer the case to the competent authority for investigation. Prison authorities shall help such women to access legal assistance.

2. Whether or not the woman chooses to take legal action, prison authorities shall endeavour to ensure that she has immediate access to specialized psychological support or counselling.

3. Specific measures shall be developed to avoid any form of retaliation against those making such reports or taking legal action.

Rule 8

The right of women prisoners to medical confidentiality, including specifically the right not to share information and not to undergo screening in relation to their reproductive health history, shall be respected at all times.

Rule 9

If the woman prisoner is accompanied by a child, that child shall also undergo health screening, preferably by a child health specialist, to determine any treatment and medical needs. Suitable health care, at least equivalent to that in the community, shall be provided.

(b) Gender-specific health care*Rule 10*

1. Gender-specific health-care services at least equivalent to those available in the community shall be provided to women prisoners.

2. If a woman prisoner requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention. If a male medical practitioner undertakes the examination contrary to the wishes of the woman prisoner, a woman staff member shall be present during the examination.

Rule 11

1. Only medical staff shall be present during medical examinations unless the doctor is of the view that exceptional circumstances exist or the doctor requests a member of the prison staff to be present for security reasons or the woman prisoner specifically requests the presence of a member of staff as indicated in rule 10, paragraph 2, above.

2. If it is necessary for non-medical prison staff to be present during medical examinations, such staff should be women and examinations shall be carried out in a manner that safeguards privacy, dignity and confidentiality.

(c) Mental health and care*Rule 12*

Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings.



A/RES/65/229

Rule 13

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.

(d) HIV prevention, treatment, care and support*Rule 14*

In developing responses to HIV/AIDS in penal institutions, programmes and services shall be responsive to the specific needs of women, including prevention of mother-to-child transmission. In this context, prison authorities shall encourage and support the development of initiatives on HIV prevention, treatment and care, such as peer-based education.

(e) Substance abuse treatment programmes*Rule 15*

Prison health services shall provide or facilitate 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.

(f) Suicide and self-harm prevention*Rule 16*

Developing and implementing strategies, in consultation with mental healthcare and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and specialized support to those at risk shall be part of a comprehensive policy of mental health care in women's prisons.

(g) Preventive health-care services*Rule 17*

Women prisoners shall receive education and information about preventive health-care measures, including on HIV, sexually transmitted diseases and other blood-borne diseases, as well as gender-specific health conditions.

Rule 18

Preventive health-care measures of particular relevance to women, such as Papanicolaou tests and screening for breast and gynaecological cancer, shall be offered to women prisoners on an equal basis with women of the same age in the community.

7. Safety and security

[Supplements rules 36 to 57 of the Nelson Mandela Rules]

(a) Searches*Rule 19*

Effective measures shall be taken to ensure that women prisoners' dignity and respect are protected during personal searches, which shall only be carried out by women staff who have been properly trained in appropriate searching methods and in accordance with established procedures.

Rule 20

Alternative screening methods, such as scans, shall be developed to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches.



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Rule 21

Prison staff shall demonstrate competence, professionalism and sensitivity and shall preserve respect and dignity when searching both children in prison with their mother and children visiting prisoners.

(b) Discipline and punishment

[Supplements rules 36 to 46 of the Nelson Mandela Rules]

Rule 22

Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison.

Rule 23

Disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children.

(c) Instruments of restraint

[Supplements rules 47 to 49 of the Nelson Mandela Rules]

Rule 24

Instruments of restraint shall never be used on women during labour, during birth and immediately after birth.

(d) Information to and complaints by prisoners; inspections

[Supplements rules 54 to 57 and, with regard to inspection, rules 83 to 85 of the Nelson Mandela Rules]

Rule 25

1. Women prisoners who report abuse shall be provided immediate protection, support and counselling, and their claims shall be investigated by competent and independent authorities, with full respect for the principle of confidentiality. Protection measures shall take into account specifically the risks of retaliation.
2. Women prisoners who have been subjected to sexual abuse, and especially those who have become pregnant as a result, shall receive appropriate medical advice and counselling and shall be provided with the requisite physical and mental health care, support and legal aid.
3. In order to monitor the conditions of detention and treatment of women prisoners, inspectorates, visiting or monitoring boards or supervisory bodies shall include women members.

8. Contact with the outside world

[Supplements rules 58 to 63 of the Nelson Mandela Rules]

Rule 26

Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.

Rule 27

Where conjugal visits are allowed, women prisoners shall be able to exercise this right on an equal basis with men.



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Rule 28

Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible.

9. Institutional personnel and training

[Supplements rules 74 to 85 of the Nelson Mandela Rules]

Rule 29

Capacity-building for staff employed in women's prisons shall enable them to address the special social reintegration requirements of women prisoners and manage safe and rehabilitative facilities. Capacity-building measures for women staff shall also include access to senior positions with key responsibility for the development of policies and strategies relating to the treatment and care of women prisoners.

Rule 30

There shall be a clear and sustained commitment at the managerial level in prison administrations to prevent and address gender-based discrimination against women staff.

Rule 31

Clear policies and regulations on the conduct of prison staff aimed at providing maximum protection for women prisoners from any gender-based physical or verbal violence, abuse and sexual harassment shall be developed and implemented.

Rule 32

Women prison staff shall receive equal access to training as male staff, and all staff involved in the management of women's prisons shall receive training on gender sensitivity and prohibition of discrimination and sexual harassment.

Rule 33

1. All staff assigned to work with women prisoners shall receive training relating to the gender-specific needs and human rights of women prisoners.
2. Basic training shall be provided for prison staff working in women's prisons on the main issues relating to women's health, in addition to first aid and basic medicine.
3. Where children are allowed to stay with their mothers in prison, awareness-raising on child development and basic training on the health care of children shall also be provided to prison staff, in order for them to respond appropriately in times of need and emergencies.

Rule 34

Capacity-building programmes on HIV shall be included as part of the regular training curricula of prison staff. In addition to HIV/AIDS prevention, treatment, care and support, issues such as gender and human rights, with a particular focus on their link to HIV, stigma and discrimination, shall also be part of the curriculum.

