

A GENDER SENSITIVE APPROACH TO TREATMENT OF WOMEN PRISONERS IN NIGERIA: A TRAINING MANUAL

Developed by
Carmelite Prisoners' Interest
Organisation (CAPIO)
with support from
VOICE

Compiled by Chibogu Obinwa & Roselynn Musa

DECEMBER 2018



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FOREWORD

It is my pleasure to write a foreword to the Manual on the treatment of female Prisoners in Nigeria. The production of this manual represents a high point in the drive to reform the prisons and by implication, the reform of the Criminal Justice System in the Country. It is indeed timely.

The quest to reform the Prisons in Nigeria has been going on for quite some time. These efforts have been spearheaded by many local and international civil society organisations too numerous to be listed here. These efforts have led to certain fundamental changes in terms of how the society sees and reacts to prisons and such related matters. Despite substantial efforts invested in the drive for prisons reforms, there is yet, much to be done.

It is remarkable however, that some improvements are gradually budding in comparison to a couple of decades ago. There have been tremendous successes in some aspects of the system ranging from prisoners' and staff welfare, improved vehicular capacity, increased medical services, improved training and human capacity development among other strides. All these advancements have assumed a generalist perspective without paying any special attention to women prisoners.

The treatment of women prisoners as a distinct and special category is now receiving attention. Previously, the prisons in Nigeria provide facilities for separate accommodation of female prisoners in custody. What was missing is specific considerations for needs of women and their children in prison custody. It is understandable that women, by their specific nature should be treated significantly differently from men as the need arises. This is evident in the call for specific attention to treatment of women in custody by the United Nations in the *Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders* also known as *Bangkok Rules*. The Bangkok Rules was adopted in December 2010 by the United Nations General Assembly.

In this consideration, the Federal Government of Nigeria is working hard to strengthen efforts towards Prison Reform by partnering with all stakeholders. Through collective effort, we can achieve great outcomes that improve detention conditions of women in prisons as well as how they are treated. The capacity of Prison Officials and their training institutions can also be enhanced to sustainably guarantee the Human Rights of women prisoners. These are outcomes we can be proud of as we join the league of nations who have institutionalized holistic promotion of Human Rights of women in Prisons.

This manual is a useful tool which has taken into consideration the local context of the Nigerian Prisons System. For the first time in our history, we have a gender-specific manual to improve the work of Prisons Officials. It outlines the needs of women in prisons, alongside solutions that are realistic and achievable. On the one hand, it is a gender-sensitive schema for the treatment of female prisoners which will apply throughout the country. On the other hand, it sets out possible processes of setting up correctional institution for the reform of female offenders.

While it may be fact that the Nigerian Prisons do not have the best infrastructure, equipment and skill orientation that support full implementation of provisions of the Bangkok Rules, this manual is a good start. By strengthening collaborations with all stakeholders, the much needed transition from the current situation to the desired condition is possible. Stakeholders led by Carmelite Prisoners' Interest Organization (CAPIO), National Human Rights Commission (NHRC), Prison Inmates Development Initiative (PIDI) and the Nigerian Prisons Service (NPS) have initiated this phase of prisons reform. It is our hope that it is firmly institutionalized and sustained. It is also expected that the move from theory to practice is swift and ushers in; a new reformed Prisons Management that all of Nigeria can be proud of. This manual demonstrates our firm resolve to become and remain a shining example of positive change to Africa and the world at large.



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The manual was created drawing information from diverse sources. These include discussions on experiences and information collected in a survey and situation analysis of mainstreaming gender in prison administration and management in Nigeria by CAPIO in April 2018. The manual also drew upon the knowledge, experiences and activities contained within some related resources. This has allowed for the adaptation of proven strategies to be used in the Nigerian context. These sources include:

1. *Gender and Security Sector Reform Toolkit, Gender Training for Security Sector Personnel: Good Practices and Lessons Learned*, Toiko Tonisson Kleppe
2. *Learning to Facilitate Interactively, by the Women's Learning Partnership for Rights, Development and Peace (WLP) USA, 2003*

3. *Operational Guidelines to Human Rights Compliance, Monitoring and Oversight in Prisons* developed by PRAWA, with support from Justice for All (J4A)
4. *The Oxfam Gender Training Manual*, Oxfam, 2004
5. *Toolbox on the UN Bangkok Rules, Women in detention: Putting the UN Bangkok Rules on women prisoners into practice*, Thailand Institute of Justice, 2017
6. *Women Prisoners and the Implementation of the Bangkok Rules in Thailand*: Thailand Institute of Justice, Atabay, T. Owen, B.



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ABBREVIATIONS AND ACCRONYMS

Brs	Bangkok Rules
CAPIO	Carmelite Prisoners' Interest Organization
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organisations
ICCPRs	International Covenant on Civil and Political Rights
ICESCRs	International Covenant on Economic, Social, and Cultural Rights
NHRC	National Human Rights Commission
NPS	Nigeria Prison System
NPSOs	Nigeria Prisons Standing Orders
PIDI	Prison Inmate Development Initiative
SMRs	Standard Minimum Rules for the Treatment of Prisoners
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNICEF	United Nations International Children's Emergency Fund
UNODC	United Nation Office on Drugs and Crime
VAPP	Violence Against Persons (Prohibition)
VAW	Violence against Women

THE CONTEXT

The project on '*Gender Sensitive Approach to Treatment of Women Prisoners in Nigeria*' seeks to promote respect for the dignity and human rights of women prisoners in Nigeria. Over the years, the treatment and provision of services to inmates in Nigerian prisons have been far from satisfactory. Many prisons do not meet the minimum standard requirement for keeping prisoners under humane and rights based conditions. The plight of the women prison inmates is one which can never be told enough. The society tends to respond with a more negative attitude towards the woman prisoner and they are likely to be denied access to justice or receive ill treatment while in prison custody. This is not unconnected with the prevalent patriarchal system in the Nigerian society which prescribes harsher judgement on women.

It is a fact that women in Nigeria are more vulnerable to human rights abuses. However, the typical Nigerian society may not consider a prison inmate as worthy of dignity; hence their rights are often flouted with impunity.

Women are always a small minority in national prison populations. They constitute only 2% in Nigeria. 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. The project proposes intervention that seeks to influence awareness, attitude and behaviour of prison staff and other relevant stakeholders towards women prison inmates. The manual provides guidance on how to meet their specific needs.

In the context of correctional institutions, this means that prisons among other things should be designed specifically for women and not simply adapted to men's prison regimes. Facilities need to be built closer to the home community and contact with family members should not be restricted. Greater gender equality should be achieved when recruiting prison personnel and institutional policies must be adapted to attract and benefit personnel from both sexes.

Women by virtue of their composition and physiology often have specific needs. The adoption of *the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* in December 2010 represented progress in recognizing the gender-specific needs of women in prison systems and providing the standards that should be applied in humane and right based treatment of women. Until the adoption of the rule, international standards had not

properly reflected the specific needs of girls and women, both as for conditions of detention and with regard to alternatives to imprisonment. The Bangkok Rules became the first international instrument which specifically addresses the needs of the children of women prisoners.

A gender sensitive prison management approach includes the recognition of the impact of imprisonment on women's emotional and mental health, as well as the impact of the mother's imprisonment on her children, and aims to provide activities, services and opportunities that reduce the harmful impact of isolation from the community on the women's mental wellbeing, as well as their children's development. A gender sensitive management approach also includes the elimination of discrimination against women prisoners. Women offenders have needs different from those of men, stemming in part from their disproportionate victimization from sexual and physical abuse and their 'traditional' responsibility for children. They are also more likely to be addicted to drugs and to have mental illnesses. Many prisons in Nigeria have little special provision, either in programming and management for meeting the needs of women.

The Bangkok Rules supplement (but does not replace) *the Standard Minimum Rules for the Treatment of Prisoners (1955)* and *the Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)*. The Standard Minimum Rules for the Treatment of Prisoners applied to all prisoners, including men and women, but had very limited provisions that related specifically to women prisoners. Such provisions focused on pregnancy, childbirth, pre- and post-natal care, but did not provide guidance on other important considerations relating to women prisoners' admission and rehabilitation needs.

This means that the guidance provided in the Bangkok Rules must be taken into consideration together with the provisions of the SMR and the Tokyo Rules to ensure the full implementation of international standards in the treatment of women offenders and prisoners. Accordingly, most of the Bangkok Rules make specific reference to the rule number in the SMR or the Tokyo Rules which they supplement. Some rules cover new areas, which have not been included in the SMR or the Tokyo Rules, such as the treatment of children living with their mothers in prison.

The SMR were revised in 2015 and the revised rules were approved by the Commission on Crime Prevention and Criminal Justice in May 2015. The new rules are referred to as the '*United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)*'. The Mandela Rules take into consideration the provisions of the

Bangkok Rules and include more focus on the needs of women prisoners in comparison to the previous SMR. Some key provisions of the Bangkok Rules are repeated in the Mandela Rules due to their importance. The Mandela Rules have also specifically spelt out a number of prisoner rights not referred to in the SMR prior to revision. These rights apply to both men and women prisoners. Nevertheless, the Bangkok Rules continue to supplement and complement the Mandela Rules, with their more focused and detailed guidance on the management and treatment of women prisoners. The two sets of standards need to be taken together for a comprehensive understanding of the rights of women prisoners and the principles that apply to the management of women's prisons.

At the national level, the Nigerian Prisons Act (1972) makes comprehensive provisions for prison administration in Nigeria and other ancillary matters to include admission, classification, legal custody, welfare, health and discharge of prisoners on a general scale. It is supplemented by the *Nigeria Prisons Standing Orders* (2011) which covers the area of prisoners, including female prisoners'; staff, administration, organisation and control of prisons. Unlike the former, which is silent on issues that affect women prisoners, the Standing Orders contains provisions around restraining women prisoners and so on.

The challenge now is to ensure that these standards are put into practice. This means the incorporation of the Bangkok Rules into domestic legislation, sentencing policies and prison rules, and most importantly, the implementation of the Rules into practice around the world including Nigeria.

Sensitisation and training are key aspects of implementing the Bangkok Rules at a national level. This Manual has been designed to support prison staff, judicial authorities, policymakers, healthcare practitioners, representatives of intergovernmental and non-governmental organisations, and other relevant stakeholders, to put the Bangkok Rules into practice.

The manual has been developed by CAPIO and partners, to provide practical guidance on the implementation of the Bangkok Rules in Nigeria. Based on a survey conducted by CAPIO in selected women prisons in Nigeria, it highlights the importance of bringing a gender perspective more directly into prison work. The modules cover only those rules which relate to the treatment of women prisoners because women are likely to experience imprisonment differently from men and often the mental distress caused by imprisonment may be particularly intense in the case of women due to factors such as separation from families and communities which may lead to mental health problems or exacerbate existing mental health needs.

The overall objective of the manual is to create awareness, influence attitude change and behaviours of prison staff and other relevant stakeholders towards the women prison inmates, with a tool that will enhance their knowledge of gender and human rights as recommended by these global and national mechanisms.

It is hoped that the manual will be used in fostering effective gender education for prison staff; be instrumental to improving physical environments for women prisoners in Nigeria; contribute towards increased respect for dignity and human rights of women prisoners and transformation, by persuading relevant authorities to institutionalise gender sensitive principles and practice to suit prisons operations and administrations in Nigeria.

PART 1



FACILITATION METHODS AND TECHNIQUES



PART 1: FACILITATION METHODS AND TECHNIQUES

1.1 Introductory Notes:

Due to the multi-faceted methodological approach that will be applied in the use of this manual for training purposes, the facilitation techniques will be varied to suit the learning objectives in line with the respective topics and discussions as well as the learning needs of the respective participants. Hence, the methodology of facilitation will include (but not limited to), interactive plenary sessions, mini-lectures (to explain concepts and provisions as may be required), small group work, case studies, exercises, role plays (or mini drama skits), debates among others.

In a general workshop setting, participants get to introduce themselves after the initial welcome remarks. This is usually done in an interesting ice-breaking format, to establish a relaxed and warm atmosphere for the workshop. The facilitator should be mindful of time while making the introduction interesting, and this will also be determined by the number of participants.

The facilitator sets out the objectives of the workshop (this could be done on power point or flip chart), and ensures that participants have clarity of and share, the objectives.

Expectations: It is very useful to know what participants expect to achieve from the workshop or training as well as possible limitations. This could be discussed interactively, and the facilitator could be innovative in getting the best out of the participants in this session. It is also an opportunity for the facilitator to clarify the objectives further, manage expectations and remind participants that achieving the objectives of the workshop is a combined effort by the facilitator/s and participants.

The timing of each module will vary depending on the content of the module and the number of participants. This should be clearly planned by the facilitator/s at the beginning of the training for each module.

1.2. Guidelines for use of the Manual

- * The purpose of this Manual is to assist and guide prison training personnel in effective mainstreaming of the human rights of women in prisons administration in Nigeria.
- * The manual contains 10 modules with relevant topics covering different aspects of prison administration and activities using the universally accepted laws, norms and best practices as a standard framework. There are annexes in the manual with extra resource material related to the main topics in the manual.

- * Each of the 10 modules contains relevant topics that substantively cover diverse aspects of prison administration and activities, while allowing the facilitator/s to practically navigate each of the topics with the most suitable techniques of delivery.
- * Prior to the commencement of the training, the facilitator/s should ensure that relevant exercises and handouts required for the training are photocopied and ready for use in the course of the training. Some of the discussion topics might have extra reading material (not contained in the manual) which the facilitator/s might arrange to be photocopied and disseminated to the participants.
- * There is a sample evaluation form (in Module 10) to be used at the end of the training. This should be photocopied and distributed to the participants to fill out and return. This is a sample that could be adapted for respective groups.

Facilitating Learning¹:

The Role of the Facilitator

Most people attend schools where teachers talk and students listen, except when called on to ask or answer questions about what the teacher has said. This traditional model, which assumes the authority of the teacher and the ignorance of the students, is both inappropriate and ineffective for a learning partnership. By contrast, an inclusive, participatory learning partnership engages each individual and empowers her/him to think and interpret for herself/himself. It encourages critical analysis of real-life situations and leads to cooperative action toward a common goal.

A learning partnership calls for a method of learning in which the learners, not the teacher, are at the center of the experience and share authority and “ownership” of their own learning. In such a cooperative context, the word facilitator/s is more appropriate than teacher, for everyone in the group is a learner engaged in a common effort towards a shared goal. The goal of a learning partnership is not to necessarily generate a “right answer” or even agreement, but to collectively explore ideas and issues. Quite a number of participatory exercises have been included in the manual to be used at the discretion of the facilitator and according to the number of learners and available time. Possible responses to some of the exercises have also been included as an appendix.

Becoming an effective facilitator requires both practice and a clear understanding of the role of the facilitator. In gender related training workshops or other learning situations,

¹Extracted from *Learning to Facilitate Interactively*, a facilitation guide by the Women's Learning Partnership for Rights, Development and Peace (WLP), USA, 2003

the role of the facilitator is to:

- * **Establish a relationship of equality and cooperation with participants.** The facilitator is “first among equals,” but responsibility for learning rests with the whole group.
- * **Create an environment of trust and respect.** The facilitator helps participants feel safe and encourages them to speak honestly with the knowledge that differences of opinion are welcomed and respected.
- * **Ensure that everyone feels included.** The facilitator ensures that everyone has an opportunity to participate.
- * **Provide a structure for learning.** This might include setting and observing meeting times, opening and closing sessions, and keeping to an agenda. The facilitator continually consults participants about the effectiveness of the structure.
- * **Fulfill the logistical needs of the meeting.** This might include gathering and preparing materials, setting up the meeting space, notifying participants, and seeing that necessary preparations are made.
- * The facilitator is a co-learner, exploring all subjects as an equal partner with other participants.
- * In a horizontal, inclusive learning environment, nobody—least of all the facilitator—determines that some opinions are “correct” or “better.” However the facilitator may provide some guidance, share relevant information and explain concepts as the need arises.
- * An effective facilitator generally speaks less than other participants and concentrates on including others in the discussion.
- * While the facilitator takes initial leadership in coordinating the sessions, she or he is not the only person who maintains the learning environment.

As with any skills, the best way to improve facilitation skills is to practice them often, employ self-critique, and always seek improvement. For example, the facilitator needs to continually evaluate herself/himself as she/he facilitates:

- * **Be very clear about your role.** Your behavior more than your words will convey that you are not the teacher but a fellow learner.
- * **Be aware of your eyes.** It is important to maintain eye contact with participants when you are speaking and when you are listening.
- * **Be aware of your voice.** Try not to talk too loudly, too softly, or too much. The tone of your voice is also an important part of creating a trusting, respectful learning experience.
- * **Be aware of your body language.** Where you sit or stand will indicate if

Hearing!	Discussing!	Trying new things!
Seeing!	Imagining!	Taking small steps!
Repeating!	Practicing skills!	Sharing experiences!

Leading Discussions

Discussion is one of the most important ways for people to participate in their own learning. Hence, it is important that facilitators lead discussions skillfully. There are several strategies that can help a facilitator maximize the learning (and enjoyment) in group discussions.

Ask open or leading questions. Questions for discussion can be open, leading, subjective, or closed (depending on the topic):

- * Open questions encourage a wide range of answers, from personal (“This reminds me of a time when I was ...”) to objective (“I have heard that female prisoners in some countries are allowed...”). Open questions cannot be answered by “yes” or “no.” For example, “How do you define a perfect prison system for women?”
- * Leading questions take participants step by step toward a learning goal. Each question builds on the previous answer and leads to another question. For example, asking “Can you think of a time when you were not permitted to express your opinion about something important that concerned you?” might lead to asking, “How things might have turned out differently if you had been consulted?” This in turn might lead to asking, “What are some results of the failure to permit you to express an opinion?”
- * Subjective questions invite strictly personal responses. This technique is useful for determining how participants are feeling but does not necessarily lead to dialogue or discussion. For example, “Did you like this learning exercise?” is a subjective question, as are “What was your first reaction to being asked to participate in a skit?” and “Did I repeat what you said accurately?”
- * Closed questions restrict the range of answers, usually to specific information or “yes” or “no.” For example, “Are you prepared to facilitate a workshop?” and “What is the time now?” are closed questions.

Respect all answers or opinions. The role of the facilitator is to create a safe, trusting environment where participants' opinions are acknowledged and respected. However, comments that are disrespectful of other participants or contrary to the ethics of a learning partnership should be addressed.

Resist answering all questions. When someone asks a question, the facilitator should resist the instinct to always answer it. Instead, such questions should be passed to the whole group by saying, for instance, “Who else would like to answer this question?” or “What do you think?”

Repeat and restate. The facilitator often needs to acknowledge that participants' comments were heard and understood. Sometimes the facilitator may need to restate a comment to make sure that it was understood, but it is important to get the participant's assent that the restatement was accurate. Asking a question such as “Did I understand what you just said?” can be a helpful way to approach this issue.

Signal attention. In addition to verbal responses, the facilitator can communicate attention in many ways including nodding, writing down comments, and making eye contact.

Resist imposing opinions (if the question requires a subjective response). The facilitator's role is to invite the sharing of opinions, not impose her own. As co-learners, but also as experts in the field, facilitators may add their own views to a discussion, but only with discretion and tact.

Share the conversation. The facilitator should ensure that no individual dominates the conversation, that everyone gets a chance to speak, and that the discussion stays on topic.

Interactive Learning Tactics

Energizers and ice-breakers: Activities that help participants and facilitators become more familiar with one another and more comfortable talking in a group.

Sharing participant expectations and goals: Participants share their reasons for taking part in the workshop and what they hope to gain so facilitators can become aware of the needs of the group and try to meet them. Facilitators may also make clear from the start which

expectations they can meet and which they cannot.

Stimulating discussion: Techniques that encourage everyone in the group to participate. These include creating a “safe space” where everyone's opinion is respected. Often the facilitator will open with a leading question that invites a variety of responses.

Encouraging participative listening: Good listeners learn from what they hear, suspending assumptions and trying to enter the speaker's frame of reference. This is a skill every member of a learning partnership needs.

Working in small teams: Breaking the whole group into smaller teams to discuss or perform a task encourages participants to share with greater depth and permits more people to be active.

Team reports: An elected spokesperson from each team reports its discussion or completion of the task. Everyone's contribution is valued.

Avoiding power spots: Too often, the person who stands or sits at the front of the room is assumed to have importance or authority. Arranging seating in a circle or other format that encourages sharing of leadership roles will help avoid this notion.

Sharing responsibility: Shared leadership and responsibility involve exchanging roles so everyone has an opportunity to facilitate, read exercises, be the group recorder, or deliver the team report, among other leadership roles. Within a learning partnership, this exchange is fluid.

Participant evaluation: Participants and facilitators should have opportunities to evaluate the learning process and workshop structure. Evaluations are important to ensure that everyone is getting the most out of the learning experience.

(Adapted from *Leading to Choices: Learning to Facilitate Interactively* video. 2003. Bethesda, Maryland: Women's Learning Partnership for Rights, Development and Peace)

PART 2



TRAINING MODULES



PART 2: TRAINING MODULES

MODULE 1: BASIC IDEAS AND CONCEPTS OF HUMAN RIGHTS, WOMEN'S HUMAN RIGHTS AND GENDER

Objectives:
<ul style="list-style-type: none">* To demonstrate an understanding of the concepts, origins and categories of human rights* To understand the concept of women's human rights and related violations as well as the rationale for discussing women's rights as a separate topic from human rights* To identify local, regional and international human rights and women's human rights instruments* To analyse gender concepts and dynamics

SESSION 1 : HUMAN RIGHTS CONCEPTS

Overview:

The purpose of this session is to understand the concept of Human Rights and its relevance in everyday life. It is also important to recognize that Human Rights are not alien to any nation and only just became formalized and documented long after communities across the globe had been observing the principles of Fundamental Human Rights. The session will also take a glimpse at some key Human Rights instruments (both locally and internationally). It is also aimed at building consensus on the enforcement and development of Human Rights in Nigeria.

1.1 What are Human Rights?

Human Rights are rights that we have simply because we were born as human beings. They can be defined as those basic values without which people cannot live in dignity as human beings. They are the foundation of freedom, justice and peace. Human Rights may be described as universal, natural and inalienable entitlements that belong equally to all people simply because they are human beings with equal worth and dignity.

These are rights that are inherent in all of us simply by birth and existence. They are rights that cannot be removed and can only be forfeited because of conflict with the inherent rights of others - e.g. someone's right to liberty may be forfeited because he or she interfered with the right to life of another person.

Conversely put – we have a **duty** to respect others' human rights.

Human Rights are rights over one's self and not over other people (the right to own property, for instance, is not a right to own other people as property).

Furthermore, some rights may be held to be of a higher level than others - the right to life is generally accepted as taking priority over the right to freedom of speech, for instance - since, in fact, freedom of speech depends on having life.

Nonetheless, it is instructive to see all rights as integrated – not one opposed to the other, but all together. One should not have to choose between being alive and being able to speak his/her mind. Both are necessary to humanity.

Characteristics of human rights:

Universal: implies that these rights and freedoms belong to EVERYONE, regardless of whether they are male or female, rich or poor, black or white, religious or non-religious, Muslim or Christian and so forth. They apply to everyone in the world.

Natural: implies these rights do not come from one's government, tribe or family, they come from each and everyone's sense of humanity, equal worth and dignity. These inborn rights are generally accepted principles of fairness and justice and have also been referred to as civil rights, natural rights, and God-given rights flowing from nature and universal moral rights. They are not given, bought or earned or inherited.

Inalienable: implies that these rights and freedoms cannot be taken away, no matter what the person does or who the person is. For example if you are charged with breaking the law or mistreating another person, you are entitled to a fair trial before a non-partisan judge during which you will be presumed innocent until proven guilty. If convicted, you are entitled to appeal and to be detained under humane conditions.

Indivisible: Human Rights are indivisible. In other words, you cannot separate one human right from the other as they are interrelated and violation of one right might lead to the violation of other rights.

- ?* **Right to life**
- ?* **Right to be free from torture**
- ?* **Right to freedom of expression**
- ?* **Right to be free from slavery**
- ?* **Right to freedom of thought, conscience and religion**
- ?* **Right to freedom of association**
- ?* **Right to freedom of movement**
- ?* **Right to be free from arbitrary arrest and detention**
- ?* **Right to a fair trial**
- ?* **Right to Private and family life**

1.2. Origin of Human Rights

It should be noted that Human Rights principles are reflected in different religious texts, traditional norms and practices, and every community of human existence. For instance –there have always been struggles for freedom, fairness, justice and equality everywhere in the world. It is particularly important for the discussion to focus on the fact that Human Rights are not 'western imposed' but rooted in all the world's cultures, including African traditions as well as the diverse religions of the world.

Group Activity²

Thinking about Human Rights in belief systems using - Muslim, Christian, and in African traditional practices; discuss the following:

1. Identify at least 5 rights from within the religious texts and African traditional practice as the case may be
2. Can these be justified as Human Rights? Why?

1.3 Formal Documentation of human rights

The international recognition of human rights' principles emerged out of the horrors of World War II. The killing by Nazi Germany of over six million Jews, political prisoners, and many other groups including persons with disabilities horrified the world. People wanted to ensure that no one would be denied freedom and justice and that, civil,

²Adapted from **Human Rights Manual: A Training Guide on Human Rights** Justice, Development and Peace Commission, Ijebu-Ode, 1996

cultural, economic, political, and social rights were recognised to be universal and indivisible.

Immediately after World War II, the members of the newly formed United Nations (UN) met in San Francisco in 1945 and pledged to promote human rights. The Universal Declaration of Human Rights (UDHR) was adopted by UN member states on December 19, 1948. The UDHR embodies the power of public opinion and establishes the universal moral grounds by which to measure and shape state behaviour toward its citizens. The Declaration consists of a preamble and 30 articles, setting forth the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled without any discrimination.

Later on, there were two additional UN documents on Human Rights—the International Covenant on Civil and Political Rights (ICCPR -1966) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR -1966); they have the international force of law. These three documents (UDHR, ICCPR, and ICESCR) are also known as the International Bill of Rights.

Other important Human Rights Instruments include (but not limited to):

- * The African Charter on Human and People's Rights (1981)
- * The United Nations Convention on the Rights of the Child (1989), and the Declaration on the Rights to Development (1986).
- * United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules (2015)
- * The Constitution of the Federal Republic of Nigeria (1999)

1.4 Human Rights categorizations

- A. ***Civil and Political Rights:*** These are sometimes referred to as “liberty-oriented” or “first generation” rights. They give people the freedom to associate, to think and have access to information. It also includes the freedom to act and to choose what to do, and freedom to join in the political life of their community and society. Examples of civil rights include ***the right to life, the right to freedom of thought, religion, and expression, and the right of one to marry a person of his/her choice.*** Political rights include ***the right to vote and be voted for, the right to take part in public affairs, the right to equality before the law, etc.***
- B. **Social and Economic rights:** These are sometimes referred to as “security-oriented” or “second generation” rights. They give people social

and economic security. Social rights provide people with security within their families and communities as well as in educational institutions, while economic rights provide people with protection over their sources of livelihood, development and necessities of life. This entails **having basic things in life such as food, shelter, and health care**. Social and economic rights include the **right to education and the right to adequate standard of living**.

- C. **Environmental and Cultural rights:** These are also called “third generation” rights, because they were not initially recognised at the international level as human rights. They recognize that people have the right to live in an environment that is clean and free from pollution and protected from destruction. Environmental and cultural rights also recognize that people should have the right to cultural, political, and economic development.
- D. **Developmental Rights:** These are rights that emerged due to request from disadvantaged groups across the globe on the need for a formal recognition of the rights of people to development.

For better understanding of the categorisations of human rights as well as their indivisibility, participants will do the exercise about 'Samo the Peasant Farmer....'³

Group activity

Samo is a peasant farmer. Because of structural adjustment and the economic recession, she and her family find it difficult to make ends meet. She looks for a wealthy neighbour from whom they can borrow money in order to send their sick grandchild, Chimda, to the clinic. Samo's daughter Adda Puri, who recently graduated from the only secondary school in the village, had approached the local government council for a job. In the process, she was sexually assaulted. At the same time, Samo hears that her son Pwadi, a student at the University of Maiduguri, has been arrested by the police during a students' protest against high school fees. Her husband Yatur, who is a trades' unionist, is in detention for leading a protest march against a multi-national agri-business company which has been laying off workers, and dumping industrial waste in the river, rendering it poisonous for fish and drinking.

³Adapted from **Human Rights Manual: A Training Guide on Human Rights**, Justice, Development and Peace Commission, Ijebu-Ode, 1996

Questions to consider

1. What human rights issues are involved in this story?
2. Categorize them into civil, political, economic, social, cultural...
3. Can these rights be considered each as a separate issue in isolation from the others?
Or, does each right fit into more than one category?

SESSION 2: WOMEN'S HUMAN RIGHTS

Overview of Session

This session will help to create an understanding of the concept of women's human rights and to examine why women's human rights are being highlighted and discussed as a separate topic from human rights. Ideally, women's rights are human rights, but has this been the case in the application of human rights? The session will also address specificities relating to the rights of women and the need to address these within the framework of human rights principles but in recognition that these rights merit the adoption of specific legal treaties and policies that will provide women the required legal protection from abuse and violation of their fundamental human rights.

2.1 Origin of, and background⁴ to, Women's Human Rights

One key thing to note in any human rights discourse is the fact that women's human rights are, and should be, an integral part of human rights. There can be no human rights without women's rights. Yet, far too often, international and national human rights principles have not yet been applied effectively to redress the disadvantages and injustices experienced by women by reason only of their being women, nor have they been adequately constructed to take into account women's situations. Historically, Human Rights discourses started in the field of political and civil rights— e.g. rights to life, freedom of association, and freedom to participate in decision-making. The women's movement recognised that first, socio-political rights apply to women as well as men, and possibly in different ways. Second, the women's movement has been clear that apart from these rights, which mostly reflect the public domain, issues like reproductive rights of women are a significant aspect of women's rights. Major systems of oppression of women occur through issues of sexuality. On a regularly basis, women

⁴This background was extracted from a presentation made by Chibogu Obinwa and Ayesha Imam on “Women's Human Rights: BAOBAB's contribution and Commitment,” presented at a workshop organized by BAOBAB in collaboration with the Swedish NGO foundation for Human Rights, Lagos, 2000.

all over the world are raped and subjected to other forms of abuse and sexual violence and the State does not adequately protect the women.

Due to pressure from women's movements across the globe, this one-sided construction of human rights is being challenged and changed. A number of countries have adopted constitutions or legislation banning discrimination on the grounds of gender. Issues concerning the promotion of the health of women, the rights of women, and human rights have gained greater recognition following the campaigns of the women's rights movements internationally. The UN Decade for Women and the Women's Conferences in Mexico, Nairobi, Vienna and Beijing have raised consciousness about women's human rights. International women's movements also influenced the outcomes of other UN meetings.

Women are crucial not only to define 'women's rights' but also all 'human rights'. Too often and in various institutions, women's role is down played and there is always a 'women's desk' as such this ignores the fact that women are the greater part of humanity (not a minority sub-section) and that **all rights have gender aspects and are important to women as well as to men!**

2.2. Violence against Women (VAW)

VAW is a major concern in discussing women's human rights because universally, it is the most prevalent form of women's/human rights violation. Furthermore, domestic violence is the most prevalent form of VAW. Statistics show that one in five women globally has experienced some form of physical violence. One in three (3) Nigerian women and girls aged 15-24 have been the victims of violence.⁵

Definition of VAW

* The term “violence against women” means “Any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life.”⁶

⁵British Council *Gender in Nigeria Report 2012, Improving the lives of Girls and Women in Nigeria*, British Council, Abuja, 2012

⁶United Nations definition from the Declaration on the Elimination of Violence Against Women adopted by the General Assembly in 1993

Plenary Exercise

- * Have you or anyone you know ever experienced any form of VAW? What types of VAW ? What was the intervention (if any)? If there was no intervention, why not?

Forms of VAW experienced in Nigeria include (but not limited to):

Domestic Violence	Rape
Sexual slavery	Forced Prostitution
Trafficking	Female Genital Mutilation
Obnoxious widowhood rites	Sexual harassment
Acid Bath	Emotional and Psychological Abuse

2.3. Women's Human Rights Instruments (not exhaustive)

It is important to note that the human rights documents as discussed during the human rights session have principles of non-discrimination on the basis of sex. For instance, the Nigerian constitution has a provision on non-discrimination on the basis of sex. However, there are specific women's human rights instruments that specifically highlights this principle of non-discrimination.

Convention on the Elimination of all Forms of Discrimination Against Women(CEDAW) (1979)⁷

CEDAW (also referred to as the Women's Convention) was adopted by the UN General Assembly on December 18, 1979, and came into force on September 3, 1981, after the twentieth country became a party to the treaty. There are 16 Substantive Articles of CEDAW covering Civil, Political, Economic, Social and Cultural rights. CEDAW

⁷United Nations Resolution 34/180 of 18th December, 1979. Entry into force 3rd September, 1981

defines discrimination against women and outlines an agenda for national action to end such discrimination. It focuses on three dimensions of women's equality: civil and legal rights, reproductive rights, and the impact of cultural factors on gender relations. States that have ratified or acceded to the treaty are legally bound by its provisions and agree to submit regular progress reports to the Committee on the Elimination of Discrimination against Women, which is composed of twenty-three independent experts elected by member states. Nigeria ratified the CEDAW in 1985.

The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Protocol on Women to ACHPR) (2003)⁸

The Protocol to ACHPR on the Rights of Women in Africa was adopted by the African Union heads of State and Government in 2003. The Strengths of the Protocol include the fact that it came after many other treaties e.g. the CEDAW and that makes it possible to draw the best options from others and take into account, developments from CEDAW. It also names specific rights and clearly defines the concept of violence against women. It gives a clear definition of a woman (and this includes the girl child). The Protocol is culture specific and so it is useful for challenging negative cultural practices in Africa. It also places a lot of emphasis on development and peace. This will be used to strengthen the effectiveness of the African women's human rights system. Nigeria ratified the Protocol in 2005.

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules) (2010). This is a set of rules adopted by the United Nations in special recognition of the need to address specific aspects of the Women's Human Rights of women Prisoners. Bangkok Rules have been developed to complement and supplement, as appropriate, the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) in connection with the treatment of women prisoners and alternatives to imprisonment for women offenders.

The Violence Against Persons (Prohibition) Act (VAPP) (2015). The Act was a result of agitations for protection of persons against the different forms of violence, both at the home front and the larger society. The Act was passed into law in Nigeria to eliminate violence in private and public life: prohibit all forms of violence, including physical, sexual, psychological, domestic, harmful traditional practices, and various forms of discrimination against persons. The Act provides for maximum protection and effective remedies for victims and punishment of offenders.

⁸ Adopted by the Heads of State and Government at the African Union (AU) meeting in Maputo in July, 2003.

SESSION 3: GENDER CONCEPTS

Overview of Session

The purpose of this session is to introduce participants to gender as a critical issue in human rights thinking and practice. It is also aimed at raising awareness on the dynamics of gender relations, socialisation, and stereotypes and how these invariably contribute to a system of inequalities and gender discrimination in the society. The session will examine thoughts and belief systems and their modes and channels of transmission and reinforcement as well as an understanding of the social condition and position of men and women within the society.

3.1 Definition of Gender

- * **Gender** relates to the socially constructed roles based on what is perceived to be meant for either a 'male' or a 'female'. Gender is a dynamic concept that refers to socially constructed roles, attributes and responsibilities that are related to being male or female in any society.
- * **Gender** is socially learned, given and imbibed by people within a given society, through a process of socialization. For instance, children growing up begin to learn how to be either 'girls' or 'boys', as reinforced by the values and stereotypes in the society.
- * **Gender** roles are context based and dynamic as they could change from one generation to another. When we talk about gender relations, it means the relationship between men and women, as well as how they are socialized to think and act. However, these gender roles vary from one culture to another and from one social group to another, even within the same culture.
- * As has been often times misconstrued, it is important to note that Gender is not synonymous with women and as such, gender concerns should not be misinterpreted to refer to women's concerns only. However, due to the fact that women have been more disproportionately affected by gender relations and roles, there is more emphasis on women.

ACTIVITY 1 (in smaller groups)

- * Discuss the circumstances that led each group member to learn that he/she was different from the opposite sex
- * Identify the common elements in all the stories
- * Share and discuss these with the larger group in plenary

Questions to analyse

- a) What are the implications of these experiences for males and females within the family? Within the community?
- b) Are the expectations of being female or male the same in different cultures? Why? Why not?
- c) Could both sexes have had the same experiences? Is it possible not to have had these experiences? Why? Or Why not?

Differences between Gender and Sex

Gender

Is context specific

Socially Constructed

Inconstant

Human defined

Sex

Is universal

Biological

Unchangeable

Natural

Activity : The Gender Game (mini quiz)⁹

Read the list of statements below and ask the group to identify if the statement refers to 'gender' or 'sex'.

1. Women give birth to babies, men do not.
2. Little girls are gentle, boys are rough.
3. It is more important for a boy to get an education than a girl.
4. Amongst agricultural workers, women are paid an average 40% - 60% of the wages paid to men.

⁹Source: Class, Gender and Race Inequality and the Media in an International Context, Focus for Change, 1992

5. Women can breastfeed babies, men can bottle-feed babies.
6. Most brick-layers in Nigeria are men.
7. In Ancient Egypt, men stayed at home and did weaving. Women handled family business. Women inherited property and men did not.
8. Men's voices change when they come of age, women's do not.
9. In one study of 224 cultures, there were 5 in which men did all the cooking, and 36 in which women did all the house building.
10. According to UN statistics, women do 67% of the world's work, yet their earnings for it amount to only 10% of the world's income.

3.2 Gender, Thoughts and Belief Systems

Every society has dominant ideologies. What are these dominant ideologies? They include beliefs, knowledge systems, and practices. How are these beliefs handed down from generation to generation?

- Customs, traditions and religious interpretations get coloured from one generation to the other.
- Those that interpret these customs also bring in their personal interests and biases and these get transmitted to others.
- While relating it to custom, attention should also be paid to social practices, and for religion, attention should be paid to interpretations of texts that sometimes vary from one interpreter to another.