Rule 35

Prison staff shall be trained to detect mental health-care needs and risk of self-harm and suicide among women prisoners and to offer assistance by providing support and referring such cases to specialists.



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10. Juvenile female prisoners*Rule 36*

Prison authorities shall put in place measures to meet the protection needs of juvenile female prisoners.

Rule 37

Juvenile female prisoners shall have equal access to education and vocational training that are available to juvenile male prisoners.

Rule 38

Juvenile female prisoners shall have access to age- and gender-specific programmes and services, such as counselling for sexual abuse or violence. They shall receive education on women's health care and have regular access to gynaecologists, similar to adult female prisoners.

Rule 39

Pregnant juvenile female prisoners shall receive support and medical care equivalent to that provided for adult female prisoners. Their health shall be monitored by a medical specialist, taking account of the fact that they may be at greater risk of health complications during pregnancy due to their age.

II. Rules applicable to special categories**A. Prisoners under sentence****1. Classification and individualization**

[Supplements rules 93 and 94 of the Nelson Mandela Rules]

Rule 40

Prison administrators shall 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

The gender-sensitive risk assessment and classification of prisoners shall:

- (a) 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;
- (b) 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;
- (c) Ensure that women's sentence plans include rehabilitative programmes and services that match their gender-specific needs;
- (d) Ensure that those with mental health-care needs are housed in accommodation which is not restrictive, and at the lowest possible security level, and receive appropriate treatment, rather than being placed in higher security level facilities solely due to their mental health problems.



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2. Prison regime*[Supplements rules 91, 92 and 95 to 108 of the Nelson Mandela Rules]**Rule 42*

1. Women prisoners shall have access to a balanced and comprehensive programme of activities which take account of gender-appropriate needs.

2. The regime of the prison shall be flexible enough to respond to the needs of pregnant women, nursing mothers and women with children. Childcare facilities or arrangements shall be provided in prisons in order to enable women prisoners to participate in prison activities.

3. Particular efforts shall be made to provide appropriate programmes for pregnant women, nursing mothers and women with children in prison.

4. Particular efforts shall be made to provide appropriate services for women prisoners who have psychosocial support needs, especially those who have been subjected to physical, mental or sexual abuse.

Social relations and aftercare*[Supplements rules 106 to 108 of the Nelson Mandela Rules]**Rule 43*

Prison authorities shall encourage and, where possible, also facilitate visits to women prisoners as an important prerequisite to ensuring their mental well-being and social reintegration.

Rule 44

In view of women prisoners' disproportionate experience of domestic violence, they shall be properly consulted as to who, including which family members, is allowed to visit them.

Rule 45

Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.

Rule 46

Prison authorities, in cooperation with probation and/or social welfare services, local community groups and non-governmental organizations, shall design and implement comprehensive pre- and post-release reintegration programmes which take into account the gender-specific needs of women.

Rule 47

Additional support following release shall be provided to released women prisoners who need psychological, medical, legal and practical help to ensure their successful social reintegration, in cooperation with services in the community.



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3. Pregnant women, breastfeeding mothers and mothers with children in prison*[Supplements rules 28 and 29 of the Nelson Mandela Rules]**Rule 48*

1. Pregnant or breastfeeding women prisoners shall receive advice on their health and diet under a programme to be drawn up and monitored by a qualified health practitioner. Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers.

2. Women prisoners shall not be discouraged from breastfeeding their children, unless there are specific health reasons to do so.

3. The medical and nutritional needs of women prisoners who have recently given birth, but whose babies are not with them in prison, shall be included in treatment programmes.

Rule 49

Decisions to allow children to stay with their mothers in prison shall be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners.

Rule 50

Women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children.

Rule 51

1. Children living with their mothers in prison shall be provided with ongoing health-care services and their development shall be monitored by specialists, in collaboration with community health services.

2. The environment provided for such children's upbringing shall be as close as possible to that of a child outside prison.

Rule 52

1. Decisions as to when a child is to be separated from its mother shall be based on individual assessments and the best interests of the child within the scope of relevant national laws.

2. The removal of the child from prison shall be undertaken with sensitivity, only when alternative care arrangements for the child have been identified and, in the case of foreign-national prisoners, in consultation with consular officials.

3. After children are separated from their mothers and placed with family or relatives or in other alternative care, women prisoners shall be given the maximum possible opportunity and facilities to meet with their children, when it is in the best interests of the children and when public safety is not compromised.

4. Foreign nationals*[Supplements rule 62 of the the Nelson Mandela Rules]**Rule 53*

1. Where relevant bilateral or multilateral agreements are in place, the transfer of non-resident foreign-national women prisoners to their home country, especially if they have children in their home country, shall be considered as early as possible during their imprisonment, following the application or informed consent of the woman concerned.



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2. Where a child living with a non-resident foreign-national woman prisoner is to be removed from prison, consideration should be given to relocation of the child to its home country, taking into account the best interests of the child and in consultation with the mother.

5. Minorities and indigenous peoples

Rule 54

Prison authorities shall recognize that women prisoners from different religious and cultural backgrounds have distinctive needs and may face multiple forms of discrimination in their access to gender- and culture-relevant programmes and services. Accordingly, prison authorities shall provide comprehensive programmes and services that address these needs, in consultation with women prisoners themselves and the relevant groups.

Rule 55

Pre- and post-release services shall be reviewed to ensure that they are appropriate and accessible to indigenous women prisoners and to women prisoners from ethnic and racial groups, in consultation with the relevant groups.

B. Prisoners under arrest or awaiting trial

[Supplements rules 111 to 120 of the Nelson Mandela Rules]

Rule 56

The particular risk of abuse that women face in pretrial detention shall be recognized by relevant authorities, which shall adopt appropriate measures in policies and practice to guarantee such women's safety at this time. (See also rule 58 below, with regard to alternatives to pretrial detention.)

III. Non-custodial measures

Rule 57

The provisions of the Tokyo Rules shall guide the development and implementation of appropriate responses to women offenders. Gender-specific options for diversionary measures and pretrial and sentencing alternatives shall be developed within Member States' legal systems, taking account of the history of victimization of many women offenders and their caretaking responsibilities.

Rule 58

Taking into account the provisions of rule 2.3 of the Tokyo Rules, women offenders shall not be separated from their families and communities without due consideration being given to their backgrounds and family ties. Alternative ways of managing women who commit offences, such as diversionary measures and pretrial and sentencing alternatives, shall be implemented wherever appropriate and possible.

Rule 59

Generally, non-custodial means of protection, for example in shelters managed by independent bodies, non-governmental organizations or other community services, shall be used to protect women who need such protection. Temporary measures involving custody to protect a woman shall only be applied when necessary and expressly requested by the woman concerned and shall in all cases be supervised by judicial or other competent authorities. Such protective measures shall not be continued against the will of the woman concerned.



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Rule 60

Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide care for children and women-only services.

Rule 61

When sentencing women offenders, courts shall have the power to consider mitigating factors such as lack of criminal history and relative non-severity and nature of the criminal conduct, in the light of women's caretaking responsibilities and typical backgrounds.

Rule 62

The provision of gender-sensitive, trauma-informed, women-only substance abuse treatment programmes in the community and women's access to such treatment shall be improved, for crime prevention as well as for diversion and alternative sentencing purposes.

1. Post-sentencing dispositions*Rule 63*

Decisions regarding early conditional release (parole) shall favourably take into account women prisoners' caretaking responsibilities, as well as their specific social reintegration needs.

2. Pregnant women and women with dependent children*Rule 64*

Non-custodial sentences for pregnant women and women with dependent children shall be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious or violent or the woman represents a continuing danger, and after taking into account the best interests of the child or children, while ensuring that appropriate provision has been made for the care of such children.

3. Juvenile female offenders*Rule 65*

Institutionalization of children in conflict with the law shall be avoided to the maximum extent possible. The gender-based vulnerability of juvenile female offenders shall be taken into account in decision-making.

4. Foreign nationals*Rule 66*

Maximum effort shall be made to ratify the United Nations Convention against Transnational Organized Crime²⁶ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime²⁷ to fully implement their provisions so as to provide maximum protection to victims of trafficking in order to avoid secondary victimization of many foreign-national women.

²⁶ United Nations, *Treaty Series*, vol. 2225, No. 39574.

²⁷ *Ibid.*, vol. 2237, No. 39574.



IV. Research, planning, evaluation and public awareness-raising

1. Research, planning and evaluation

Rule 67

Efforts shall be made to organize and promote comprehensive, result-oriented research on 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.

Rule 68

Efforts shall be made to organize and promote research on the number of children affected by their mothers' confrontation with the criminal justice system, and imprisonment in particular, and the impact of this on the children, in order to contribute to policy formulation and programme development, taking into account the best interests of the children.

Rule 69

Efforts shall be made to review, evaluate and make public periodically the trends, problems and factors associated with offending behaviour in women and the effectiveness in responding to the social reintegration needs of women offenders, as well as their children, in order to reduce the stigmatization and negative impact of those women's confrontation with the criminal justice system on them.

2. Raising public awareness, sharing information and training

Rule 70

1. The media and the public shall be informed about the reasons that lead to women's entrapment in the criminal justice system and the most effective ways to respond to it, in order to enable women's social reintegration, taking into account the best interests of their children.
2. Publication and dissemination of research and good practice examples shall form comprehensive elements of policies that aim to improve the outcomes and the fairness to women and their children of criminal justice responses to women offenders.
3. The media, the public and those with professional responsibility in matters concerning women prisoners and offenders shall be provided regularly with factual information about the matters covered in these rules and about their implementation.
4. Training programmes on the present rules and the results of research shall be developed and implemented for relevant criminal justice officials to raise their awareness and sensitize them to their provisions contained therein.





Glossary

Administrative detention is the arrest and detention of an individual, without trial or charge, usually on the grounds of security.

Allocation refers to the decision on where a prisoner is housed or ‘allocated’ by the authorities (which prison and which area of the relevant facility).

Antiretroviral therapy: standard antiretroviral therapy (ART) consists of a combination of at least three antiretroviral (ARV) drugs to maximally suppress the HIV virus and stop the progression of HIV disease.

Best interests of the child: the ‘best interests of the child’ principle is enshrined in the UN Convention on the Rights of the Child. It requires that all interactions with a child, and any decision-making that affects a child, must take their best interests into account.

Classification is the process in which prisoners undergo a risk and needs assessment to determine which prison, or section of a prison, they will be allocated to (e.g. high, medium or low security).

Closed visits are visits in which prisoners do not have physical contact with their visitors. Such visits often take place with a glass partition between the visitor and the prisoner and communication is often via phones, although it may sometimes entail the prisoner and the visitor shouting to hear each other across a distance of metres.

Contact (open) visits are visits where the prisoner and the visitors can sit together and communicate with each other without any barriers between them. Contact/open visits allow for touching and embracing.

Continuity of care is a process in which there is no interruption in the provision of healthcare when a person enters prison from the community, is transferred between prisons or is released from prison.

Committee on the Elimination of All Forms of Discrimination against Women: the treaty body established under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). As part of its mandate it receives complaints from individuals (referred to as ‘communications’), in cases where they believe their rights have been violated under the Convention. This is possible only if the state concerned has ratified the Optional Protocol to the Convention.

Corrective measures are sanctions aimed at addressing the specific needs of offenders, for example by ordering them to attend a drug or substance dependency programme.

Discrimination against women refers to treatment or consideration based on gender, rather than individual merit; partiality or prejudice. The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) defines discrimination against women as: ‘any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field’.

Diversionary measures are procedures allowing certain offenders to bypass the formal criminal justice system in order to avoid further prosecution and conviction by participating in, for example, mediation processes or by compensating the victim.

Drug courts are used to provide a judicially supervised programme of substance dependency treatment and other services. While drug courts aim to address an individual’s immediate offence, the longer-term goal is to promote their recovery and reintegration into the community, thereby helping to end recidivism.