In most communities (if not all) the dominant groups (mostly male dominated) construct the roles that women should play in the community. Women are largely seen as 'wife' and 'mother'. This is often justified under the guise of 'culture' and 'religion'. There is a level of control over the social lives of women (including their personal choices), e.g. defining their dress modes, occupations, reproductive choices etc and denying them a role in decision-making (including decisions that specifically affect them). They also control women's sexuality. Furthermore, supporters of dominant ideologies in particular try to control knowledge through different levels of power relations.

Exercise for Gender, Thoughts and Belief Systems

(In order to further understand the dynamics of gender and belief systems, participants will read the exercise on the “Concrete Slab” and discuss findings in plenary. They will share examples from their own personal experiences)

Are You Guarding a Concrete Slab?

There was an army barracks that had on its duty roster 4 soldiers to guard a concrete slab at all times. The soldiers changed shifts guarding the slabs for many years. Different commanders came and went and the tradition continued.

After many years, a new commander was assigned to the barracks. Amongst the things he did was asking why things were done the way they were. When he asked why soldiers were guarding the slab, he was told, “we've always done it this way. It is our tradition. Our former commanders instructed us to do that.” The commander was adamant on finding out why. So, he went to the archives to look for answers and he came across a document that had the explanation. The document was very old. It had instructions written by one of the retired commanders who had passed away. The new commander learnt that over 80 years ago, the barracks wanted to build a platform where events could be performed. When the concrete slab was laid, wild animals walked over it at night before the slab would dry. The soldiers would fix it the next morning, but when evening came the same thing would happen. So the commander ordered that four (4) soldiers should guard the slab for 3 weeks to allow it to dry.

The following week the commander was transferred to another post and a new commander was brought in. The new commander found the routine and enforced it and every commander that came maintained this routine. Eighty (80) years later the barracks continued guarding a concrete slab.

Questions to consider with the participants in analyzing this story

- * What beliefs, attitudes, traditions have you carried on that were relevant to certain people or a certain time but are still being practiced till date?
- * Is your opinion about yourself, people of a different ethnic group, the opposite sex, certain situations, obsolete? (Explain)

3.3 Agents of gender socialisation

Agents of socialisation inform the source, and mode of transmission of socially constructed roles and practices, and thus there is need to devise strategies to deconstruct these gender stereotypes.

Family: The first venue for learning about gender is within the family, which is a child's first contact with culture. We begin to pick up hints about what is acceptable or not as males and females from the home by learning from older family members. This usually is done by observation and imitation and through lectures and reprimands.

Religious Institutions: Although respect for human dignity is one of the fundamental principles of all religions, religious institutions constitute the major site for reinforcing the unequal status of men and women. Most religious preachings are fashioned around roles and responsibilities of men and women and the perpetuation of gender inequality.

Educational Institutions: Gender roles and responsibilities are learnt in schools through the assignment of tasks and responsibilities.

Government policies and laws: Patriarchal societies such as Nigeria and most parts of the world, espouse male supremacy. This is often reflected in framing and implementation of public policies and laws.

Media: News reports and features, commercials, articles in the print and electronic media aid the transmission of the culture of a group. This is by emphasizing 'appropriate' behaviours, gender stereotypes, roles and attributes.

Culture: Values, stories, proverbs, myths, sayings of particular societies serve to create and maintain gender stereotypes and inequality. Most of our proverbs and sayings are constructed in a language that is discriminatory and sexist. These are further reflected in the day-to-day use of language.

MODULE 2: THE STATE OF WOMEN'S HUMAN RIGHTS AND PRISON SYSTEM REFORM

Objectives

- * To discuss the principles of non-discrimination particularly in the context of the penal system and ways to ensure equitable penal policies
- * To appreciate why gender responsive penal policies in line with the Bangkok Rules are appropriate for the treatment of Women Prisoners
- * To brainstorm on how alternatives to imprisonment can be gender-Sensitive

Overview

It is important for participants to recognise what it means to be a woman prisoner. What are those socio-economic dimensions or background to being a woman prisoner and what are the specific characteristics associated with that? The Bangkok rules have clearly recommended a set of anti-discriminatory rules to guide the treatment of women prisoners as will be highlighted in this module. It is pertinent to appreciate the need to ensure a gender sensitive approach towards the consideration of non-custodial measures for women prisoners

SESSION 2.1. WHO IS A WOMAN PRISONER?¹⁰

According to section 19 of the Prison Act of Nigeria, “A woman prisoner is a woman lawfully committed to custody.”

The Nigerian Prison Service (NPS) recognises 5 forms/legal reasons for detention/incarceration of female prisoners, namely –

- * Women against whom a court of competent jurisdiction has decided a case. These are usually brought into prison with “Conviction Warrants.”;
- * Women whose cases are pending before courts and are brought into prison with 'Remand Warrants' issued by such courts. These may either be awaiting trial or

¹⁰Uju Agomoh, “Assessment and Treatment of Female Prisoners in Africa” presented at the 13th United Nations Congress on Crime Prevention and Criminal Justice, Doha, 2015

- awaiting sentence;
- * Women Committed as judgment debtors by courts for whom the judgment creditor deposits feeding money with the prison authorities;
 - * Women members of armed forces who commit offences prohibited by the military and civilian accomplices committed to prison through court martial and;
 - * Women committed to prison by the Inspector General of Police or Chief of Army staff for acts detrimental to state security under decree No 2 of 1984 (now repealed).

Activity 1 (Plenary brainstorm)

Do you think that women typically commit different types of offences from men? If yes, give reasons and the list of offences specific to women. If 'No', explain your response and list the respective offences .

From the survey conducted by CAPIO in April 2018 with women prisoners in selected prisons from the 6 geo-political zones in Nigeria, a significant number of women prisoners, is usually from poor economic backgrounds. They struggle to make ends meet through micro entrepreneurship (petty trading) and very small scale businesses. Their crimes usually range from petty theft, robbery, homicide, breach of trust, trafficking, conspiracy owing to peer pressure among others. Typically female prisoners serve less time in prison than their male counterparts due to the relatively less gravity of their offences. However, awaiting trial prisoners are very high among female prisoners (in some cases waiting for their debts to be settled by family/relatives).

Across the globe and in general, there are realities related to the background of female prisoners:

- * Many women offenders have experienced sexual or physical abuse prior to imprisonment;
- * A significant proportion of women offenders have mental healthcare needs which will have arisen due to domestic violence or sexual abuse;
- * There could be substance or alcohol dependency among women prisoners, often as a coping mechanism in response to victimisation.

SESSION 2.2: PRINCIPLES OF NON-DISCRIMINATION IN THE PRISON SYSTEM

Activity 2

In pairs, participants are to take a few minutes to reflect on what the term ‘discrimination’ means to them. Have they ever felt discriminated against? Why? How did it make them feel? (Feedback to the larger group and discussions)

Discrimination Against women as defined by CEDAW

CEDAW comprehensively 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, enjoying or exercise by women, irrespective of their marital status, on a basis of equality with men, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

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 (Bangkok Rule 1)

Women prisoners are usually discriminated against because most prisons and prison regimes have been developed for the majority male prisoner population. Women's specific needs are rarely taken into account in the building of prisons or the development of prison regimes and programmes, as women make up a small minority of the prisoner population (In Nigeria it is currently 2% of the whole prisoner population)

In addition women are very often housed far away from their homes because there are usually very few women's prisons in most countries (including Nigeria). This means that women's links with their families are disrupted, even though women have a particularly strong need to keep in contact with their families, especially if they have children.

In other cases women will be housed in annexes of men's prisons, which may mean that they are held closer to their homes, but this usually also means that they have less access to services and activities than their male counterparts as the focus of management in such prisons will be the majority male population.

In many prisons across the world, Women suffer discrimination because their specific needs are not met. These include, for example, women's specific hygiene needs and their healthcare needs, which go well beyond pre- and post-natal care, but also include preventive healthcare for breast and cervical cancer, and mental healthcare, among others.

Group Activity 3¹¹ (Case study on Discrimination)

In a prison in the city of Kanpur, all the prisoners were men. Of these, 20% who were dangerous sex offenders were scattered throughout the dormitories of the prison. Because of the absence of adequate facilities, the prisoners were not classified or segregated according to their offence or level of dangerousness. The wardens in the prison were both women and men. Consequently, the prison authorities issued a regulation providing that the women warders would do desk jobs, prohibiting them from contact positions with prisoners. The women warders challenged the regulation in court. The court upheld the regulation, reasoning that given the volatile nature of this situation in the prison, the greater vulnerability of women to sexual attack justified their exclusion. This was in spite of the fact that the prisoners in question had previously filed a successful lawsuit on the grounds that the violent and chaotic conditions of the prison were themselves illegal.

Issues for Discussion

- A. Do you agree or disagree with the court? Give your reasons in terms of its implications for women administrators in prisons.
- B. In case of disagreement, please give other options for the way in which the court could have ruled. Which of the options would you choose and why?

¹¹A case study cited by the International Women's Rights Action Watch Asia -Pacific (IWRAW), "From Global to Local" training programme. (Based on *Dothard v. Rawlinson*, 433 U.S. 321 (1977).

Examples of standard measures that can be taken to eliminate discrimination in the treatment of women prisoners -

- * The allocation of women prisoners within the prison system can take into account their need to maintain family links, especially when children are involved;
- * Registration procedures should include considerations relating to women's children, whether they be with them in prison or outside, in order to ensure contact between the women and the children living outside prison and to take into account the needs of children living in prison;
- * The medical screening of women on admission should take into account women's specific mental healthcare needs and risk of self-harm and suicide;
- * The assessment of women needs to take into account women's typical background and needs and ensure that their individual sentence plans are developed on that basis;
- * Women's specific hygiene needs must be provided for;
- * Women should have access to activities and programmes on an equal basis with men and the programmes offered to them should be appropriate to their needs, while also not being limited to those activities and programmes which are deemed to be suitable for the female gender;
- * Specific visiting rights and conditions should be accorded to mothers with children outside prison;
- * If women are allocated far away from their homes, their rights to communication by telephone may be increased and longer visiting hours may be allowed to compensate for lesser visits.

SESSION 2.3: GENDER SENSITISATION AND MAINSTREAMING IN THE NIGERIAN PRISON SYSTEM

Gender sensitization and mainstreaming in prison management system will include management policies and practices which ensure that the discrimination faced by women prisoners is minimised or eliminated as far as possible. It includes -

- * That the gender-specific needs of women are recognised and met; and that the prisons in which women are housed provide a rehabilitative environment in terms of facilities, rules and regulations;
- * That the relationship between staff and prisoners are as cordial as possible;
- * All the rules contained in the Bangkok Rules, Parts I and II are essential

elements of a prison management policy which takes into account the gender specific needs of women prisoners.

- * Understanding the rationale for the Bangkok rules and ensuring that prison policies and practices are developed with reference to them. This will enable the establishment of a gender sensitive prison management approach which assists with the social reintegration of women prisoners in a positive prison environment, while also ensuring safety and order in prisons.

Suggestions for a gender sensitive prison management approach -:

- * Taking affirmative action to counter-balance discrimination encountered by women prisoners due to their small numbers (Women constitute a very limited percentage of prisoners in Nigeria);
- * Adopting a gender-sensitive management style;
- * It is very important that prison management policies and rules in women's prisons take into account the typical background of women prisoners and develop regimes that respond to the needs which arise as a result of past victimisation, mental illness and substance dependence, among others;
- * A capacity and willingness by prison staff to communicate openly and effectively with prisoners including (but not limited to) awareness of emotional dynamics, and the capacity to respond firmly, fairly and consistently;
- * Recognizing the different needs of female prisoners, including those from different cultural backgrounds (Nigeria being a culturally diverse country), and providing programmes and services that address these needs;
- * Recognition of women's sexual and reproductive health, special hygiene requirements, maternal needs, psycho-social support needs (e.g. victims of domestic abuse) and, frequently, treatment for substance dependence due their typical backgrounds. Such needs should be recognised by prison authorities.
- * Crèches should be built in all the female prisons (such as in Lagos Prisons) so that when the mothers are being taken to court, their babies can be in the crèche. Additionally, when the babies are up to one year and six months, the babies should be given to their relatives or charitable organizations if relatives could not be contacted. Furthermore, the crèches should not only be for inmates' babies but for the children of the staff. Hence, adequate provision should be made for all.
- * Prison clinic facilities should be upgraded and more female prison health care personnel employed to enable pregnant women have access to medical care without restrictions;
- * Establishment of a Gender Desk/Officer in the Nigerian prisons system.

- * More women should be in high ranking leadership roles in the Nigerian prisons administration system;
- * Women prisons should be built in all the States of the Federation. However, in cases where the number of female inmates is low, the female wing of the prison can have autonomy with a separate administration under the leadership of Female Officer in-Charge that is independent of the male prison (e.g. the prison system in Ghana). This will help to foster speedy mainstreaming of gender sensitive approach in prison administration.

SESSION 2.4: GENDER-SPECIFIC ALTERNATIVES TO PRISON (NON-CUSTODIAL MEASURES) NEEDED FOR WOMEN OFFENDERS

It is very important to put into consideration, non-custodial measures for female prisoners sentenced for minor offences to prevent a situation of separating them from their families and communities. In this regard, consideration should be given to finding alternative ways of managing women who commit offences, such as diversionary measures and pretrial and sentencing alternatives. (BR 58)

- * First of all, timely delivery of justice is very crucial for the decongestion of prisons. The courts should hasten the delivery of justice and also use alternative sentencing mechanism to settle disputes other than custodial sentences;
- * There should be community service order in the penal system so that petty offenders should be given non-custodial convictions;
- * Continuous training and exchange programmes for prison staff are critical to enable them to adopt new strategies of treatment options for female offenders;
- * Female offenders should be exposed to viable and labour market intensive courses.

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

- * Women prisoners who report abuse should be provided with immediate protection, as necessary.
- * If the complaint is against a prison staff member, that person should be assigned to other duties, which take him or her away from any contact with the woman concerned, so that he or she is not in a position to prejudice the investigations and so that the woman is protected from retaliation.
- * If the allegation of abuse is serious enough, the person may be given a leave of absence while the allegations are investigated. Transferring the woman to

another prison is only advised if this will not result in the woman being housed further away from her home than in the original prison.

- * Segregating the woman is not recommended, as this may be perceived as punishment, unless the woman concerned requests segregation.
- * Women who submit complaints of abuse by a staff member may also be at risk of retaliation by other staff members. It is essential that policies and measures are in place to prevent such retaliation by any member of staff, including by employing strict disciplinary measures and by making it clear to all staff that such retaliation or intimidation will not be tolerated.
- * Women who allege to have been subjected to abuse should be offered counselling by qualified healthcare professionals, ideally independent of the prison service.
- * Women who have become pregnant as a result of rape should be provided with immediate access to qualified healthcare professionals, as well as counselling.
- * There should be suspended sentence for pregnant convicts (until delivery) such as provided for under the 2017 Administration of Criminal Justice Law of Enugu State.
- * In making the female prison section independent of a male dominated prison, the structures have to be built in such a way that it will not allow access of male inmates in case of a riot (this happened some years back in Port Harcourt Prison)
- * Borstal institutions or homes should be established in all the States of the Federation so that female juveniles can be detained there. It is wrong to detain both female juvenile offenders and adult in the same institution or facility.
- * All women prisoners who have been subjected to ill-treatment or torture, including sexual abuse, should be assisted to access legal counsel and legal aid immediately in order to help them decide whether or not to lodge an official complaint and to assist them with the complaints procedure, if they so wish (Bangkok Rule 25).

MODULE 3: ALLOCATION, ADMISSION AND CLASSIFICATION

Objectives:

- * To examine the importance of women prisoners' strategic allocation for the purposes of effective social reintegration;
- * To review the admission procedures for women prisoners and ensure that it is compliant with their gender specific needs; and
- * To review the registration of women prisoners, including those with maternal needs.

Overview

The importance of ensuring effective allocation of women prisoners in line with their specific needs is strategic towards ensuring that their human rights are not compromised. This is also the case with follow-up procedures such as admission and classification. At this stage, women prisoners are given orientation to the rules of the prison. In the Nigerian context and based on the survey conducted in April, 2018, it was gathered that these rules were usually orally transmitted to the inmates and not written. In some cases, it was the existing inmates that shared the rules with the incoming ones. To ensure a proper gender mainstreaming approach in the prison system, the entire process of admission, registration and classification, has to be done effectively.

SESSION 3.1: THE IMPORTANCE OF THE ALLOCATION OF WOMEN PRISONERS

- * The Bangkok Rules recognise women's specific strong need to keep in contact with their families, in particular, where children are involved, and the extremely harmful impact of isolation from families and communities on women prisoners.
- * Taking into account these factors, the Bangkok Rules supplement the Mandela Rules with a number of provisions which aim to increase women prisoners' contact with their families and the community.
- * Women prisoners shall be allocated, to the extent possible, to prisons close to

their home or place of social rehabilitation, taking account of their 'traditional' caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services (Bangkok Rule 4). This rule was introduced because of the reality in prison systems worldwide that women prisoners are very often placed in prisons far away from their homes, due to the small number of women prisoners and the correspondingly small number of women's prisons. This means that many women prisoners receive much fewer visits than their male counterparts, due to the difficulties and costs involved in the long travel that families must undertake to visit their loved ones.

- * In other cases women are housed in annexes of male prisons, which may be closer to home, but which are managed on the basis of the risk profiles and needs of the majority male prison population. Women often face significant discrimination in such prisons, with less access to many activities and services, in comparison to men, as well as inferior physical facilities. Thus, the allocation of women represents one of the areas which results in the indirect discrimination of women prisoners. Using a section of a male prison for female prisoners can also present a security risk. For example, a riot that started in a male section of one of the prisons in Nigeria sometime ago, spilled over to the female section and some female inmates and female staff were raped and assaulted. It is hoped that this challenge will be addressed if the Prisons and Correctional Services Bill(2016) pending before the National Assembly is passed and implemented.
- * There is a need to maintain a balance between the women's need to access certain programmes and services, which may not be available in the prison closer to home, and their need to maintain family links. The consultation with the women themselves is required, firstly to enable them to contribute to the decision-making, as far as practicable, taking into account their individual rehabilitation needs. Secondly, if they have been victims of violence, perpetrated by their spouses or another member of their family, they may wish to be allocated far away from their place of residence, to ensure their safety and mental wellbeing.
- * Due to the limited number of women's prisons, prison authorities may not have the option of fully implementing this provision. However, there may be some measures that prison authorities can take. For example:
 - * Where the allocation of prisoners is dependent on rules that can be changed (e.g. the length of sentence which determines the prison to which a prisoner must be allocated), consideration may be given to revising the rules, taking into account the very low security risk presented by a significant majority of women offenders
 - * When a woman prisoner is housed far away from her home and requests

a transfer to a prison closer to home, prison authorities could consider the request favourably taking into account the woman's risk and needs assessment, as well as the benefits of maintaining links with her family.

- * The responsibility of putting this rule into practice should, however, not rely solely on prison authorities. Relevant ministries might need to consider establishing a larger number of smaller facilities to accommodate women prisoners, with a geographic distribution that would allow for all women to be housed close to their places of residence.
- * Housing women in smaller facilities within the community and with close links with families, friends and community organisations, has been recommended following a comprehensive research conducted among women prisoners in the UK.

SESSION 3.2 : ADMISSION OF WOMEN PRISONERS

A number of international and domestic instruments describe the rights of the prisoner and the obligations of prison staff at the point of first admission to prison. This is largely in order to safeguard against torture, ill-treatment and disappearance, and to ensure that prisoners are provided with all the information and facilities that will enable them to inform their lawyers and families about their whereabouts and seek legal advice, as necessary. Information provided to prisoners on admission should also enable them to fully understand their rights and obligations and the prison regime as well as to adapt to prison life as quickly as possible with the full knowledge of their entitlements and responsibilities.

The (SMRs 54 and 55) set out the prison authorities' responsibilities during the admission of a prisoner as follows:

Upon admission, every prisoner shall be promptly provided with written information about:

- (a) The prison law and applicable prison regulations;
- (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;

- (c) His or her obligations, including applicable disciplinary sanctions; and
- (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.

The relevant provisions of the Nigerian Prisons Standing Orders include -

- * To ensure that where facilities allow, on admission, prisoners shall be kept from other prisoners (if need be) until attended to by the medical personnel (52).
- * It also stated that it is the responsibility of the Prison Keeper to ensure that prisoners comply with the party of their allocation and do not alter this without the approval of the Superintendent-in-charge (54).
- * It recommends that each prisoner shall be placed in a separate cell while awaiting examination, bathing etc. However, temporary use of cells or wards (with the approval of the Superintendent-in-charge) can be made if the capacity of one reception is unable to accommodate the prisoners on admission process. (56).

Activity 3.1 (Exercise on effective communication)

Question for participants to reflect on -

What language shall be used to communicate the information referred to above? How will you attend to an illiterate prisoner? How will you handle a deaf and dumb prisoner? Are there specific items to consider in the case of female prisoners' admission?

- * The information referred to in rule 54 shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.
- * If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.
- * The prison administration shall prominently display summaries of the information in common areas of the prison.(SMR 55)
- * The Bangkok Rules reiterate the obligations of the prison authorities and require that additional measures are taken when women are first admitted to prison, as set out in Rule 2.
- * 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 (Bangkok Rule 2.1)

The Bangkok Rules recognise women prisoners' particular vulnerability when they are first admitted to prison, which may be due to the following -

- * Severe distress of separation from their children, families and communities;
- * Concerns about their children;
- * Possible past victimization and fears for their safety;
- * Lack of experience of contact with state authorities which can lead to additional anguish; and
- * Possible low educational and economic status, among others.

The following are the key measures that may be taken to ensure that the requirements of the Bangkok Rules are fulfilled during the admission of women prisoners:

- * While all prison staff responsible for the admission process should be specifically trained to fulfill their responsibilities in a professional and sensitive way, they should receive additional training to deal appropriately with newly admitted women and, where applicable, their children, taking into account women's specific needs at this time.
- * Staff should provide women with facilities to contact their families, provide information on how to access legal counsel, including legal aid, as necessary.

The ability to access legal counsel is particularly important in the case of pre-trial detainees, but also others who may wish to contact lawyers to lodge appeals or for any other reason which may be directly or indirectly related to their imprisonment.

- * The information should be provided in writing to all prisoners, as well as being explained to them orally, taking into account the fact that many women may be illiterate or have a low level of education. Explaining the rules and regulations will enable them to ask questions at this time to prevent any future misunderstanding.
- * Where foreign nationals are admitted they should be provided with such information in a language that they understand. They should also be accorded access to their consular representatives, if they so wish.
- * Mothers constitute a significant number of women admitted to prison. Where the law provides for children to stay with their mothers in prison, some children will arrive in prison with their mothers. Many other children will remain outside, experiencing an abrupt separation from their mothers, facing uncertainty, anguish and fear. The Bangkok Rules recognise the needs and vulnerabilities of all of these children and require that women be allowed to arrange for the care of their children before being admitted to prison, taking into account the best interests of the children. This may be done with a temporary suspension of the woman's sentence to allow her time to make appropriate arrangements, which would be a matter for sentencing authorities (Bangkok Rule 2.2).

SESSION 3.3: REGISTRATION OF WOMEN PRISONERS

The Mandela Rules require that prison authorities keep an up-to-date register containing

- * information about prisoners' identity;
- * the reasons for their detention;
- * the time of their arrest and the time of their admission to prison;
- * release and transfer;
- * any visible injuries and complaints about ill-treatment;
- * an inventory of their personal property; and
- * the names of their family members, including their children, with location and guardianship status and emergency contact details of the prisoners' next of kin.

Some items to consider about dependent children of women prisoners:

- * Dependent children may be admitted together with their mothers to prison in most countries around the world. Children may stay in prison for some years before they must be removed. In the Nigerian Prison System, children are not allowed to stay with their mothers beyond the age of 18 months. The Bangkok Rules recommend the best interest of the child be considered in deciding the age of children in prison. It is essential that such children are registered at the time of their admission to prison, together with their mothers, to ensure that all those who are accommodated in prisons are accounted for.
- * The information recorded should include, as a minimum, the names of the children and their age. Registering children admitted to prison is a key safeguard against disappearances, as well as being important to ensure that the needs of such children, including their nutrition and healthcare, are taken into account in prison policies and programmes.
- * Many women admitted to prison will have left children behind and it is extremely important that the women are able to keep in contact with their children regularly. It is equally important that authorities have information about the whereabouts and the situation of such children so that the state can provide for them as necessary. This is why the Bangkok Rules and the newly approved Mandela Rules include a requirement that prison authorities make a note of the names, ages, location and guardianship status of women prisoners admitted to prison.
- * 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 (Bangkok Rule 3.1).
- * All information relating to the children's identity shall be kept confidential, and never be shared by third parties without the consent of the mother. In addition, the use of such information shall always comply with the requirement to take into account the best interests of the children (Bangkok Rule 3.2).
- * While the primary aim of gathering information about the children of imprisoned mothers is to make sure that such children are taken care of and that mothers can maintain links with their children, a secondary objective is to increase knowledge about the parental status of imprisoned women to contribute to future policy formulation, including, for example, sentencing policies or government policies which are relevant to the care of children of imprisoned mothers.

SESSION 3.4.: ASSESSMENT AND CLASSIFICATION OF WOMEN PRISONERS

A proper assessment and classification on admission is extremely important to ensure that prison authorities can decide on the right security level for each prisoner and gather the information necessary to develop individualised sentence plans with a balanced programme of activities, which respond to the needs, including gender specific needs, of women prisoners.

- * Assessment and classification lie at the heart of good prison management. Enabling prisoners to spend their time in prison, in a constructive manner and to receive counselling, treatment and participate in specific programmes, is relevant to address issues such as victimisation, substance dependence, healthcare needs, and development of parenting skills, among others. In the absence of a comprehensive, gender-sensitive assessment and classification system, the aim of eventual social reintegration would be hard to achieve.
- * The need for a gender-sensitive assessment and classification system to enable prison authorities to work towards each woman's social reintegration based on her individual needs is highlighted by the Bangkok Rules, (Rules 40 and 41).
- * The volume of awaiting trial prisoners (ATPs) in Nigerian prisons makes effective classification difficult as it largely limits classification to sex only. There should be quick dispensation of justice to women awaiting trial to enable effective classification among other reasons
- * Special cells should be allocated to pregnant women, women caring for babies and women living with disabilities.
- * These rules underline the need to take into account women's backgrounds and needs in order to develop appropriate sentence plans and rehabilitative programmes to match individual needs.
- * The rules also make very clear that the large majority of women prisoners are not a high security risk and do not need to be held in high security facilities. Nor do many women who have committed violent offences represent a security risk to others, as many will have committed such offences against their partners or somebody that they know due to long-term abuse. It is therefore extremely important that assessment and classification look at each individual and assess the risks they pose and their needs on an individual basis, and not on the basis of the crimes that they have committed or the length of their sentences.
- * Regrettably in many countries (including Nigeria), women are housed in higher security levels than necessary, sometimes because there are no sufficient prisons for women with lower security levels. In some countries their mental healthcare

needs may be assessed as risks, which will mean that they are placed in high security facilities, rather than being housed in the lowest security level possible, as required by the Bangkok Rules.

- * Being held in high security facilities and conditions can have an extremely harmful impact on women prisoners' mental wellbeing, undermining, from the very beginning of their sentence, the success of their prospects of social reintegration while at the same time violating their rights to be held in the least restrictive conditions necessary for their safe and secure custody.
- * It is therefore highly important that staff (including specialist staff) are trained to undertake comprehensive assessments of women prisoners when they are first admitted to prison and to review such assessments at regular intervals.
- * Assessment tools, perhaps adapted by those already available internationally, should be developed to assist staff in this process and ensure consistency.
- * Assessment tools should not only be gender-sensitive but also sensitive to the different cultural characteristics and needs of women prisoners arising from their nationality, ethnicity, race or indigenous status.

In many countries around the world, Nigeria inclusive, overcrowding and the shortage of specialist staff and resources may present significant challenges to conducting a comprehensive gender sensitive assessment and classification system, as required by the Bangkok Rules. In such countries measures can be taken to introduce such a system on a gradual basis, making best use of available resources.

Activity 3. 2 (managing limited resources)

Exercise for Participants to consider in smaller groups

How will you mitigate a situation of insufficient staff resources to conduct a gender sensitive assessment and classification of female prisoners? What steps will you consider as necessary?

3.5: Measures to be taken if a woman is found to have been sexually abused, tortured or ill-treated

It is important to ensure that the vulnerability of women prisoners is taken into consideration at all times. Some of the measures that must be taken to protect women prisoners from sexual abuse include -

- * To ensure that they are supervised exclusively by women staff, as provided by the Mandela Rules (Rules 81), which reiterates the position of the SMR prior to

revision. The Bangkok Rules, by not supplementing these provisions, maintain the same position. So in essence, it is highly recommended that all women's prisons should be managed by women staff, including by a female Director. In prisons where both male and female prisoners are housed (such as in Nigeria), the separate section where women are held should have a female Director and all staff should be female. If a male member of staff needs to enter the section of a prison where women are held, he should only do so if he is accompanied by a female staff member at all times. These provisions do not preclude specialist male staff, such as doctors and teachers entering women's prisons to carry out their professional duties (Mandela Rules, Rule 81.3).

- * However, adequate safeguards should be in place in all cases to prevent any abuse (e.g. as discussed earlier, when male doctors examine women prisoners, a female healthcare staff should be present).
- * In countries where male staff are employed in women's prisons due to female staff shortages, it is extremely important that men are employed only on the outside perimeter and in administrative offices. They should never have any responsibility that requires them to be inside the prison on a regular basis. If they need to enter the prison premises they should always be accompanied by female staff. While such a practice does not fully comply with the Mandela Rules or the Bangkok Rules it can be regarded as a compromise measure that needs to be phased out while an active policy of female staff recruitment is implemented.
- * While the supervision of women prisoners by female staff minimises risks for abuse, especially sexual abuse, female staff may also abuse and ill-treat women prisoners. This risk should never be disregarded.

There should be 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 (Bangkok Rule 31). All staff assigned to work with women prisoners shall receive training relating to the gender-specific needs and human rights of women prisoners (Bangkok Rule 33).

In terms of complaints procedure and related processes, all women prisoners should be duly informed as a matter of their right. (Please see module 2 for more information on this).

MODULE 4: HYGIENE, HEALTH CARE AND SPECIAL HEALTH ISSUES

Objectives:

- * To discuss the requirements for a whole prison approach to healthcare in prisons, with a shared responsibility to protect and promote women prisoners' mental and physical health as well as safety from substance dependency, self-harm and suicidal tendencies
- * To review the essential principles and components of the health screening of women prisoners, their hygiene requirements on admission and what prison authorities must do to provide for these needs.
- * To consider the importance of developing strategies and services for HIV prevention, treatment, care and support in women's prisons.

Overview

The Prison environment is often unhealthy and thus becomes a breeding ground for a variety of diseases. In addition, due to the poor state of facilities and infrastructure in most prisons in developing countries such as Nigeria, there is usually overcrowding in prisons and this in turn enhances the spread of diseases in prisons. Prisoners have less access to fresh air, to adequate nutrition, water and exercise. All of these factors compromise the immunity and health of all prisoners, including their mental health. This can put immense pressure on the healthcare services, which usually have very limited staff, technical resources and medication.

Due to the economic disadvantage of a larger percentage of women in many developing countries (including Nigeria), women face discrimination and barriers in accessing adequate health-care services in the community, due to their gender. Consequently, women prisoners often have greater primary healthcare needs in comparison to men¹². The health status of prisoners is generally much poorer than that of the general population, and women's health needs can be seriously neglected in a male-dominated prison system (such as Nigeria's).

¹²Møller, L., Stöver, H., Jürgens, R., Gatherer, A. and Nikogasian, H., eds., Health in Prisons, A WHO Guide to the essentials in prison health, WHO Europe (2007), p. 27

SESSION 4.1.: ACCESS TO HEALTH CARE NEEDS FOR WOMEN

Group Activity 1 (Healthcare needs of women prisoners)

What do you consider to be the specific healthcare needs of women prisoners? How do you think these can be addressed in the prison system?

- * The sanitary installations shall be adequate to enable every female prisoner to comply with the needs of nature when necessary and in a clean and decent manner.
- * In addition, there should be adequate bathing and shower installations for every female prisoner to bath or shower, at a suitable temperature and as the need arises.
- * All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times (SMR 15, 16, 17)
- * The sewage evacuation system should be effective. In most prisons in Nigeria, due mostly to congestion/over population, the sewage evacuation system is overstretched, very poor, unhygienic and it exposes prisoners to a lot of health challenges especially female prisoners and their babies.
- * Women usually have chronic and complex health conditions resulting from lives of poverty, drug use, family violence, sexual assault, adolescent pregnancy, malnutrition and poor health care.¹³
- * Drug dependent women offenders have a higher prevalence than male offenders of tuberculosis, hepatitis, toxemia, anaemia, hypertension, diabetes and obesity.¹⁴ There is also usually a prevalence of mental illness while pre-existing mental healthcare condition can deteriorate in the prison environment, in particular due to the disruption of links with families and overcrowding.
- * The harmful effects on mental health are intensified when women do not feel safe, if they are supervised by male staff and feel at risk of abuse.
- * It is the responsibility of the government to ensure that the health care of all prisoners, including women prisoners is safeguarded. All prisoners need to have access to the same health care standards and services that are available in the community (SMR –Rule 24.1). Such services should be provided free-of charge to all prisoners without discrimination. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV,

¹³WHO Europe, UNODC, Women's health in prison: correcting gender inequity in prison health, 2009, p. 20

¹⁴Ibid

tuberculosis and other infectious diseases, as well as for drug dependence (SMR 24).

- * Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation (Mandela Rules –Rule 25.1) The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner (Rule 25.2).
- * The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality (Rule 31). The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular (Rule 32.1).

Recognising the Special Health Needs of Female Inmates¹⁵

- * 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.¹⁶
- * Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.¹⁷
- * If a 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.¹⁸
- * Clinics should be built in every female prison/wing and well equipped with drugs. The leadership of the female prison in Lagos was able to build a clinic with support from NGOs for immunizing babies and attending to special needs of female inmates in prison.
- * More female health care personnel should be employed so that urgent medical care can be administered to inmates with health challenges.

¹⁵Prisoners' Rehabilitation and Welfare Action (PRAWA), *Operational Guidelines to Human Rights Compliance, Monitoring and Oversight in Prisons*. 2015, Lagos

¹⁶Bangkok Rule 8

¹⁷Mandela Rules 24-27, 31-33

¹⁸Bangkok Rule 9

- * 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.¹⁹
- * 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.²⁰
- * If it is necessary for non-medical prison staff to be present during medical examinations, such staff should be female and examinations shall be carried out in a manner that safeguards privacy, dignity and confidentiality.²¹
- * 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.²²
- * 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.²³
- * 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.²⁴
- * 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.²⁵
- * The medical needs of women prisoners who have recently given birth, but whose babies are not with them in prison, shall be included in treatment programmes.²⁶

¹⁹Bangkok Rule 10

²⁰Bangkok Rule 11

²¹Ibid

²²Bangkok Rule 14

²³Bangkok Rule 15

²⁴Bangkok Rule 20

²⁵Bangkok Rule 48

²⁶Bangkok Rule 48

Relevant Provisions of the Nigerian Prisons Standing Orders²⁷

468. *Where upon admission or while in prison, a female prisoner is pregnant or suspected to be pregnant; the attention of the Medical Officer shall be drawn to this fact.*

469. *Where the Medical Officer confirms that a prisoner is pregnant, he shall report the fact to the Superintendent-in-Charge and the Superintendent in -Charge shall ensure that the prisoner is treated as recommended by the Medical Officer.*

470. *A pregnant prisoner shall be in association of fellow inmates by day and night from the day the pregnancy is ascertained irrespective of the stage of the pregnancy and she may be engaged in labour where certified fit by the Medical Officer.*

471. *The Pregnant Prisoner shall sleep in a room with at least two other female prisoners who could in an emergency, give some immediate help and call for assistance.*

472. *A room or ward shall be provided with a means of communicating with the staff -charge, night duties.*

473. *At the appropriate time, the Medical Officer with the approval of the Superintendent-in-Charge shall remove the pregnant prisoner to the labour ward in prison hospital, clinic or outside government approved hospital.*

474. *The Superintendent-in-charge shall ensure that adequate infant necessities are provided for the expected child and the same shall apply to mothers admitted into prisons with infants.*

475. *Where the Medical Officer discovers that the pregnant prisoner has reached such an advanced stage of pregnancy and that it is likely that if her confinement takes place during sentence, she may be required to be detained beyond the date on which she can Obtain her discharge in the ordinary course; a report on the circumstances shall be forwarded to the Controller of Prisons in the State.*

476. *Where an infant is received into Prison with his mother, or is born in prison or is born during a temporary removal of a prisoner to outside Government approved hospital, the following arrangement shall be made for the mother to nurse the baby:*

(a) A cot or cradle shall be provided for every prisoner with a baby. The mother shall be told to use the cot or cradle for the baby at night; she shall be warned that; disobedience shall make her responsible in case of an accident to the baby.

(b) The mother shall be encouraged to breast feed or feed the baby with any diet recommended by the Medical Officer.

477. *In reporting the birth of a baby in prison, care shall be taken to ensure that the word "Prison" does not appear in the birth record. The name of the road or street and the plot number of where the prison is located, shall be given as the address of the place of birth.*

478. *The Medical Officer shall ensure that a child born to a prisoner is vaccinated soon after birth.*

²⁷ Prisoners' Rehabilitation and Welfare Action (PRAWA), op cited

SESSION 4.2. :GENDER-SENSITIVE APPROACH TO INMATES' FEEDING, PERSONAL HYGIENE, CLOTHING AND BEDDING

- * Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers²⁸.
- * Women prisoners shall not be discouraged from breastfeeding their children, unless there are specific health reasons to do so²⁹.
- * The nutritional needs of women prisoners who have recently given birth, but whose babies are not with them in prison, shall be included in treatment programmes³⁰. An example of a good practice in Nigeria is that of Port Harcourt Prison, where pregnant inmates and nursing mothers are given specific attention as well as adequate portions of food. The prison doctor always seeks support from the state Ministry of Health and Ministry of Gender and Social Development through their Commissioners to give free ante-natal care services to the pregnant inmates when they visit hospitals outside the prison.