Dynamic security is an approach which entails the development of positive relationships between staff and prisoners based on firmness and fairness, together with an understanding of their personal situation and any risk posed by individual prisoners.

Early or conditional release (parole) means the early release of sentenced prisoners under individualised post-release conditions. It can be mandatory, taking place automatically after a minimum period or a fixed proportion of the sentence, or it can be discretionary. It is always accompanied by a general condition that the prisoner should refrain from any criminal activities.

General Comment: a quasi-legal document published by a body at the regional or international level (e.g. a United Nations Committee) which provides a detailed interpretation of an article or issue relating to the relevant Convention of such a body, and provides guidance on the actions required by governments to ensure its implementation.

'Honour' crimes are an extreme symptom of discrimination against women. They have been defined by Human Rights Watch as 'acts of violence, usually murder, committed by male family members against female family members who are perceived to have brought dishonour upon the family'.

Human trafficking or trafficking is 'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of a threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation', as defined by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Imprisoned: an imprisoned person is someone who has been detained on criminal charges, regardless of whether they have been found guilty or not. Imprisoned persons may also be in **administrative** or **'protective' detention**.

Mental health is defined by the World Health Organization as a state of well-being in which every individual realises his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community.

Mitigating factor is, in law, any information or evidence presented to the court regarding the defendant or the circumstances of the crime that might result in reduced charges or a lesser sentence.

Non-custodial measures are alternatives for cases of pre-trial detention. These may include undertakings to appear before the court as and when required; undertaking not to interfere with witnesses; periodic reporting to police; submitting to electronic monitoring; or curfew and surrender of passports.

Non-custodial sanctions is a sanction other than imprisonment handed down following a criminal offence. These can include fines, restitution to the victim, a suspended or deferred sentence, probation and judicial supervision. Another form of an alternative sanction is community service, which involves an offender working without pay for a certain number of hours for the benefit of the community.

Offender: A person charged with and convicted of a crime.

Pre- and post-natal care: Medical and nursing care for women during pregnancy and after giving birth.

Pre-trial detention: prisoners in pre-trial detention are detainees who have been arrested in a criminal case, but have not yet been charged or sentenced

and hence are awaiting a criminal proceeding. They are therefore to be presumed innocent until found guilty ('presumption of innocence'). They are also often referred to as prisoners on remand, untried or unconvicted prisoners. Pre-trial detention does not refer to the initial deprivation of liberty by police/law enforcement.

Probation refers to a period when an offender is subject to continued supervision and bound to comply with certain conditions, as an alternative to a prison sentence. In many cases, a breach of probation conditions can result in a prison sentence. It also refers to when a prisoner is released from prison under conditions. See also **Early or conditional release (parole)**.

'Protective' detention refers to situations where a person is put in prison on the grounds that it is necessary to protect them from harm, in this context usually from gender-based violence, such as **'honour' crimes**.

Ratified: ratification is an act by which a state signifies its agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the state first signs it and then fulfils its own national legislative requirements.

Recidivism refers to a person's relapse into criminal behaviour, often after receiving sanctions or undergoing intervention for a previous crime.

Restorative justice processes give victims the chance to tell offenders how the crime has affected them, to get answers to their questions, to receive an apology and to give offenders the chance to understand the impact of their actions and do something to repair the harm. Restorative justice may take place as an alternative to prosecution for less serious crimes. It can also be arranged when an offender has pleaded guilty in court but before sentencing; after sentencing; in prison; or in the community.

Sexually transmitted infections (STIs) are infections that are spread primarily through person-to-person sexual contact. There are more than 30 different sexually transmissible bacteria, viruses and parasites.

Substituted medications refers to the use of replacement medications in drug rehabilitation treatment. Opioid substitution therapy is considered an effective way to treat people with dependency on opioid drugs such as heroin, although it is rarely available in prisons.

Virginity tests are the examination of a female's genitals with the aim of determining whether she has had sexual intercourse. They constitute a gross form of discrimination and a form of violence against women.

Answers

Module 1

Exercise answers

1.1 Here are some of the characteristics and backgrounds that apply to many women offenders. Remember that this is not the case with every woman in the criminal justice system.

- Many come from socially and economically disadvantaged communities and groups.
- The majority of the offences committed are related to poverty.
- A disproportionate number of women offenders who have suffered emotional, physical and/or sexual abuse.
- Convictions are mainly for petty crimes, rather than violent offences.

Go back to page 11 in module 1 to learn more about the typical characteristics and backgrounds of women in criminal justice systems.

1.3 While all the factors listed are problematic with regard to the prohibition of ill-treatment and standards relating to the conditions in detention, these are the gender-related factors.

1. Underground cell location.
2. Searched by a male guard.
3. Sexual harassment during search.
4. Toilet exposed to peeping by male prison staff.
5. Cold cell.

Two factors – dirty bedding and spiders – are not specific to women prisoners, but are concerning irrespective of the gender. Concerns are gender-related if they are directed against a woman prisoner because she is a woman (e.g. searched by male guard, poking buttocks, humiliating comments) and/or if they affect women in a prison facility disproportionately (e.g. disadvantageous cell location underground, less time for outdoor exercise than male prisoners).

Quiz answers

Q1 False. The Bangkok Rules are applicable to all categories of women prisoners, including those in pre-trial or protective custody.

Q2 True. Policies need to be designed for women's needs which are different to the majority male prison population, as required by the principle of non-discrimination.

Q3 Correct matchings are: 1 C, 2 B, 3 A, 4 A&B (both the Tokyo Rules and the Bangkok Rules address non-custodial measures).

Module 2

Exercise answers

2.1 Factor 2 – that Mrs M is able to participate in rehabilitation programmes in prison – should **not** be central to the judge's sentence. All the other factors should be considered.

2.2 Correct matchings are: 1 A, 2 C, 3 B, 4 D

2.3 Correct matchings are: 1 B, 2 C, 3 A

Quiz answers

Q1 No. Rules 60 and 62 require women-only programmes, including for substance abuse, to be offered. This is in recognition that many women offenders have experienced violence in their lives and also face stigma due to gender stereotypes, so participating alongside men may be a barrier to successful completion.

Q2 Yes. The Bangkok Rules reiterate the principle enshrined in the UN Convention on the Rights of the Child that the best interests of the child should be taken into account (Rule 61) in sentencing. This is one factor amongst many which the court must consider when sentencing women.

Q3 False. Bangkok Rule 59 prescribes strict and narrow criteria for when protective detention can be used. The obligation of the state is to protect a woman in danger using measures that don't involve detention. If used at all, such 'protective detention' is a last, temporary resort. It must only be used when necessary and when expressly requested in writing by the woman in need of protection. The woman concerned must be free to leave whenever she wishes, having received all relevant information, including about the risks she may face.

Module 3

Exercise answers

3.1 Factors that must be taken into account when allocating female prisoners are:

1. The impact on the woman's ability to maintain links with her family.
2. The potential impact of allocation on her children.
3. The availability of service and rehabilitation programmes to assist with reintegration.
5. The background and wishes of the woman.
6. That the woman will be detained separately from male prisoners.

Cost considerations for prisons should not be the basis for allocating women prisoners. Bangkok Rule 4 states that considerations about caretaking responsibilities, availability of programmes to assist integration, and the wishes of the woman must be taken into account in allocation of women prisoners. Sometimes women may not want to be near their homes if they have suffered abuse or violence from a family member, friend or other perpetrator who lives nearby. Furthermore, Standard Minimum Rule 11(a) requires women and men to be detained in separate facilities.

3.2 You could include the following on a checklist for the admission stage.

- Provide facilities for women to contact relatives.
- Give information on how to access legal advice, including legal aid.
- Give information about prison rules and regulations, including the disciplinary requirements.
- Give information on the prison regime, including how to seek information and make complaints.
- Provide all information in a language that is understood by the prisoner.
- Provide information orally, if the prisoner is illiterate, or in a manner they understand.
- Provide access to consular representatives if the prisoner is a foreign national.
- Enquire as to whether caretaking arrangements of any children or other dependent family members have been made.
- Provide any other information needed by the prisoner so she is able to better adapt to life in prison (this could include how to make an appointment with the doctor, timetables etc.).

3.3 There is no space on the form for the prison to record:

- the details of Mrs Sato's other children (outside prison). Bangkok Rule 3 states that: 'The records shall include, without prejudicing the rights of the mother, at least the names of the children, their ages and, if not accompanying the mother, their location and custody or guardianship status.' Note, information on any children should only be recorded with the mother's permission;
- any 'visible injuries and complaints about ill-treatment' as required by Standard Minimum Rule 7(d).

Quiz answers

Q1 No. If ill-treatment is detected at the admission stage, the woman prisoner must be given the appropriate support (including psychological and legal) to enable her to make an informed decision about whether to proceed with a complaint or not.

Q2 The allocation of women prisoners is important for these reasons.

1. It has an impact on their ability to stay in contact with their family and friends, including their children.
3. If they have been a victim of violence, they may need distance from the perpetrator.
4. The programmes and services offered at a prison facility need to be designed to effectively rehabilitate a woman offender.

While it is important that provisions are made to enable a woman prisoner to get home at the time of release, considerations that enable rehabilitation are paramount. Bangkok Rule 4 therefore recognises that women need 'to be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their care-taking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services'.

Cost factors and court locations should not be decisive considerations in the allocation of prisoners.

Q3 It is necessary for children to be registered when entering prison with their parent for these reasons.

1. To safeguard against any risk of disappearances.
2. To ensure that necessary programmes and services are in place for everybody housed in the prison, whether they are a convicted prisoner or not.

5. To ensure the prison's budget for nutrition and other services is adequate for the actual number of persons housed in the prison.

Information should only be stored for the purpose of protecting the rights of children accompanying their parent into prison. In order to prevent any potential stigma, the prison should not be recorded as the child's address. Registering them does not in any way imply that they may be treated as prisoners.

Module 4

Exercise answers

4.1 / Q1 False. The Standard Minimum Rules (Rule 42) state that general living conditions, including sanitation and personal hygiene, apply to all prisoners without exception. Limiting access to showers as a disciplinary sanction is therefore prohibited under this Rule.

4.1 / Q2 False. Bangkok Rule 5 states that sanitary items must be provided free of charge.

4.2 / Q1 Incorrect. Bangkok Rule 11(1) requires that only medical staff should be present during medical examinations unless there are exceptional circumstances. This is equally applicable to men and women.

4.2 / Q2 Incorrect. While the prison followed procedure by having a female prison staff member (at the request of the doctor because of security concerns), any non-medical staff should not be within hearing distance of doctor-patient conversations. This violates the principle of medical confidentiality.

4.3 / Q1 The correct measure to take would be Number 3.

Bangkok Rule 6a requires that any testing for HIV is done on a voluntary basis. Any HIV testing should be accompanied by pre- and post-counselling. The healthcare practitioner should always give written information.

4.3 / Q2 The correct measure to take would be Number 2.

Bangkok Rule 6(b) and Standard Minimum Rule 30(c) require the health screening to determine mental-healthcare needs, including any risk of suicide and self-harm.

Quiz answers

Q1 There are five issues with Mrs Vidal's case.

1. Lizzy, Mrs Vidal's daughter, did not receive a medical screening.

2. There was no running water available in the cell for hygiene purposes.
3. Sanitary products were not provided free of charge.
4. The medical screening was not promptly undertaken at admission.
5. There is no requirement for prisoners to provide information on their reproductive health.

Q2 The following guidelines on medical confidentiality were violated.

1. The patient must give written consent to disclosure of medical information to a third party.
2. Personal information should be effectively protected; if the files are kept manually they should be locked and accessible only to medical staff.
4. The principle of medical confidentiality applies to all medical staff.
5. No staff within a prison, with the exception of the healthcare staff, should have access to a prisoner's medical records or medical information.

Only oral agreement was given by the patient to disclose medical information to a third party (the prison governor), rather than written consent. Mrs Bakowski's medical file was not effectively protected as prison staff were able to access it. Finally, the psychologist is bound by the principle of medical confidentiality, as are all medical staff in a prison regardless of their role.