Personal hygiene

1. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness
2. “In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair...”(SMR 18)

Clothing and bedding

1. Every prisoner who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.
2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

²⁸Bangkok Rule 48

²⁹Bangkok Rule 48

³⁰Bangkok Rule 48

3. In exceptional circumstances, whenever a prisoner is removed outside the prison for an authorized purpose, he or she shall be allowed to wear his or her own clothing or other inconspicuous clothing.

If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the prison to ensure that it shall be clean and fit for use (Rules 19 and 20).

SESSION 4.3.: GENDER-SPECIFIC HIV/AIDS PREVENTION, TREATMENT AND CARE

Women have a particular physical vulnerability to HIV. Studies have shown that women are at least twice as likely as men to contract HIV through sex. The pre-existence of sexually transmitted diseases (STD) can greatly increase the risk of contracting HIV.³¹ Due to the typical background of women prisoners, which can include injecting drug use, sexual abuse, violence, sex work and unsafe sexual practices, a significant number of women can be infected with STD, including HIV and hepatitis, at the time they enter prison. As such, HIV prevention, treatment and care in women's prisons, covered by these rules, are vital to protect women from HIV/AIDS and prevent the spread of the disease. Peer education has proven to be particularly successful in a number of jurisdictions.

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 (Bangkok Rule 14).

³¹ **Women and HIV in Prison Settings**, HIV/AIDS Unit, UNODC, p. 3 www.unodc.org/unodc/en/drug_demand_hiv_aids.html.

A Case study from Zambia

Compliance Through Innovation³²

Comprehensive HIV/AIDS Health Programmes in Zambia Prisons HIV/AIDS is a pandemic with international impact and prison inmates have not been spared from its devastating effects. Zambia Prisons service has put in place measures to mitigate the effects of HIV/AIDS/TB and other related diseases in prisons. The establishment of medical directorate and the launch of policy and strategic action plan documents on HIV/AIDs, TB, STIs and other diseases in prisons so far helped in curbing death rates of inmates and officers.

A practice worth emulating within the Zambia Prisons service is the comprehensive health care programmes available for both the treatment and prevention of HIV/AIDs and other related diseases like Tuberculosis. HIV/STD sensitizations are carried out both within the prisons and among Prison officers. While peer educators are trained among inmates to educate and encourage fellow inmates to go for HIV tests and treatment, psychosocial counselors, also known as Home-Based Caregivers, are trained among Prison Officers and their spouses. A typical example can be found in prisons like the Maximum Security Prison in the Central region of Zambia which have Tuberculosis and HIV/AIDS corner made up of two prison officers from the Health unit and three prisoners who provide Health education (twice a week), Voluntary Counseling and Testing for inmates and officers.

The Home-based caregivers are trained to provide motivation and health education to infected Prison Officers or their spouses. They also organize monetary and material donations from the community used for the care of the sick. Tuberculosis supporters and Home based caregivers are also trained to help in monitoring Prison staff on Tuberculosis treatment and Anti-Retroviral treatments to ensure that they are complying with their treatment requirements. There is an efficient reporting system in place to ensure that the Zambia Prison headquarters is kept abreast of this process. All activities executed by the Caregivers are reported to the Headquarters through the regional coordinators and station coordinators. In order to ensure sustainability of this process Training of Trainers programmes are also carried out for Prison Officers so that they can train other prison officers and inmates. The World AIDS day, National VCT day and Tuberculosis day are celebrated annually within the prisons. They provide an opportunity for the Health directorate of the Zambia Prisons to create awareness of these diseases within prisons. In order to encourage the work of the Health Directorate, these three days are funded every year from the Prison Service Budget.

³²Prisoners' Rehabilitation and Welfare Action (PRAWA), op cited

In Zambia it is mandatory for an in-coming or out-going inmate to be tested for Tuberculosis. Out-going inmates are tested two weeks before their discharge date and in the event that they are positive, they are immediately put under treatment. These Health programmes are further encouraged through the partnership between the Zambia Prisons service and various institutions like the Zambia Ministry of Health, the Society for Family health, Zimbabwe Association of Crime Prevention and Rehabilitation of Offender (ZACRO) and CHRESO. All the clinics in prisons are administered by the Ministry of Health through the district health department. They are mandated with the treatment and care of inmates and prison officers. In order to monitor the morbidity rate within the prisons, all clinics are mandated to send every piece of information relating to health in prisons to the Ministry of Health. Zambia prisons have about 29 clinics and all the drugs used are provided by the Ministry of Health. In order for a clinic to become an approved Anti-Retroviral Treatment Centre by the Ministry of Health, it has to have proper laboratory facilities, pharmacy with a capable pharmacist, and nurses and clinicians trained in the management of Anti-Retroviral treatment. Prisons are not permitted to administer Anti-Retroviral treatments directly to inmates, Non-governmental organisations like Chresco who work in partnership with the prisons medical unit, provide Anti-retroviral treatments and counseling to inmates. Another organization partnering with the Prisons Service is ZACRO which helps in renovating health facilities, transport, training of medical personnel and procurement of drugs in prisons.

The Zambia Prison Service clinics are not only used by the Prison inmates and officers, but also by the surrounding communities.

The above exemplary case study of the Zambian innovation in the management of HIV/AIDS in prisons can be replicated in other developing countries of the continent, including Nigeria.

SESSION 4.4. WOMEN SPECIFIC SUBSTANCE DEPENDENCY TREATMENT

Substance abuse is very common with female prisoners and extra care needs to be taken to checkmate that. A large number of women prisoners worldwide are in need of treatment for substance addiction, though only a minority has access to treatment programmes, and especially to programmes designed for women offenders. When drug addiction is untreated in prison, the likelihood of re-offending is high, either on drugs charges or due to theft or illegal sex acts, often to finance the addiction.

In most countries (including Nigeria), women experience social, cultural and personal barriers to treatment entry in the community. These include the significant stigma and shame associated with substance use and related problems among women, such as –

- * fear of losing custody of children
- * lack of partner and other family support to undertake treatment and
- * lack of confidence about treatment.

There is significant evidence that substance abuse is tied to both past histories of violence and trauma as well as mental health conditions.³³ In addition, it is increasingly recognised that women have distinctive needs in relation to substance abuse treatment, though few programmes offer specialized services for them. There is now increased knowledge and awareness that gender differences in substance use and related problems require different treatment approaches.³⁴ These approaches include -

- * 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 (Bangkok Rule 15)
- * In addition, Member States of the UN have reached consensus on treatment strategy development that specifically includes references to gender. A gender sensitive approach to women's health care should therefore also take into account the need to provide specialized treatment programmes for women substance abusers.
- * Harm reduction programmes may be considered in programmes responding to the needs of women with drug dependency.

SESSION 4.5. MENTAL HEALTH AND CARE, INCLUDING SUICIDE AND SELF-HARM PREVENTION

- * The issue of mental health for women in prisons is very crucial as incarceration is often accompanied by mental health care issues for various reasons. In some cases, the feeling of despondency and frustration can lead to the breakdown of the mental state of a prisoner. In the case of women prisoners in particular, separation from their children and family can be quite devastating and could lead to a mental breakdown, self harm or a suicidal feeling.
- * Research in some countries indicate that women may be at higher risk of

³³Bloom B., Owen, B. Owen & S. Covington, Gender Responsive Strategies: Research Practice & Guiding Principles for Female Offenders, National Institute of Justice, US Dept. of Justice, USA, 2003

³⁴UNODC Drug Abuse Treatment Toolkit, Substance abuse treatment and care for women: Case studies and lessons learned, United Nations, New York, 2004, p. 23.

harming themselves or attempting suicide in comparison to men in prison, due to the higher level of mental illness and substance addiction among women prisoners and the harmful impact of isolation from the community on the mental well-being of women. These rules therefore provide for appropriate measures to safeguard against such acts.

- * All too often initiatives to prevent suicide consist only of technical solutions, such as the removal of items that may be used for suicide, the introduction of additional restrictions to reduce possibilities of suicide, which do not address the cause of mental distress, which lead to acts of suicide or self-harm. Such precautions may in many cases worsen the situation.
- * It must be emphasized that a fundamental element of strategies to reduce incidents of self-harm and suicide in prisons, is to create a prison environment, which promotes mental health. In parallel to the identification, and supervision of “at-risk” prisoners and the individual treatment provided to them, there is a need for prison managers and staff to take a proactive and positive approach to improve prison morale, in order to reduce incidents of self-harm and suicide (Bangkok **Rule 16 commentary**).

Activity 4. 2 (Promoting women prisoners' health)

Question for Participants to consider in smaller groups

What strategies would you suggest for the promotion of the health of women prisoners?

Some strategies to ensure that women prisoners in Nigeria enjoy the same health standards in prisons as in the community include that -

- * The conditions in prisons are conducive to protect and promote the physical and mental health of women prisoners;
- * Women's healthcare needs are determined on their admission to prison on an individual basis by qualified healthcare professionals and a healthcare plan developed for each woman;
- * Gender specific healthcare services, equivalent to those in the community, are provided to women;
- * Provision is made for women's specific healthcare needs, including mental healthcare needs, substance dependence, sexually transmitted infections (STIs) and HIV related healthcare needs.

- * Women prisoners, typically from economically and socially disadvantaged backgrounds, and often uneducated and illiterate, will generally have received minimal education or awareness-raising about prevention from STDs and reproductive health conditions. It is therefore important to raise the level of knowledge and awareness among women in prison, in order to prevent the development of such diseases. Volunteers, health services from outside and NGOs may be constructively involved in providing such awareness raising and education.

MODULE 5: SAFETY AND SECURITY OF WOMEN PRISONERS

Objectives:

- * To review the use of gender sensitive searches as element for ensuring safety and discipline in Prisons
- * To discuss the use of instruments of restrain as security measure, in the case of women prisoners
- * To highlight that good order which takes gender into account involves much more than control and is best achieved by positive means.
- * To analyze the role of independent complain mechanisms in protecting the safety and human rights of women prisoners

Introduction

Prison staff have a clear responsibility to protect the public by ensuring that prisoners do not escape from lawful custody. Maintaining good order presumes the existence of a set of rules and regulations which govern the daily lives of those who are in prison in order to ensure that everyone (staff, prisoners and visitors) can go about their business without fear for their personal safety. This module covers the elements for ensuring safety and discipline in prison. These include searches, restraints, maintaining discipline and order and putting in place a complaint mechanism.

SESSION 5.1. GENDER RESPONSIVE SEARCHES

All prisoners, including women prisoners, may need to be searched from time to time to ensure that they are not carrying illegal items, such as drugs or mobile phones. The procedures that are followed in relation to how and when searches are done are important indicators as to whether a prison is being managed in humane and gender sensitive manner.

How should searches of women prisoners and visitors be conducted?

- * 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. Search procedures should respect the dignity and privacy of the prisoner (**SMR 50-52 and BR 19 – 20**) and must not be used for harassment and intimidation.
- * Searches are a highly sensitive issue for all prisoners. Female prisoners may be especially sensitive to searches because of their gender and because some may have a background of abuse, including sexual abuse. Search that is carried out in a manner that is humiliating will have an extremely harmful impact on their mental well-being.
 - * Searches are governed by law and regulations and any decision on whether to conduct a search should consider whether it is necessary and proportionate. Some search procedures may amount to serious assaults on a person's privacy and dignity, and can carry the risk of injury. Intrusive body searches should only be employed as a last resort and should only be conducted in private and by trained staff of the same sex as the prisoner (**SMR 52 (1)**):
 - * Strip and cavity searches should always be conducted in private, and by a person of the same gender,
 - * Body cavity searches should be conducted by a healthcare professional, to protect the prisoner from physical harm. A staff member of the same sex can carry out a search if an independent health care professional is not available.
 - * When such intrusive searches need to be conducted they should be authorized by the chief executive officer in writing and the reason for the search should be put on record.
 - * Visitors to prison are also frequently searched. Searches of visitors must be subject to the same safeguards as searches of prisoners and take account of their status as non-prisoners (**SMR Rule 60**) .
 - * The findings of searches should be recorded. Prison administrations need to keep record of searches, in particular strip and body cavity searches and searches of cells. The identities of those who conducted them and the result of the searches should be included in the record .

Activity 5.1. (Group breakout session) – Sanctioned Sexual Harassment Through Searches.

Women are subjected to strip searches on a routine basis in some countries. These are sometimes carried out a humiliating way. There have been reports of women harming their lives following degrading treatment during searches.

In 2015, inmates at Mulili Maximum Prison reported 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 Sundays after visits. They were stripped naked and told to bend over and touch their toes in the presence of male and female staff. The prison officials explained that they were searching for valuables, cigarettes, drugs and money. Often times when the prison officials are busy they ask trusted inmates to carry out the searches on their behalf.

One day, Kemi was suspected to have hidden a cell phone after a visit by a friend. A decision was made by the head of the prison to search her. A female staff member who has completed training on searches escorted Kemi into a private room and carried out the search. Kemi was given a clear explanation as to why the search is being carried out, then she was stripped naked.

Two female prisoners, Ladidi and Uzor got fed up with the degrading and humiliating searches and feeling that their health was being put at risk, they refused to undergo any more invasive body examination. Consequently, they were placed in segregation for several days and forced to take laxatives. After that, they were refused family visits for 3 months as punishment for their disobedience. An investigation carried out in 2012, by the Special Reporter on violence against women discovered that many female prisons require women to undergo highly invasive and often traumatic strip searches that are not relevant to preventing illegal items from being smuggled into prison.

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'.

Questions to consider

Good prison management principles require that a clear set of procedures are established with regard to searches.

1. Did this practice comply with a gender sensitive prison management style?
2. What do **SMR 50-52** and **BR 19-20** say about:
 - a. When searches may be carried out
 - b. The manner in which searches may be conducted

See answers in Appendix 1.

SESSION 5.2. SECURITY IN WOMEN PRISONS

One of the most important components of promoting the social integration of women prisoners is to ensure that they are safe and feel safe at all times. If women prisoners' safety is not protected and they are fearful of being subjected to violence, all efforts at their rehabilitation is likely to fail.

- * A significant proportion of women who are admitted to prison will have experienced abuse and violence some time during their lives and will be in particular need to feel safe. Their mental health problems will almost certainly get worse in prisons where safety is not guaranteed and where they feel threatened by other prisoners or staff.
- * Under international law the rape of a woman in custody by agent of the state may constitute torture for which the state is directly responsible.
- * Perpetrators of sexual abuse in prison could be prison staff or other prisoners.
- * It is paramount that prison authorities develop policies and put into practice measures that provide for the maximum protection of women prisoners, in line with provisions of the Standard Minimum Rules and the Bangkok Rules and other human rights mechanisms. For example, women who are being transported to court should not be conveyed in the same vehicle as their male counterparts.

Steps to ensure women prisoners are not sexually abused?

- * The SMRs are very clear that men and women should be detained in separate institutions. Where this is not possible the institution which houses both men and women should have entirely separate premises allocated to women (**Mandela Rules 11A**). The physical separation of men and women is fundamental to the protection of women prisoners from male prisoners and needs to be strictly enforced.
- * Limited contact between men and women may be allowed, for example during certain activities and programs, but only subject to the consent of the women prisoners and on condition that the activities and programmers are closely supervised by staff to prevent any misconduct by prisoners. If a male member of staff needs to enter the section of a prison where women are held, he should only do so if he is accompanied by a woman staff. These provisions do not preclude specialist male staff, such as doctors and teachers entering women's prisons to carry out their professional duties (**MR 40**). However, adequate safeguards should be in place in all cases to prevent any abuse (e.g. A female health care should be present when male doctors examine women prisoners).
- * Supervision by female staff will help protect female prisoners from sexual abuse. If male staff have to be employed in female prisons because of shortage of

- staff, they should only work outside the perimeter and in administrative offices
- * In addition to protecting women from male prisoners, prison authorities need to ensure that women are protected from other women prisoners as well. This requires a separation of girls from adult women to protect girls from sexual or other forms of abuse that may be perpetrated by older women. It is also necessary to categorize prisoners and separate them according to security risk **(MR 11D)**.
- * Staff should also be alert to the possibility of the abuse of vulnerable prisoners (for example, those who are poor, foreign nationals who do not speak the local language, ethnic or racial minorities etc) by prisoners who are more powerful or who are in privileged positions.
- * Measures that can be taken to reduce and eliminate prisoner on prisoner abuse include:
 - * Prevention of a system of trustee prisoners, with special privileges and disciplinary powers. Prisoners should never be given any role that may have any relation to discipline and order (such as reporting on rule breaking by other prisoners) or any responsibility that may be exploited, at the expense of vulnerable prisoners.
 - * Prisoners who are poor and who do not receive any additional money, food or only hygiene materials from outside, should be provided with their needs by prison authorities or by cooperating.

Activity 5.2

Case Study- Abuse And Exploitation Of Women Prisoners

The following is an excerpt from report published by Dignity for Women Prisoners (DfWP) summarising its findings in a research carried out on the level of security provided for women prisoners in 6 women's prison "There were reports of sexual relationships taking place covertly between female inmates and male staff. Prison provision and food were inadequate and the rations were too small, so inmates were allowed to receive food and provisions from outside. Women with limited livelihood opportunities, especially those with no outside support engaged in these relationships, suggesting a form of 'survival sex'.

In one facility DfWP was informed that male staff get female inmates to do their laundry, cleaning and cooking, which may be a gateway to sexual abuses. In another facility, women spoke of the status gained by those with staff 'boyfriends', allowing them better sleeping spaces, more water, and food.

In a bid not to be outdone, while the supervision of women prisoners by female staff should minimise risks for abuse, especially sexual abuse, female staff also verbally abuse and ill-treat women prisoners. They get inmates to braid their family members' hair, do their cooking and wash and iron their clothes.

Review the report of DfWP in light of **BRs 31 and 33** that address the issues of abuse and exploitation of women prisoners.

See answers in Appendix 1.

Rules and issues on restraining prisoners

- * Prisons should be safe environments for all who live and work in them, i.e. for prisoners, for staff and for visitors.
- * No one in a prison should fear for his or her physical safety. Chains and irons shall not be used as restraints.
- * Discipline and order shall be maintained with inmates but with no more restriction than is necessary for safe custody and well - ordered community life.
- * **SMR 43 (2) and 47 – 49** address the use of body restraints on prisoners. The Rules specify that Instruments of restraint:
 - a. may never be used as a punishment or disciplinary sanction;
 - b. may only be used as a precaution against escape during a transfer (**SMR 47(2)**);
 - c. are only legitimate if no less form of controlling and actual risk is present, and they must not be used longer than necessary, for example they have to be removed in court when the prisoner appears before a judge or administrative authority, or on medical grounds;
 - d. Must not be degrading or painful;
 - e. To reduce the use of restraints prison staff must be trained in control techniques (**SMR 49**); and may only be used when authorized by law.

Use of restraints in childbirth

While **SMR 47(2)** provides that restraints can be used to prevent escape, there is no reasonable chance of a woman escaping during labour, while or soon after giving birth.

- * **SMR 48(2)** and **BR 24** 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. 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 should the need arise. Having the woman in shackles compromises the ability to manipulate her legs into the proper position for necessary treatment. It limits her ability to move to alleviate the pain of her contractions, which increases stress on her body and may decrease the flow of oxygen to her foetus. Unrestrained movement is critical during labour, delivery, and the post-delivery recovery period (**SMR 43,47,48& 49/ BR 24**).
- * In some countries body restraints, such as shackles, are used on pregnant women during transfers to hospitals, gynaecological examinations and child birth! Escape can be easily prevented with the proper supervision of the woman concerned. Therefore there can be no security justification for the use of restraints in these circumstances.

Removing discrimination in the way prisons are run

- * The level of security which is necessary will vary according to the threat of escape posed by individual prisoners. Prisoners who present no threat to public safety if they were to escape should be held in low- security prisons.
- * 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.
- * The comparatively small number of prisons for women means that there is often limited accommodation, or over classification for women prisoners compared to those available to male prisoners. For example, in a region where there might be four men's prisons of different security classifications, there may just be one women's prison. This means that women prisoners are particularly likely to be held according to a security classification that is stricter than could be justified by any assessment of the risk that they pose.
- * Conditions in prison should be only as restrictive as is necessary for safe custody of prisoners and a well-ordered community life in the prison. It is not appropriate to have generic security rules that apply to all prisons, regardless of whether they hold men or women.

- * The concept of security involves much more than physical barriers to escape. Security also depends on alert staff that interacts with prisoners, and ensures that prisoners are kept active in a positive way. This is often described as dynamic security. For example, an officer in a watch tower on the perimeter is likely to see an escape attempt only after it has begun. Whereas an officer who works closely with prisoners and knows what they are doing will be much more aware of possible threats to security before they occur.
- * 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:
 1. developing positive relationships with prisoners;
 2. diverting prisoners' energy into constructive work and activity; and
 3. providing a decent and balanced regime with individualized programmes for prisoners.
- * The SMRs 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 **SMR 76 (1) (c)**. In women's prisons an emphasis on dynamic security is especially suitable, due to the harmful effects that 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.

Activity 5.3

Group Exercise 5.3.1: Dynamic Vs Physical Security

One element of security is provided by physical means such as walls, fences, bars and locked doors. Another element, which is often described as dynamic security, comes from staff moving among prisoners, getting to know them and assessing risk. Dynamic security is not just about preventing prisoners from escaping. It is also about maintaining good relationships with prisoners and being aware of their moods and temperament.

Discuss how these two elements can complement each other and how they can pose a risk to women prisoners.

Group Exercise 5.3. 2- What Level of Security is Required?

The following prisoners have just been admitted to prison. Consider what level of security they require:

1. Amina murdered her boyfriend in a drunken brawl and has just been sentenced to life imprisonment. She has no previous criminal record.
2. Maria was caught with drugs at Murtala Mohammed International airport and was sentenced to 4 years' imprisonment. This is her fourth offence.
3. Ronke embezzled 90 billion naira from a company and was part of an international money laundering syndicate. She has been sentenced to 2 years in prison.
4. Justify your decisions in terms of the BRs

See answers in Appendix 1.

SESSION 5.3. DISCIPLINE AND ORDER

- * The rules addressing discipline and order can be found SMRs 27- 32 BRs 21B, 22, 23
- * There must be a balance between positive encouragement and discipline. The vast majority of prisoners will respond positively to being treated in a decent and humane manner.
- * Prisons are living places. It is possible to have an environment which is relaxed while at the same time security and good order are not sacrificed.
- * The experienced prison officer is aware that coercive control is not sufficient to ensure good order .
- * Prison authorities should not place any prisoner in a position which allows him or her to impose discipline on other prisoners.
- * Contact with family members, especially children, is crucial in supporting the rehabilitation of women prisoners. BR 23 & SMR 43 (3) prohibits limiting family visits, especially with prisoners' children as a disciplinary measure. This requirement is based on the recognition that family contact is one of the most important rights of prisoners, which contribute significantly to their social reintegration. The prohibition of such contact does not have any beneficial impact on a prisoner who has breached discipline, but is likely, on the contrary, to make such prisoners more resentful and aggressive.

- * The SMR 44 defines solitary confinement as “*confinement for more than 22 hours per day without meaning full human contact.*” Interpretation of 'meaningful human contact' should recognise the suffering that any person will experience if deprived of contact with other human beings and can be termed as torture because of its extremely harmful psychological and sometimes physical effects. Given its devastating effect on physical and mental health, SMR 45 stipulates that solitary confinement should be used only:
 - a. In exceptional cases;
 - b. As a last resort;
 - c. For as short a time as possible; and
 - d. After authorization by a competent authority .
- * 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.
- * 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 of or pregnant women and women who have recently given birth. The SMR 45 (2) & BR 22 explicitly prohibits the use of solitary confinement or segregation for pregnant women, women with infants and breast feeding mothers.

Punishments

- * While it is probably the case that nobody welcomes punishment, this is unlikely to be true for discipline. If the disciplinary code is publicised and adhered to, it is unlikely that there will be opposition to its implementation.
- * There are certain types of punishments that are prohibited by international standards and should never be used on any prisoner. These include the following:
 - 1. Indefinite solitary confinement;
 - 2. Prolonged solitary confinement;

3. Placement of a prisoner in a dark cell;
 4. Corporal punishment
 5. The reduction of a prisoner's diet or drinking water; and
 6. Collective punishment .
- * Solitary confinement of prisoners with mental or physical disabilities and on pregnant women, women with infants and breastfeeding mothers (BR 22) .
 - * The rules and procedures must be published and available to all prisoners and staff so that it is fully understood what will happen if there are infringements.

Activity 5.4 Role Play –Taking account of the international instruments, prepare and present a role-play in which a prisoner in Kotonga Prisons has been accused of a breach of discipline and the disciplinary procedures are invoked. The various roles are those of the adjudicating officer, the prisoner, the charging officer and witnesses. A possible scenario might be one in which a prisoner is accused of trying to smuggle drugs into the prison in the course of a visit. The officer says that she clearly saw the prisoner take drugs from her visitor and put them in her underwear. There is no evidence of drugs. The prisoner asks to call her visitor as a witness. Her request was not granted and she was kept in solitary confinement for a week. Because of the seriousness of the charge and harshness of her punishment, the prisoner asks for legal representation. The director of the prison is concerned about the incidence of drug abuse in the prison. The director wishes to support staff in this difficult situation but also has to take account of natural justice. What steps should the director take?

Activity 5.5. Group Exercises to be done in pairs

Small Group Exercise 5.5.1. Eliminating Prisoner-To-Prisoner Intimidation:

The majority of prisoners will respond to clear directions from staff. If staff is not in charge of the prison a vacuum will be created. That vacuum will be filled by the strongest prisoners. That would be a bad development for the prisoners and the prison system. How can staff create an environment in which the majority of prisoners will not be intimidated by a powerful minority?

See suggestions in Appendix 1.

Small Group Exercise 5.5.2. Eliminating Harassment and Bullying:

In the coercive environment of the prison it may be impossible to eliminate harassment and bullying. What steps can be taken to reduce these and to make prisons safe places for prisoners and staff?

See suggestions in Appendix 1.

Small Group Exercise 5.5.3- Overcrowding at Gadumma Women Prison

Group exercise : Gadumma women prison has been having a challenge with overcrowding and acute shortage of staff. The few staff felt that their only option in maintaining discipline and order was by using restrictive and authoritarian management styles, with a tendency to punish prisoners frequently for small violations. Solitary confinements and denial of food and water were common forms of punishments. After an inspection visit to the prison, a team of UN inspectors noted that '*while this was understandable and may lead to a disciplined prison, such an attitude has negative connotations*'. In your opinion what are the negative repercussions that might result from such authoritarian and punitive management style?

See suggestions in Appendix 1.

1. Discipline and order can be maintained with an authoritarian management style, by instilling fear and intimidation in prisoners with frequent punishments for rule breaking or it can be maintained with an empathetic attitude, understanding and mediation, rather than punishment.
2. If prisoners are kept occupied and are given the opportunity to use their time positively they will respond to the reasonable and justifiable rules and regulations which are necessary in any large group of people in order to ensure that good order is maintained.
3. A sensitive balance has to be struck between encouraging prisoners to take responsibility for their own actions individually and as a group, and ensuring that individual prisoners are not placed in positions of authority over others. Prisoners should not be used to make up for a short age of staff.

The best guarantee against ill-treatment of prisoners is the presence of a properly trained and thoroughly professional staff whose interpersonal skills are such that they are able to carry out their duties successfully.

SESSION 5. 4. INSPECTION AND COMPLAINTS MECHANISMS

Inspection, independent monitoring and complaints mechanisms and procedures are covered in **BR 25, 35, 36 and SMR 55- 57**). Prisons should be run according to the rule of law and for good order and discipline. Thus, staff should never assault or harass prisoners. They have a duty to ensure that prisoners are safe and protected from violence inflicted by other prisoners. In many countries, prison staff is rarely prosecuted for abuses of the law. While it is important to ensure that crimes against prisoners are dealt with through the justice system, preventive measures should also be in place.

Without a properly established and independent complaints procedure, prisoners are at the mercy of the prison authorities and have no way of seeking redress for abuse. This especially applies to GBV. Without access to such recourse, they are likely to express their frustration through violence, self-harm or damage to property.

Whether major or minor, complaints which are ignored or are not adequately answered can be major sources of conflict in prisons. Providing prisoners with accessible, confidential and effective complaints' mechanisms will ensure legitimate outlet for prisoners' dissatisfaction and help to reduce tension, fear and arbitrariness in prisons.

It is important to acknowledge that the Nigerian Prisons Service has a Complaints Policy and Procedure for Borstal Training Institutions and Prisons in Nigeria. The document was developed in collaboration with UNODC and UNICEF in 2017. There are also dedicated telephone lines for reporting unlawful activities within the prison.

How should complaints mechanisms meet the needs of women?

The SMRs and BRs provide that:

- * Every prisoner has the right to make complaints to the prison director, his or her authorized staff, external inspectors, the central prison administration and judicial authorities, or through the prisoner's legal representation without censorship (SMR 56). BR 25, SMR 8 (d) emphasize that a gender sensitive prison management approach would ensure that women prisoners are able to apply to a senior member of staff, without fear of intimidation or hostility, to discuss any problems, including about treatment by staff or other prisoners.
- * Prisoners should be able to talk to monitoring bodies, such as prison inspectors, or representatives of NGOs in full privacy and confidentiality. BR 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 so wish.
- * Experience worldwide indicates that women, especially those who have a background of abuse and who are otherwise vulnerable (socially, economically or due to low educational levels and low self - esteem, mental disability or due to foreign nationality) may not have the confidence to complain, especially if the procedures are unclear and difficult to access. Thus it is highly important that staff is accessible and are seen to be accessible to women prisoners.
- * In addition it is equally important that all women prisoners are fully informed about complaints procedures to higher and independent authorities, such as women and national human rights institutions, and that they are never discouraged from submitting complaints to such bodies.
- * 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. The information should be available in more than one language for prisoners who do not speak the majority language; be posted in common areas around the institution and have illustrations so they are understandable to illiterate prisoners (SMR 54, 55).
- * If a woman prisoner complains of sexual abuse, this should be taken very seriously, as sexual abuse may amount to ill-treatment and torture, depending on the case. Such complaints will require an independent investigation, which means an investigation by a judicial or other competent authority, independent of the prison administration. All such women should be informed of the in rights

to lodge an official complaint and should be assisted to access counselling and legal counsel without delay, in order to help them decide whether or not to lodge an official complaint and to assist them with the complaints procedure, if they so wish. Women who have become pregnant as a result of rape should be provided with immediate access to qualified healthcare professionals. Women prisoners who report abuse should be provided with immediate protection, as necessary. If the complaint is against prison staff member, that person should be assigned to other duties, which take him or her away from any contact with the woman concerned, so that he or she is not in a position to prejudice the investigations and so that the woman is protected from retaliation. If the allegation of abuse is serious enough, the person may be given a leave of absence while the allegations are investigated.

- * Transferring the woman to another prison is only advised if this will not result in the woman being housed further away from her home than in the original prison. Segregating the woman is not recommended, as this may be perceived as punishment, unless the woman concerned requests segregation.
- * Creating a climate where abuses such as GBV are exposed and not shrouded in a culture of impunity will help protect men and women prison staff from false accusations through independent evaluations of complaints against them.
- * The number of prisoner complaints received by independent authorities is not necessarily a sign of bad prison management, but on the contrary, may be a sign of good practice, as it demonstrates that prisoners are not afraid of submitting complaints and that they expect action to be taken as a result of their complaints.

Gender Responsive Complaints Procedures

Activity 5.6 Quick Quiz- True or False Exercise- Group work
Complaints should be investigated by any competent and objective prison
Only women claimants of physical and sexual abuse should be given access to counsel and legal aid without a fee
A prison staff member who has been accused of sexual abuse by a female prisoner should be re-assigned while investigations are going on
Information on complaint procedure should be given to a prisoner as soon as he or she settles down in prison after admission
<i>See answers in Appendix 1.</i>

MODULE 6: CONTACT WITH THE OUTSIDE WORLD

Objectives:

- * To explore why regular contact with family members and friends is important to women prisoners
- * To demonstrate an understanding of the importance of access to newspapers, books, television and radio in ensuring that women prisoners are not isolated from the outside community
- * To consider the need for women prisoners' contact with legal counsel and representatives of civil society

Overview:

The SMRs, the BRs and the NPSOs provide that prisoners be allowed to communicate with their family and friends at regular intervals. They also advise that prisoners should be kept informed regularly of the more important items of news. While noting that contact with the outside world may be the main means of reducing the risk of alienation, anxiety and hopelessness caused by isolation from society, this module covers how authorities can encourage and facilitate contact between women prisoners and their families.

SESSION 6.1. WHY PRISONERS' CONTACT WITH THEIR FAMILY MEMBERS IS IMPORTANT

- * The Bangkok Rules recognize the discrimination experienced by women in their contact with the outside world and require that prison authorities take measures to counterbalance the disadvantages faced by women in this respect. Bangkok Rule 43 recognizes that visits are an important prerequisite to ensuring women prisoners' mental well-being and social reintegration. In many cases imprisoned women are frequently abandoned by their partners or husbands, sometimes due to the stigma because of their imprisonment.
- * Women have a very strong emotional need for contact with their families, especially where children are involved.
- * In a research carried out by a CSO in Thailand in 2013, some reasons given by husbands for minimal visits to their wives in prison ranged from too busy, too expensive, too far and no telephone facility.
- * Women may face additional challenges in having access to their children and who,

if very young, may not have the means to travel the long distances involved in visiting their mothers. Mothers who are in prison have special needs as regards contact with their families. The rights of the children of such mothers must always be kept in mind.

- * Women prisoners' contact with their families, including their children shall be encouraged and facilitated by all reasonable means.
- * Because women prisons are fewer they are likely to be allocated far away from their home, which makes it difficult to maintain links with their families, friends and/or civil society organisations. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes
- * Prison authorities should allow and encourage long visits with families, especially where children are involved, in order to help maintain a positive relationship between the prisoners and their families and to respond to the emotional needs of both the women and the children
- * Imprisonment will often break up family relationships and break down links with the community. If prisoners can maintain links with family, friends and the community while in prison, this will reduce the harmful effects of imprisonment and make it more likely that they will be reintegrated into the community when they are released.
- * 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.
 - * Allowing as much contact as possible with families and others prison authorities will reduce the risk of mental ill-health amongst women prisoners and improve the prison atmosphere.
- * Increasing women's contact with the outside world does not require significant additional resources, but can have an immense impact on women prisoners' prospects for social reintegration and reduce stress and tension in prison.
- * Any contact with the outside world is likely to raise some security considerations. It is important, therefore, to find ways in which appropriate levels of contact can be maintained without jeopardizing security. This will usually be possible, provided that staff understand that both security and contact with the outside world are equally important elements in their difficult task.
- * Foreign prisoners shall be allowed to communicate with their diplomatic representatives.

Activity 6.1

Group Exercise: (To Be Presented As a Skit): Encouraging Prisoners' Contact with the Outside World

Despite being deprived of liberty, prisoners retain a right to have contact with their family and friends and the outside world. All prisoners have a right to a reasonable level of contact with the outside world. Such contact is a right, not a privilege. The basic right to family contact should not be removed. Prison authorities should consider the consequences for relationships between the prisoner and his or her family before imposing any disciplinary measure that would restrict contact with the outside world.

Deprivation of the right to send and receive letters should not form part of a disciplinary measure. Similarly, the right to receive visits should not be removed. If the offence committed is related in some way to visits, for example receiving drugs, the authorities may limit the conditions in which visits can be received. It is generally accepted that home leave and temporary conditional release are privileges which can be forfeited if the prisoner breaks prison rules or regulations.

The director of Yalinga women's prisons is presiding over a staff meeting for the month of May. One of the items on the agenda is to discuss a challenge that the prison has been facing whereby outside contact to women in the prison had reduced by 70%. The prison director is trying to convince local community leaders that women prisoners are not a threat to the local community. Participants should discuss questions 1 & 2 in two groups and present the conversations and responses in form of a skit.

6.1 Group 1: How can a prison director convince the local community leaders that prisoners who come out to work on temporary release will not be a threat to the local community?

See suggestions in Appendix 1.

6.1 Group 2: How can prisons facilitate and encourage visits and communication with family members? What arguments can be used to convince them that close contact with prisoners might benefit the community?

See suggestions in Appendix 1.

Letters

Letters constitute an extremely important means by which women prisoners can maintain links with their families and friends. Where visits are restricted due to women's imprisonment far away from their homes, letters become all the more important for both the women and their families. It is one of the most practical and cheap way of maintaining contact when people are apart. CAPIO survey indicated that women prisoners in Nigeria can make and receive calls through the prison welfare office.

- * The smuggling of items into prisons remains a problem for staff to deal with across all jurisdictions and it is unlikely that even the most draconian measures can assure total success in prevention.
- * With the exception of a small group of very high-security-risk prisoners, there is little need for any reading or censoring of mail. In respect of this small number, there may be reason to suspect that attempts may be made through correspondence to:
 - * arrange escape attempts (It is now generally accepted that it is highly unlikely that a prisoner will discuss escape plans or conduct criminal activities via written correspondence and that only in extreme cases would such censorship represent a reasonable condition and restrictions);
 - * cause disorder in the prison;
 - * pervert the course of justice;
 - * smuggle items into the prison
- * Censoring of prisoners' mail without proper cause is an infringement of their rights; it would not appear necessary to censor all the mail of all prisoners, but it might be appropriate to censor correspondence with suspected individual;
- * Prisoners who are unable to read and write may have their mail dealt with by sympathetic staff or prisoners, but there is scope here for humiliation and exploitation, so the situation should be monitored
- * The need to communicate with family and loved ones is often the spur for illiterate prisoners to learn to read and write while in prison; full advantage should be taken of this situation.
- * In some prison systems, all incoming and outgoing letters are monitored, which takes up a significant amount of staff time. Given that staff shortages exist in many countries, this task is all the more detrimental to the proper management of women's prisons, putting additional pressure on staff resources. To compensate, some prison administrations restrict the length of letters women and their correspondents can write, which undermines meaningful contact between the women prisoners and their families and friends.
 - * Internationally, there have been quite restrictive regulations in this area in the past, but today more liberal opportunities for prisoners to receive and send letters are considered to constitute good practice. When all letters are read and

censored by prison staff, delays in the flow of letters occur and valuable time and resources are wasted.

- * Based on prisoners' risk assessments, the incoming and outgoing letters of only a small number of prisoners may need to be read, with the exception of those which involve correspondence with legal representatives, higher judicial authorities (e.g. complaints), human rights bodies or parliamentarians. Prisoners should be able to have confidential communication by letter with their legal advisers. Such prisoners need to be informed that their private correspondence is subject to monitoring.
- * It may be appropriate to open incoming mail, in the presence of prisoners—to ensure that no forbidden items are enclosed.
- * Although letters and postage may be relatively cheap, the cost may be more than many prisoners can afford. It may be necessary to supply them with writing materials and postage stamps at public cost, particularly those women who are poor and who cannot afford to buy these items themselves.

Activity 6.2. - Case Study - Assisting a Foreign Prisoner to Contact Relatives.

Adeline is from Republic of Benin. She is serving a five year sentence in women's prisons in Nigeria. She speaks only her local language which no one in the prison understands. She neither sends nor receives letters. Adeline wants to write to and receive letters from her family. Through an interpreter, she asks if she may also make monthly telephone calls to her family. Bearing in mind the right to contact family members, what arrangements should the prison authorities make to allow her to do so without threatening the security of the prison?

See suggestions in Appendix 1.

Activity 6.3 Case Study– Request From Relative Not to Receive Letters from a Woman Prisoner

Prisoners are allowed to send letters without censoring. A prisoner's husband contacts the prison director to say that neither he nor their children wish to receive any further letters from the prisoner. The husband asks the director to ensure that she (the prisoner) does not send them any letters. What should the director do?

See suggestions in Appendix 1.

Telephones

Many people are more at ease with oral rather than written communication. The sense of isolation which a prisoner and his or her family may feel can be reduced if regular communication by telephone is possible. Staff should be aware of the complexities of this issue.

- * Telephone calls can be an important means for prisoners to maintain contact with their families and the possibility to make and receive telephone calls should be made widely available to all women prisoners
- * The international instruments make no specific reference to the use of the telephone. The SMR observes that the rules cover a field of issues that can be decided through experiment and practices, provided these are in harmony with the principles- (SMR 3)
- * CAPIO Survey showed that in most women prisons in Nigerian, prisoners pay to make phone calls
- * A telephone call can serve as a substitute for a letter or a visit, or can clear the way to make a visit or letter more productive
- * Telephone contact may be especially important:
 - * In the case of foreign nationals for whom visits may be virtually impossible;
 - * For a prisoner to communicate with his or her legal representative.
 - * In cases of emergency, prisoners should be allowed to use official telephones under appropriate supervision.
- * As with letters and visits, there can be security considerations in allowing telephone calls. It may be necessary for some prisoners to make and receive calls from an office under the supervision of a member of staff. It may be necessary for staff to monitor or record some calls if there are good reasons for doing so
- * Telephone communication may be facilitated by having easy access to telephones or telephone booths within the prison. The facility can be censored for security reasons only to the point where this is necessary
- * The possibility to talk over the phone is, of course, of particular importance for those women who are illiterate. Also, if prisoners' families and friends live far away from the place of imprisonment, visits are more difficult and telephone calls can serve as a substitute
- * Only in the case of prisoners who have been assessed as high risk is there a reason to routinely monitor telephone conversations. Prisoners must be informed that monitoring will be undertaken
- * In other cases, telephone calls may be recorded and retained for a specific period of time.

- * Telephone contact is particularly important for foreign national prisoners whose families do not reside in the country of imprisonment.
 - * Such prisoners should be allowed to make and receive telephone calls as frequently as possible to compensate for the lack of contact with families via visits. Telephone calls should not be prohibited only on the basis of there not being any staff member in the prison who speaks the language spoken by the prisoner, if the individual risk assessment of the prisoner did not indicate a need to monitor her telephone conversations. As with other prisoners who have not been assessed as posing a risk, the telephone calls of foreign national women may be recorded and retained for a period of time instead.
- * The cost of phoning from prison should never be higher than in the community and where possible, the cost should be subsidized especially in the case of women who are poor and who have children outside prison.

VISITS

- * An important method of maintaining contact between prisoners and the outside world, especially with their families, is through regular visits. They enable women to maintain, as far as possible, a normal relationship with their spouses, partners and children, and are one of the key factors that can assist in women's social reintegration.
- * Family visits should be given high priority in terms of frequency, duration and quality and not restricted as part of any disciplinary or control process.
- * Prisoners should be held as near to home and family as possible, to enable frequent visits .
- * Time spent by the visitors with the prisoner should not be reduced by long administrative procedures on entry.
- * Closed visits are only imposed when there is strong evidence of abuse and not as a punishment – and their imposition should be regularly reviewed
- * If visitors are banned, the reasons are made clear, and the decision can be appealed against and is reviewed at regular intervals
- * If a prisoner is transferred, his or her family should be given adequate notice
- * To be treated with respect and for their dignity, prisoners must be able to keep themselves clean and carry out bodily functions in private.
- * Inspectors or UN monitors must have unrestricted access to all parts of the prison at all times and be allowed to communicate with all prisoners.
- * **Protecting women prisoners:** While maintaining contact with family and friends is crucial for women prisoners they should be consulted as to who may visit them. This is particularly important given women prisoners' disproportionate experience of

domestic violence. Being visited by the perpetrator of such violence is likely to cause distress and fear (BR 44).

- * There are a number of steps that prison authorities can take to facilitate and increase women prisoners' contact with their families, as required by the Bangkok Rules. Most of these measures do not require any additional resources although the benefits are likely to be immense.

SESSION 6.2. ACCESS TO BOOKS, NEWSPAPERS, TELEVISION, RADIO AND THE INTERNET

- * Books, newspapers, the broadcast media and the internet are important means through which prisoners can keep in touch with the outside world and also keep themselves constructively occupied and up-to-date with current affairs, while broadening their horizons. This media should be use with caution to avoid circumstances that trigger prison agitation and restiveness.
- * The SMR provide for prisoners' access to newspapers, periodicals and other publications, radios and lectures, or any similar means to access news from outside, as authorized by the prison administration. (SMR 63).
- * Ensuring that prisoners have the means to keep themselves informed of current affairs is important to reduce their sense of alienation and isolation from society.
- * If they do not pose any security threat, prison administrations should ensure that the main newspapers published in the country, as well as other magazines and periodicals of general interest are available in multiple copies in prison libraries and that television sets and radios are placed in communal areas for prisoners' use in their free time.
- * Access to the internet for the purpose of gathering information and keeping up to date with the news should be available to prisoners.
- * Effort should be made to subscribe to newspapers and periodicals in languages that represent the main foreign languages spoken by foreign national women held in particular prisons.
- * These are measures that do not need significant resources to implement, but will enrich prisoners' lives considerably, while contributing to their education and entertainment, which are important to protect their mental wellbeing and create a positive prison atmosphere.
- * Cooperation with civil society organisations, which can help with donating publications to the prison, as well as organizing talks and lectures by academicians, journalists and others on matters of general interest, may also be a way in which prison authorities can strengthen women prisoners' sense of being a continued part of the community, rather than their exclusion from it (SMR 88.1).

SESSION 6.3 CONTACT WITH LAWYERS AND INDEPENDENT MONITORING BODIES

Women prisoners may also be disadvantaged when it comes to contact with legal representatives or in accessing legal aid, due to their low economic and educational level, unawareness of their rights and lack of self- confidence.

- * The SMRs provides for all prisoners to have access to legal advisers or a legal aid provider via visits and communication without delay and censorship and in full confidentiality. Consultations with lawyers may be within sight, but must be out of hearing of staff. If the prisoner does not speak the local language, the prison administration must facilitate access to the services of an independent interpreter. All prisoners must have access to legal aid.
- * The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, provides for anyone who is detained, arrested, suspected of, or charged with a criminal offence punishable by a term of imprisonment or the death penalty to be entitled to legal aid at all stages of the criminal justice process.
- * The BR recognises that women prisoners may face challenges in enjoying their right of access to legal counsel due to women prisoners' generally low level of education, economic and social status, lack of experience of any contact with state authorities, unawareness of their rights, fear and lack of confidence. Therefore, they require that prison authorities facilitate newly admitted women's access to legal counsel. This rule covers pre-trial detainees as well as sentenced prisoners.
- * BR 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 SMR 54(b).
- * Prison authorities have the responsibility to explain to all newly admitted women, whether they are pre-trial or sentenced prisoners, or foreign nationals their right of access to legal counsel and legal aid, and facilitate such access if the women themselves are not able to do so;
- * In cases where the prisoner does not speak the local language, prison authorities should facilitate their access to the services of an independent, competent interpreter.
- * Lawyers and all legal aid providers should be allowed and encouraged to visit their clients in prison without restriction and their consultations with their clients should be confidential. They should also be able to have confidential communication by letter or telephone with their legal advisers.
- * The searches of lawyers and legal aid providers on admission to prison should comply with principles of dignity and respect. They may only be subjected to pat down and frisk searches and scans. The search must never include the searching of any documents.

- * In addition to contact with their lawyers, pre-trial prisoners should be able to maintain contact with judicial authorities, with their families and friends, with their doctors, with religious representatives and with external inspecting agencies.

Barriers to legal representation for women offenders

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 defense. 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).
- * Research has shown that defendants have a significantly better chance of acquittal when they are not deprived of their liberty while preparing their defense (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.
- * 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.
- * Some 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.

What do the Bangkok Rules say about women prisoners' access to legal representation?

BR 26 reiterates that prisoners' access to legal representation is not limited to the pre-trial period and lays out measures to provide meaningful access.

MODULE 7: REHABILITATION ACTIVITIES AND PROGRAMMES FOR WOMEN PRISONERS

Objectives:

- * To consider the provision of holistic, comprehensive and effective rehabilitation programme of activities for women prisoners (education, work, vocational training, sports cultural activities and recreation) ;
- * To demonstrate an appreciation of the importance of gender-specific, psycho-social programmes in the rehabilitation of women prisoners; and
- * To deliberate on enhancing women prisoners' post - release prospects for social reintegration.

Overview

Deprivation of liberty is a punishment in itself. It is not the task of the prison administration to inflict further punishment on the prisoner. On the contrary, prisoners should be encouraged to use their time in prison to learn new skills, to improve their education, to reform themselves and to prepare for eventual release. The module on activities and programmes for women prisoners highlights the need for balanced programme of activities for rehabilitation of women prisoners through access to education, work, vocational training, sports, cultural activities and recreation .

SESSION 7.1. HOW CAN PRISON AUTHORITIES PROVIDE A HOLISTIC, COMPREHENSIVE AND EFFECTIVE REHABILITATION PROGRAMME OF ACTIVITIES FOR WOMEN PRISONERS?

1. 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 (**SMR Rule 4**).
2. It is required for prisoners to be involved in a range of work activities which are useful and which will equip them with skills which they can use after their release.
3. All prisoners, including women prisoners, must be provided with a balanced and

comprehensive programme of activities. This means, for example, that requiring prisoners to work all day and every day of the week, without providing them with opportunities and time for education, sports and recreation or participation in psycho-social support programmes, among others, is not acceptable. It is also not acceptable to only provide vocational training or education and then leave the prisoners idle the rest of the time.

4. It is important to look at activities and programmes based on individual needs and interests, in the rehabilitation and social reintegration of women prisoners. The concept of individualization is central to prisoner rehabilitation. It means that each prisoner should be offered activities and programmes based on individual needs, which are determined by the assessment undertaken on admission to prison and repeated at regular intervals. The key principle of individualization in the rehabilitation of prisoners is underlined in the **SMRs 89 and 94**.

- * The fulfillment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups. It is therefore desirable that such groups should be distributed in separate prisons suitable for the treatment of each group (SMR 89).

- * As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions (SMR 94).

5. Classification methods (BR 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 and shall 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.
6. Individualization of programmes for all prisoners is likely to present challenges, especially if specialist staff are lacking to undertake and execute the comprehensive assessments required by the Bangkok Rules.
7. In such circumstances certain activities may be prioritized targeting specific groups: For example education for those who are illiterate or who have very low levels of education or drug treatment programmes; programmes that promote mental health

with voluntary participation, but accessible to all prisoners; reproductive and sexual health education for all prisoners; special programmes on pregnancy and parenting skills for pregnant prisoners and breastfeeding mothers.

8. Cooperation with service providers available in the community and civil society organisations may be strengthened so that they may conduct assessments among prisoners and deliver programmes to address individual needs.
9. The prison administration may conduct surveys among prisoners to gather information as to what programmes the women themselves would like to be offered and prioritize programmes on that basis.
10. A principle which is emphasised by the SMRs is that the separation of prisoners from society should not lead to the disruption of their links with the community. On the contrary, their treatment should encourage and emphasise prisoners' continued part in the community (**SMR 88**).
11. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing as part of it. Community agencies should, therefore, be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.
12. The activities and programmes provided must resemble as far as possible life outside prison, with a variety that takes into account the special rehabilitation needs of each individual woman. They should be balanced to provide meaningful occupation, with sufficient emphasis on each aspect of women prisoners' need for personal development.
13. This understanding is reflected in the first paragraph of **BR 42**.
 - * Women prisoners shall have access to a balanced and comprehensive programme of activities, which take account of gender appropriate needs.
 - * 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.
 - * The prison administration 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.

14. This rule takes into account the fact that in many prison systems, these categories of women are not able to participate in many activities in prison, either because there are no appropriate programmes for them, or because their breastfeeding times do not allow them to participate or because they must remain with their children as there is nobody else to take care of their children, while they participate in activities. The following are some measures that may be taken to address this:
 - * Where there is shortage of nurses or care givers, other women prisoners may act as care givers while the mothers participate in activities and this responsibility may be rotated among suitable prisoners, selected and trained for the task. Such training may serve the women well as a future occupation as care givers in the community.
15. BR63 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 child, and also the specific reintegration benefits of an early release, given women's generally low security risk.

Good Practice: How to put women prisoners' time into good use

The Correctional Institute for Women in the Philippines holds over 2,000 women prisoners. It offers a varied and comprehensive programme of activities to women prisoners. The prison authorities there have established links with NGOs and with health art therapy and education professionals which have enabled them to increase and diversify the activities and programmes provided to the women. Most women in the facility are engaged in activities ranging from baking, massaging, pedicure skills, computer training and day courses on areas such as social etiquette and sign language. This institution has also collaborated with the Ministry of Education to offer women prisoners formal education classes for a few hours each day, ranging from basic to high school education.

Education

The Standard Minimum Rules provisions on work and vocational training are outlined in **SMR 96 to 103**

1. According to available data the majority of women in prison in Nigeria have a low level of education, similar to the profile of women prisoners in other countries worldwide.
2. The SMRs require that education is offered to all prisoners who may benefit from further education. Education in prison should be integrated with the educational system in the community so that prisoners can continue with their education following release.
3. Education received in prison should lead to an officially recognised certificate, in order not to discriminate against the prisoners' right to the same level of education provided to others and not to disadvantage them if they continue their education following release.
4. The Bangkok Rules provide that special programmes and activities be provided for pregnant women and breastfeeding mothers. These may include special healthcare programmes to address the needs of these categories of women and their children. Exercise, education on parenting skills classes can provide such women with relevant skills.
5. Education is essential in the case of prisoners who are illiterate, as well as young persons, who are faced with a break in their usual schooling with imprisonment.
6. Prisoners may be encouraged in various ways to participate in education programmes, such as reducing their sentences in line with the number of hours they spend attending education courses or as a reward for certificates received.
7. Establishing prison libraries stocked with a wide selection of books, ranging from instructional books and reference materials to novels, as well as periodicals and newspapers is also an important component of enabling prisoners to educate themselves in the broadest sense.
8. Prisoners should be encouraged to use libraries and borrow books, as reading provides a very constructive way in which to spend their free time, while improving the prison atmosphere (**SMR 64**).

9. Prison administrations may engage with libraries in the community to receive their assistance to develop prison libraries, provide books and offer ongoing administrative assistance. The opportunity may be used to have community librarians train selected prisoners as librarians, who may then be given responsibility to help administer prison libraries.
10. Cooperation with NGOs can also be immensely beneficial as such organisations may channel book donations to prisons.

Vocational training and work

- * International experience and research have shown that women prisoners often come from marginalized and disadvantaged backgrounds and in most countries will have faced discrimination in their access to work. Even where women had been employed prior to imprisonment, their earnings are often very low, as they tend to work in unskilled jobs due to lack of education or vocational skills. Therefore, women prisoners are in great need of vocational training and developing their work experience so that they can live crime-free lives following release.
- * The main principles of prison work are that: work should not be of an afflictive nature and it should be meaningful
- * Specific conditions of work for prisoners are detailed in the (SMR 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.
- * Working conditions should resemble those outside prison with adequate health and safety precautions in place.
- * Prisoners should be adequately remunerated for the work they have done.
- * Prisoners should work normal working hours and should not be required to work on weekends.

Activity 7.1 Group Exercise: Rules on Prisoner Rehabilitation

Using the compilation of instruments, particularly **SMR 56- 64, 70-81 and BR 42**, the participants should work in pairs in order to discover the basis for each of these principles and report back to the group ensuring that all the references listed are included.

See answers in appendix 1:

Good 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.

Case Study: Women prisoners' need for vocational training in Thailand

In Thailand, 30% of women prisoners who took part in a survey in 2013 indicated that they needed vocational training, among others to improve their prospects of social reintegration. 30% said that they needed employment following release to enable their social reintegration. While 90% worked prior to imprisonment, more than half of the women said that they did not earn enough to live on. These findings suggested a need to increase the vocational training provided to women to improve their prospects of employment in skilled jobs and thereby improve their socio-economic status. The prison authority allowed women prisoners to join a social security scheme, which enabled willing prisoners to enlist into the social security system via a national micro savings programme. The programme provides social protection for women and enables them to save some of their earnings for the future.

Group Exercise: Post- Release Support

Women are very often discriminated against in their access to work in prisons, especially if they are held in annexes of male prisons. CAPIO survey revealed that in many prisons, the only educational and vocational activities that are offered are related to domestic pursuits, such as handicrafts. According to a prisoner, “The work that is offered is frequently only the types of work that are deemed to be suitable for women and the choice is limited. These include, for example, tailoring, beading, hairdressing, cleaning and handicrafts, but not other more complex skills that would help us get better paid jobs following release”

1. Should anything be done to change this?
2. What other activities can be introduced?

See answers in appendix 1:

- * Education is an important means of helping women gain self-confidence and life skills of reducing their chances of re-offending. In many countries, the quality and range of programmes are poorer than for those provided for men and, where they are offered, they often reflect traditional gender roles such as sewing, catering, beauty care, and handicrafts.
- * 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.
- * Possible areas of vocational training for women prisoners may include, among others:

administrative skills	cooking and catering
agriculture	gardening
animal husbandry	Health care and pregnancy
auto mechanics' skills	income management
bookkeeping	painting and decorating
childcare	parenting skills
computer skills	performing arts

- * 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.
- * Where staff resources and space is limited, a number of measures may be taken to increase prisoner participation in vocational training and work programmes may include:
 - * Introducing a system of rotation, enabling women prisoners to use the workshops at separate times to men.
 - * Female members of staff should supervise any activities undertaken by women prisoners in the male section of the prison to ensure their safety;
 - * Establish and strengthen cooperation with community organisations, including NGOs, to improve vocational training provided to women prisoners. This will help alleviate women's sense of isolation from the community and may enable them to establish links with organisations which can help them when they are released from prison.
 - * Prisoners may be trained by NGOs or other community services to run skills training programmes. Such an approach will not only provide women prisoners with new skills but improve the confidence of those who are trained as trainers and develop peer group support among women prisoners.

Good practice: Women Prisoners in Argentina's Federal Prisons Receive the Minimum Wage for Work in Prison:

Women who work while incarcerated in the federal prison system of Argentina earn wages at an amount which matches Argentinian minimum wage. A portion of these wages are set aside for each woman to be used upon her release, with the remaining portion available for her personal use. The grant of minimum wage allows women to support their families even while incarcerated. It also allows them to buy extra supplies for themselves while imprisoned.

Sports and recreation

Sports and recreation are covered in **SMR 104 to 105**

The SMRs require that recreational and cultural activities are provided to all prisoners to protect and promote their mental and physical health.

1. Physical activities and the possibility of engaging in recreational activities help

promote mental and physical health, as well as encouraging team work. Such activities should not be seen as luxuries, but necessities to ensure that prisoners' energy is used in a positive manner, assisting with their social reintegration.

2. Women are often discriminated against in their access to sports activities, in particular, if they are housed in annexes of male prisons. While male prisoners may have access to a gym or opportunities to play football or practice other sports, women may have limited opportunities for physical activity, which may consist, for example, of a one-hour aerobics class per week for a limited number of women. Lack of physical activity can have an extremely detrimental impact on women, many of whom already experience high levels of distress and depression.
3. Prison authorities should make every effort to enable women's access to sports and recreation on an equal basis with men.
4. Measures that can be taken include:
 - a. Cooperation with community groups and sports services may be established, so that they may provide classes, training and sports equipment, thereby reducing the pressure on prison authorities
 - b. Gymnasiums may be established for women prisoners. If resources do not allow for the establishment of separate facilities for women who are housed in annexes of male prisons, the facilities may be used on a rotation basis.
 - c. Existing gardens and yards may be used to the maximum possible extent to enable prisoners practice sports. For example a volleyball court may be set up in a large enough yard. Similarly yards may be equipped for basketball, table tennis, or badminton, with minimal additional resources.
 - d. Aerobics and yoga classes may be introduced in cooperation with community groups. Such classes may be conducted in gardens, large dormitories or yards and do not need significant additional resources.

SESSION 7.2. THE IMPORTANCE OF GENDER-SPECIFIC, PSYCHO-SOCIAL PROGRAMMES IN THE REHABILITATION OF WOMEN PRISONERS

1. Gender-specific psychosocial programmes highlight support for victims of violence and those who are traumatic due to separation from families, children and the community. Unless appropriate support and counselling are provided, the impact of prison and victimization could damage their prospects of social reintegration.
 - a. 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.
2. Support and counselling should be carried out by or in coordination with qualified mental healthcare professionals from the community and participation should be voluntary (**Bangkok Rule 42 (4)**).
3. Sometimes women prisoners may be too depressed by their imprisonment or overcome by feelings of hopelessness and anguish, which may reduce their motivation to participate in activities and programmes. Remaining idle and isolated from group activities will further damage these prisoners' mental health. Such women should be motivated to participate in vocational training and education programmes, where necessary with motivation training provided by social workers, psychologists and/or community organisations. Prisoners can also be encouraged to participate in education and other rehabilitation programmes with a system of privileges or good conduct allowances.
4. In many countries, including Nigeria, a significant proportion of prisoners have a background in sex work and/or drug abuse. Some of these women are likely to have been victims of sexual abuse. Others have been victims of domestic violence and rape. Such women are in need of psycho-social support by specialists experienced in treating trauma and victimization.
5. Such programmes are best delivered by specialist organisations of the community. They may include both group work and individual consultations dealing with substance dependence; history of abuse and domestic violence; and mental healthcare needs related to past trauma or separation from families and children.
6. Special programmes that focus on building confidence, life-skills and healthy

relationships are also extremely useful in this context, as women who have a history of abuse usually lack confidence and are particularly vulnerable to further exploitation and abuse.

7. Peer support has been found to have a very positive influence on the success of such programmes, in particular in the case of women who have experienced domestic violence. Therefore women who have completed certain programmes should be encouraged to work alongside specialists in the delivery of such programmes for women prisoners. Prisoners should also be encouraged to set up their own peer support groups, supervised by specialist staff, where necessary.
8. Offering women prisoners gender-specific, psycho-social support programmes will assist them immensely in their social reintegration, while also improving relationships in prison, both between staff and prisoners and between prisoners.
9. Other psycho-social support and therapy programmes may be offered in cooperation with NGOs or agencies in the community, which may include art therapy, dance therapy or other types of group therapy programmes. Such programmes can help women with low self-esteem (which is a characteristic of those who have been subjected to abuse) to be empowered to express themselves, helping them to gain their self- confidence and heal deep wounds.

SESSION 7.3. PRACTICES THAT ENHANCE WOMEN PRISONERS' PROSPECTS FOR SOCIAL REINTEGRATION POST- RELEASE

1. 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.
2. 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 stigmatized 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'*
3. 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.

4. Supplementing **SMR 90, BR 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, or relevant social welfare agencies and NGOs in the community to prepare and implement a resettlement plan for each woman.
5. 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.
6. Here are some of the questions that should be asked in any policy on preparing women for release and post-release support
 - a. What are the typical challenges faced by women prisoners upon release?
 - b. What measures can be taken to provide support?
 - c. Who is willing to assist in providing support (NGOs, social welfare agencies)?
 - d. What budget and funds are available for support services?
 - e. What procedures are in place to enable prison healthcare services to work closely with community healthcare services to ensure continuity of care?

Healthcare:

- * Women prisoners may have ongoing health issues and there must be continuity of care following their release from prison. SMRs 24(2) recognises the need for treatment and care to be continued, without a gap when prisoners are released, and emphasizes 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.

- * 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.

Exercise 7.2. Scenario: Post-release support- Addressing Homelessness and Unemployment

Grace was imprisoned in Luzira Prison in Uganda while pregnant. She was released after being imprisoned for 10 years with her child. She had nowhere to go upon release because all of her relatives had abandoned her. 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 NGO, From Prison to Praise (FPTP), provided her with accommodation until she found a job as a front desk officer in an airline company.

- * What steps can be taken to assist women prisoners' reintegration in the community?

See suggestions in appendix 1:

Exercise 7.3 Scenario -Enhancing Smooth Prisoner Rehabilitation Post Release Support

The best formula for preventing re offending is assimilation back into the community. From the beginning of a prisoner's sentence, consideration shall be given to his or her future after release and prisoners shall be assisted in ensuring their future reintegration into society. All agencies and services responsible for the reintegration of prisoners into society shall ensure that all prisoners have the means and available resources to maintain themselves in the period immediately following their release.

1. As director of Jugo women's prison, what are the issues to consider in ensuring smooth rehabilitation of women prisoners into their communities?

See suggestions in appendix 1:

MODULE 8: PREGNANT WOMEN, MOTHERS, DEPENDENT CHILDREN AND OTHER SPECIAL CATEGORIES OF WOMEN IN PRISON

Objectives

- * To describe the role of prison authorities in responding to the needs of pregnant women, breastfeeding mothers and mothers with children in prison and other special categories of women in prison;
- * To review key points relating to the treatment of children living in prison and the key principles that underlie separating them from their mothers in prison; and
- * To brainstorm on steps that can be taken in putting the principle of 'best interest of the child' into consideration in determining whether they should live in prison.

Overview:

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. It also covers other categories of women prisoners such as Juvenile female prisoners, menopausal women, foreign nationals and so on.

SESSION 8.1. HOW SHOULD PRISON AUTHORITIES PROVIDE PRE AND POST-NATAL TREATMENT AND CARE FOR WOMEN PRISONERS AND FOR OTHER SPECIAL CATEGORIES OF WOMEN IN PRISON?

- * 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)
- * A large number of women in prison are mothers whose children are outside prison. Others are admitted to prison with their small children or are pregnant when they are admitted and give birth in prison. All of these categories of women and their children have distinct and special needs. Prison authorities need to make every effort to provide for these needs, in order to protect and promote the health and wellbeing of

both the mothers and their children. For example, crèches should be built in all female prisons.

1. How should prison authorities provide pre-natal and post-natal treatment and care for women prisoners and for other special categories?

1. A pregnant or nursing woman should be sent to prison after all other options have been considered. **BR 64** states that where possible, non-custodial sentences are preferable for pregnant women and women with dependent children. The rule equally applies to male prisoners and offenders who are fathers with parental responsibilities (Paragraph 12). According to the CAPIO survey in April 2018, 'non-custodial' sentencing is not practiced in the Nigerian penal system. This has been proposed in the Nigerian Prisons and Correctional Services Bill (2016).
2. The SMRs 28 provides that: “In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.”
3. Pregnant women and breastfeeding mothers need to stay in special accommodation where all their pre-natal and post-natal care needs may be met. Where special accommodation is not possible, they should at least have considerably more space than other prisoners and they should have ongoing access to hot and cold water and sanitary facilities in order to be able to fulfil their special hygiene needs.
4. Such women and their children have special nutritional needs which should be met by prison authorities. They should receive a balanced diet with adequate protein, vegetables and fresh fruits and children who are not being breastfeed should receive nutritious food appropriate to their age. These should be provided free-of-charge.
5. Special programmes developed to educate such women on their and their children's healthcare and nutritional needs, as well as on parenting skills can be extremely beneficial to raise women's awareness about these subjects. Given the large majority of women prisoners' from socially and economically deprived backgrounds and low education levels, this may be the first opportunity for them to learn about such issues.

6. Prison healthcare staff or healthcare staff in the community, qualified in pre-and post-natal care, should monitor pregnant women and breastfeeding mothers' health and ensure that all their needs are met.
7. Taking into account the best interests of the children, mothers should not be discouraged from breastfeeding their children. Sufficient time and appropriate facilities, for example in a nursery, should be available for them to be able to breastfeed their children in privacy and in a comfortable environment.
8. Often these categories of women are excluded from prison activities and programmes, which means that they are idle for long periods and do not get sufficient exercise. This is not acceptable. Pregnant women and breastfeeding mothers should have access to all programmes offered in the prison and flexibility should be applied to ensure that they participate in all programmes.
9. HIV/AIDS prevention and treatment programmes should take into account the special needs of women, including measures to prevent mother to child transmission of HIV.
10. In developing policies and programmes that aim to provide for the special needs of pregnant women and breastfeeding mothers, prison authorities should also take into account the needs of women who had recently given birth before they were admitted to prison. They should receive the same quality of post-natal care provided to women who give birth while in prison (**BR 48 (3)**).
11. Women should be transported to community healthcare facilities for childbirth and restraints should never be used during transport, delivery or shortly after delivery. Where it is not possible to transfer a woman to a community hospital, the medical care and facilities provided in prison should be equivalent to those in the community.
12. Women should be informed in advance where they will be giving birth and if there are choices to be made they should be made aware of them.

Good Practice: The Healthcare of Pregnant Women and Breastfeeding Mothers in Prisons

In Thailand, significant attention and resources are allocated to the treatment and care of pregnant women, breastfeeding mothers and children living with their mothers in prisons. Pregnant women are registered with a community hospital and receive regular pre-natal medical checks in the hospitals and the babies are delivered in these hospitals. Children have their vaccination and receive regular check-ups in community hospitals. Pregnant women and nursing mothers receive additional food and children staying with their mothers in prison are also provided with special food. All mothers interviewed in 2013 were satisfied with the medical care they received, including during the delivery of their baby.

Other Special categories

This section covers the additional needs of special categories of women prisoners that were not covered in the Standard Minimum Rules. They include pre-trial detainees, juvenile female prisoners, and foreign national women who may be vulnerable to ill treatment and torture, including gender based violence faced by women detainees. The Bangkok Rules fill an important gap aiming to prevent gender based violence in pre-trial detention, to provide the requisite support to victims and to bring perpetrators to justice.

1. Juvenile female prisoners (**BR 26 (4) 36- 39, 65**):
 - a. The SMR 8(d) requires young prisoners to be kept separate from adults. It does not address the needs of juvenile girls in a detailed manner. But Bangkok Rules provides some guidance to ensure that girls are not discriminated against and that their special needs are taken into account in their treatment. For example, it recommends that they should have equal access to education and vocational training as male juvenile prisoners
 - b. They should have access to age and gender –specific programmes and services
 - c. Pregnant juvenile prisons should receive the same support as pregnant adult prisoners

2. Menopausal women prisoners:

The onset of menopause can be stressful for women. For women in prison this period can even be more stressful and traumatic. In some cases, the stress of imprisonment can accelerate the onset of menopause. Dealing with the emotional stress of menopause without the support of family and loved ones can be very difficult in a prison setting. Prison staff should be aware of this issue and should be sensitive to the stress felt by women experiencing menopause. They should be supported with counselling and psychological support where necessary.

3. Foreign nationals (BR 53, 66):

- a. The rights of foreign national prisoners are covered in a limited way in the SMR, which are supplemented by the provisions of the Bangkok Rules, focusing on the special needs of non-national women and their children. These rules should be read in conjunction with **Rule 66**, which provides for the protection of victims of human trafficking, and which requires that victims of human trafficking are not imprisoned.
- b. When possible, non- resident foreign –national women prisoners should have the option to be transferred to their home country, especially if they have dependent children there.
- c. Where a child who is a citizen of a foreign country is living with a non-foreign national woman prisoner, consideration should be given to relocating the child to his or her home country.

4. Minorities and indigenous people (BR 54- 55)

- a. Programmes and services shall be provided to meet the distinctive needs of women from different religions and cultural backgrounds.
- b. SMR do not explicitly refer to the rights and needs of minority groups and indigenous peoples, with the exception of the possible relevance of the rules **on freedom of religion (SMR 41-42) and requirements for interpreting (SMR 30 (3) and 51(2))**, to some members of these groups. Thus, the Bangkok Rules supplement the SMR both in terms of their recognition of the distinctive needs of these categories of prisoners, as

well as because of their understanding of the additional needs and challenges faced by female members of these groups. The guidance provided will be of immense value in a number of countries, where minority groups and indigenous peoples are vastly overrepresented in prisons.

5. Pre-trial detainees (BR 56)

- a. Appropriate measures shall be adopted to guarantee women's safety in pre-trial detention.

6. Non-custodial measures (BR 57- 62)

- a. Gender-specific options for diversionary measures and pre-trial and sentencing alternatives shall be developed, taking account of the history of victimization of many women offenders and their caring responsibilities.
- b. Women offenders shall not be separated from their families and communities without consideration given to their backgrounds caring responsibilities.
- c. 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 light of the woman's caretaking responsibilities and typical backgrounds. They can also consider suspended sentences for pregnant women convicts.

7. Parole- (BR 63)

- a. Decisions regarding parole shall take into account the woman's caregiving responsibilities as well as her specific social integration needs.

SESSION 8.2. WHAT ARE THE PROVISIONS FOR A CHILD LIVING WITH HIS OR HER MOTHER IN PRISON?

1. Until the adoption of the Bangkok Rules the treatment of children living with their mothers in prison had not received much attention and was not an issue addressed by international standards. The Bangkok Rules, recognizing the reality that a very high number of children spend years with their mothers in

prison in countries worldwide, introduced provisions that cover the treatment of these children.

2. 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 parent's criminal behaviour whether they go into prison with their parent or stay outside (**SMR 29**).
3. Millions of children around the world are affected by the imprisonment of one or both 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, so they are to be cared for.
4. 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.
5. Children who are allowed to grow up in prison do not receive adequate stimuli and education to develop normally. In Nigeria, children are allowed to stay in prison until the age of eighteen months.
6. A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for:
 - a. Internal or external childcare facilities staffed by qualified persons where the children shall be placed when they are not in the care of their parent.
 - b. Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists, regular check-ups, vaccinations, and any other preventive healthcare and treatment provided for children in the community (**BR 51**).
 - c. Furthermore, the psychological needs of children living in prison should be closely monitored to assess any adverse effects of living in a closed institution.

7. Children living in prison with a parent shall never be treated as prisoners. (**BR 49** and **SMR 29 (2)**) aim to address these issues by requiring that children living in prison with their mothers should never be treated as prisoners. However, partly because they are not prisoners, prison policies, programmes, staff training and budgets rarely take into account the needs of these children adequately.
8. In order to reduce to a minimum the negative impact of being brought up in a prison, the environment provided for children's upbringing should be as close as possible to conditions outside prison. This would mean that there should be child-friendly nurseries staffed by specialist staff or care givers who can take care of the children when they are not with their mothers. The children should have adequate play and exercise facilities.
9. Mothers should be able to spend the maximum possible amount of time with their children and be allowed to breastfeed them in a comfortable environment.
10. Measures should be in place to protect children from all forms of physical or psychological abuse in prisons.

SESSION 8.3. FACTORS TO CONSIDER IN DECIDING WHETHER A CHILD SHOULD LIVE IN PRISON WITH HIS OR HER PARENT

1. Whether a child can stay with his or her mother in prison and for how long is prescribed by law in most countries worldwide. Some countries do not allow children to stay with their mothers in prison at all. In other jurisdictions, there are great variations in the age limit up to which children may remain in prison. However, having legislation prescribe what should be done with each child is not the best way of ensuring that the best interests of that child is served, as required by the Convention on the Rights of the Child. (**Convention on the Rights of the Child, Article 3.1111**) This is recognised by the (**BR 49/ 52**) and **the SMR 29.1**). They require that decisions to allow children to stay in prison with their mothers should always be based on the best interests of the children.
2. These rules recognise that applying a rigid policy in all cases, where circumstances vary immensely, is all too often not an appropriate course of

action. The Bangkok Rules also add that decisions to remove children from prison should be based on individual assessments **BR 52**).

3. In making such decisions consideration needs to be given to the following, as a minimum:
 - a. The health and developmental needs of the child (e.g. the health and emotional benefits of breastfeeding by the mother, in contrast to other options outside);
 - b. conditions in prison and whether or not the child's nutritional and healthcare needs can be met;
 - c. The nature and quality of alternative care arrangements outside prison (e.g. will the child live with relatives or in an institution?);
 - d. In addition, prison authorities should also consider the mental health benefits to the mother of breastfeeding and bonding with her child even if for a limited period of time;
 - e. Such decisions should be the responsibility of specialist staff, such as social workers and healthcare specialists.
4. A child should never be removed from prison until suitable alternative care arrangements have been identified.
5. Prison staff may have little authority to apply these principles if the national legislation has strict rules prescribing whether or not a child can remain with his or her mother in prison and for how long. Thus, policy makers and legislators need to review the legislation in their countries to bring them in line with the Standard Minimum Rules and the Bangkok Rules.
6. In the meantime, prison authorities should demonstrate flexibility, as far as possible, and take decisions on an individual basis, depending on the circumstances of the child and family, and on the availability of alternative care options in the community. The extent to which such flexibility may be applied will vary from one jurisdiction to the other.