Q3 The correct statements regarding medical staff are:

1. Whenever possible, women prisoners should receive medical treatment from women nurses and doctors.
3. If a male doctor undertakes the medical examination because no female practitioner is available, a female nurse or staff member needs to be present.

Statement 2 was not compliant with Bangkok Rule 11(2) which requires that in cases where it is necessary for non-medical staff to be present (e.g. for security) then such staff should be women. Even in emergency situations, at a minimum one female staff member must be present.

Statement 4 was incorrect as a prisoner does not need to explain her request to be treated by a female physician.

Module 5

Exercise answers

5.1 Rules 11 and 13 were not followed correctly in Ms T's case.

Rule 11 requires safeguards to ensure that examinations are carried out in a manner that safeguards privacy, dignity and confidentiality. This was not the case for Ms T. Not only was there an officer handcuffed to Ms T during consultations, but the officer was different each time, adding to the infringement of confidentiality. Only medical staff should be present unless there are exceptional circumstances. Ms T's right to confidentiality was also breached by having to collect her medication in a communal area in view of other people.

Rule 13 was breached as Ms T did not receive appropriate support when she was feeling particularly distressed.

Rule 10, however, was fulfilled in that the healthcare services provided to Ms T were equivalent to those available in the community, and she was seen in the HIV/AIDS clinic outside prison and received the same medication as people with HIV/AIDS outside prison.

5.2 Measures Number 2 and 3 are appropriate responses to women who have harmed themselves or attempted suicide.

Therapeutic programmes, such as peer support and psychological/psychiatric care are appropriate responses. Increased contact with family and friends and other therapeutic responses are essential components of a holistic and gender-specific approach to suicide and self-harm as required by Bangkok Rules 12 and 16.

Segregated housing, solitary confinement or any other form of isolation following an incident of self-harm, or attempted suicide can worsen the situation.

Quiz answers

Q1 No. Any treatment must be on a voluntary basis. This principle of informed consent is reiterated in Standard Minimum Rule 32.

Q2 No. Any plan to prevent and provide treatment and care for HIV/AIDS in women's prisons must take into account the distinct physiology as well as the backgrounds and profile of women prisoners. This is required by Bangkok Rule 14.

Q3 False. If healthcare staff consider that a prisoner's mental health (or physical health) has been or will be harmfully affected by their imprisonment, they must report it to the prison director (Standard Minimum Rule 33).

Module 6

Exercise answers

6.1 / Q1 No. While the decision to undertake a search appeared to be based on health reasons, the proper procedures were not followed:

- no authorisation was sought from the head of the prison
- the nurse is part of the regular healthcare service of the prison, and thus her involvement in the search, which is a security measure, compromises her obligation to provide medical care to the prisoner.

6.1 / Q2 Yes. The staff member responsible for the search was properly trained and followed procedures, including ensuring that the search was performed in a private setting and that the prisoner was not completely naked.

6.2 Of the three circumstances, only Number 1 (during a transfer of a prisoner from one prison to another) is permitted by the Bangkok Rules and Standard Minimum Rules. It is prohibited to use any kind of body restraint during labour, during birth and immediately after birth or any use of restraint as a disciplinary measure or sanction.

6.3 / Q1 Correct matchings are: 1 A, 2 B, 3 D, 4 C

6.3 / Q2 Correct matchings are: 1 A, 2 C, 3 B

Quiz answers

Q1 Bangkok Rule 22 explicitly prohibits the use of solitary confinement or segregation for pregnant women, women with infants and breastfeeding mothers. The Standard Minimum Rules reiterate this prohibition in Rule 45(2).

Q2 Of the three statements, only Number 2 complies with the Bangkok Rules. Personal searches of women, which include pat-down and frisk searches as well as intrusive (strip search and body cavity) searches, should only ever be carried out by female staff (Bangkok Rule 19). And body cavity searches should only be carried out by medical staff who are not primarily responsible for the day-to-day care of the prisoner (Standard Minimum Rule 52(2)).

Q3 Prisoners should be given information on their right to make complaints about their treatment, and how this can be done, at the admission stage (Standard Minimum Rule 54).

Module 7

Exercise answers

7.1 Here are some examples of measures to encourage and facilitate visits.

- Assisting with transportation, especially for children visiting their mothers.
- Providing visits free of charge for all prisoners.
- Not prohibiting visits as a disciplinary sanction (see Bangkok Rule 23 and Standard Minimum Rule 43(3)).
- Taking account of school hours and standard working hours to enable children to visit, even if this is outside regular visiting hours.
- Extending visiting hours if family members have to travel a long way.
- Providing overnight accommodation free of charge for families who have to travel to get to the prison.
- Providing conjugal visits on an equal basis with male prisoners.
- Developing cooperation with organisations who can help facilitate visits.
- Increasing the frequency or length of telephone calls, in cases where families are unable to visit.
- Ensuring that families are informed about the location and any transfer of their imprisoned family member.

7.2 False. Telephone calls should be a right, not a privilege, in line with the principle expressed in Bangkok Rule 26, which encourages women prisoners' contact with their families by all reasonable means, and the Standard Minimum Rules. In fact, when families are unable to visit, prison authorities should increase the number of calls or allow longer telephone calls between prisoners and their families.

7.3 True. Prisoners have the right to consult and meet with legal representatives on any matter, including treatment in detention, as explicitly provided for in Standard Minimum Rule 56(4).

Bangkok Rule 27 lists responsibilities for prison authorities to facilitate access specifically for women, supplementing Standard Minimum Rule 61 which requires prisons to ensure all prisoners have adequate opportunity, time and confidential facilities to meet their lawyer.

Quiz answers

Q1 No. While Bangkok Rule 43 requires that visits be facilitated by prison authorities, Bangkok Rule 44 requires that women prisoners are consulted on who is allowed to visit them, including family members. This is based on the recognition that significant proportions of women in prison have experienced violence and therefore need protection. Mrs V should have been consulted first.

Q2 No. Because Mrs V is illiterate, simply providing documentation does not give meaningful access to legal representation. The prison authorities need to provide information orally and assist Mrs V in getting in touch with legal aid providers. (See Bangkok Rule 2 and Standard Minimum Rule 55.)

Q3 The following measures could be taken to avoid the long queues for visitors, and thus facilitate visits as required by Bangkok Rule 26.

1. Allow for alternative visiting times.
4. Review the security controls to ensure more efficient procedures.

There must never be a charge to visit a detainee in prison or a limitation on the type of visitors that prisoners can receive unless it is requested by a prisoner.

Module 8

Exercise answers

8.1 The relevant parts of Rule 41(a) and (b) for Ms Chan's case include:

- generally lower risk posed
- harmful effects that high-security measures can have
- history of mental disability
- parental and other caretaking responsibilities.

8.2 These are some of the potential stakeholders.

- Prisoners.
- Probation services.
- Social welfare agencies.
- NGOs.
- Community groups.
- Housing services.
- Healthcare services.
- Job centres.
- Family.

8.3 These are some practical steps to prevent homelessness.

- Finding accommodation for prisoners (at least short-term until a more permanent solution is found).
- Cooperating with relevant NGOs and other community services.
- Working with ministries of housing and social services to ensure suitable housing is found before release.
- Assisting financially so the former prisoner can travel to housing.
- Providing assistance in accessing legal aid services including assistance with rental agreements.

8.4 All these types of support should be offered to Miss Orzy. Bangkok Rule 47 states that help for women prisoners being released should include practical and legal help.

Quiz answers

Q1 The following factors should be taken into consideration in any classification process (as stipulated in Rule 41).

1. Generally lower security risk posed by women.
2. Harmful effect that increased levels of isolation can have on women prisoners.
4. Information about the woman's background.
5. Parental responsibilities.
6. Available rehabilitative programmes that match the woman's needs.

The size of the prison should not be a consideration, particularly since this could lead to over-classification of the prisoner.

Q2 The practices underlined that are compliant are: running the programme in cooperation with local NGOs (B), including sport afternoons (D) and providing a childcare service (E).

The practices underlined that are not compliant are: the development of a universal programme (A), with education classes only offered at one grade level (C) and the fact that breastfeeding mothers can only participate every second week (F) (see Bangkok Rule 42). A rehabilitation programme needs to be flexible and individualised. Different education classes should be offered so that women with varying education levels can participate.

Q3 False. While the Bangkok Rules recognise the importance of cooperation between different service providers, there is an obligation for the prison

authorities under Bangkok Rule 42(4) to make particular efforts to provide appropriate services for these women.

Module 9

Exercise answers

9.1 The checklist does not make any mention at all of breastfeeding mothers and their requirements (Number 1). Specifically, it fails to include that women who want to breastfeed their children be allowed to do so (as required by Bangkok Rule 48(2)). A flexible prison regime is important so that mothers can choose whether to breastfeed or not, except if there is a medical reason not to do so.

9.2 The Bangkok Rules require maximum flexibility in making a decision. The decision should always be justified by individual assessments and based on the principle of the best interests of the child. Housing children in prison until the end of their mother's sentence or increasing the age limit for how long children can be housed in prison are not appropriate measures as they do not allow for individual assessments. Therefore, the correct measures that could be implemented are as follows.

1. Remove the imposed age limit and replace with assessments of each case.
3. Base any decision on the best interests of the child.
5. Implement a process where both mother and child can express their views.

9.3 / Q1 Correct matchings are: 1 B, 2 A, 3 C, 4 D

9.3 / Q2 Correct matchings are: 1 D, 2 B, 3 C, 4 A

9.4 The elements from Bangkok Rules 9 and 51(1) that were not complied with in Patricia's case were numbers 3 and 4.

While a comprehensive plan was drawn up in consultation with specialists and Patricia's mother, it is not sufficient to schedule an appointment for a year later. Every child who is housed in prison should be monitored regularly by qualified healthcare specialists. This would entail regular check-ups, vaccinations, and any other preventive healthcare and treatment provided for children in the community (see Bangkok Rule 51). Furthermore, the psychological needs of children living in prison should be closely monitored to assess any adverse effects of living in a closed institution.

Quiz answers

Q1 False. The Bangkok Rules explicitly state that prison authorities should ensure that children living in prison shall be provided with healthcare services, including by specialists, in collaboration with community health services (Rule 51). Also, Rule 51(2) requires that the environment inside prison be as close as possible to that of a child outside prison.

Q2 The following considerations should be taken into account in any decision as to whether a child should live in prison with their parent.

1. Availability of appropriate alternative care outside prison.
2. The child's views.
5. Conditions and services available in prison.
6. The mother's views.

The cost of housing a child in prison and the child's level of education do not relate to the best interests of the child and are not relevant to this decision.

Q3 The following elements for children living in prison with their parent should be included in prison policies.

1. Healthcare and monitoring of physical and psychological development.
2. Age-appropriate education.
4. Maximum opportunity for the child to spend time with his or her parent(s).

Rehabilitation programmes are not necessary for children who are accompanying their parent into prison as they are not prisoners; they have not committed a crime.

Module 10

Exercise answers

10.1 The correct matchings are:

1 B: Separating girls from boys and adult female prisoners is a safeguard that can prevent inter-prisoner abuse and thus protect girls in prison. This is an important safeguard as girls are at high risk of abuse.

2 C: Prison authorities should ensure that girls are given access to education programmes that are available to boys. This education should be equivalent to that available outside prison. This Rule recognises that a break in education for such girls may have a long-lasting and harmful impact on their whole lives, owing to their age and typical socio-economically disadvantaged background.

3 D: The health assessment at the admission stage is vital to ensuring that an appropriate healthcare plan is drawn up according to the needs of each girl in detention. This in turn ensures that they have access to the right programmes, both age- and gender-specific.

4 A: Gender-specific healthcare should be provided to women and girls equally, including access to gynaecologists. Girls who are pregnant or have given birth should also be given special attention owing to their age and physical and mental vulnerability.