7. Mothers with children outside prison should always have special visiting rights, whether or not the children were with them in prison to start with. Such visits should always allow for contact between the mother and her children. The only exceptions that may be applied would involve situation where the mother had harmed or is a threat to the child.

Activity 8.1: Should Children Live in Prison with Their Mothers?
(Exercise to be presented as a debate or Radio call- in programme):

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 live with her into prison? Since women are often the main caretaker of children in most regions, this is a complex challenge faced in many countries.

See suggestions in appendix 1:

Exercise 8. 2: Separation Process Considering the Best Interest of the Child (To be done in pairs):

<i>Match the Facts below with the relevant considerations</i>	
Facts	Considerations
1. Quality of care the child is expected to receive outside prison.	A. The aunt Ladi's house is approximately two hours from the prison and open visits could take place twice a month.
2. Conditions in prison.	B. Iliya would live with his aunt, Ladi and cousin, Ishaku in a safe neighbourhood.
3. Remaining length of mother's sentence.	C. The prison has a nursery, but most of the children there are between the ages of six months to two years.
4. Views of the child, mother and other family members	D. Iliya suffers from heat rashes and eczema, which are worsened by the conditions in prison.
5. Access to education and recreational possibilities/ impact on child's development.	E. Iliya said he would like to go to live with his cousin, Ishaku who he has heard so much about. His mother agrees it is better for him to live outside prison.
6. Suitable alternative care arrangements outside prison.	F. Maryam is expected to be in prison for another eleven years.
7. Opportunities to visit mother in prison.	G. Iliya and Maryam share a small cell with three other inmates and two other children.
8. Suitable alternative care arrangements outside prison.	H. A retired, supportive aunt, Ladi has offered to care for Iliya until his mother's release from prison.
<i>See answers in appendix 1:</i>	

MODULE 9: WORKING WITH WOMEN PRISON STAFF

Objectives

- * To consider how the NPS can promote equal treatment between male and female staff and improve staff morale and performance
- * To highlight the importance of women staff managing women prisons .

Activity 9.1 Opening exercise: Presentation of Certificates

The training on '*Gender Sensitive Approach to Treatment of Women Prisoners in Nigeria*' has just ended. Draw a picture of the Controller General of Prisons presenting trainees with certificates of participation after delivering the closing remarks
(See Appendix 9.1 for grading instructions).

SESSION 9.1. IN WHAT WAYS CAN THE NIGERIAN PRISON SYSTEM PROMOTE EQUAL TREATMENT AND PARTICIPATION BETWEEN MALE AND FEMALE STAFF?

The nine rules included in the SMR on institutional personnel cover the selection of staff, their appointment on a full-time basis, with civil service status, their adequate remuneration, their education and training, including in-service training, the employment of specialist staff, the qualities and responsibilities of the prison director and the requirement for one or more medical doctors, depending on the size of the institution. **SMR 54** covers the restrictions placed on the use of force by staff and the use of firearms, while also requiring prison staff to receive special training to restrain aggressive prisoners. One rule relates to women prison staff.

1. The SMR that relates to women prison staff **SMR 53** requires that:
 - a. In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

- b. No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.
 - c. Women prisoners shall be attended to, and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.
 - d. There should be a special department in the prison headquarters that will handle issues concerning women. This department should be headed by a female staff and have a dedicated budgetary allocation for effective management.
2. The rules recognize that in many prison systems staff assigned to supervise women prisoners receive no special training to help them deal with the particular needs of women prisoners. In the male dominated, hierarchical prison environment, female prison staff may face unfair competition as well as discrimination.
- a. Often they have less authority and decision-making power, and they themselves may suffer from sexual harassment and discrimination in their workplaces
 - b. Women face difficulties in achieving promotions, due to stereotypical perceptions and discrimination. Such problems are exacerbated by additional pressures most women face in combining job and family demands.
3. The rules suggest that prison authorities pay special attention to the capacity building of women staff and ensure that they are not discriminated against in their access to training and senior positions in the prison service. They recognize that women staff, once properly trained, are in a much better position to develop appropriate and effective policies and strategies for the supervision, care and rehabilitation of women prisoners, than their male counterparts, due to their better understanding of women's gender-specific requirements and vulnerabilities.
- a. The rules included in the Bangkok Rules on institutional personnel add key supplementary provisions to these rules, with special focus on eliminating the discrimination women prison staff face in many prison services in access to training and to senior positions (**BR 29, *Supplements rules 46-55 of SMR***).

- b. Women staff need to receive special training on the human rights and special needs of women prisoners, including the prohibition of gender-based violence against women prisoners.
 - c. In line with the “whole prison” approach, these rules also require staff employed in women's prisons to receive training and awareness-raising on specific health care issues, including the basic health care of children.
- 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 (**BR 30**).
 - 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 (**BR 31**). This commitment should be made clear in the prison service's vision and strategic plans, and be reflected in the policies of the prison service.
 - Therefore the rule is of particular significance to ensure that the investigations on use of force should include the identification of sexual misconduct, which might appear consensual, but in reality cannot be so due to the totally unequal balance of power in the relationship. This should be the premise on which all sexual relationships between staff and prisoners should be viewed and investigated.
 - The policies and commitments should be accompanied by political will to entrench a sustainable gender responsive prison system through the availability of budget and other resources for research, planning, evaluation and public awareness-raising, sharing information and training).
 - Women staff should be in a position to make complaints without fear of retaliation, when discrimination of sexual harassment against them takes place. There should be complaints procedures in place for women staff to be able to bring their situation to the attention of senior staff, as well as of independent inspectors and other competent authorities authorized to monitor compliance with human rights standards and national law in prisons.

4. Recruitment and selection

- A. The proper recruitment and selection of staff is the starting point to ensure that the right people are appointed to carry out the demanding and often challenging task of working with women prisoners. Clear recruitment

- policies and procedures need to be in place, which ensures that the process is impartial and transparent, and aim to attract the most suitable candidates to work with women prisoners.
- b. The principles concerning recruitment and selection should be seen as being broadly applicable not only to recruitment and selection for initial entry at basic level but also to recruitment and selection for other posts within the prison service.
 - c. For assistance with decisions on acceptance or rejection, job descriptions should be used in recruitment procedures. Job descriptions should clearly and concretely describe the aims, duties and responsibilities attached to the work to be undertaken. The conditions of employment, including some account of promotion possibilities, should also be clearly set out.
 - d. In order to attract suitable applicants, recruitment needs and necessary qualifications should be well- publicized.
 - e. In addition to having the required level of education, good character and suitable qualifying experience, applicants should have a flexible and stable personality, be manifestly motivated for the work they are seeking, have the qualities necessary for forming good human relationships and be motivated to learn.
 - f. The body responsible for deciding on acceptance or rejection should be composed of persons with a range of relevant experience. It should work with impartiality.
 - g. Whatever the instruments used to assess personality characteristics, care should be taken to ensure that the measuring instruments are unbiased and validated.
 - h. It is of great importance that only women staff are employed both for regular staff positions in women's prisons, as well as for managerial positions, with responsibility to develop policies and strategies relating to the treatment of women prisoners, since women are much better placed to develop management policies that reflect a gender-sensitive prison management approach, as required by the Bangkok Rules.
 - i. In some countries there is a much higher number of male staff than female

staff employed in women's prisons. This is not conducive to a gender sensitive prison management approach and puts women prisoners' safety, or at the very least their feelings of safety, at risk, taking into account that a significant proportion of women prisoners will have experienced various forms of gender-based violence in their lives.

- j. It is of great importance that policies are adopted in these countries to attract women to work in the prison service with responsibility for the management and supervision of women prisoners, to gradually replace male staff, as they retire, leave or are transferred to other duties, working with male prisoners.
- k. Effective and fair recruitment and selection policies and procedures require commitment at the most senior levels of the prison system, supported by appropriate prison policies, specifically those which relate to staff recruitment, training and promotion.

5. Capacity building:

- 1. An important element of eliminating discrimination against women staff is to ensure that they have equal access to training as male staff. Such training should include all the topics covered in this handbook, administrative and operational aspects of prison management and other specialized training relating to specific responsibilities.
 - a. Gender sensitivity and the prohibition of discrimination and sexual harassment are important elements of such training. In prison systems where male staff are employed in women's prisons training on the prohibition of discrimination and sexual harassment is all the more important.
 - b. In line with the whole-prison approach which is reflected in the Bangkok Rules, basic training should be provided for prison staff working in women's prisons on the main issues relating to women's health, first aid and basic medicine (**BR 33**):.
 - c. 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.
 - d. These requirements of the Bangkok Rules is based on the reality that prison

staff are typically the first responders to prisoners' and/or their children's health problems, including in emergencies, when prisoners or their children may be harmed and need immediate attention. In many systems prison medical specialists will not be readily available to respond in such circumstances. Training of prison staff on basic health care relevant to women and children and how to apply first aid in emergency situations is therefore important to ensure that women and children receive immediate basic health care and are referred to specialists by prison staff without delay, as necessary.

- e. As a general rule, such training should be arranged in consultation with the persons concerned. The content of continued training should be targeted as far as possible, taking into account any work-related needs expressed by the staff. Procedures which allow the expression of these needs should be devised in consultation with the staff.
- f. In order to secure a high quality of service, continued training should include programmes undertaken in common with different categories of staff, regardless of grade or function, to improve collaboration between different categories within the service.

Protecting women staff from abuse and sexual harassment

1. In the male dominated prison system women staff may not only face discrimination but also sexual harassment and abuse. Recognizing this reality, **BR 32**, quoted earlier, requires that staff receive training on the prohibition of discrimination and sexual harassment. Such training is important for both male and female staff, as women must be made aware of the different types of sexual harassment that they may face and be able to recognize certain behavior as such. They should also have access to procedures that enable them to make complaints without fear of retaliation and seek redress when they have been subjected to any form of sexual harassment or abuse.
2. Sexual harassment against women staff may take different forms. It may be of an overt and direct nature or less easy to detect.
3. By equating a woman's worth with her looks or stereotypical qualities associated with the female gender, treating her as incapable of doing equal work as her male colleagues, men show women that they are not welcome in traditionally male

dominated fields. Women staff who confront such situations at work will experience extreme distress, frustration and stress. It may discourage them from trying to advance in their work and prompt them to seek other employment.

4. Prison administrations should make clear their commitment to eliminating discrimination and sexual harassment against women in the prison service. There should be clear policies in place which aim to protect women staff from gender based harassment, including disciplinary sanctions in case of such actions. Such policies should be very clear to all staff and included in staff trainings.
5. There should be effective complaints procedures in place for women to bring their situation to the attention of senior staff, without fear of retaliation. Women staff should also have other avenues open to them, such as complaints to other competent authorities and independent inspectors.

Working conditions and remuneration

1. The conditions of work and pay should permit suitable staff to be recruited and retained, and enable staff to carry out their functions correctly and develop their awareness of professional responsibilities.
2. Management at all levels should strive to prevent working conditions likely to give rise to stress among the staff, by making suitable arrangements for physical safety, reasonable working hours, open communication and a psychologically supportive climate in each work unit.
3. Measures should be taken by policymakers to attract more female specialist staff, such as healthcare staff and social workers, to work in women's prisons, with benefits being offered to compensate for the challenging nature of the work and conditions, and flexibility in working hours to provide for women's family responsibilities.
4. Working hours and shifts should be arranged in a way that is flexible and enables women staff with dependent children to attend to their children's needs. Where possible a crèche should be available in prisons for the small children of women staff who do not have alternative care arrangements for their children during their working hours.
5. Given the stressful and demanding nature of their duties, staff should have access to

psychological counselling, when in need. Where staff have been exposed to traumatic incidents in the course of duty, they should be offered immediate assistance in the form of debriefing sessions followed, if necessary, by personal counselling and any other necessary long-term measures.

6. Staff welfare policies should be instituted to provide help to staff with personal and private problems likely to affect their work. Full information should be made available to staff about the nature of the help which can be offered.
7. Staff should be provided with decent facilities. Wherever possible, they should have rest rooms, somewhere to buy and eat food, access to sport halls and the library. It is the government's responsibility to ensure good working conditions. That means appropriate buildings in acceptable repair, good atmosphere and safe conditions must be provided to prison staff.
8. Staff should have a contract in which their duties are described and the number of working hours is clear.
9. Their income from the prison service should enable staff to enjoy a reasonable standard of living. There should be no discrimination against women in this respect. Good pay is important for a number of reasons. Well-paid staff will function better, which will in turn reduce tension and resistance, and ultimately prisoners will follow regime rules. A further aspect of good pay is that it prevents staff from being vulnerable to bribes. Corruption in an establishment promotes lawlessness, injustice, fear, uncertainty, insecurity, revolt, and endangers lives. Ultimately, no one stands to benefit.

SESSION 9.2. WHY WOMEN PRISONERS SHOULD BE MANAGED BY WOMEN STAFF

It is important for women prisoners to be managed by women staff. This is required by the SMRs and the Bangkok Rules and is one of the most important pre-requisites for women prisoners' safety and their feeling of safety. Being and feeling safe is fundamental for women prisoners' mental wellbeing, in the absence of which rehabilitation programmes can do little to assist them in their progress towards social reintegration following release. In addition, women staff are in a much better position than men to understand the gender specific needs of women prisoners and to be able form positive and non-exploitative relationships with them.

- * With regards to institutional personnel, they stress the importance of the careful selection of staff, seeking specific qualities such as integrity, humanity, professional capacity and personal suitability. They state that prison staff should have civil service status and be employed on a full-time basis, with adequate salaries and benefits, reflecting the exacting nature of their responsibilities. Prison staff must have an adequate level of education.
- * They must receive initial training prior to entering the prison service and in service training after they enter the prison service, to improve their capacities and professionalism. Training components that are required as a minimum are outlined in (SMR 76).
- * The Bangkok Rules supplement these rules with special focus on women staff, taking into account the particular challenges and discrimination they face working in the prison system, as well as the particular skills they should have in working with women prisoners. Women staff may be discriminated against in accessing training or being promoted to senior positions in the male dominated, hierarchical prison environment. They may face harassment, including sexual harassment, by their male counterparts. Many women staff have to balance family demands with their work responsibilities which exacerbates the stress of their working conditions and environment.

In many countries, the challenges staff face include acute overcrowding in prisons, shortage of staff and especially the shortage of specialist staff. The shortage of staff means that existing staff have to work long hours to compensate. Sometimes specialist staff are required to carry out security related duties, resulting in much less time for them to carry out their main responsibilities. Such stressful working conditions are often coupled with low salaries and inadequate benefits, leading to job dissatisfaction and rapid staff turnover.

In addition, many staff working with women prisoners do not receive specific training on the needs of women prisoners and the principles of gender sensitive management. The Bangkok Rules recognise these realities and put forward provisions (**BR 29 – 35**) that aim to reduce and eliminate the discrimination faced by women prison staff. They provide for the improvement of women staff's capacity to perform their duties professionally and in a manner that improves their job satisfaction as well as the care and treatment of women prisoners.

MODULE 10: ACTION PLANNING AND EVALUATION

Objectives:

- * To review the key learning points of the discussions at the workshop;
- * To examine some basic concepts related to evaluation;
- * To assess how the outcome of the workshop can be applied in the prison system to make a positive change; and
- * To draw a specific plan of action with SMART-G objectives.

1 Plenary Activity

Participants will discuss the highlights of each of the modules, the learning points and any possible gaps (if any) that they feel should be addressed.

SESSION 10.1. Evaluation Concepts (Outputs, outcomes, impact and result)

What are Outcomes?

*Outcomes are*³⁵

- * What happens when we provide a product or service
- * Things we can influence
- * Not within the control of the project or activity – they are dependent on others, sometimes on those outside the project

³⁵Capacity Building Toolkit: Principles of Monitoring and Evaluation from WLP's online "Planning, Monitoring, Evaluation and Learning: Results-Based Management" training.

OUTPUTS VS. OUTCOMES

Outcomes usually:

- * Are often a result of several outputs;
- * Relate to individuals (e.g., behavior changes in training participants, after they have gained knowledge or capacity);
- * Should capture the changes for the participants or beneficiaries;
- * Often include behavioral change and/or institutional change;
- * Take place during, but more often after the activity, event, or intervention; and
- * Are under the influence but not direct control of the organization.

Outputs are:

- * The product or service provided by project;
- * Immediate, visible, concrete developmental change that is the tangible consequence of project activities (inputs);
- * Things we can produce or provide; and
- * Within the control of the project.

IMPACT – *The positive and negative, primary and secondary long-term effects produced by a development intervention, directly or indirectly, intended or unintended*

Impacts usually:

- * Involve a vision or long-term development goal;
- * Are often influenced by multiple other factors;
- * Happen and are measurable after the project's or program's life – therefore the project is usually not able to measure;
- * Relate to society or changes in societies;
- * Are the logical consequence of achieving a combination of outcomes; and
- * Are something that the intervention, project, or program usually cannot bring about alone but can contribute to.

RESULTS

The output, outcome, or impact (intended or unintended, positive &/or negative) of a development intervention

The power of measuring results:

- * If we do not measure results, we can not distinguish success from failure;
- * If we can not describe success, we cannot learn from it;
- * If we can not recognize failure, we can not correct it; and
- * If we can demonstrate results, we can win public and funder support.

SESSION 10.2. Action Planning

Individual and Group Activity

Individual Activity

Take a few moments and reflect on the discussions at the workshop –particularly on those that require personal attitudinal changes. Note at least 3 main changes that you intend to make as a result of the learning at the workshop. Participants will be encouraged to voluntarily share their reflections in plenary.

Group Activity

Break the participants into groups based on their positions or specific linkages as the case may be. Let each group come up with a specific action plan for positive change in the prison system. Their action plan should consider the following questions:

What needs to be done?

Who does what?

How is it going to be done?

What resources will be required?

When will this be done?

Expected outcomes?

This will be presented in plenary. Participants should do this within the framework of the SMART –G action guide

SESSION 10.3. Evaluation of the Training

Sample Evaluation form for Participants³⁶

NOTE TO FACILITATOR/TRAINER: PLEASE ADMINISTER BEFORE and AFTER THE TRAINING.³⁷

Section 1: PRE and POST Test:

Rate your knowledge of these concepts (1-5, 1 = not at all, 2 = a little, 3= average 4= good, 5=excellent):					
Human Rights	1	2	3	4	5
Women's Human Rights	1	2	3	4	5
Gender Analysis	1	2	3	4	5
State of Women's Human Rights and Prison System Reform	1	2	3	4	5
Allocation, Admission and Classification	1	2	3	4	5
Hygiene, Health Care and Special Health Issues	1	2	3	4	5
Safety and Security of Women Prisoners	1	2	3	4	5
Contact with the Outside World	1	2	3	4	5
Women Prisoner Rehabilitation Activities and Programmes	1	2	3	4	5

³⁶Please note that this form can be adapted or tailored to specific category of participants

³⁷Adapted from the Women's Learning Partnership for Rights, Development and Peace (WLP), USA

Pregnant Women, Mothers, Dependent Children and Other Special Categories in Prison	1	2	3	4	5
Working with Women Prison Staff	1	2	3	4	5

Please respond to the following statements:					
	Disagree Strongly	Disagree	Neutral	Agree	Agree Strongly
1. I feel more knowledgeable now about enhancing women's rights in the prison system					
2. I feel capable of creating change within my control					
3. I value my role as a prison administrator better					

NOTE TO FACILITATOR/TRAINER : PLEASE ADMINISTER BEFORE THE LAST SESSION OF THE TRAINING.

Section 3: Participant Self- Evaluation

1. Has your understanding of enhancing women's rights in the prison system changed as a result of taking this training? YES/NO
Please describe.
2. Following this training, do you have a better understanding of how you can be a better administrator in your daily work in the prison? YES/NO
Please describe.
3. Has the training increased your knowledge of gender concepts and rights? YES/NO. Please describe.
4. Has the training made any difference in the way you view the idea of gender equality and non-discrimination? Yes?/No? (Please explain your response)
5. Which of the topics did you find most useful and why? How will that make a difference in your work?
6. Any suggestions on how to improve the training and usage of the manual in prison colleges? Please share any other comments.

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COMPLEMENTARY RESOURCE MATERIALS



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APPENDICES

Appendix 1: ANSWERS TO QUIZ QUESTIONS AND EXCERSICES

Module 3-

Activity 3.2 (managing limited resources)

How will you mitigate a situation of shortage of staff resources to conduct a gender sensitive assessment and classification of prisoners? What steps will you consider as necessary?

What can be done where staff resources are insufficient to conduct a gender sensitive assessment and classification process?

- * Depending on the number of daily admissions, all women admitted to prisons may be assessed in a central prison or another central facility dedicated to assessment and classification, where they may be assessed by well-trained security staff and specialist staff such as psychologists, social workers, educators and medical specialists and then transferred to the prison where they will be serving their sentences;
- * Suitable regular staff may be trained by specialist staff, such as psychologists and social workers, to conduct, at least, a simple social and psychological assessment to accompany the risk assessment to be conducted by trained security staff and tools may be developed by specialist staff to guide them in this process in each prison;
- * Assessments may be undertaken over a longer period of time – e.g. within 2-3 months of admission- prioritising those with short sentences. Any assessments conducted during the earlier stages of the criminal justice process, such as social inquiry reports, can be made available to prison staff to assist them with their task.
- * A rigorous specialist staff recruitment policy should be introduced at the same time to attract social workers and psychologists to work in prisons and funds allocated for this purpose by government authorities.

Module 4:

Activity 4.2 (Promoting women prisoners' health)

What strategies would you suggest for the promotion of the health of women prisoners?

Some strategies to ensure that women prisoners in Nigeria enjoy the same health standards in prisons as in the community include that -

- * The conditions in prisons are conducive to protect and promote the physical and

mental health of women prisoners;

- * Women's healthcare needs are determined on their admission to prison on an individual basis by qualified healthcare professionals and a healthcare plan developed for each woman;
- * Gender specific healthcare services, equivalent to those in the community, are provided to women;
- * Provision is made for women's special healthcare needs, including mental healthcare needs, substance dependence, sexually transmitted infections (STIs) and HIV related healthcare needs
- * Women prisoners, typically from economically and socially disadvantaged backgrounds, and often uneducated and illiterate, will generally have received minimal education or awareness-raising about prevention from STDs and reproductive health conditions. It is therefore important to raise the level of knowledge and awareness among women in prison, in order to prevent the development of such diseases. Volunteers, health services from outside and NGOs may be constructively involved in providing such awareness raising and education. Consideration should also be given for access to condoms and dental dams to women prisoners, to prevent the spread of sexually transmitted diseases (Bangkok Rule 17).

Module 5:

Activity 5.1- Sanctioned Sexual Harassment

1. No, the practice did not comply with a gender sensitive prison management style. Good prison management principles require that a clear set of procedures are established with regard to searches. What do the SMRs 50-52 and the BRs 19-21 say about searches and which rules did it violate?
2. Searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched.
 - a. It should abide by the principles of proportionality, legality and necessity
 - b. personal searches on female prisoners should be carried out only by female staff
 - c. Body cavity searches shall be conducted only by qualified health care professionals other than those primarily responsible for the care of the prisoner or by trained staff

Activity 5.2 Case study- Abuse and Exploitation of Women Prisoners

1. There should be clear policies and rules in place in relation to the use of force,

violence and sexual misconduct by staff.

2. Male staff should be prohibited from female prisons, and in occasions where this is unavoidable, they should do so in the presence of female staff.
3. All forms of ill-treatment, violence, sexual relationships with prisoners or sexual harassment should be strictly prohibited and criminalized.
4. All persons working in prisons, including women's prisons, should be trained on the absolute prohibition of ill-treatment and sexual misconduct, whether it is verbal, psychological or physical.
5. Supplementary measures, such as anger management courses for prison staff, as well as staff access to consultations with psychologists, among others, should be considered to reduce staff tension and anger that may trigger abuse and ill-treatment.

Activity 5.3.1 Dynamic Vs Physical security

Dynamic security is the best preventive measure to avoid dangerous prisoners escaping;

1. Junior staff should be trained to mix with prisoners, getting to know them and assessing any possible risk of escape;
2. It is important to keep prisoners busy with useful activities;
3. Staff in daily contact with prisoner should be rotated and appropriately coached by senior staff.
4. For prison staff to succeed it is important that they continue to see prisoners as people, not monsters or demons with special powers; it is important that prisoners understand this as well;
5. Familiarity is the best way to achieve this, but a familiarity based on good training and a framework that provides constant supervision of the staff involved, for their own protection;
6. It is also important to rotate duty assignments regularly, but not predictably .

Group Exercise 5.3.2: What Level of Security is Required?

There is need to consider the classification and level of threat to security that each prisoner poses should they escape.

- * Amina's problem is apparently alcohol abuse. Without a previous record and with no known contact with the criminal underworld, she is unlikely to prove a serious security risk;
- * Maria is a long-term drug addict who is likely to be prepared to do anything to obtain the drugs she is addicted to. He is likely to be a nuisance, possibly a danger of the public, but unlikely to have access to resources. Drug dependence treatment would be an example of dynamic security;
- * Ronke is unlikely to be a danger to the public but she is likely to want to escape.

Activity 5.5. Group Exercises to be done in pairs

Small Group Exercise 5.5.1. Eliminating Prisoner to Prisoner Intimidation:

Point to be highlighted

1. Awkward prisoners will always test any regime;
2. Prison staff must feel confident in their style of working and in their ability to deal with stubbornness.
3. It is the task of senior staff to achieve this through training and good management.
4. Prisoners who consistently refuse to obey reasonable orders should be disciplined.
5. This discipline should be confined to that which is necessary to restore good order, no more.
6. Prisoners who bully other prisoners should be removed and relocated.

Small Group Exercise 5.5.2. Eliminating Harassment and Bullying:

Point to be highlighted

1. The behaviour of prisoners, as with all individuals, does not always conform exactly to the rules as laid down;

2. Staff needs training and guidance, which should involve discussion, in the application of the rules, to allow them to deal with this fact;
3. Being a prison officer is difficult and there are no shortcuts to doing the job properly;
4. It is not acceptable to allow prisoners to do whatever they wish as long as they are quiet and there appears to be order. That is not an example of staff being in control;
5. Prison staff must be very visible and involved in prison activity and be careful not to show preference or to engage in collusion or gossip;
6. There should be publicly displayed policies on bullying that apply to everyone in the prison, making it clear what a victim of bullying should do;
7. Proven bullies should be dealt with by removing or isolating them, not their victims;
8. Experienced staff can demonstrate best practice by consistently showing their new recruits how to do the job;
9. Prison staff must acquire self-confidence in order to do their job properly, particularly in the face of provocation from prisoners;
10. Some prisoners maybe well qualified and able to make a contribution to enhance the prison regime in particular areas. Under no circumstances must they be allowed to acquire, control over other prisoners; control is the prerogative of the staff.

Small Group Exercise 5.5. 3- Overcrowding at Gadumma Women Prison
Point to be highlighted

1. Tense prison atmosphere will not help with prisoners' rehabilitation.
2. It will lead to the deterioration of mental health
3. It will create tension and stress.

4. In a women's prison with well-trained staff who apply the principles of gender-sensitive prison management in all aspects of prison life, including discipline and order, there is a much higher likelihood of achieving success in maintaining order, while also contributing to the social reintegration of women prisoners.
5. The dynamic style will be more successful in maintaining order and discipline in women's prisons, but it will also result in gender a positive atmosphere that protects and promotes mental well being
6. It will reduce tension among both staff and prisoners.
7. It is now generally acknowledged that safety and security in all prisons, including male and female, can best be maintained by creating a positive climate which encourages the cooperation of prisoners.
8. External security (preventing escapes) and internal safety (preventing disorder) can be ensured by building positive relationships between prisoners and staff and channeling prisoners' energy into meaningful activities. This is the essence of dynamic security, which should be employed both in men's and women's prisons.

Activity 5.6 Quick Quiz- True or False Exercise- Group work

		Measures set out by SMRs and BRs
1.Complaints should be investigated by any competent and objective prison	False	Complaints can be made to the prison director, his or her authorized staff, external inspectors , the central prison administration and judicial authorities, or through the prisoner’s legal representation without censorship (SMR 56). The Bangkok Rules, or to monitoring bodies that consists of at least a female member (BR 25, SMR 8 (d) Para 344 & 543 - (NPSOs) -In the case of the NPSOs - complaints against conditions of imprisonment or any member of staff can be forwarded through the Superintendent –in charge, the State Controller of Prisons and Zonal Coordinator to the Controller General of Prisons
Only women claimants of physical and sexual abuse should be given access to free counsel and legal aid	False	BRs 2 -4, 26, SMR 54 -55 women prisoners should have access to legal advice
A prison staff member who has been accused of sexual abuse by a female prisoner should be re-assigned while investigations are going on	True ?	The prison staff member, that person should be assigned to other duties, which take him or her away from any contact with the woman concerned, so that he or she is not in a position to prejudice the investigations and so that the woman is protected from retaliation.
Information on complaint procedure should be given to a prisoner as soon as he or she settles down in prison after admission	False	Eg- The SMRs 54 and 55 and set out the prison authorities’ responsibilities during the admission of a prisoner to be provided with written information about the prison law and applicable prison regulations, including complaints procedure.

Module 6:

Activity 6.1, Group exercise 1: Skit: Encouraging Prisoners' Contact with the outside World

1. Here are some examples of measures to encourage and facilitate visits.
 - a. By not using restriction to visits and other forms of communication with the outside world as a disciplinary measure?
 - b. By allocating women prisoners close to their homes.
 - c. By improving policies and practices relating to the allocation of women prisoners,
 - d. Assisting with transportation, especially for children visiting their mothers.
 - e. Providing visits free of charge for all prisoners.
 - f. Not prohibiting visits as a disciplinary sanction (see Bangkok Rule 23 and Standard Minimum Rule 43(3). Basic visit entitlements are not related to assessments of prison behaviour
 - g. Taking account of school hours and standard working hours to enable children to visit, even if this is outside regular visiting hours.
 - h. Extending visiting hours if family members have to travel a long way.
 - i. Providing overnight accommodation free of charge for families who have to travel to get to the prison.
 - j. Providing conjugal visits on an equal basis with male prisoners.
 - k. Developing cooperation with organisations which can help facilitate visits.
 - l. Increasing the frequency or length of telephone calls, in cases where families are unable to visit.
 - m. Ensuring that families are informed about the location and any transfer of their imprisoned family member.
 - n. Example of 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.
 - o. Example of 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.

2. Family members are able to take part in the induction system for new prisoners.
3. Visits are not cancelled for administrative or for non-emergency operational reasons.
4. Visiting time is not reduced by long administrative procedures on entry.
5. Closed visits are not imposed as a punishment and any decisions to allow only closed visits are regularly reviewed.
6. If visitors are banned, the reasons are made clear, and the decision can be appealed and is reviewed at regular intervals.
7. If a prisoner is transferred the family is given adequate notice.
8. Allow additional telephone calls to women who are unable to receive visits from their families
9. Do not monitor all letters and do not restrict the number or length of letters women prisoners can send and receive. Only monitor the letters of those prisoners who have been assessed as high risk. In this way prisoners' letters will not be delayed, the communication will be meaningful and prison staff time will be freed
10. Ensure that the conditions in which visits take place allow for contact between families and prisoners, especially where children are involved.
11. When families face challenges in visiting women prisoners, electronic visitations may be facilitated via skype, as long as these do not replace actual visits for those who are able to visit.
12. Writing materials may be provided free-of-charge to those prisoners who cannot afford to buy them.

Activity 6.1, Group exercise 2: (Points to consider when discussing with community stakeholder) In what ways can everyone's best interests be served if women prisoners maintained contact with the outside world?

- a. Prisoners** will be able to take more responsibility for their own behaviour, as well as their domestic affairs, and prepare themselves for release.
- b. Prison staff will** have a more varied and satisfying job and a less anxious prison population in their care.
- c. Prisoners' families will** be able to give and receive valuable support, both immediately and later, instead of progressively losing touch.
- d. Prison authorities** reduce the difficulties they face if they can keep prisoners close to their homes.

- e. **The community** will be less likely to suffer further crimes if prisoners retain their family links and if plans for what they will do when they leave prison are developed in advance.
- f. The resettlement difficulties of prisoners released into the community are significantly reduced if the network of family and friends remains intact.

Activity 6.2.CASE STUDY: Assisting A Foreign Prisoner To Contact Her Relatives

- * It is necessary to make a risk assessment in this case;
- * She is entitled to communicate with her family. If there is a strong possibility that security will be infringed, it is possible for staff to require that all mail be opened in front of them;
- * It is likely that a community service agency will be able to provide a fluent speaker in the foreign language. This contact will be beneficial to the prisoner as well as to the authorities.

Activity 6.3 CASE STUDY: Request From Relative Not To Receive Letters From A Women Prisoner

- * This is a difficult and sensitive area for prison staff to have to manage;
- * It is unlikely that the prison director will be willing to interfere with the right of a prisoner to write to members of her family;
- * The director will not wish to cause any further distress to the family members, but if the letters are not obscene or threatening in nature it is unlikely that the prison will take any direct action;
- * A private meeting could be arranged where the prisoner and her family could discuss the difficulty;
- * If there is no resolution through discussion, the family have the option of not opening, or of returning unopened, any mail which is obviously from the prison.

Module 7:

Activity 7.1 Group Exercise: Rules on Prisoner Rehabilitation (SMR 56- 64, 70-81 and BR 42)

Rules applicable to prisoner rehabilitation are contained in Part II of SMR, under the heading of 'Rules applicable to Special Categories'. This part of the SMR begins with a list of guiding principles that are fundamental to the treatment of sentenced prisoners, set out in Rules 56 to 64 and BR 42 .

They underline that

- * the treatment of prisoners should not emphasise their exclusion from the community, but their continuing part in it (Rules 60 and 61)
- * prison systems shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation (SMR Rule 57)
- * the institution should utilise all the remedial, educational, and other forms of assistance and should seek to apply them according to the individual treatment needs of the prisoners (SMR Rule 59)
- * the need to individualize treatment and to apply a flexible system of classification (SMR Rule 63)
- * that upon his return to society the offender is able to lead a law-abiding and self- supporting life (SMR Rule 58)
- * Need for post release support to prisoners by governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation. (Rule 64) Also dignity in the way in which prisoners are treated, in their education and recreation, access to remunerated and meaningful work, in the maintenance of social relations and assistance with aftercare.
- * It must be emphasised that, while all of these provisions apply particularly to sentenced prisoners, this does not mean that pre-trial prisoners should not be offered work and education and access to other regime activities. Especially in some situations in the Nigerian justice system where pre-trial prisoners have been known to have extended detentions. It would be totally counter-productive to deny them access to education, work and other prison programmes, if they wish to participate.
- * ***Prison regime: [Supplements rules 65, 66 and 70-81 of the SMR) BR 42***

Exercise 7.2 Scenario: Post-Release Support- Addressing Homelessness and Unemployment

- * 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 (BR 46/SMR 64).
 - * Working with ministries of housing and social services to ensure suitable housing is found before release.
 - * Providing assistance in accessing legal aid services including assistance with rental agreements.

Exercise 7.3 Scenario – Post Release support- Enhancing Smooth Prison Rehabilitation

Points to be highlighted for discussion:

1. Rehabilitation preparations should start as soon as the sentence starts. This is particularly important for short-sentence prisoners
2. The important immediate issues would include: somewhere to live or to stay; a job or a source of income; making contact with family
3. Serving a sentence of more than two years is likely to mean loss of job and home and probably reduced contact with family; a pre-release programme would need to cover re-establishing these key areas in one's life
4. Such a period in prison is likely to have involved exposure to substance abuse, so this issue will also need to be dealt with before release
5. Health care, substance abuse, training and employment, and family support agencies which exist in the community can be asked to work with the prison as part of the pre-release programme
6. An advantage of community involvement is that it will prepare people for the return and avoid sudden confrontation
7. A possible disadvantage of such involvement might be the reminder to the community of the damage or pain caused by the offence. It might be preferred, by some, to return quietly to the community in the hope that memories will not be revived
8. If return to the community is not possible, the released prisoner will need help in finding a new area in which to settle, assistance in finding a means of self-support and introduction to community help agencies for ex-prisoners. Contacts with such agencies should be made while the prisoner is still in prison.

Module 8:

Activity 8.1: 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 to international law.
- * 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.
- * 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.

Exercise 8. 2 Separation Process Considering the Best Interest of the Child

- 1- G
- 2- B
- 3- F
- 4- E
- 5- C
- 6- H
- 7- A
- 8- D

Module 9

Activity 9.1 Opening exercise: Testing participants' creative skills is a participatory and fun exercise to test trainee's appreciation of whether staff at the level of the Controller General could be a woman. Most of the drawings turned in are likely to be that of male controller General of Prisons. The import of the exercise is to drive home the point that female staff should not be discriminated against and should be able to rise to any level of their career.



General Assembly

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[on the report of the Third Committee (A/70/490)]

70/175. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

The General Assembly,

Guided by the principal purposes of the United Nations, as set out in the Preamble to the Charter of the United Nations and the Universal Declaration of Human Rights, and inspired by the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, without distinction of any kind, and in the equal rights of men and women and of nations large and small, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and to promote social progress and better standards of life in larger freedom,

Recalling all standards and norms in crime prevention and criminal justice developed at the request of the Commission on Crime Prevention and Criminal Justice and adopted or recommended by the General Assembly, or adopted by a United Nations congress on the prevention of crime and the treatment of offenders, and recognizing that the Universal Declaration of Human Rights is a source of inspiration for the United Nations standards and norms in crime prevention and criminal justice,

Bearing in mind the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights, and emphasizing the fundamental importance of human rights in the daily administration of criminal justice and crime prevention,

Aware that the Standard Minimum Rules for the Treatment of Prisoners have been the universally acknowledged minimum standards for the detention of prisoners and that they have been of significant value and influence, as a guide, in the development of correctional laws, policies and

¹Resolution 217 A (III).