10.2 The Committee should enquire further into the following factors, as it is not clear from the case notes:

1. whether the girl's detention in protective custody is temporary
4. whether she is free to leave when she wishes
5. whether her detention is being supervised by a judicial or other competent authority.

The following factors of this case are in violation of the Bangkok Rules and Standard Minimum Rules.

2. Being accommodated together with the prisoners (who are boys).
3. Being held in protective custody, despite not requesting this expressly.

10.3 The following safeguards to prevent abuse of pre-trial detainees should be put in place.

1. Access to a legal representative.
2. Medical examination upon admission to prison.
4. Providing facilities for prisoners to contact their families.

See Bangkok Rules 6(e) on the medical screening and Standard Minimum Rules 68 and 119 which provide for the right of pre-trial detainees to inform family of their detention immediately and also the right to access a legal representative. These two measures are key safeguards to preventing abuse of pre-trial detainees.

The one incorrect response in the list of options was the placement of pre-trial detainees in isolation. While pre-trial detainees should be separated from convicted prisoners according to Standard Minimum Rule 11, they should never be placed in isolation.

10.4 Point 1 from the Practical Resource on working with Aboriginal People was not followed. The fact that Lowanna was asked to complete an English survey may not have been appropriate given that Aboriginal people use different ways of communicating, and her primary language is an Aboriginal English dialect.

However, the process for planning the rehabilitation programme correctly involved members of the Aboriginal community and also Lowanna's extended family, which were two tips identified as important to a culturally sensitive process.

10.5 Here are some suggestions of measures to counterbalance isolation and assist foreign national women to keep in touch with their family.

- Allow extended telephone calls.
- Provide facilities for video conferencing.
- Develop cooperation with civil society organisations that can help facilitate visits where possible.
- Enable the respective migrant community to visit and support contact to family members back home.
- Work with foreign consulates to secure their support for their citizens in prison.

10.6 The authorities missed the following required actions.

3. The information provided about a possible transfer should be in a language they understand – or orally if the woman is illiterate.
6. A transfer should only occur if an application has been made or informed consent has been sought by the woman concerned.

These two requirements are crucial to ensuring that any prisoner who is eligible for a transfer knows their rights and has access to legal representation.

Quiz answers

Q1 False. Bangkok Rule 65 re-emphasises the principle found in other international standards (the Convention on the Rights of the Child and the Beijing Rules) that for children, arrest, detention and imprisonment should only be a measure of last resort for the shortest possible time.

Q2 Measure Number 2 was not compliant with international standards. While girls should be separated from adult women detainees and boys to protect them from any inter-prisoner violence and abuse, girls should never be housed alone in isolated cells. This would adversely impact their mental well-being as well as depriving them of access to rehabilitative programmes and contact with others, which is crucial to their social reintegration.

Q3 The relevant point of Rule 54 that was missed was 'in consultation with women prisoners themselves'. This is particularly important to ensure any programme or service meets the needs of women prisoners from different religious and cultural backgrounds from the majority population.

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Additional resources

PRI's Toolbox on the UN Bangkok Rules

Toolbox
on the UN
Bangkok
Rules

Guidance document

A guide to each Rule, suggested measures for implementation at policy and practical level, with examples of good practice to inspire new thinking.

Index of implementation

A comprehensive checklist for an assessment of implementation of the Rules, structured for different actors. Can be used in developing policies and strategies.

Both documents jointly published with the Thailand Institute of Justice.

Short Guide to the Bangkok Rules

A short illustrated guide to the Bangkok Rules, providing an overview of the typical profile of women offenders and their needs, and what the Rules cover.

Women in detention: a guide to gender-sensitive monitoring

Support for bodies monitoring places of detention to incorporate a gender perspective into their work and address violence against women and girls. A joint publication with the Association for the Prevention of Torture (APT).

Neglected needs: girls in the criminal justice system

Examines the specific challenges faced by girls in contact with the criminal justice system. A joint publication with the Inter-agency Panel on Juvenile Justice (IPJJ).

All available in multiple languages.

PRI's resources on the UN Nelson Mandela Rules

PROMOTING
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Short Guide to the Nelson Mandela Rules (revised Standard Minimum Rules)

Summarises the 122 Rules of the Nelson Mandela Rules. Includes a summary of the revision process. Rules that are new or were changed in 2015 are highlighted throughout.

Animated introduction: the Nelson Mandela Rules

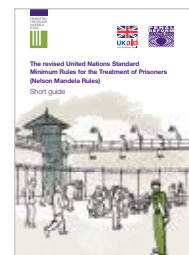
A two-minute animation explaining the Nelson Mandela Rules, what they include, and what they mean for prison management.

Essex paper 3: Initial guidance on the interpretation and implementation of the Nelson Mandela Rules

Guidance on the Nelson Mandela Rules, based on the deliberations of a meeting of experts organised by Penal Reform International and the University of Essex Human Rights Centre in April 2016.

Guidance Document on the Nelson Mandela Rules (coming in 2017)

A comprehensive publication, with complementary training materials. A joint project of the OSCE Office for Democratic Institutions and Human Rights and PRI, funded by Switzerland.



➡ See PRI's website for the full range of resources on women in the criminal justice system and prison management: www.penalreform.org

Other resources from the United Nations

- Compendium of United Nations standards and norms in crime prevention and criminal justice, 2016
- UNODC Handbook for Prison Managers and Policymakers on Women and Imprisonment, 2nd edition, 2014
- UNODC, Gender in the Criminal Justice System Assessment Tool, Criminal Justice Assessment Toolkit, 2010
- UNODC, Handbook on Prisoners with Special Needs, 2009
- UNODC Handbook of basic principles and promising practices on Alternatives to Imprisonment, 2007
- UNODC, Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders, 2012

All available at: www.unodc.org/unodc/en/justice-and-prison-reform/tools.html?ref=menuside in multiple languages.

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This training resource has been designed to support prison staff, policy-makers, healthcare practitioners, representatives of intergovernmental and non-governmental organisations, and other interested stakeholders, to put the UN Bangkok Rules on women offenders and prisoners into practice. It draws on global good practice and research findings to provide practical guidance, using exercises and case studies.

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