²*Human Rights: A Compilation of International Instruments*, Volume I (First Part), *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.



Mindful that, in the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, Member States recognized that an effective, fair, accountable and humane criminal justice system was based on the commitment to uphold the protection of human rights in the administration of justice and the prevention and control of crime, and acknowledged the value and impact of the United Nations standards and norms in crime prevention and criminal justice in designing and implementing national crime prevention and criminal justice policies, procedures and programmes,

Taking into account the progressive development of international law pertaining to the treatment of prisoners since 1955, including in international instruments such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights⁴ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto,

Recalling the United Nations standards and norms in crime prevention and criminal justice related to the treatment of prisoners and to alternatives to imprisonment adopted since 1955, in particular the procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Basic Principles for the Treatment of Prisoners, the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the basic principles on the use of restorative justice programmes in criminal matters,

Bearing in mind the need for vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, as called for in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),

Recalling the United Nations standards and norms in crime prevention and criminal justice adopted since 1955 that provide additional guidance on the treatment of prisoners, including the Code of Conduct for Law Enforcement

³Resolution 65/230, annex.

⁴See resolution 2200 A (XXI), annex.

⁵United Nations, *Treaty Series*, vol. 1465, No. 24841.

⁶*Ibid.*, vol. 2375, No. 24841.

⁷Economic and Social Council resolution 1984/47, annex.

⁸Resolution 43/173, annex.

⁹Resolution 45/111, annex.

¹⁰Resolution 45/110, annex.

¹¹Economic and Social Council resolution 2002/12, annex.

¹²Resolution 40/33, annex.

¹³Resolution 45/112, annex.

Officials, the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Principles on the Effective Investigation and Documentation of Torture and Other

Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, *Aware* of regional principles and standards related to the treatment of prisoners, including the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, the revised European Prison Rules, the Kampala Declaration on Prison Conditions in Africa, the Arusha Declaration on Good Prison Practice and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa,

Recalling its resolution 65/230 of 21 December 2010, entitled “Twelfth United Nations Congress on Crime Prevention and Criminal Justice”, in which it requested the Commission on Crime Prevention and Criminal Justice to establish an openended intergovernmental expert group to exchange information on best practices, as well as national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices,

Recalling also its resolutions 67/188 of 20 December 2012, 68/190 of 18 December 2013 and 69/192 of 18 December 2014, entitled “Standard Minimum Rules for the Treatment of Prisoners”, in particular resolution 68/190, in which it took note with appreciation of the work done by the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners, and resolution 69/192, in which it emphasized that efforts should be made to finalize the revision process, building on the recommendations made at the three meetings of the Expert Group and the submissions of Member States,

Mindful that, in its resolution 68/190, it took into consideration the recommendations of the Expert Group with regard to the issues and the rules of the Standard Minimum Rules that had been identified for revision in the following areas:

(A) Respect for prisoners' inherent dignity and value as human beings (rules 6, para. 1; 57–59; and 60, para. 1),

¹⁴Resolution 45/113, annex.

¹⁵Resolution 65/229, annex.

¹⁶Resolution 34/169, annex.

¹⁷Resolution 37/194, annex.

¹⁸*Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

¹⁹Resolution 55/89, annex.

²⁰Resolution 67/187, annex.

²¹Economic and Social Council resolution 1997/36, annex.

²²Economic and Social Council resolution 1999/27, annex.

- (B) Medical and health services (rules 22–26; 52; 62; and 71, para. 2),
- (C) Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet (rules 27, 29, 31 and 32),
- (D) Investigation of all deaths in custody, as well as of any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners (Rule 7 and proposed rules 44 bis and 54 bis),
- (E) Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances (rules 6 and 7),
- (F) The right of access to legal representation (rules 30; 35, para. 1; 37; and 93),
- (G) Complaints and independent inspection (rules 36 and 55),
- (H) The replacement of outdated terminology (rules 22–26, 62, 82 and 83 and various others),
- (I) Training of relevant staff to implement the Standard Minimum Rules Rule 47),

Mindful also that, in its resolution 69/192, it reiterated that any changes to the Standard Minimum Rules should not lower any of the existing standards, but should reflect recent advances in correctional science and good practices so as to promote safety, security and humane conditions for prisoners,

Mindful further of the extensive consultative process culminating in the recommendations of the Expert Group, a process spanning a period of five years, consisting of technical and expert pre-consultations, meetings in Vienna, Buenos Aires and Cape Town, South Africa, and the active participation and input of Member States from all regions, assisted by representatives of the United Nations crime prevention and criminal justice programme network and other United Nations entities, including the Office of the United Nations High Commissioner for Human Rights, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Office on Drugs and Crime, intergovernmental organizations, including the International Committee of the Red Cross, specialized agencies in the United Nations system, including the World Health Organization, and non-governmental organizations and individual experts in the field of correctional science and human rights,

Recalling its resolution 69/172 of 18 December 2014, entitled “Human rights in the administration of justice”, in which it recognized the importance of the principle that, except for those lawful limitations that are demonstrably necessitated by the fact of incarceration, persons deprived of their liberty shall retain their non-derogable human rights and all other human rights and fundamental freedoms, recalled that the social rehabilitation and reintegration of persons deprived of their liberty shall be among the essential aims of the criminal justice system, ensuring, as far as possible, that offenders are able to lead a law-abiding and self-supporting life upon their return to society, and took note of, inter alia, general comment No. 21 on the humane treatment of persons deprived of their liberty, adopted by the Human Rights Committee,

1. *Expresses its gratitude and appreciation* to the Government of South Africa for hosting the meeting of

²³ *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40 (A/47/40), annex VI.B.*

the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Cape Town, South Africa, from 2 to 5 March 2015 and for providing financial support and leadership throughout the review process, and notes with appreciation the consensus achieved on the nine thematic areas and the rules identified for revision by the Expert Group at its previous meetings;

2. *Expresses its appreciation* to the Government of Argentina for hosting and financing the meeting of the Expert Group held in Buenos Aires from 11 to 13 December 2012 and to the Government of Brazil for its financial contribution to the meeting of the Expert Group held in Vienna from 25 to 28 March 2014;

3. *Acknowledges* the valuable work accomplished by the bureau of the meeting of the Expert Group held in Vienna in 2014 in preparing, with the assistance of the Secretariat, the documentation for the meeting of the Expert Group held in Cape Town in 2015, in particular the revised consolidated working paper;

4. *Notes* that in the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, adopted by the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Doha from 12 to 19 April 2015, the Thirteenth Congress welcomed the work of the Expert Group, and took note of the draft updated Standard Minimum Rules for the Treatment of Prisoners, as finalized by the Expert Group at its meeting held in Cape Town in March 2015;

5. *Adopts* the proposed revision of the Standard Minimum Rules for the Treatment of Prisoners, annexed to the present resolution, as the United Nations Standard Minimum Rules for the Treatment of Prisoners;

6. *Approves* the recommendation of the Expert Group that the Rules should be known as “the Nelson Mandela Rules”, to honour the legacy of the late President of South Africa, Nelson Rolihlahla Mandela, who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy and the promotion of a culture of peace;

7. *Decides* to extend the scope of Nelson Mandela International Day, observed each year on 18 July,²⁷ to be also utilized in order to promote humane conditions of imprisonment, to raise awareness about prisoners being a continuous part of society and to value the work of prison staff as a social service of particular importance, and to this end invites Member States, regional organizations and organizations of the United Nations system to celebrate this occasion in an appropriate manner;

8. *Reaffirms*, in the context of paragraph 5 above, the preliminary observations to the Nelson Mandela Rules, underscores the non-binding nature of the Rules, acknowledges the variety of Member States' legal frameworks, and in that regard recognizes that Member States may adapt the application of the Rules in accordance with their domestic legal frameworks, as appropriate, bearing in mind the spirit and purposes of the Rules;

9. *Encourages* Member States to endeavour to improve conditions in detention, consistent with the Nelson Mandela Rules and all other relevant and applicable United Nations standards and norms in crime prevention and criminal justice, to continue exchanging good practices in order to identify challenges

²⁴See E/CN.15/2015/17.

²⁵UNODC/CCPCJ/EG.6/2015/2.

²⁶Resolution 70/174, annex. ²⁷See resolution 64/13.

faced in implementing the Rules and to share their experiences in dealing with those challenges;

10. *Invites* the Commission on Crime Prevention and Criminal Justice to consider, at its upcoming sessions, reconvening the open-ended intergovernmental Expert Group on the Standard Minimum Rules for the Treatment of Prisoners for the purpose of identifying the lessons learned, the means to continue to exchange good practices and the challenges faced in the implementation of the Nelson Mandela Rules; 11.

Encourages Member States to promote the implementation of the United

Nations Rules for the Protection of Juveniles Deprived of their Liberty¹⁴ and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);¹⁵

12. *Recommends* that Member States continue to endeavour to reduce prison overcrowding and, where appropriate, resort to non-custodial measures as alternatives to pretrial detention, to promote increased access to justice and legal defence mechanisms, to reinforce alternatives to imprisonment and to support rehabilitation and social reintegration programmes, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);¹⁰

13. *Notes* the importance of a voluntary exchange of experiences and good practices among Member States and with relevant international entities, where appropriate, and the provision of technical assistance to Member States, for the improved implementation of the Nelson Mandela Rules, upon their request;

14. *Encourages* Member States to consider allocating adequate human and financial resources to assist in the improvement of prison conditions and the application of the Nelson Mandela Rules;

15. *Requests* the United Nations Office on Drugs and Crime to ensure broad dissemination of the Nelson Mandela Rules, to design guidance material and to provide technical assistance and advisory services to Member States in the field of penal reform, in order to develop or strengthen penitentiary legislation, procedures, policies and practices in line with the Rules;

16. *Commends* the Commission on Crime Prevention and Criminal Justice for its continuing contributions to the improvement of the administration of justice through the development and refinement of international standards and norms in the field of crime prevention and criminal justice, and calls upon Member States to continue their efforts in this regard;

17. *Requests* the United Nations Office on Drugs and Crime to continue to promote the use and application of the United Nations standards and norms in crime prevention and criminal justice by, inter alia, providing advisory services and technical assistance to Member States, on request, including assistance in crime prevention, criminal justice and law reform, and in the organization of training for law enforcement, crime prevention and criminal justice personnel and support in the administration and management of penal and penitentiary systems, thus contributing to the upgrading of their efficiency and capabilities;

18. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations;

19. *Affirms* the important role of the United Nations crime prevention and criminal justice programme network, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council in the revision process and in contributing to the dissemination, promotion and practical application of the Nelson Mandela Rules in accordance with the procedures for their effective implementation.

*80th plenary meeting 17
December 2015*

Annex

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

Preliminary observation 1

The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principles and practice in the treatment of prisoners and prison management.

Preliminary observation 2

1. In view of the great variety of legal, social, economic and geographical conditions in the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.
2. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.

Preliminary observation 3

1. Part I of the rules covers the general management of prisons, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to “security measures” or corrective measures ordered by the judge.
2. Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.

Preliminary observation 4

1. The rules do not seek to regulate the management of institutions set aside for young persons such as juvenile detention facilities or correctional schools, but in general part I would be equally applicable in such institutions.
2. The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

I. Rules of general application Basic principles

Rule 1

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.

Rule 2

1. The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected.
2. In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.

Rule 3

Imprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Therefore the prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

Rule 4

1. The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.
2. To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.

Rule 5

1. The prison regime should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.
2. Prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis.

Prisoner file management*Rule 6*

There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be in place to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system.

Rule 7

No person shall be received in a prison without a valid commitment order. The following information shall be entered in the prisoner file management system upon admission of every prisoner:

- (a) Precise information enabling determination of his or her unique identity, respecting his or her self-perceived gender;
- (b) The reasons for his or her commitment and the responsible authority, in addition to the date, time and place of arrest;
- (c) The day and hour of his or her admission and release as well as of any transfer;
- (d) Any visible injuries and complaints about prior ill-treatment;
- (e) An inventory of his or her personal property;
- (f) The names of his or her family members, including, where applicable, his or her children, the children's ages, location and custody or guardianship status;
- (g) Emergency contact details and information on the prisoner's next of kin.

Rule 8

The following information shall be entered in the prisoner file management system in the course of imprisonment, where applicable:

- (a) Information related to the judicial process, including dates of court hearings and legal representation;
- (b) Initial assessment and classification reports;
- (c) Information related to behaviour and discipline;
- (d) Requests and complaints, including allegations of torture or other cruel, inhuman or degrading treatment or punishment, unless they are of a confidential nature;
- (e) Information on the imposition of disciplinary sanctions;
- (f) Information on the circumstances and causes of any injuries or death and, in the case of the latter, the destination of the remains.

Rule 9

All records referred to in rules 7 and 8 shall be kept confidential and made available only to those whose professional responsibilities require access to such records. Every prisoner shall be granted access to the records pertaining to him or her, subject to redactions authorized under domestic legislation, and shall be entitled to receive an official copy of such records upon his or her release.

Rule 10

Prisoner file management systems shall also be used to generate reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence-based decision-making.

Separation of categories

Rule 11

The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:

- (A) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;
- (B) Untried prisoners shall be kept separate from convicted prisoners;
- (C) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;
- (d) Young prisoners shall be kept separate from adults.

Accommodation

Rule 12

- 1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.
- 2. Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison.

Rule 13

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Rule 14

In all places where prisoners are required to live or work:

- (a) The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
- (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Rule 15

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Rule 16

Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

Rule 17

All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Personal hygiene*Rule 18*

1. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.
2. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be able to shave regularly.

Clothing and bedding*Rule 19*

1. Every prisoner who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.
2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.
3. In exceptional circumstances, whenever a prisoner is removed outside the prison for an authorized purpose, he or she shall be allowed to wear his or her own clothing or other inconspicuous clothing.

Rule 20

If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the prison to ensure that it shall be clean and fit for use.

Rule 21

Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food*Rule 22*

1. Every prisoner shall be provided by the prison administration at the usual hours with food of

nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

2. Drinking water shall be available to every prisoner whenever he or she needs it.

Exercise and sport

Rule 23

1. Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.
2. Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.

Health-care services

Rule 24

1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.
2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

Rule 25

1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.
2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.

Rule 26

1. The health-care service shall prepare and maintain accurate, up-to-date and confidential individual medical files on all prisoners, and all prisoners should be granted access to their files upon request. A prisoner may appoint a third party to access his or her medical file.
2. Medical files shall be transferred to the health-care service of the receiving institution upon transfer of a prisoner and shall be subject to medical confidentiality.

Rule 27

1. All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.
2. Clinical decisions may only be taken by the responsible health-care professionals and may not be

overruled or ignored by non-medical prison staff.

Rule 28

In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

Rule 29

1. A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for:
 - (a) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent;
 - (b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists.
2. Children in prison with a parent shall never be treated as prisoners.

Rule 30

A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to:

- (a) Identifying health-care needs and taking all necessary measures for treatment;
- (b) Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission;
- (c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;
- (d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period;
- (e) Determining the fitness of prisoners to work, to exercise and to participate in other activities, as appropriate.

Rule 31

The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.

Rule 32

1. The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:
 - (a) The duty of protecting prisoners' physical and mental health and the prevention and treatment of

- disease on the basis of clinical grounds only;
- (b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship;
 - (c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;
 - (d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs.
2. Without prejudice to paragraph 1 (d) of this rule, prisoners may be allowed, upon their free and informed consent and in accordance with applicable law, to participate in clinical trials and other health research accessible in the community if these are expected to produce a direct and significant benefit to their health, and to donate cells, body tissues or organs to a relative.

Rule 33

The physician shall report to the prison director whenever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

Rule 34

If, in the course of examining a prisoner upon admission or providing medical care to the prisoner thereafter, health-care professionals become aware of any signs of torture or other cruel, inhuman or degrading treatment or punishment, they shall document and report such cases to the competent medical, administrative or judicial authority. Proper procedural safeguards shall be followed in order not to expose the prisoner or associated persons to foreseeable risk of harm.

Rule 35

1. The physician or competent public health body shall regularly inspect and advise the prison director on:
 - (a) The quantity, quality, preparation and service of food;
 - (b) The hygiene and cleanliness of the institution and the prisoners;
 - (c) The sanitation, temperature, lighting and ventilation of the prison;
 - (d) The suitability and cleanliness of the prisoners' clothing and bedding;
 - (E) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.
2. The prison director shall take into consideration the advice and reports provided in accordance with paragraph 1 of this rule and rule 33 and shall take immediate steps to give effect to the advice and the recommendations in the reports. If the advice or recommendations do not fall within the prison director's competence or if he or she does not concur with them, the director shall immediately submit to a higher authority his or her own report and the advice or recommendations of the physician or competent public health body.

Restrictions, discipline and sanctions*Rule 36*

Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well ordered community life.

Rule 37

The following shall always be subject to authorization by law or by the regulation of the competent administrative authority:

- (a) Conduct constituting a disciplinary offence;
- (b) The types and duration of sanctions that may be imposed;
- (c) The authority competent to impose such sanctions;
- (d) Any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation.

Rule 38

1. Prison administrations are encouraged to use, to the extent possible, conflict prevention, mediation or any other alternative dispute resolution mechanism to prevent disciplinary offences or to resolve conflicts.
2. For prisoners who are, or have been, separated, the prison administration shall take the necessary measures to alleviate the potential detrimental effects of their confinement on them and on their community following their release from prison.

Rule 39

1. No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in rule 37 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.
2. Prison administrations shall ensure proportionality between a disciplinary sanction and the offence for which it is established, and shall keep a proper record of all disciplinary sanctions imposed.
3. Before imposing disciplinary sanctions, prison administrations shall consider whether and how a prisoner's mental illness or developmental disability may have contributed to his or her conduct and the commission of the offence or act underlying the disciplinary charge. Prison administrations shall not sanction any conduct of a prisoner that is considered to be the direct result of his or her mental illness or intellectual disability.

Rule 40

1. No prisoner shall be employed, in the service of the prison, in any disciplinary capacity.
2. This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

Rule 41

1. Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.
2. Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and shall be given adequate time and facilities for the preparation of their defence.
3. Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.
4. Prisoners shall have an opportunity to seek judicial review of disciplinary sanctions imposed against them.
5. In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser.

Rule 42

General living conditions addressed in these rules, including those related to light, ventilation, temperature, sanitation, nutrition, drinking water, access to open air and physical exercise, personal hygiene, health care and adequate personal space, shall apply to all prisoners without exception.

Rule 43

1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:
 - (a) Indefinite solitary confinement;
 - (b) Prolonged solitary confinement;
 - (c) Placement of a prisoner in a dark or constantly lit cell;
 - (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;
 - (E) Collective punishment.
2. Instruments of restraint shall never be applied as a sanction for disciplinary offences.
3. Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

Rule 44

For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.

Rule 45

1. Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.
2. The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.

Rule 46

1. Health-care personnel shall not have any role in the imposition of disciplinary sanctions or other restrictive measures. They shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff.
2. Health-care personnel shall report to the prison director, without delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of a prisoner subjected to such sanctions or measures and shall advise the director if they consider it necessary to terminate or alter them for physical or mental health reasons.
3. Health-care personnel shall have the authority to review and recommend changes to the involuntary separation of a prisoner in order to ensure that such separation does not exacerbate the medical condition or mental or physical disability of the prisoner.

Instruments of restraint*Rule 47*

1. The use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited.
2. Other instruments of restraint shall only be used when authorized by law and in the following circumstances:
 - (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;
 - (b) By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.

Rule 48

1. When the imposition of instruments of restraint is authorized in accordance with paragraph 2 of rule 47, the following principles shall apply:
 - (a) Instruments of restraint are to be imposed only when no lesser form of control would be effective to address the risks posed by unrestricted movement;

- (b) The method of restraint shall be the least intrusive method that is necessary and reasonably available to control the prisoner's movement, based on the level and nature of the risks posed;
 - (c) Instruments of restraint shall be imposed only for the time period required, and they are to be removed as soon as possible after the risks posed by unrestricted movement are no longer present.
2. Instruments of restraint shall never be used on women during labour, during childbirth and immediately after childbirth.

Rule 49

The prison administration should seek access to, and provide training in the use of, control techniques that would obviate the need for the imposition of instruments of restraint or reduce their intrusiveness.

Searches of prisoners and cells

Rule 50

The laws and regulations governing searches of prisoners and cells shall be in accordance with obligations under international law and shall take into account international standards and norms, keeping in mind the need to ensure security in the prison. Searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity.

Rule 51

Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy. For the purpose of accountability, the prison administration shall keep appropriate records of searches, in particular strip and body cavity searches and searches of cells, as well as the reasons for the searches, the identities of those who conducted them and any results of the searches.

Rule 52

1. Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches. Intrusive searches shall be conducted in private and by trained staff of the same sex as the prisoner.
2. Body cavity searches shall be conducted only by qualified health-care professionals other than those primarily responsible for the care of the prisoner or, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety.

Rule 53

Prisoners shall have access to, or be allowed to keep in their possession without access by the prison administration, documents relating to their legal proceedings.

Information to and complaints by prisoners

Rule 54

Upon admission, every prisoner shall be promptly provided with written information about:

- (a) The prison law and applicable prison regulations;
- (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;
- (c) His or her obligations, including applicable disciplinary sanctions; and
- (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.

Rule 55

1. The information referred to in rule 54 shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.
2. If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.
3. The prison administration shall prominently display summaries of the information in common areas of the prison.

Rule 56

1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.
2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.
3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.
4. The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility of exercising such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.

Rule 57

1. Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.
2. Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner. A prisoner or other person mentioned in paragraph 4 of rule 56 must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.
3. Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners

shall be dealt with immediately and shall result in a prompt and impartial investigation conducted by an independent national authority in accordance with paragraphs 1 and 2 of rule 71.

Contact with the outside world

Rule 58

1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:
 - (A) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and (b) By receiving visits.
2. Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. Procedures shall be in place and premises shall be made available to ensure fair and equal access with due regard to safety and dignity.

Rule 59

Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.

Rule 60

1. Admission of visitors to the prison facility is contingent upon the visitor's consent to being searched. The visitor may withdraw his or her consent at any time, in which case the prison administration may refuse access.
2. Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in rules 50 to 52. Body cavity searches should be avoided and should not be applied to children.

Rule 61

1. Prisoners shall be provided with adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality, on any legal matter, in conformity with applicable domestic law. Consultations may be within sight, but not within hearing, of prison staff.
2. In cases in which prisoners do not speak the local language, the prison administration shall facilitate access to the services of an independent competent interpreter.
3. Prisoners should have access to effective legal aid.

Rule 62

1. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the

diplomatic and consular representatives of the State to which they belong.

2. Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

Rule 63

Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the prison administration.

Books

Rule 64

Every prison shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Religion

Rule 65

1. If the prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.
2. A qualified representative appointed or approved under paragraph 1 of this rule shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his or her religion at proper times.
3. Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his or her attitude shall be fully respected.

Rule 66

So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination.

Retention of prisoners' property

Rule 67

1. All money, valuables, clothing and other effects belonging to a prisoner which he or she is not allowed to retain under the prison regulations shall on his or her admission to the prison be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.

2. On the release of the prisoner, all such articles and money shall be returned to him or her except in so far as he or she has been authorized to spend money or send any such property out of the prison, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him or her.
3. Any money or effects received for a prisoner from outside shall be treated in the same way.
4. If a prisoner brings in any drugs or medicine, the physician or other qualified health-care professionals shall decide what use shall be made of them.

Notifications

Rule 68

Every prisoner shall have the right, and shall be given the ability and means, to inform immediately his or her family, or any other person designated as a contact person, about his or her imprisonment, about his or her transfer to another institution and about any serious illness or injury. The sharing of prisoners' personal information shall be subject to domestic legislation.

Rule 69

In the event of a prisoner's death, the prison director shall at once inform the prisoner's next of kin or emergency contact. Individuals designated by a prisoner to receive his or her health information shall be notified by the director of the prisoner's serious illness, injury or transfer to a health institution. The explicit request of a prisoner not to have his or her spouse or nearest relative notified in the event of illness or injury shall be respected.

Rule 70

The prison administration shall inform a prisoner at once of the serious illness or death of a near relative or any significant other. Whenever circumstances allow, the prisoner should be authorized to go, either under escort or alone, to the bedside of a near relative or significant other who is critically ill, or to attend the funeral of a near relative or significant other.

Investigations

Rule 71

1. Notwithstanding the initiation of an internal investigation, the prison director shall report, without delay, any custodial death, disappearance or serious injury to a judicial or other competent authority that is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases. The prison administration shall fully cooperate with that authority and ensure that all evidence is preserved.
2. The obligation in paragraph 1 of this rule shall equally apply whenever there are reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed in prison, irrespective of whether a formal complaint has been received.
3. Whenever there are reasonable grounds to believe that an act referred to in paragraph 2 of this rule has been committed, steps shall be taken immediately to ensure that all potentially implicated persons have no involvement in the investigation and no contact with the witnesses, the victim or the victim's family.

Rule 72

The prison administration shall treat the body of a deceased prisoner with respect and dignity. The body of a deceased prisoner should be returned to his or her next of kin as soon as reasonably possible, at the latest upon completion of the investigation. The prison administration shall facilitate a culturally appropriate funeral if there is no other responsible party willing or able to do so and shall keep a full record of the matter.

Removal of prisoners*Rule 73*

1. When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.
2. The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.
3. The transport of prisoners shall be carried out at the expense of the prison administration and equal conditions shall apply to all of them.

Institutional personnel*Rule 74*

1. The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of prisons depends.
2. The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.
3. To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison staff and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

Rule 75

1. All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a professional manner.
2. Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.
3. The prison administration shall ensure the continuous provision of in service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.

Rule 76

1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on:
 - (A) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;
 - (b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment;
 - (c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;
 - (D) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.
2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.

Rule 77

All prison staff shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

Rule 78

1. So far as possible, prison staff shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.
2. The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

Rule 79

1. The prison director should be adequately qualified for his or her task by character, administrative ability, suitable training and experience.
2. The prison director shall devote his or her entire working time to official duties and shall not be appointed on a part-time basis. He or she shall reside on the premises of the prison or in its immediate vicinity.
3. When two or more prisons are under the authority of one director, he or she shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these prisons.

Rule 80

1. The prison director, his or her deputy, and the majority of other prison staff shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.
2. Whenever necessary, the services of a competent interpreter shall be used.

Rule 81

1. In a prison for both men and women, the part of the prison set aside for women shall be under the authority of a responsible woman staff member who shall have the custody of the keys of all that part of the prison.
2. No male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member.
3. Women prisoners shall be attended and supervised only by women staff members. This does not, however, preclude male staff members, particularly doctors and teachers, from carrying out their professional duties in prisons or parts of prisons set aside for women.

Rule 82

1. Prison staff shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Prison staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the prison director.
2. Prison staff shall be given special physical training to enable them to restrain aggressive prisoners.
3. Except in special circumstances, prison staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, prison staff should in no circumstances be provided with arms unless they have been trained in their use.

Internal and external inspections*Rule 83*

1. There shall be a twofold system for regular inspections of prisons and penal services:
 - (a) Internal or administrative inspections conducted by the central prison administration;
 - (B) External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.
2. In both cases, the objective of the inspections shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and corrections services, and that the rights of prisoners are protected.

Rule 84

1. Inspectors shall have the authority:
 - (a) To access all information on the numbers of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention;
 - (b) To freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview;
 - (c) To conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits;
 - (D) To make recommendations to the prison administration and other competent authorities.
2. External inspection teams shall be composed of qualified and experienced inspectors appointed by a

competent authority and shall encompass health-care professionals. Due regard shall be given to balanced gender representation.

Rule 85

1. Every inspection shall be followed by a written report to be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections publicly available, excluding any personal data on prisoners unless they have given their explicit consent.
2. The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection.

II. Rules applicable to special categories A. Prisoners under sentence

Guiding principles

Rule 86

The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under preliminary observation 1 of these rules.

Rule 87

Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same prison or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

Rule 88

1. The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.
2. There should be in connection with every prison social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his or her family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

Rule 89

1. The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups. It is therefore desirable that such groups should be distributed in separate prisons suitable for the treatment of each group.
2. These prisons do not need to provide the same degree of security for every group. It is desirable to

provide varying degrees of security according to the needs of different groups. Open prisons, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to the rehabilitation of carefully selected prisoners.

3. It is desirable that the number of prisoners in closed prisons should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such prisons should not exceed 500. In open prisons the population should be as small as possible.
4. On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

Rule 90

The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient aftercare directed towards the lessening of prejudice against him or her and towards his or her social rehabilitation.

Treatment

Rule 91

The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

Rule 92

1. To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of his or her sentence and prospects after release.
2. For every prisoner with a sentence of suitable length, the prison director shall receive, as soon as possible after his or her admission, full reports on all the matters referred to in paragraph 1 of this rule. Such reports shall always include a report by the physician or other qualified health-care professionals on the physical and mental condition of the prisoner.
3. The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

Classification and individualization

Rule 93

1. The purposes of classification shall be:

- (a) To separate from others those prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence;
 - (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.
2. So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of different classes of prisoners.

Rule 94

As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.

Privileges

Rule 95

Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every prison, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of prisoners in their treatment.

Work

Rule 96

1. Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professionals.
2. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

Rule 97

1. Prison labour must not be of an afflictive nature.
2. Prisoners shall not be held in slavery or servitude.
3. No prisoner shall be required to work for the personal or private benefit of any prison staff.

Rule 98

1. So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.
2. Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.
3. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, prisoners shall be able to choose the type of work they wish to perform.

Rule 99

1. The organization and methods of work in prisons shall resemble as closely as possible those of

similar work outside of prisons, so as to prepare prisoners for the conditions of normal occupational life.

2. The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the prison.

Rule 100

1. Preferably, institutional industries and farms should be operated directly by the prison administration and not by private contractors.
2. Where prisoners are employed in work not controlled by the prison administration, they shall always be under the supervision of prison staff. Unless the work is for other departments of the government, the full normal wages for such work shall be paid to the prison administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

Rule 101

1. The precautions laid down to protect the safety and health of free workers shall be equally observed in prisons.
2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workers.

Rule 102

1. The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workers.
2. The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of prisoners.

Rule 103

1. There shall be a system of equitable remuneration of the work of prisoners.
2. Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.
3. The system should also provide that a part of the earnings should be set aside by the prison administration so as to constitute a savings fund to be handed over to the prisoner on his or her release.

Education and recreation

Rule 104

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration.
2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

Rule 105

Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

Social relations and aftercare

Rule 106

Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.

Rule 107

From the beginning of a prisoner's sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner's rehabilitation and the best interests of his or her family.

Rule 108

1. Services and agencies, governmental or otherwise, which assist released prisoners in re-establishing themselves in society shall ensure, so far as is possible and necessary, that released prisoners are provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.
2. The approved representatives of such agencies shall have all necessary access to the prison and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his or her sentence.
3. It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

B. Prisoners with mental disabilities and/or health conditions

Rule 109

1. Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible.
2. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.
3. The health-care service shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

Rule 110

It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if

necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare.

C. Prisoners under arrest or awaiting trial

Rule 111

1. Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as “untried prisoners” hereinafter in these rules.
2. Unconvicted prisoners are presumed to be innocent and shall be treated as such.
3. Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit from a special regime which is described in the following rules in its essential requirements only.

Rule 112

1. Untried prisoners shall be kept separate from convicted prisoners.
2. Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.

Rule 113

Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.

Rule 114

Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.

Rule 115

An untried prisoner shall be allowed to wear his or her own clothing if it is clean and suitable. If he or she wears prison dress, it shall be different from that supplied to convicted prisoners.

Rule 116

An untried prisoner shall always be offered the opportunity to work, but shall not be required to work. If he or she chooses to work, he or she shall be paid for it.

Rule 117

An untried prisoner shall be allowed to procure at his or her own expense or at the expense of a third party such books, newspapers, writing material and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.

Rule 118

An untried prisoner shall be allowed to be visited and treated by his or her own doctor or dentist if there are reasonable grounds for the application and he or she is able to pay any expenses incurred.

Rule 119

1. Every untried prisoner has the right to be promptly informed about the reasons for his or her detention and about any charges against him or her.
2. If an untried prisoner does not have a legal adviser of his or her own choice, he or she shall be entitled to have a legal adviser assigned to him or her by a judicial or other authority in all cases where the interests of justice so require and without payment by the untried prisoner if he or she does not have sufficient means to pay. Denial of access to a legal adviser shall be subject to independent review without delay.

Rule 120

1. The entitlements and modalities governing the access of an untried prisoner to his or her legal adviser or legal aid provider for the purpose of his or her defence shall be governed by the same principles as outlined in rule 61.
2. An untried prisoner shall, upon request, be provided with writing material for the preparation of documents related to his or her defence, including confidential instructions for his or her legal adviser or legal aid provider.

D. Civil prisoners

Rule 121

In countries where the law permits imprisonment for debt, or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.

E. Persons arrested or detained without charge

Rule 122

Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political Rights,²⁹ persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C, of these rules. Relevant provisions of part II, section A, of these rules shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

THE BANGKOK RULES



UNODC

United Nations Office on Drugs and Crime



**United Nations Rules
for the Treatment of Women Prisoners
and Non-custodial Measures
for Women Offenders
with their Commentary**



General Assembly

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[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)

The General Assembly,

Recalling the United Nations standards and norms in crime prevention and criminal justice primarily related to the treatment of prisoners, in particular the Standard Minimum Rules for the Treatment of Prisoners, the procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners,⁴

Recalling also the United Nations standards and norms in crime prevention and criminal justice primarily related to alternatives to imprisonment, in particular the United Nations Standard Minimum Rules for Noncustodial Measures (the Tokyo Rules) and the basic principles on the use of restorative justice programmes in criminal matters,

Recalling further its resolution 58/183 of 22 December 2003, in which it invited Governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote increased attention to the issue of women in prison, including the children of women in prison, with a view to identifying the key problems and the ways in which they can be addressed,

Considering the alternatives to imprisonment as provided for in the Tokyo Rules, and taking into consideration the gender specificities of, and the consequent need to give priority to applying non-custodial measures to, women who have come into contact with the criminal justice system,

Mindful of its resolution 61/143 of 19 December 2006, in which it urged States to, inter alia, take positive measures to address structural causes of violence against women and to strengthen prevention efforts that address discriminatory practices and social norms, including with regard to women who need special attention in the development of policies

Human Rights: A Compilation of International Instruments, Volume I (First Part), Universal Instruments (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.
Economic and Social Council resolution 1984/47, annex.
Resolution 43/173, annex. ⁴ Resolution 45/111, annex.
Resolution 45/110, annex.
Economic and Social Council resolution 2002/12, annex.

to address violence, such as women in institutions or in detention,

Mindful also of its resolution 63/241 of 24 December 2008, in which it called upon all States to give attention to the impact of parental detention and imprisonment on children and, in particular, to identify and promote good practices in relation to the needs and physical, emotional, social and psychological development of babies and children affected by parental detention and imprisonment,

Taking into consideration the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century, in which Member States committed themselves, inter alia, to the development of action-oriented policy recommendations based on the special needs of women as prisoners and offenders, and the plans of action for the implementation of the Declaration,

Calling attention to the Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice, as it relates specifically to women in detention and in custodial and noncustodial settings,

Recalling that, in the Bangkok Declaration, Member States recommended to the Commission on Crime Prevention and Criminal Justice that it give consideration to reviewing the adequacy of standards and norms in relation to prison management and prisoners, *Having taken note* of the initiative of the United Nations High Commissioner for Human Rights to designate the week from 6 to 12 October 2008 as Dignity and Justice for Detainees Week, which placed particular emphasis on the human rights of women and girls,

Considering that women prisoners are one of the vulnerable groups that have specific needs and requirements, *Aware* of the fact that many existing prison facilities worldwide were designed primarily for male prisoners, whereas the number of female prisoners has significantly increased over the years,

Recognizing that a number of female offenders do not pose a risk to society and, as with all offenders, their imprisonment may render their social reintegration more difficult,

Welcoming the development by the United Nations Office on Drugs and Crime of the *Handbook for Prison Managers and Policymakers on Women and Imprisonment*,

Welcoming also the invitation, contained in Human Rights Council resolution 10/2 of 25 March 2009,¹¹ to Governments, relevant international and regional bodies, national human rights institutions and nongovernmental organizations to devote greater attention to the issue of women and girls in prison, including issues relating to the children of women in prison, with a view to identifying and addressing the gender-specific aspects and challenges related to this problem,

Welcoming further the collaboration between the World Health Organization Regional Office for Europe and the United Nations Office on Drugs and Crime, and taking note of the Kyiv Declaration on Women's Health in Prison,¹²

Taking note of the Guidelines for the Alternative Care of Children,

Resolution 55/59, annex.

Resolution 56/261, annex.

Resolution 60/177, annex.

See World Health Organization Regional Office for Europe and United Nations Office on Drugs and Crime, *Women's Health in Prison: Correcting Gender Inequity in Prison Health* (Copenhagen, 2009).

Recalling Commission on Crime Prevention and Criminal Justice resolution 18/1 of 24 April 2009, in which the Commission requested the Executive Director of the United Nations Office on Drugs and Crime to convene in 2009 an open-ended intergovernmental expert group meeting to develop, consistent with the Standard Minimum Rules for the Treatment of Prisoners and the Tokyo Rules, supplementary rules specific to the treatment of women in detention and in custodial and non-custodial settings, welcomed the offer by the Government of Thailand to act as host to the expert group meeting, and requested the expert group meeting to submit the outcome of its work to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, subsequently held in Salvador, Brazil, from 12 to 19 April 2010,

Recalling also that the four regional preparatory meetings for the Twelfth Congress welcomed the development of a set of supplementary rules specific to the treatment of women in detention and in custodial and non-custodial settings,

Recalling further the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, in which Member States recommended that the Commission on Crime Prevention and Criminal Justice consider the draft United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders as a matter of priority for appropriate action,

1. *Takes note with appreciation* of the work of the expert group to develop supplementary rules specific to the treatment of women in detention and in custodial and non-custodial settings at its meeting, held in Bangkok from 23 to 26 November 2009, and of the outcome of the meeting;
2. *Expresses its gratitude* to the Government of Thailand for having acted as host to the meeting of the expert group and for the financial support provided for the organization of the meeting;
3. *Adopts* the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, annexed to the present resolution, and approves the recommendation of the Twelfth United Nations Congress on Crime Prevention and Criminal Justice that the rules should be known as “the Bangkok Rules”;
4. *Recognizes* that, in view of the great variety of legal, social, economic and geographical conditions in the world, not all of the rules can be applied equally in all places and at all times; and that they should, however, serve to stimulate a constant endeavour to overcome practical difficulties in their application, in the knowledge that they represent, as a whole, global aspirations amenable to the common goal of improving outcomes for women prisoners, their children and their communities;
5. *Encourages* Member States to adopt legislation to establish alternatives to imprisonment and to give priority to the financing of such systems, as well as to the development of the mechanisms needed for their implementation;
6. *Encourages* Member States having developed legislation, procedures, policies or practices for women in prison or on alternatives to imprisonment for women offenders to make information available to other States and relevant international, regional and intergovernmental organizations, as well as non-governmental organizations, and to assist them in developing and implementing training or other activities in relation to such legislation, procedures, policies or practices;
7. *Invites* Member States to take into consideration the specific needs and realities of women as prisoners when developing relevant legislation, procedures, policies and action plans and to draw, as appropriate, on the Bangkok Rules;
8. *Also invites* Member States to collect, maintain, analyse and publish, as appropriate, specific data on women in prison and women offenders;

Resolution 64/142, annex.

See Official Records of the Economic and Social Council, 2009, Supplement No. 10 (E/2009/30), chap. I, sect. D.

See A/CONF.213/RPM.1/1, A/CONF.213/RPM.2/1, A/CONF.213/RPM.3/1 and A/CONF.213/RPM.4/1.

Resolution 65/230, annex.

See A/CONF.213/17.

9. *Emphasizes* that, when sentencing or deciding on pretrial measures for a pregnant woman or a child's sole or primary caretaker, non-custodial measures should be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious or violent;

10. *Requests* the United Nations Office on Drugs and Crime to provide technical assistance and advisory services to Member States, upon request, in order to develop or strengthen, as appropriate, legislation, procedures, policies and practices for women in prison and on alternatives to imprisonment for women offenders;

11. *Also requests* the United Nations Office on Drugs and Crime to take steps, as appropriate, to ensure broad dissemination of the Bangkok Rules, as a supplement to the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules),¹⁹ and to ensure the intensification of information activities in this area;

12. *Further requests* the United Nations Office on Drugs and Crime to increase its cooperation with other relevant United Nations entities, intergovernmental and regional organizations and non-governmental organizations in the provision of relevant assistance to countries and to identify needs and capacities of countries in order to increase country-to-country and South-South cooperation;

13. *Invites* specialized agencies of the United Nations system and relevant regional and international intergovernmental and non-governmental organizations to engage in the implementation of the Bangkok Rules;

14. *Invites* Member States and other donors to provide extrabudgetary contributions for such purposes, in accordance with the rules and procedures of the United Nations.

71st plenary meeting 21 December 2010

Annex

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)

Preliminary observations

1. The Standard Minimum Rules for the Treatment of Prisoners apply to all prisoners without discrimination; therefore, the specific needs and realities of all prisoners, including of women prisoners, should be taken into account in their application. The Rules, adopted more than 50 years ago, did not, however, draw sufficient attention to women's particular needs. With the increase in the number of women prisoners worldwide, the need to bring more clarity to considerations that should apply to the treatment of women prisoners has acquired importance and urgency.

2. Recognizing the need to provide global standards with regard to the distinct considerations that should apply to women prisoners and offenders and taking into account a number of relevant resolutions adopted by different United Nations bodies, in which Member States were called upon to respond appropriately to the needs of women offenders and prisoners, the present rules have been developed to complement and supplement, as appropriate, the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) in connection with the treatment of women prisoners and alternatives to imprisonment for women offenders.

Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 of the Economic and Social Council.

¹⁹ Adopted by General Assembly resolution 45/110 of 14 December 1990.

3. The present rules do not in any way replace the Standard Minimum Rules for the Treatment of Prisoners or the Tokyo Rules and, therefore, all relevant provisions contained in those two sets of rules continue to apply to all prisoners and offenders without discrimination. While some of the present rules bring further clarity to existing provisions in the Standard Minimum Rules for the Treatment of Prisoners and in the Tokyo Rules in their application to women prisoners and offenders, others cover new areas.

4. These rules are inspired by principles contained in various United Nations conventions and declarations and are therefore consistent with the provisions of existing international law. They are addressed to prison authorities and criminal justice agencies (including policymakers, legislators, the prosecution service, the judiciary and the probation service) involved in the administration of non-custodial sanctions and community-based measures.

5. The specific requirements for addressing the situation of women offenders have been emphasized at the United Nations in various contexts. For example, in 1980, the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted a resolution on the specific needs of women prisoners,¹⁸ in which it recommended that, in the implementation of the resolutions adopted by the Sixth Congress directly or indirectly relevant to the treatment of offenders, recognition should be given to the specific problems of women prisoners and the need to provide the means for their solution; that, in countries where it was not yet done, programmes and services used as alternatives to imprisonment should be made available to women offenders on an equal basis with male offenders; and that the United Nations, the governmental and non-governmental organizations in consultative status with it and all other international organizations should make continuing efforts to ensure that the woman offender was treated fairly and equally during arrest, trial, sentence and imprisonment, particular attention being paid to the special problems which women offenders encounter, such as pregnancy and child care.

6. The Seventh Congress, the Eighth Congress and the Ninth Congress also made specific recommendations concerning women prisoners.²²

7. In the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century,²³ adopted by the Tenth Congress, Member States committed themselves to taking into account and addressing, within the United Nations crime prevention and criminal justice programme, as well as within national crime prevention and criminal justice strategies, any disparate impact of programmes and policies on women and men (para. 11); and to the development of action-oriented policy recommendations based on the special needs of women as prisoners and offenders (para. 12). The plans of action for the implementation of the Vienna Declaration²⁴ contain a separate section (sect. XIII) devoted to specific recommended measures to follow up on the commitments undertaken in paragraphs 11 and 12 of the Declaration, including that of States reviewing, evaluating and, if necessary, modifying their legislation, policies, procedures and practices relating to criminal matters, in a manner consistent with their legal systems, in order to ensure that women are treated fairly by the criminal justice system.

8. The General Assembly, in its resolution 58/183 of 22 December 2003 entitled “Human rights in the administration of justice”, called for increased attention to be devoted to the issue of women in prison, including the children of women in prison, with a view to identifying the key problems and ways in which they could be addressed.

9. In its resolution 61/143 of 19 December 2006 entitled “Intensification of efforts to eliminate all forms of violence against women”, the General Assembly stressed that “violence against women” meant any act of gender-based violence resulting in, or likely to result in, physical, sexual or psychological harm or suffering to women, including arbitrary deprivation of liberty,²² Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August–5 September 1980: report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B, resolution 9.

Above, No. 18

Above, No. 19

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

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

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

²²See A/RES/55/59.

²⁴*Ibid.*

whether occurring in public or in private life, and urged States to review and, where appropriate, revise, amend or abolish all laws, regulations, policies, practices and customs discriminating against women or having a discriminatory impact on women, and ensure that provisions of multiple legal systems, where they existed, complied with international human rights obligations, commitments and principles, including the principle of non-discrimination; to take positive measures to address structural causes of violence against women and to strengthen prevention efforts addressing discriminatory practices and social norms, including with regard to women in need of special attention, such as women in institutions or in detention; and to provide training and capacity-building on gender equality and women's rights for law enforcement personnel and the judiciary. The resolution is an acknowledgment of the fact that violence against women has specific implications for women's contact with the criminal justice system, as well as their right to be free of victimization while imprisoned. Physical and psychological safety is critical to ensuring human rights and improving outcomes for women offenders, of which the present rules take account.

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

11. As with the Standard Minimum Rules for the Treatment of Prisoners, in view of the great variety of legal, social, economic and geographical conditions worldwide, it is evident that not all of the following rules can be equally applied in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in how they are applied, in the knowledge that they represent, as a whole, the global aspirations considered by the United Nations as leading to the common goal of improving outcomes for women prisoners, their children and their communities.

12. Some of these rules address issues applicable to both men and women prisoners, including those relating to parental responsibilities, some medical services, searching procedures and the like, although the rules are mainly concerned with the needs of women and their children. However, as the focus includes the children of imprisoned mothers, there is a need to recognize the central role of both parents in the lives of children. Accordingly, some of these rules would apply equally to male prisoners and offenders who are fathers.

Introduction

13. The following rules do not in any way replace the Standard Minimum Rules for the Treatment of Prisoners and the Tokyo Rules. Therefore, all provisions contained in those two sets of rules continue to apply to all prisoners and offenders without discrimination.

14. Section I of the present rules, covering the general management of institutions, is applicable to all categories of women deprived of their liberty, including criminal or civil, untried or convicted women prisoners, as well as women subject to “security measures” or corrective measures ordered by a judge.

15. Section II contains rules applicable only to the special categories dealt with in each subsection. Nevertheless, the rules under subsection A, applicable to prisoners under sentence, shall be equally applicable to the category of prisoners dealt with in subsection B, provided they do not conflict with the rules governing that category of women and are for their benefit.

16. Subsections A and B both provide additional rules for the treatment of juvenile female prisoners. It is important to note, however, that separate strategies and policies in accordance with international standards, in particular the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Guidelines for Action on Children in the Criminal Justice System, need to be designed for the treatment and rehabilitation of this category of prisoners, while institutionalization shall be avoided to the maximum possible extent.

17. Section III contains rules covering the application of non-custodial sanctions and measures for women and juvenile female offenders, including on arrest and at the pretrial, sentencing and post-sentencing stages of the criminal justice process.

18. Section IV contains rules on research, planning, evaluation, public awareness-raising and sharing of information, and is applicable to all categories of female offenders covered in these rules.

I. Rules of general application

1. Basic principle

[Supplements rule 6 of the Standard Minimum Rules for the Treatment of Prisoners]

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.

Eleventh United Nations Congress on Crime Prevention and Criminal Justice (Bangkok, Thailand, 18-25 April 2005).
Resolution 40/33, annex.
Resolution 45/112, annex.
Resolution 45/113, annex.
Economic and Social Council resolution 1997/30, annex.

3. Register

[Supplements rule 7 of the Standard Minimum Rules for the Treatment of Prisoners] 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 rules 15 and 16 of the Standard Minimum Rules for the Treatment of Prisoners]

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 22 to 26 of the Standard Minimum Rules for the Treatment of Prisoners]

(a) Medical screening on entry

[Supplements rule 24 of the Standard Minimum Rules for the Treatment of Prisoners]

Rule 6

The health screening of women prisoners shall include comprehensive screening to determine primary healthcare 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.

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 noncustodial settings.

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 health-care 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 27 to 36 of the Standard Minimum Rules for the Treatment of Prisoners]

(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.

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 27 to 32 of the Standard Minimum Rules for the Treatment of Prisoners] 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 33 and 34 of the Standard Minimum Rules for the Treatment of Prisoners] 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 35 and 36 and, with regard to inspection, rule 55 of the Standard Minimum Rules for the Treatment of Prisoners]

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 37 to 39 of the Standard Minimum Rules for the Treatment of Prisoners] 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.

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 46 to 55 of the Standard Minimum Rules for the Treatment of Prisoners] 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.

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 67 to 69 of the Standard Minimum Rules for the Treatment of Prisoners] 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.

2. Prison regime

[Supplements rules 65, 66 and 70 to 81 of the Standard Minimum Rules for the Treatment of Prisoners]

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 79 to 81 of the Standard Minimum Rules for the Treatment of Prisoners]

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.

3. Pregnant women, breastfeeding mothers and mothers with children in prison

[Supplements rule 23 of the Standard Minimum Rules for the Treatment of Prisoners]

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 38 of the Standard Minimum Rules for the Treatment of Prisoners]

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.
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 84 to 93 of the Standard Minimum Rules for the Treatment of Prisoners]

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, nongovernmental 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.

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 Crime³⁰ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime³¹ 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.

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.

²⁶ United Nations, Treaty Series, vol. 2225, No. 39574. ²⁷ Ibid., vol. 2237, No. 39574.

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.

COMMENTARY TO THE UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (THE BANGKOK RULES)

PART I

RULES OF GENERAL APPLICATION

Rule 1

The principle of non-discrimination enshrined in Rule 6 of the SMR and the principle of individualization provided in Rule 63 (1) clearly imply that providing for the special needs of individuals is an essential element of putting into practice the principle of non-discrimination. Thus, taking action to eliminate discriminatory practice in the case of women prisoners requires taking account of special considerations, when applying SMR and these rules to women prisoners. This understanding is reflected in Principle 5 (2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which makes clear that special measures to address the particular needs of women prisoners and other special categories are not to be deemed discriminatory. It is also a reflection of Article 4, of the UN Convention on the Elimination of All Forms of Discrimination against Women.

Rule 2 (1)

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

Rule 2 (2)

Most women who face detention or imprisonment are mothers and often primary carers of children. The sudden and often unexpected removal of the carer requires alternative care arrangements to be made in order to protect and provide for the children, taking into account their best interests in line with the provisions of the Convention on the Rights of the Child. The mother would also need to have access at this time to information and legal advice on

This Commentary is not part of the Bangkok Rules. It was prepared by the United Nations Office on Drugs and Crime (UNODC) and it was approved by the Open-ended intergovernmental expert group meeting to develop supplementary rules specific to the treatment of women in detention and in custodial and non-custodial settings, held in Bangkok, Thailand from 23 to 26 November 2009.

alternative care arrangements and their long term implications. It is recognised that granting suspension of detention or sentence may not be possible in some jurisdictions, in which case, authorities are encouraged to use options such as home leave, immediately on detention to allow for the requisite arrangements in relation to caring responsibilities to be made.

Rule 3

This information, gathered in accordance with the purpose of detention, as well as with consideration for the mother's protection of privacy, will be valuable in assisting with contact between the mother and child living outside prison if required, as well as in gathering data about the parental status of women in prison, with a view to increasing knowledge about imprisoned mothers and improving the suitability and effectiveness of criminal justice responses to women offenders, while taking account of the best interests of their children. Mothers should receive information about the purposes for which this information is being collected and be encouraged to provide it, though many may have reasons for not wishing to disclose it, and their choice must be respected by the authorities.

Rule 4

All prisoners should be allocated, as far as possible, close to their homes or places of social reintegration, in order to facilitate communication with their families, as well as agencies and services used to enhance their social rehabilitation, in order to put into practice of Rules 79 and 80 of SMR, which provide that special attention should be paid to the maintenance and improvement of relations between the prisoners and their families. These Rules state that from the beginning of a prisoner's sentence, consideration should be given to his or her future after release. Prisoners should be encouraged and assisted to maintain or establish relations with agencies outside prison which may promote the best interests of his or her family and his own social rehabilitation. However, women are most often disadvantaged in their allocation, due to the small number of women's prisons in most countries and therefore experience immense challenges in maintaining contact with their families. In accordance with this rule, prison authorities should, to the extent possible, introduce the means to ensure that women are allocated closer to home or places where they can be in communication with agencies which can assist with their social rehabilitation. Given women's history with violence and exploitation, it should not be assumed that women's former residence is a preferred or safe place for her to be released to (e.g. due to past abuse or expected future stigmatization) and her allocation close to services that will assist with social reintegration should therefore take account of this factor.

Rule 5

Ready access to sanitary and washing facilities, safe disposal arrangements for blood-stained articles, as well as provision of hygiene items, such as sanitary towels/pads, are of particular importance. These should be available to women under conditions in which they do not need to be embarrassed asking for them (for example either dispensed by other women or, better yet, accessible whenever needed). The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considers that the failure to provide such basic necessities can amount to degrading treatment.

Rule 6

Rule 24 of the SMR provides that the medical officer should see and examine every prisoner as soon as possible after his or her admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness

CPT Standards, 2006 Edition, Extract from the 10th General Report, CPT/Inf (2000) 13, para. 31. Medical examinations undertaken on entry to police detention facilities need not be as comprehensive as outlined in Rule 6, which applies primarily to pre-trial detention and prison facilities. The main purpose of medical examination in police

and the taking of all necessary measures. The Body of Principles for the Protection of all Persons Under any Form of Detention or Imprisonment (Principle 24) also provides that a proper medical examination should be offered to a detained or imprisoned person as promptly as possible after his or her admission to the place of detention or imprisonment, and thereafter medical care and treatment should be provided whenever necessary.

It is vital that all prisoners undergo a medical examination and health screen on entry, on an individual basis, to ensure that the prisoner starts receiving proper treatment for any health conditions immediately. The medical practitioner carrying out such screening should ideally be independent from the prison authorities to ensure an impartial, objective examination report. Women prisoners, typically from economically and socially disadvantaged backgrounds, and many women in low-income countries suffer from a variety of health conditions which may be untreated in the community. In many countries women face additional discrimination and barriers in accessing adequate health-care services in the community, due to their gender. Therefore women prisoners often have greater primary health-care needs in comparison to men. For these reasons, a comprehensive screening of women on entry to prison is vital to ensure appropriate treatment. Such screening should be accompanied by the provision of information on primary healthcare and protection from infectious diseases.

Rule 6 (1)

Violence against women, especially sexual violence, has numerous short- and long-term sexual and reproductive health consequences for women. As such, women prisoners represent a high-risk group for sexual and reproductive health diseases. It is vital to diagnose any reproductive or sexual health diseases as early as possible and provide appropriate treatment. As regards testing for HIV, it is essential that informed consent is sought and secured non-coercively before HIV/AIDS testing or medical interventions are provided to prisoners and that the process of securing consent specifically allows prisoners to refuse such testing and treatments.

Rule 6 (2)

The assessment should take into account the mental health history of the prisoner, drug and/or alcohol addiction and prior self-harm and suicide attempts, in determining risks. In a number of countries research indicates that women have much higher levels of mental health-care needs than men on entry to prison, are more likely to be addicted to drugs and have higher rates of self-harm attempts. In at least one country, research indicates higher levels of suicide among women prisoners in comparison to men. Research in some countries indicates that prisoners who commit suicide suffered from some form of mental disability or substance dependence (or both) on entry to prison. Studies of

detention is to provide any emergency medical care necessary and prevent ill-treatment and abuse, therefore to record the detainee's basic medical conditions and needs, and in particular whether or not he or she had any injuries on admission.

UNODC, WHO, UNAIDS, HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings, A Framework for an Effective National Response, Lines, R. and Stöver, H., 2006, p. 19. See also Council of Europe, Committee of Ministers Recommendation No. R (93) 6, Concerning Prison and Criminological Aspects of the Control of Transmissible Diseases Including AIDS Related Health Problems in Prison, Rule 3 and CPT 3rd General Report, CPT/INF (93) 12, para. 55.

Matsching T., Frühwald S and Frottier P., Suicide behind bars, an international review, Klinische Abteilung für Sozialpsychiatrie und Evaluationsforschung, Universitätsklinik für Psychiatrie, AKH Wien, Österreich. Psychiatr Prax. 2006 Jan;33 (1):6-13.

McArthur, M., Camilleri, P. and Webb, H., Strategies for Managing Suicide and Self-harm in Prisons, Australian Institute of Criminology, 1999, p. 1.

For example, it is estimated that at least 75% of women arriving in prison in England and Wales have some sort of drug-related problem at the time of arrest and another estimation states that 75% of women entering European prisons are problematic drug and alcohol users (see WHO/Europe, Health in Prisons, A WHO guide to the essentials in prison health (2007) and Women in Prison, A Review of the Conditions in Member States of the Council of Europe, Quaker Council for

prisoner suicides have also indicated that long-term sentences, single-cell use, mental disabilities, substance abuse and a history of suicidal tendencies are associated with an increased suicide risk. Research has also identified a higher prevalence of self-harm history among prisoners who commit suicide, compared to the general population, as well as higher levels of suicide “ideation” among self-harmers in prison. Thus, prisoners who harm themselves may be considered at higher risk of attempting suicide than others.

Rule 6 (3)

It is important that the reproductive health history of women is recorded in their medical files to assist with determining any future treatment. Current reproductive health complications should receive the appropriate medical responses without delay. For example, women who have recently undergone abortions, experienced miscarriages or complications during delivery may need urgent medical attention. Those who have recently given birth require post-natal care and, often, counselling related to this circumstance.

Rule 6 (4)

Research in a number of countries has found that a large proportion of women entering prison have a drug dependency. Drug offences are one of the most common category of crimes committed by women and drugs are often key to women's offending behaviour. Some research also indicates that women prisoners are more likely to be addicted to harder drugs than male prisoners. It is therefore important to diagnose any treatment needs for drug dependency on entry to prison, in order to provide the requisite healthcare services, as early as possible during detention and imprisonment, taking into account that drug dependency is a recognised underlying factor that can lead to conflict with the law and therefore to re-offending following release, if left untreated.

Rule 6 (5)

The health screening on admission is essential to identify any signs of ill-treatment or torture in previous detention/custody and take appropriate action. Torture and abuse of prisoners in custody, immediately after arrest, is more common than during the period of imprisonment. During the initial period, suspects mostly find themselves in the hands of the officers in charge of investigating the crime of which they are accused. The officers therefore have an interest in obtaining a confession or other relevant information. During this time, women are at particular risk of sexual abuse, including rape.

European Affairs, p. 12, citing “Health Care Needs of Women in Prison”: The Gap Between Policy and Implementation”, MacDonald M. presentation at “What Works with Women Offenders”, June 2005). A Review of the Conditions in Member States of the Council of Europe, Quaker Council for European Affairs, p. 12. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Human Rights Council, Thirteenth Session, 9 February 2010, A/HRC/13/39, para. 52. For a discussion of custodial violence against women, see Human Rights Council, Seventh Session, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3, 15 January 2008, paras 34-35 in particular. In para. 34 it is stated that “[c]ustodial violence against women very often includes rape and other forms of sexual violence such as threats of rape, touching, ‘virginity testing’, being stripped naked, invasive body searches, insults and humiliations of a sexual nature, etc. It is widely recognized, including by former Special Rapporteurs on torture and by regional jurisprudence, that rape constitutes torture when it is carried out by or at the instigation of or with the consent or acquiescence of public officials. In a 1997 decision on a case of custodial rape the European Court of Human Rights acknowledged that ‘rape of a detainee by an official of the State must be considered to be an especially grave and abhorrent form of ill-treatment given the ease with which the offender can exploit the vulnerability and weakened resistance of the victim’ and ‘rape leaves deep psychological scars on the victims which do not respond to the passage of time as quickly as other forms of physical and mental violence’.”

Rule 7

Any woman who has been diagnosed as having been abused in previous custody or prior to that, (by prison staff or other prisoners) should be fully informed of her right to complain and adequate assistance shall be provided to her to enable her to proceed with her complaint if she wishes. The principle of confidentiality should be respected during this process and the woman concerned should receive the psychological support required by her situation, whether or not she chooses to complain. Psychological support may be provided by outside services, such as NGOs, in cooperation with prison authorities, especially when prison authorities do not have the capacity to provide for adequate and appropriate services. The provision of legal assistance to such women is essential. Such assistance may be provided by lawyers or qualified para-legal aid providers, at least in the first instance, in the absence of lawyers.

Rule 8

International standards guarantee the right to medical confidentiality for all individuals, including prisoners. Women may have particular safety and security concerns in relation to their reproductive health history, and therefore should never be coerced into giving information, which they feel may put them at risk. In this context women should have the right to refuse vaginal screening/hymen examination.

Rule 9

Many women worldwide who are admitted to prison are accompanied by their children, who may remain with them in prison, sometimes for long periods. It is vital to respect such children's right to the highest attainable standards of health, enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights and Article 24 of the Convention of the Rights of the Child, undertaking also a thorough health screening on their entry to prison and provide the requisite health care during the whole period of their stay in prison facilities. Wherever possible and in the best interests of the child, such screening should be undertaken in the presence of the mother.

Rule 10

All women are entitled to treatment and care equivalent to that of community standards for their gender specific health-care needs. Due to the typical background of women in prison, risk factors and their health care needs as women, women's prisons require a gender-specific framework for health care which emphasizes reproductive and sexual health, mental health care, treatment for substance abuse and counselling victims of physical and sexual abuse.

Due to cultural reasons, and/or because of past negative experiences with men, including being subjected to sexual abuse or violence, women may not wish to be examined by a male medical specialist and may even feel re-traumatized by such an examination. This Rule takes into account this possibility, providing women with the right to

The UN Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture, and other cruel, inhuman or degrading treatment or punishment, Principle 1 provides that "[h]ealth personnel, particularly physicians, charged with the medical care of prisoners and detainees, have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained." Confidentiality of medical examinations is one of the key principles which apply to the healthcare of all persons, including those in prison. The International Code of Medical Ethics of the World Medical Association (adopted in 1949, amended in 1968, 1983 and 2006), states that "[a] physician shall respect a patient's right to confidentiality. It is ethical to disclose confidential information when the patient consents to it or when there is a real and imminent threat of harm to the patient or to others and this threat." Thus the breaching of any confidentiality is exceptional and the decision to disclose any information due to real and imminent harm to the patient or others must be taken by the physician and /or with the consent of the patient.

request examination and treatment by a female medical specialist. Women should not have to provide a reason for such a request.

The rule recognises that in some circumstances an adequately qualified woman medical practitioner may not be available, especially in emergency situations. In these cases the presence of a woman member of staff should help prevent any perceived or real risk of harassment, and reassure the woman prisoner concerned.

Rule 11

The principle of confidentiality which applies to all medical examinations requires that patients should be examined individually, on their own, without the presence of any other person, unless specifically requested by the patient. In prisons, doctors may in exceptional circumstances request the presence of prison staff, if they feel at risk. Doctors should be advised by prison staff about the nature of the possible risks involved, in these cases, for the doctor to make an informed decision. However, in all cases security staff should be out of hearing of the patient and medical specialist.

The presence of male staff in the examination and treatment of a woman prisoner may cause extreme distress and violates the right to privacy and should be avoided in all cases.

Rule 12

High levels of domestic violence and physical and sexual abuse against women prior to their imprisonment have been documented in countries worldwide. Women who are admitted to prison are more likely than men to suffer from mental health problems, often as a result of domestic violence, physical and sexual abuse. This Rule underlines the need to ensure that mental health care provided in women's prisons should be gender sensitive and interdisciplinary. Women's distinctive mental health-care and psychological support needs should be recognized, including for example, of those who demonstrate acute distress and depression due to isolation, separation from children, families and communities. Rule 12 expressly underlines that treatment should be individualized and aim to address the reasons that provoke distress, depression, as well as psychiatric problems, based on a integrated and holistic approach of counselling, psychosocial support and medication, if necessary. This Rule takes account of the reality that in many prison systems women prisoners' unique mental health-care

needs are not adequately understood or treated, symptoms are addressed rather than the underlying reasons that lead to mental health problems. Too often women are prescribed medication to overcome their distress or depression, rather than being provided with psycho-social support, based on individual assessments. While counselling and treatment should be offered whether a woman is in pre-trial detention or sentenced, depending on the average length of time spent in pre-trial detention in each jurisdiction, long term treatment programmes may begin only if a woman is sentenced and therefore expects to stay a longer period of time in prison. Where possible and appropriate, treatment in the community, with adequate security measures, should be considered for such women, taking account of the negative impact of imprisonment on mental health.

Rule 13

Women are particularly susceptible to mental distress and depression at certain times, for example on admission to prison, due to separation or loss, upon receiving negative information from home, following the delivery of a child, following the experience of any act of victimization or violence, during menopause, after separation from a child

Women and HIV in Prison Settings, HIV/AIDS Unit, UNODC.
p. 3 www.unodc.org/unodc/en/drug_demand_hiv_aids.html. Ibid., p. 3.

previously in the prison with her and prior to release. Thus the rule encourages the adoption of an institutional policy to ensure staff awareness and training to recognize symptoms of mental distress and to respond to needs in an appropriate manner, by responding to the women's need with understanding and referring them to specialised support, as necessary (e.g. psycho-social support services, including those provided by specialised organisations of civil society, non-governmental organisations, etc).

Rules 14

Women have a particular physical vulnerability to HIV. Studies have shown that women are at least twice as likely as men to contract HIV through sex. The pre existence of sexually transmitted diseases (STD) can greatly increase the risk of contracting HIV. Due to the typical background of women prisoners, which can include injecting drug use, sexual abuse, violence, sex work and unsafe sexual practices, a significant number of women are infected with STD, including HIV and hepatitis, at the time they enter prison. Thus, the proportion of women in prison with an STD is relatively very high. As such, HIV prevention, treatment and care in women's prisons, covered by these rules, are vital to protect women from HIV/AIDS and prevent the spread of the disease. Peer education has proven to be particularly successful in a number of jurisdictions.

Rule 15

A large number of women prisoners worldwide are in need of treatment for substance addiction, though only a minority has access to treatment programmes, and especially to programmes designed for women offenders. When drug addiction is untreated in prison, the likelihood of re-offending is high, either on drugs charges or due to theft or illegal sex acts, often to finance the addiction.

In most countries, women experience social, cultural and personal barriers to treatment entry in the community. These include the significant stigma and shame associated with substance use and related problems among women, such as fear of losing custody of children, lack of partner and other family support to undertake treatment and lack of confidence about treatment. There is significant evidence that substance abuse is tied to both past histories of violence and trauma as well as mental health conditions. In addition, it is increasingly recognized that women have distinctive needs in relation to substance abuse treatment, though few programmes offer specialized services for them. There is now increased knowledge and awareness that gender differences in substance use and related problems require different treatment approaches.

In addition, Member States of the UN have reached consensus on treatment strategy development that specifically includes references to gender.

A gender sensitive approach to women's health care should therefore also take into account the need to provide

Bloom B., Owen, B. Owen & S. Covington, *Gender Responsive Strategies: Research Practice & Guiding Principles for Female Offenders*. National Institute of Justice, US Dept. of Justice, USA, 2003.

UNODC Drug Abuse Treatment Toolkit, *Substance abuse treatment and care for women: Case studies and lessons learned*, United Nations, New York, 2004, p. 23.

Ibid., referring to the Twentieth Special Session of the General Assembly, Devoted to Countering the World Drug Problem Together, 8-10 June 1998, paragraph 8 of the Declaration on the Guiding Principles of Drug Demand Reduction.

E.g. according to a study conducted by the Bureau of Justice Statistic in 2002 and 2004, mental health problems in prison were found to be much higher among women than men; in the UK, according to research published in 2006, 80 per cent of women prisoners were found to suffer from diagnosable mental health problems, 66 per cent were drug dependent or used alcohol to dangerous excess, 37 per cent had attempted suicide at some time in their lives (See UNODC Handbook on for prison managers and policy makers on women and imprisonment, 2008, p. 9).

specialized treatment programmes for women substance abusers. Harm reduction programmes may be considered in programmes responding to the needs of women with drug dependency.

Rule 16

Research in some countries indicate that women may be at higher risk of harming themselves or attempting suicide in comparison to men in prison, due to the higher level of mental illness and substance addiction among women prisoners and the harmful impact of isolation from the community on the mental well-being of women. These rules therefore provide for appropriate measures to safeguard against such acts.

All too often initiatives to prevent suicide consist only of technical solutions, such as the removal of items that may be used for suicide, the introduction of additional restrictions to reduce possibilities of suicide, which do not address the cause of mental distress, which lead to acts of suicide or self-harm. Such precautions may in many cases exacerbate the situation.

It must be emphasized that a fundamental element of strategies to reduce incidents of self-harm and suicide in prisons, is to create a prison environment, which promotes mental health. In parallel to the identification, and supervision of “at-risk” prisoners and the individual treatment provided to them, there is a need for prison managers and staff to take a proactive and positive approach to improve prison morale, in order to reduce incidents of self-harm and suicide.

Rule 17

Women prisoners, typically from economically and socially disadvantaged backgrounds, and often uneducated and illiterate, will generally have received minimal education or awareness-raising about prevention from STDs and reproductive health conditions. It is therefore important to raise the level of knowledge and awareness among women in prison, in order to prevent the development of such diseases. Volunteers, health services from outside and NGOs may be constructively involved in providing such awareness raising and education. Consideration should also be given to giving access to condoms and dental dams to women prisoners, to prevent the spread of sexually transmitted diseases.

Rule 18

Since all persons in prison, including women, enjoy the right enshrined in the International Covenant on Economic, Social and Cultural Rights, Article 12, to the highest attainable standard of mental and physical wellbeing, the preventive health services provided in prisons should be equivalent, at least, to those in the community, which means that women should receive all the preventive services, such as Papanicolaou test and screening for cancer, that are available in the community for their age group. Contraception should be available in prison on an equal basis as in the community, taking into account that contraceptive pills are not only used to prevent pregnancy, but also to treat other gender specific conditions, such as painful menstruation. The European Committee for the Prevention of Torture and

CPT Standards, 2006 Edition, Extract from the 10th General Report [CPT/Inf (2000) 13], para. 33.

See Human Rights Council, Seventh Session, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3, 15 January 2008, paragraph 35 and footnote 18, where reference is made to the broadening of the scope of crimes of sexual violence that can be prosecuted as rape. For instance, the Inter-American Court of Human Rights resorted to the international jurisprudence on rape to conclude that “the acts of sexual violence to which an inmate was submitted under an alleged finger vaginal ‘examination’

Inhuman or Degrading Punishment has noted, “[t]he fact that a woman's incarceration may – in itself – greatly diminish the likelihood of conception while detained is not a sufficient reason to withhold such medication.”

Such provision should be available in all women's prisons irrespective of security level, so that women do not have to be transferred to prisons with higher security levels than necessary in order to receive preventive healthcare services.

Rule 19

Article 17 of the International Covenant on Civil and Political Rights guarantees all persons' right to privacy. The Human Rights Committee, in its General Comment 16 on Article 17 stated that “[s]o far as personal and body search is concerned, effective measures should ensure that such searches are carried out in a manner consistent with the dignity of the person who is being searched. Persons being subjected to body search by State officials, or medical personnel acting at the request of the State, should only be examined by persons of the same sex” (see HRI/GEN/1/Rev.3, part I). This rule underlines that, in accordance with the Human Rights Committee, General Comment referred to above, male members of staff should never be involved in the personal searches of women prisoners including pat down and frisk searches. All searches of women should be carried out by women.

The searches referred to in this rule, which should be carried out by women staff include visual strip searches, but different rules apply to invasive or body cavity searches in the case of both male and women prisoners, as explained below.

A strip search refers to the removal or rearrangement of some or all of the clothing of a person so as to permit a visual inspection of a person's private areas, namely genitals, buttocks, breasts or undergarments. This definition distinguishes strip searches from more intrusive body cavity searches, which involve a physical inspection of the detainee's genital or anal regions.

Where permitted at all, internal (body cavity) searches and strip searches should only be carried out if absolutely and legally necessary, and never on a routine basis. No prisoner – regardless of gender – should be humiliated or be required to strip completely during a search. Such searches can be carried out by exposing parts of the body only in turn to protect, to the extent possible, the dignity of the individual being searched. Special sensitivity should be demonstrated in the case of women, however, because they are likely to feel the humiliation of undergoing intimate searches particularly. The experience may be extremely distressing and traumatising if they have been victims of sexual abuse in the past.

All searches, but strip searches and body cavity searches in particular, should be undertaken in accordance with pre-established procedures.

Strip and Cavity Searches – recommended procedures:

- A. There should be a clear written policy explaining the legal grounds and specific procedures for conducting a strip or cavity search
- B. This search is ordinarily authorized in advance, in writing, by the chief executive officer
- C. A strip or cavity search should not be conducted if it is likely to cause injury to the inmate
- D. Cavity searches should only be conducted by a member of the medical staff. The World Medical Association

sexual violence to which an inmate was submitted under an alleged finger vaginal 'examination' constituted sexual rape that due to its effects constituted torture.” See Miguel Castro-Castro Prison v. Peru, Inter-American Court of Human Rights judgement of 25 November 2006, para. 312.

- (WMA) states that the medical practitioner conducting the search should not be the prison doctor. (See the WMA statement below)
- E. Cavity searches should be restricted to digital intrusion and the use of instruments such as anoscope, otoscope, vaginal speculum, nasal speculum, tongue blade, and simple forceps
 - F. If an item is located, it may be removed if the removal is easily effected by means of one of the simple instruments noted in “E” above or digitally
 - G. Strict documentation is to be maintained of the probable cause, authorizing official, witnesses, and findings of the inspection

*Statement on Body Searches of Prisoners, World Medical Association:*⁵⁵

“...The purpose of the search is primarily security and/or to prevent contraband, such as weapons or drugs, from entering the prison. These searches are performed for security reasons and not for medical reasons. Nevertheless, they should not be done by anyone other than a person with appropriate medical training. This non-medical act may be performed by a physician to protect the prisoner from the harm that might result from a search by a nonmedically trained examiner. In such a case the physician should explain this to the prisoner. The physician should furthermore explain to the prisoner that the usual conditions of medical confidentiality do not apply during this imposed procedure and that the results of the search will be revealed to the authorities. If a physician is duly mandated by an authority and agrees to perform a body cavity search on a prisoner, the authority should be duly informed that it is necessary for this procedure to be done in a humane manner.

If the search is conducted by a physician, it should not be done by the physician who will also subsequently provide medical care to the prisoner:

The physician's obligation to provide medical care to the prisoner should not be compromised by an obligation to participate in the prison's security system...”

Rule 20

This Rule takes account the World Medical Association (WMA) Statement on Body Searches, where WMA urges all governments and public officials with responsibility for public safety to recognize that invasive search procedures are serious assaults on a person's privacy and dignity, and that they also carry some risk of physical and psychological injury. Therefore this rule recommends that to the extent feasible, without compromising public security, alternative methods should be used for routine screening of women prisoners.

⁴⁶For example, the American College of Obstetricians and Gynecologists and the American Public Health Association have condemned the practice of shackling, recognising that it compromises women's health and causes severe pain and trauma. The Center for Reproductive Rights points out that unrestrained movement is critical during labour, delivery, and the post delivery recovery period. Shackles hamper a woman's ability to move to alleviate the pain of her contractions, which increases stress on the woman's body and may decrease the flow of oxygen to her fetus.

⁴⁷The European Committee for the Prevention of Torture and Inhuman or Degrading Punishment, The CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2006, Extract from the 10th General Report [CPT/Inf (2000) 13], para.27. In the U.S., in response to increasing concerns at the physical and psychological damage that can be caused by shackling during labour, there has been a move towards prohibiting shackling during labour and childbirth. In October 2008 the U.S. Bureau of Prisons policy, which applies to federal facilities in the U.S., barred the shackling of pregnant women, “except in the most extreme circumstances.” Since 2000, four states - California, Illinois, Vermont and New Mexico - have passed legislation restricting the unnecessary use of restraints on pregnant women in prison. At the time of writing, New York and Texas had bills backed by legislative support waiting to become law. The New York “Anti Shackling Bill” prohibits state and local correctional authorities from using restraints on a pregnant female inmate who is being transported for childbirth, during labour and delivery, and in post-natal recovery.

Rule 21

The emotional trauma experienced by the child, if searched without professionalism and sensitivity, can be immense. Mothers can be so distressed at seeing her child being handled without appropriate care that they have even refused to accept visits from their children in order to avoid putting them through the humiliating and potentially damaging experience of such practices. Children should not be strip searched except for exceptional circumstances. If they are to be strip searched, such searches should be carried out in line with established

⁵¹ Adopted by the 45th World Medical Assembly, Budapest, Hungary, October 1993 and editorially revised at the 170th Council Session, Divonne-les-Bains, France, May 2005. (<http://www.wma.net/e/policy/b5.htm>).

procedures and following permission from the chief executive officer. Such searches should only be carried out in circumstances which do not violate the human rights and dignity of the child, as explained above.

It should be noted that visitors are not prisoners, and can therefore refuse to be searched and guardians of children (as well as the children themselves) can refuse children to be searched. In such cases the prison administration has the right to deny them entry to the prison.

Rule 22

The international instruments make clear that solitary confinement is not an appropriate punishment other than in the most exceptional circumstances; whenever possible its use should be avoided and steps should be taken to abolish it. These instruments also acknowledge the fact that, potentially, periods of solitary confinement are prejudicial to the mental health of the prisoner. Principle 7 of the Basic Principles for the Treatment of Prisoners calls for "...efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use..." Thus solitary confinement should be used only in exceptional circumstances in the case of all prisoners, and for the shortest possible period of time. Rule 22 takes account of the best interest of the children, in line with the Convention on the Rights of the Child and calls on member States to avoid using solitary confinement on certain categories of women prisoners altogether in order to avoid causing possible health complications to those who are pregnant or penalizing their children in prison by separating them from their mothers.

Rule 23

Total prohibition of family contact, especially of contact with children, has a very harmful impact on the mental wellbeing of women prisoners, as well as the children involved, and should therefore be avoided, unless the child has particular protection needs.

Rule 24

Rules 33 and 34 of the SMR place strict restrictions on the use of body restraints on prisoners. Firstly restraints may never be used as punishment, secondly they may be used in cases where there is genuine justification to believe that the prisoner may attempt escape during transfers and thirdly, following instruction from a medical officer, due to the imminent danger of harm or self-harm by the prisoner concerned. Nevertheless, in some countries body restraints, such as shackles, are used on pregnant women during transfers to hospitals, gynaecological examinations and birth. This practice violates international standards. Moreover, shackling during labour may cause complications during delivery such as haemorrhage or decreased foetal heart rate. If a caesarean section is needed, a delay of even five minutes may result in permanent brain damage to the baby. European Committee for the Prevention of Torture and

Inhuman or Degrading Treatment or Punishment has stated that “[...] from time to time, the CPT encounters examples of pregnant women being shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations and/or delivery. Such an approach is completely unacceptable, and could certainly be qualified as inhuman and degrading treatment. Other means of meeting security needs can and should be found.”

Rule 25

Rule 35 of the SMR provides that each prisoner is given clear written and if necessary also oral information on complaints procedures on admission to prison, while Rule 36 provides for a confidential complaints mechanism and guarantees prisoners' right to complain both to prison and independent authorities on a confidential basis. The rule does not explicitly refer to complaints of abuse and the protection of prisoners who do allege ill-treatment, but the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Article 13, provides that “[e]ach State Party should ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined by its competent authorities. Steps should be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” It is of utmost importance that women who have been subjected to any form of abuse in pretrial detention or prison should be able to complain without fear of retaliation by staff, confidentially, to the central prison administration, judicial authorities and independent inspectors, and that they should receive legal aid or assistance to do so. Women who claim to have been abused should be confident that they will be provided immediate protection and supervision, while their claims are investigated, and later on, if required, in line with the provisions of the Convention against Torture. Rule 25 therefore provides guidance to prison authorities in the application of the Convention against Torture. It takes account of the fact that women are particularly vulnerable to abuse in prison settings, but that they are often afraid of making complaints due to fears of retaliation. It is included to add an additional safeguard for women against violence and ill-treatment in prison settings.

Rule 25(3) supplements SMR, Rule 55, which provides for the regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. The inclusion of women members on inspection bodies/monitoring boards will help ensure that the provision of services addressing women prisoners' specific needs are properly inspected by a person of the same gender, as well as encouraging the receipt of complaints from women prisoners, who may feel inhibited in coming forward if all members of the monitoring body were to be male.

Rule 26

SMR underlines the need for all prisoners to have contact with their families. This Rule emphasizes particularly the importance for women prisoners of the maintenance of family links, whether in pre-trial detention or following sentence. It also recognises the particular need women prisoners have in accessing legal assistance, due to their lower educational, economic and social status in most societies, as well as due to abandonment by families on imprisonment experienced by many women in different countries, and therefore encourages prison authorities to assist them in obtaining legal assistance.

The rule emphasizes the flexibility that needs to be demonstrated by prison administrations in applying visiting rules to women prisoners, in order to safeguard against the harmful impact of separation from families and children, in view of the fact that many women are imprisoned far away from their homes. This flexibility may, for example, include extending the length of visits, particularly when visitors have travelled long distances to visit. Other considerations should also apply, such as taking account of the hours when children may visit their mothers without having to miss school.

Rule 27

This Rule aims to prevent discrimination suffered by women in some countries where conjugal visits are not allowed to women in prison or are allowed on a much more restricted basis than to male prisoners.

Rule 28

This Rule takes account of mothers' and their children's emotional need for close physical contact and the requirement for a child-friendly environment for children visiting their mothers, to reduce the trauma and distress suffered by the children in these circumstances. Generally, open contact between mother and child should be permitted, taking account of the best interest of the child. The conditions of visits are of utmost importance, so that visits are experienced as a positive experience, rather than discouraging further contact. Making an effort to enable imprisoned women to meet with their families in a friendly and comfortable environment will have a significant impact on the number of visits they receive and the quality of those visits, affecting the social reintegration prospects of women prisoners.

Rules 29-30

Recognising the vulnerability of women to sexual abuse, the SMR prohibit any involvement of male staff in the attendance and supervision of women prisoners. These Rules are based on the premise provided by the SMR that women staff will be employed to attend and supervise women prisoners, thus increasing safety and enhancing the rehabilitative environment. Increasing the capacity, morale and job satisfaction of women staff would enable them to perform their duties effectively, which impacts on the success of women prisoners' social reintegration. Prison authorities should base their personnel and training policies on Article XV of the Recommendation on the Selection and Training of Personnel for Penal and Correctional Institutions adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Rule 31

Rule 54 of the SMR prohibits the use of force by prison staff, except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. It provides that officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution. Rule 31 adds further provisions relating to the use of force, taking into account women's gender specific needs of protection from varying forms of violence. For example, in some systems it has been reported that sexual services by prisoners may be required before they are accorded their most basic human rights, such as access to food and essential services. This Rule therefore explicitly prohibits sexual misconduct and abuse, which can amount to torture or ill treatment. Obviously such a prohibition is all the more vital in systems that have a policy of mixed gender staffing.

Rule 32

This Rule aims to ensure that women prison staff have equal opportunities to advance in their careers as male staff, taking account of provisions of the Convention on the Elimination of all forms of Discrimination against Women, Article 11, and with the aim of improving the gender sensitive supervision and treatment of women prisoners. SMR prohibits the involvement of male staff in the supervision of women's prisons. Nevertheless, even when not directly employed in the supervision of women prisoners, male staff in senior positions are involved in various aspects of the

administration of women's prisons. This rule aims to ensure that such staff are trained in the principle of non-discrimination and are made aware of the total prohibition of sexual harassment against women staff and prisoners. Obviously, in systems where mixed gender staffing is used, the implementation of this rule becomes all the more important.

Rule 33

This Rule takes account of the need to train prison staff in the gender specific treatment and supervision needs of women prisoners in order to ensure the effective management of and the promotion of rehabilitation in women's prisons. It also recognizes the reality that prison staff are typically the first responders to prisoners' and/or their children's health problems, including in emergencies, when prisoners or their children may be harmed and need immediate attention and other emergencies. In many systems prison medical specialists will not be readily available to respond in such circumstances. Training of prison staff on basic health care relevant to women and children and how to apply first aid in emergency situations, is therefore important to ensure that women and children receive immediate basic health care and are referred to specialists by prison staff without delay, as required.

Rule 34

This Rule complements other measures, provided in Rule 17, taking into account women's distinctive needs, which include protection from stigma and discrimination due to their HIV status.

Rule 35

This Rule complements Rule 16 to ensure effectiveness of the protection of women prisoners against suicide and self-harm, recognising the central role of prison staff in detecting those at risk and providing timely assistance.

Rules 36-39

Juvenile female prisoners referred to in this section include the age group referred to in the “United Nations Rules for the Protection of Juveniles Deprived of their Liberty” (1990), Rule 11 (a), which specifies that a juvenile is every person under the age of 18, adding that this is the age limit below which it should not be permitted to deprive a child of his or her liberty.

Recognizing the special needs of juvenile female prisoners, Rules 36-39 aim to provide guidance to prison authorities in providing for these needs. In this context it should be noted that Rule 26.4 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) states that “...young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment should be ensured...” Accordingly, the Beijing Rules recognize the fact that the disadvantages faced by women prisoners, in comparison to their male counterparts, are even more acute in the case of juvenile female prisoners, as a result of their very small numbers in most prison systems. They may not be separated from adult prisoners, due to the lack of special facilities for juvenile female prisoners, and thereby their safety is put at risk.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Rule 18 which applies to juveniles under arrest or awaiting trial, provides that

“The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

(b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention.”

Thus in general juveniles in pre-trial detention should be offered educational and vocational programmes appropriate to their age, where possible. Juvenile female prisoners are likely to have even less access to suitable educational and vocational training facilities than either adult women or juvenile male prisoners, due to their small numbers. Any programmes provided for juveniles are likely to have been developed to address the needs of boys.

The provision of appropriate education and vocational training programmes may be problematic for a variety of reasons, including the shortness of pre-trial detention periods in some jurisdictions, but States should make every effort to prevent a break particularly in the education of juveniles during this period, in line with Article 28, 1 (a) and (d) of the Convention on the Rights of the Child. In any case, pre-trial detention should be used only in exceptional circumstances, in line with Rule 17 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the principles outlined in Convention on the Rights of the Child Article 40, 3 (b) and 4.

Juvenile female prisoners are unlikely to have access to gender sensitive health care or counselling for physical or sexual abuse suffered prior to imprisonment. Pregnant girl prisoners comprise one of the most vulnerable groups in prisons, due to the social stigmatization to which they may be subjected, their inexperience of dealing with pregnancy and the lack of adequate facilities for pregnant juvenile female prisoners.

PART II

RULES APPLICABLE TO SPECIAL CATEGORIES

A. PRISONERS UNDER SENTENCE

Rule 40-41

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

However, once again, women are often discriminated against in the application of this principle, due to one or a combination of a series of factors. Firstly, since the same classification instruments are used for women and men in the

vast majority of prisons worldwide, despite women's different needs and circumstances, information about a history of domestic violence, sexual abuse, and parental responsibility are areas in which screening is lacking for women. As a result classification and screening procedures do not provide essential information about the women, which may increase the probability of their placement in a higher security level than appropriate, while reducing possibilities of providing suitable prisoner programmes matching individual needs. A further problem is that “needs” are often assessed as risk factors during assessments, which can mean that prisoners with mental disabilities may be seen as requiring a higher level of security, rather than the opposite. Such misclassification affects women more so than men due to the higher level of mental health problems among women offenders. High security levels are inappropriate for the housing of prisoners with mental disabilities and will almost invariably further exacerbate existing mental health-care needs. Furthermore, due to the limited accommodation available for women prisoners, in a number of countries they are housed in security levels not justified by their risk assessment undertaken on admission. Therefore this rule emphasizes the need to develop gender sensitive assessment and classification methods for women prisoners.

Rule 42

The requirement included in the SMR to apply individual treatment according to the needs of prisoners (SMR 69), implies that programmes should be available in prisons designed specifically for women prisoners, taking into account their gender specific needs, aiming to address the underlying factors that led to their offence and to cope with the challenges they face as women in prison. The current Rule spells out this requirement more clearly and offers some guidance on what measures might be taken to enable women to participate in activities on an equal basis to men. This Rule also takes account of the gender specific needs of women prisoners, including pregnant women and women with children, as well as the typical background of women prisoners, which increases their need for appropriate, individualized psycho-social counselling and support.

Gender sensitive programmes offered to women prisoners to address the underlying causes that led to their offences and to assist in strengthening their confidence, self assurance and parenting skills may include therapeutic programmes, self-help groups and consultation dealing with substance abuse, mental health, history of abuse and domestic violence; parenting programmes, including child visitation programmes and parent education; and special programmes to build confidence and life skills. Programmes to assist women to live independent lives may include programmes to develop administrative skills, bookkeeping, computer skills, painting and decorating, cooking/catering, horticulture, hairdressing, gardening, women's health, childcare, dressmaking, embroidery managing income generating community projects and the use of micro-credit facilities.

Programmes offered should also include others which are not traditionally considered as appropriate for women, due to gender stereotyping.

Rule 43

The principle referred in this rule is applicable to all prisoners. However, the small proportion of women prisoners worldwide and the resource implications of building sufficient women's prisons to ensure that women offenders are imprisoned close to their homes, give rise to a situation in which women may either be housed in annexes of male prisons, close to their places of residence or in women's prisons, which are most often situated at a long distance from home. Being placed in annexes of male prisons may entail safety risks for the women. Most States have a combination of women's prisons and separate wings for women in men's prisons, which means that, in practice, many women are imprisoned a long distance from their homes, which reduces the possibility for family contact. The

situation can be particularly problematic in large countries, where huge distances need to be covered to reach women's prisons. The disruption of family links has extremely harmful emotional consequences for women prisoners, especially if they are mothers, with a detrimental impact on their resettlement prospects. Rule 44 therefore requires prison authorities to remedy this disadvantage by finding ways in which to encourage and facilitate visits to women prisoners. Measures to be considered may include: (1) where possible assisting with transportation, especially where visits to mothers are concerned; (2) extending the length of visits, when families confront difficulties in visiting due to the long distances involved, lack of resources and transport; (3) providing overnight accommodation for families traveling a long way, free-of-charge; (4) if prisoners have access to telephones, increasing the telephone calls women prisoners are allowed to make to their families, if they are unable to visit due to the long distance; (5) Reducing or eliminating charges for phone calls, where possible; (6) never prohibiting family visits as a disciplinary measure in response to rule breaking by women prisoners; (7) granting prison leave to the greatest extent possible on medical, educational, occupational and family grounds; and do this as soon as and as frequently as possible, taking into account risk factors and family circumstances related to the prisoner concerned; (8) developing cooperation with social services and NGOs to assist with contact between women prisoners and their families; (9) developing other means of enhancing communication with families, such as via taped, videoed or e-mail messages. It must be emphasized that prison visits should always be free-of-charge in the case of all prisoners.

Rule 44

This Rule aims to protect women from visits from those who may have abused or exploited them in the past and who the prisoners themselves do not wish to have contact with.

Rules 45-47

These Rules take account of the particular support requirements of women during their social reintegration and re-entry to society, following release. Although many problems women face during re-entry are similar to those of men, the intensity and multiplicity of their post-release needs can be very different. Women are likely to suffer particular discrimination after release from prison, due to social stereotypes. They might be rejected by their families and in some countries they may lose their parental rights. If they have left a violent relationship, women will have to establish a new life, which is likely to entail economic, social and legal difficulties, in addition to the challenges of transition to life outside prison. Women are likely to have particular support requirements in terms of housing, reunification with their families and employment, and will need assistance. Women are more likely than men to have been treated for a mental health problem in prison and will be in need of continued psychiatric treatment or counselling after release. Former prisoners experience high rates of drug-related accidents, overdose and death. The risk of renewed drug or alcohol abuse is high among all former prisoners, particularly during the early stages following release, when the myriad difficulties associated with re-entry may lead to despair and relapse into former habits. The high rate of substance addiction among women offenders may therefore pose a significant obstacle to successful reintegration. Pre-release preparation and post-release support policies and programmes are typically structured around the needs of men and rarely address the gender specific needs of women offenders, with targeted continuum-of-care in the community after release. These rules aim to emphasize prison authorities' responsibilities in ensuring that women receive the maximum possible support during this time, to ensure their effective resettlement and care and to reduce rates of re-offending.

It should be recognised, however, that prison authorities on their own cannot ensure that the multiple support requirements of former women prisoners are met, and need the full cooperation of outside agencies and services, to

fulfil the provisions of this rule, while such agencies and services need adequate human and financial resources from relevant authorities to be able to implement their responsibilities.

Rule 48

The SMR provide very little guidance on meeting the special needs of pregnant women, breastfeeding mothers and women with children in prison. There is no guidance provided on the treatment of the children themselves. In view of the number of women in prison who are pregnant or who have dependent children living with them, it has become essential to provide more detailed guidance and rules as regards their treatment, in order to ensure that both the women's and the children's psycho-social and health-care requirements are provided for to the maximum possible extent, in line with the provisions of international instruments. Programmes for birthing companions, where they are available in the community, should also be made accessible to women in prison.

Rules 49-52

Viewpoints as to whether children of imprisoned mothers should stay with them in prison, and for how long, vary among specialists, with no consensus. Countries worldwide have very different laws as to how long children can stay with their mothers in prison. Nevertheless, there is general consensus that, in trying to resolve the difficult question of whether to separate a mother from her child during imprisonment, and at what age, the best interests of the child should be the primary consideration, in line with the Convention on the Rights of the Child, Article 3. Issues to take into account should include the conditions in prison and the quality of care children can expect to receive outside prison, if they do not stay with their mothers. This principle would imply that prison authorities should demonstrate flexibility and take decisions on an individual basis, depending on the circumstances of the child and family, and on the availability of alternative care options in the community. These rules recognize that applying rigid policy in all cases, where circumstances vary immensely, is all too often not an appropriate course of action. They emphasise that, in order to prevent any physical or psychological harm to children who do remain with their mothers in prison, the environment in which they are brought up in prison should be as close as possible to a normal environment outside prison and that the healthcare of children, which would include their regular vaccinations, should be provided for. They also emphasize the need for continued communication between the mother and the child following separation to prevent as far as possible the psychological damage caused by separation. Where possible, extended visits of the child to the mother and/or home leave for the mother in order to settle the child with the carer outside prison should be part of the planned separation process.

Rules 53 (1)

Foreign national prisoners may be either resident or non-resident in the country of imprisonment. Both groups face particular difficulties. This is particularly salient given the disproportionate number of women caught up in international drug trafficking. The SMR provides limited guidance as to the treatment of foreign national prisoners. Rule 38 of the SMR covers foreign nationals' right to contact with their diplomatic or consular representatives, while rules 41-42 of the SMR deal with rights in relation to the practice of religion. In view of the fact that the number of foreign national prisoners is rising dramatically worldwide, including the number of foreign national women in prison, and taking into account the particularly vulnerable status, especially of non-resident foreign national women in prison settings, Rule 53 aims to provide further guidance to prison authorities in their treatment of foreign national women prisoners.

Where possible, and if the prisoner so wishes, a foreign national woman prisoner should be given the opportunity to be transferred to her home country to serve her prison sentence. It should be noted that “transfer” is completely different to “deportation”, the former aiming to assist with the social reintegration of offenders and reduce the harmful effects of imprisonment, whereas the latter is experienced as a punitive measure undertaken in addition to the prison sentence and most often against the will of the prisoner concerned.

The transfer of prisoners is possible when both countries have signed the relevant prisoner transfer treaty. In order for a transfer to take place and for it to serve the purposes of social reintegration, the prisoner must express a desire to serve the sentence in his or her home country. The requirement that prisoners must consent to the transfer ensures that transfers are not used as a method of expelling prisoners or as a means of disguised extradition.

A transfer will obviously alleviate all the additional difficulties foreign nationals face in prison, and assist with their social reintegration. This is particularly important in the case of women who may have family and children in their home countries, and will therefore suffer the sense of isolation associated with imprisonment more intensely than their national counterparts. Transferring prisoners to serve their sentences in their own countries, if they so wish, should be considered as early as possible after a sentence has been passed. Prisoners should be given clear and full information about their right to request a transfer and the legal consequences of a transfer, to enable them to make an informed decision about their situation. Guidance on the issue of transfer of prisoners is provided by the Model Agreement on the Transfer of Foreign Prisoners adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Rule 53 (2)

This rule takes into account the fact that the children of non-resident foreign national women are unlikely to have an appropriate carer in the country of imprisonment, and therefore requires that authorities consult with the woman prisoner in making arrangements for the transfer of the child back to the home country, if this would be in the best interest of the child. The mother should be enabled and encouraged to contact consular officials (where available) to discuss and facilitate appropriate arrangements for the child, including the possibility of the child's reunification with family members in the country of origin. In cases where the nationality of the child is in doubt, the assistance of consular officials and of the office of the UN High Commissioner for Refugees should also be sought.

Rule 54

Programmes that address both the gender specific needs of women members of minority groups or indigenous peoples, as well as their cultural, spiritual and religious requirements, are lacking in the large majority of prison systems. Prison authorities should work together with indigenous and minority community groups who work with women to develop programmes suitable to the needs of women minority or indigenous offenders. The provision of culturally relevant programmes is important both in itself and to ensure that these groups are not indirectly

⁴⁹ On 15 February 2007, the EU justice and home affairs ministers agreed to allow transferring convicted EU prisoners to serve their sentences in their home countries, without their consent, contravening this principle.

⁵⁰ Explanatory notes on the model agreement on the transfer of foreign prisoners, Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders, Milan, Italy, 26 August to 6 September 1985, UN Doc. A/CONF. 121/10, 25 April 1985, note 14.

⁵¹ See Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice, 2006, V.o5-91037.

discriminated against in their consideration for early conditional release in some jurisdictions, due to their failure to fulfil a requisite number of prisoner programmes because of the unavailability of appropriate programmes.

Involving community organizations in programme design and delivery is valuable in maintaining links between prisoners and the outside world, easing resource pressures and improving prison atmosphere. In the case of minority groups and indigenous peoples, continuing contacts with the community is likely to be of particular importance, due to their sense of alienation and isolation within the system, and the higher level of distress experienced as a result of breaking ties with the community in some cultures.

Particular care should be taken in taking decisions on removal of children of indigenous women. Decisions about removal of indigenous children should include the recognition of the impact of past oppression and child removal policies on the children, their mother, their family and their community. If an indigenous child is removed, the child should be placed with members of its own family or its kinship within the community.

Rule 55

This Rule takes account of the fact that the reintegration and post-release support requirements of women from minority groups and indigenous peoples are likely to be different and possibly more intense in comparison to those who are from the majority group. Due to their particular economic and social marginalization and the discrimination they face in most societies, released minority and indigenous offenders are likely to need special help with housing, social welfare, employment and health care. Therefore, it is vital that prison authorities coordinate with social services in the community with respect to preparation for release and post-release support. Prison authorities should try to ensure that any treatment undertaken for health problems, such as substance abuse or mental health, is continued and/or monitored after release. Where probation services exist they will have an important role to play in assisting in all these areas. It is particularly advisable to cooperate with organizations of civil society providing support to minority groups and indigenous peoples to facilitate culture and gender sensitive assistance to be provided to released women prisoners during the difficult period of transition from prison to liberty.

B. PRISONERS UNDER ARREST OR AWAITING TRIAL

Rule 56

Women under arrest or awaiting trial have specific safety requirements, due to their especially vulnerable status. Women are at risk of abuse particularly during this period, when sexual abuse and other forms of violence may be used, inter alia, as a means of coercion to extract confessions. Therefore it is vital that prison authorities ensure that

⁵²Recognising the discrimination faced by women in all spheres of life, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly on 18 December 1979, and entered into force as an international treaty on 3 September 1981. In its preamble, the Convention explicitly acknowledges that “extensive discrimination against women continues to exist”, and emphasizes that such discrimination “violates the principles of equality of rights and respect for human dignity”. As defined in article 1, discrimination is understood as “any distinction, exclusion or restriction made on the basis of sex...in the political, economic, social, cultural, civil or any other field”. The Convention covers the elimination of discrimination against women in political, public, economic and social life, in access to education, employment, healthcare, including provision for reproductive healthcare, among others, and gives positive affirmation to the principle of equality by requiring States parties to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men” (Article 3).

⁵³Bloom B., Owen, B. Owen & S. Covington, *Gender Responsive Strategies: Research Practice & Guiding Principles for Female Offenders*, National Institute of Justice, US Dept. of Justice, USA, 2003.

⁵⁴Endorsed by the UN Economic and Social Council in 2002.

policies and rules aiming to safeguard prisoners against abuse are applied vigorously during women's pre-trial detention period.

PART III

NON-CUSTODIAL MEASURES

Rule 57-58

A considerable proportion of women offenders do not necessarily pose a risk to society and their imprisonment may not help, but hinder their social reintegration. Many are in prison as a direct or indirect result of the multiple layers of discrimination and deprivation, often experienced at the hands of their husbands or partners, their family and the community. Accordingly, women offenders should be treated fairly in the criminal justice system, taking into account their backgrounds and reasons that have led to the offence committed, as well as receiving care, assistance and treatment in the community, to help them overcome the underlying factors leading to criminal behaviour. By keeping women out of prison, where imprisonment is not necessary or justified, their children may be saved from the enduring adverse effects of their mothers' imprisonment, including their possible institutionalization and own future incarceration.

Since a large proportion of women have mental health-care needs, are drug and/or alcohol dependent, suffer from the trauma of domestic violence or sexual abuse, diverting them to a suitable gender appropriate treatment programme would address their needs much more effectively than the harsh environment of prisons.

The impact of being held in pre-trial detention, even for short periods, can be severe if the prisoner is the sole carer of the children. Even a short period in prison may have damaging, long-term consequences for the children concerned and should be avoided, unless unavoidable for the purposes of justice, in line with Article 9 (3) of the ICCPR as well as with Rule 6 of the Tokyo Rules, and Principle 39 of the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, which limit the use of pre-trial detention.

Research has indicated that restorative justice can be effective in the social reintegration of women in some cultures. The United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters should provide additional guidance to member States in developing appropriate responses to women in the criminal justice system, where appropriate.

In order to fulfil the provisions of these Rules, judicial authorities need to have the necessary information available in order to take appropriate decisions. They may be required, for example, to consider reports compiled by social services on the probable impact of the mother's detention on the children and other family members, and the arrangements for the children's care, in the absence of the mother.

In addition, States need to give due attention to strengthening administrative and financial capacity with a view to establishing a national system of non-custodial measures, creating structures and mechanisms to implement alternatives to imprisonment, where possible, including restorative justice and alternative conflict resolution.

⁵⁵Report of the Working Group on Arbitrary Detention, Chairperson-Rapporteur, Louis Joinet, Commission on Human Rights, 16 December 2002, UN Doc. E/CN.4/2003/8, para. 65.

Rule 59

In some countries detention may be used as a form of protection for victims of rape, to protect the victim as well as to ensure that she will testify against her rapist in court. This practice is unacceptable, further victimising women and putting them at risk of further abuse. Most importantly, this practice deters women from reporting rape and sexual abuse, thereby allowing perpetrators to escape justice.

In relation to the detention of women for purposes of protection, specifically, the 2003 report of the Working Group on Arbitrary Detention to the Commission on Human Rights stated: “In its annual report for 2001 (E/ CN.4/2002/77 and Add. 1 and 2), the Working Group had recommended, with regard to the detention of women who have been the victims of violence or trafficking, that recourse to deprivation of liberty in order to protect victims should be reconsidered and, in any event, must be supervised by a judicial authority, and that such a measure must be used only as a last resort and when the victims themselves desire it.”

A number of other forms of custody, to “protect” women or to protect others' security are used in other countries, which are covered by this rule. Although in exceptional cases such custody may be justified for limited periods due to the lack of more appropriate alternatives, every effort needs to be made for the development of protection means which do not involve imprisonment, to enable authorities not to have to resort to this unacceptable and discriminatory practice. Where such detention is used, it should always be subject to supervision by an independent judicial authority and the women involved should be provided access to legal counsel in making such decisions. In this context, note should also be taken of the UN Declaration on the Elimination of Violence against Women, Article 4, which provides: “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

f) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;”

Rule 60

This Rule recognizes the absence of gender specific alternatives to prison in most societies, which hinders the effective implementation of non-custodial sanctions and measures in the case of many women offenders, underlining the need to develop gender sensitive alternatives to prison, tailored to meet the specific requirements of women offenders, in order to reduce re-offending.

⁵⁶UN Doc. E/CONF.82.15.

⁵⁷A/RES/S-20/3 of 8 September 1998.

⁵⁸Concluding observations of the Human Rights Committee: Australia. 24/07/2000. A/55/40, paras.498-528. (Concluding Observations/Comments).

⁵⁹UNODC Drug Abuse Treatment Toolkit, Substance Abuse Treatment and Care for Women: Case Studies and Lessons Learned, United Nations, New York, 2004, p. 90.

⁶⁰UNODC Drug Abuse Treatment Toolkit, Substance Abuse Treatment and Care for Women: Case Studies and Lessons Learned, United Nations, New York, 2004, p. 92.

Rule 61

This rule takes account of the typical background of many women offenders. A significant proportion of women who commit violent offences commit them against their husbands or partners in response to systematic abuse. A large number of women offenders worldwide are imprisoned for minor drug related offences, often as a result of manipulation, coercion and poverty. If involved in drug trafficking, women are often minor players, their criminal offences often being an outgrowth of their own addiction or due to poverty and other pressures. A significant number of women are used as drug couriers to smuggle drugs across borders for small sums of money. They come from poor countries and sometimes do not understand the risks involved and implications of the acts they agree to perform.

Many offenders charged with drug offences could be dealt with more effectively by alternatives to imprisonment targeted specifically at the drug problem, rather than imprisonment. The major international instruments, including the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the Guiding Principles on Drug Demand Reduction of the General Assembly of the United Nations recognize this paradox. While their primary focus is combating drug trafficking, they call on governments to take multidisciplinary initiatives, of which alternatives to imprisonment are a key part.

Rule 61 therefore calls specifically for provisions to allow judges to take account of the circumstances of the offence committed, as well as the caring responsibilities of the women involved, in decision-making and calls on Member States to consider removing mandatory sentencing policies in order for the judicial authorities to be in a position to use their discretion during sentencing. The Human Rights Committee of the UN has expressed specific concern that mandatory sentencing can lead to the imposition of punishments that are disproportionate to the seriousness of the crimes committed, raising issues of compliance with various articles of the ICCPR. In addition, many studies have found that mandatory sentences are not an effective sentencing tool: that is, they constrain judicial discretion without offering any increased crime prevention benefits.

Rule 62

This Rule takes account of the lack of adequate drug treatment programmes in most communities, which are designed specifically for women and the challenges women face in accessing such treatment, including due to the lack of childcare facilities in the community. A study conducted by UNODC, found that comprehensive programming that acknowledges gender differences, which provides women-only services and gives attention to pre-natal and childcare, parenting skills, relationships, mental health problems and practical needs could improve treatment outcomes. Programmes also needed to address trauma and concurrent disorders, due to high rates of trauma and concurrent mental health problems among women. The study also noted that pregnant and parenting women have unique needs that require approaches that are non-judgmental, comprehensive and coordinated.

Rule 63

⁶¹ Eight UN Congress on the Prevention of Crime and the Treatment of Offenders, Resolution 19 “Management of criminal justice and development of sentencing policies”, Report of the 8th UN Congress on the Prevention of Crime and Treatment of Offenders, 1990, UN Doc. A/CONF.144/28/Rev.1.

This Rule is based on the premise that imprisonment is particularly harmful to the social reintegration of women, as well as to their children and other members of their families. Therefore, prison authorities are encouraged to make maximum possible use of post-sentencing dispositions, such as early conditional release, in the case of women, and especially women who have caring responsibilities or who have special support needs (such as treatment/continuum of care in the community), in order to assist with their social reintegration to the maximum possible extent. Additional measures that can be taken by authorities, is to consider women prisoners for pardoning, as a priority, taking into account their caring responsibilities, when appropriate.

Rule 64

Prisons are not designed for pregnant women and women with small children. Every effort needs to be made to keep such women out of prison, where possible and appropriate, while taking into account the gravity of the offence committed and the risk posed by the offender to the public. Recognizing this reality, the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders determined that “the use of imprisonment for certain categories of offenders, such as pregnant women or mothers with infants or small children, should be restricted and a special effort made to avoid the extended use of imprisonment as a sanction for these categories.” The African Charter on the Rights and Welfare of the Child, 1999, Article 30: Children of Imprisoned Mothers, provides that States Parties to the Charter “should undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and should in particular: (a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers; (b) establish and promote measures alternative to institutional confinement for the treatment of such mothers. The Council of Europe, Parliamentary Assembly Recommendation 1469 (2000), on Mothers and babies in prison, adopted on 30 June 2000, also recommended the development and use of community-based penalties for mothers of young children and the avoidance of the use of prison custody. Most recently, in its Resolution 10/2, dated 25 March 2009, entitled “Human rights in the administration of justice, in particular juvenile justice”, the Human Rights Council emphasized that, when sentencing or deciding on pretrial measures for a pregnant woman or a child's sole or primary carer, priority should be given to non-custodial measures, bearing in mind the gravity of the offence and after taking into account the best interest of the child.

Taking into account the provisions of the Tokyo Rules 3.3, which provide that “[d]iscretion by the judicial or other competent independent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law”, Member States are urged to take legislative measures to implement the measures referred to in this rule, as necessary.

Rule 65

This Rule is based on the principle expressed in Article 37 (b) of the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). All children, and female children in particular, are extremely vulnerable in detention. Imprisonment is likely to have a very harmful impact on children's psychological and intellectual development, which is why international standards are unanimous in calling for the reduction of the imprisonment of children in conflict with the law to the absolute minimum.

Rules 66

Foreigners are vastly overrepresented in the criminal justice system of many countries, particularly those with a large migrant labour force. The rise in their numbers can partly be attributed to the increasingly punitive measures being adopted against “aliens” in many countries. Trafficked women find themselves behind bars, having been convicted of crimes against public morality, prostitution or breaking immigration rules, although they themselves are the victims of poverty, false promises, coercion and exploitation.

Trafficked persons are sometimes treated as criminals rather than as victims, whether in States of destination, transit or origin. In States of destination, they may be prosecuted and detained because of irregular migration or labour status. Alternatively, immigration authorities may simply deport them to the State of origin if their immigration status is irregular. Trafficked persons returning to their State of origin may also be subjected to prosecution for using false documents, having left the State illegally, or for having worked in the sex industry. Criminalization limits the trafficking victims' access to justice and protection and decreases the likelihood that they will report their victimization to the authorities. Given the victims' existing fears for their personal safety and of reprisals by the traffickers, the added fear of prosecution and punishment can only further prevent victims from seeking protection, assistance and justice.

UNODC, as the custodian of the UN standards and norms relating to criminal justice and crime prevention, and based on its mandate to operationalise such standards and norms, should advocate for the ratification of these Conventions.

PART IV RESEARCH, PLANNING, EVALUATION AND PUBLIC AWARENESS- RAISING

Rules 67-68

These Rules recognize the limited information available on women in the criminal justice system worldwide, which hinders the development of effective policies and implementation of programmes to respond to women offenders' needs fairly and effectively. The utilization of research as a basis for an informed policy formulation in responding to the gender specific circumstances and needs of woman offenders is an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and effectiveness of the criminal justice system in both delivering justice and enabling the social reintegration of woman offenders, and avoiding as far as possible the negative impact of women's confrontation with the criminal justice system on their children. The research should be based on accurate data collection, and where this poses challenges, should seek means to improve data collection methods, as well as harmonisation of data collection. Access to information should also be improved based on principles of transparency and in order to make the widest possible use of available data.

Rule 69

The process of planning should particularly emphasize a more effective and equitable system for the delivery of necessary services in prisons and in the community, as relevant to women offenders. Towards that end, there should

⁶² Tolkit to Combat Trafficking in Persons, Global Programme Against Trafficking in Human Beings, UNODC, 2006, p. 103.

be a comprehensive and regular assessment of the wide-ranging, particular needs and problems of women offenders and their children and an identification of clear-cut priorities. In that connection, there should also be a coordination in the use of existing resources, including alternatives and community support that would be suitable in setting up specific procedures designed to implement and monitor established programmes.

Rule 70

This Rule recognizes the limited nature of reliable data and public awareness on women offenders worldwide, the impact of imprisonment on their children, as well as the important role played by information sharing on research outcomes and good practices in the effectiveness of the delivery of justice to women offenders. It also recognizes the key role played by the media in disseminating information on matters relating to women prisoners and offenders. It also recognizes the importance of making available to the media and to those with a professional responsibility in matters concerning women reliable and up-to-date data, in order to enhance and improve the effective implementation of relevant policies and programmes, while receiving public support for them.

The rule also recognises the urgent need to train relevant criminal justice officials in the provisions of these rules and sensitise them to the situation and needs of women in the criminal justice system. Criminal justice officials should be regularly informed of the outcomes of new research in order to keep them abreast of new findings and developments so that they can make informed decisions in their dealings with women offenders.



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