

Item 3 of the provisional agenda^{*}

Successes and challenges in implementing comprehensive crime prevention and criminal justice policies and strategies to promote the rule of law at the national and international levels, and to support sustainable development

Workshop 1: Role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems: experiences and lessons learned in meeting the unique needs of women and children, in particular the treatment and social reintegration of offenders^{}**

Background paper

Summary

This background paper highlights issues for consideration by Member States when developing crime prevention and criminal justice strategies and measures that ensure the inclusion of gender and children-oriented perspectives, particularly with regard to the treatment, social reintegration and prevention of recidivism of women and children. The paper also provides an overview of the United Nations standards and norms in crime prevention and criminal justice that are relevant in addressing the unique needs of women and children in conflict with the law, in particular the treatment and social reintegration of offenders. It further presents national experiences and key lessons learned in meeting those needs, providing a set of specific recommendations for consideration during the Workshop.

I. Introduction

1. An important function of the United Nations has been the development of a broad range of standards and norms in the area of crime prevention and criminal justice. Many of these instruments deal with the treatment of offenders and prisoners such as the Standard Minimum Rules for the Treatment of Prisoners,¹ the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners,² the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,³ the Basic

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¹ *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.

² Economic and Social Council resolution 1984/47, annex.

³ General Assembly resolution 43/173, annex.

Principles for the Treatment of Prisoners⁴ and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).⁵ In 2010, recognizing the need to provide global standards with regard to the distinct considerations that should apply to women prisoners and offenders, the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)⁶ were adopted as a supplement to the Standard Minimum Rules for the Treatment of Prisoners.

2. Several standards and norms relating to the administration of justice for children in conflict with the law⁷ have also been adopted, including the recent United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice,⁸ which provide guidance to countries on how to develop and implement the necessary legal, policy and institutional frameworks for preventing and responding to violence against children in the field of crime prevention and criminal justice.

3. The above standards and norms represent important milestones in the treatment of women offenders and children in conflict with the law. However, despite these achievements, crime rates have escalated and there is an increased number of women offenders, while challenges in meeting the needs of children in conflict with the law persist worldwide. Hence, it is critical for Member States to develop crime prevention and criminal justice strategies and measures which ensure the inclusion of a gender and children-oriented perspective, particularly as regards their treatment and social reintegration and the prevention of recidivism. Equally important are the efforts to eradicate all forms of discrimination and violence against women and children at all levels of society, particularly when women and children enter in contact with the law.

4. More than 625,000 women and girls are held in penal institutions throughout the world, either as pretrial detainees or as convicted and sentenced persons.⁹ Women in conflict with the law tend to be young, poor, undereducated and unskilled. It is recognized that women have been adversely affected by poverty, lack of empowerment, as well as social, economic and political marginalization and exclusion from the benefits of education, health and sustainable development. These challenges have placed them at higher risk of delinquency and violence. It is therefore crucial that States address the structural causes that contribute to women's incarceration, as well as the root causes and risk factors related to crime and victimization through social, economic, health, educational and justice policies.

5. The efforts to address these challenges should be linked to those related to the prevention and elimination of all forms of gender-based violence. Violence against women, in fact, is among the causal factors for women's involvement in criminal offences and subsequent imprisonment. In the report entitled "Pathways to, conditions and consequences of incarceration for women" (A/68/340), the Special Rapporteur on violence against women, its

⁴ General Assembly resolution 45/111, annex.

⁵ General Assembly resolution 45/110, annex. See also the Kampala Declaration on Prison Conditions in Africa (Economic and Social Council resolution 1997/36, annex) and the basic principles on the use of restorative justice programmes in criminal matters (Economic and Social Council resolution 2002/12, annex).

⁶ General Assembly resolution 65/229, annex.

⁷ The definition of "children in conflict with the law" includes children alleged of, accused of or recognized as having infringed the penal law as mentioned in article 40, paragraph 1, of the Convention on the Rights of the Child. See also General Comment No. 10 of the Committee on the Rights of the Child.

⁸ General Assembly resolution 69/194.

⁹ Roy Walmsley, "World female imprisonment list", 2nd ed. (London, International Centre for Prison Studies, 2012).

causes and consequences notes that there is a strong link between violence against women and women's incarceration, whether prior to, during, or after incarceration, and that evidence from different countries suggests that incarcerated women have been victims of violence prior to entering prison at a much higher rate than is generally acknowledged by the legal system. The report also notes that those women belonging to ethnic and racial minorities or victims of intimate violence or with histories of poverty, mental health problems, sexual victimization and/or substance abuse are much more prone to entering the criminal justice system than are male offenders or women in the general population.

6. Gender stereotypes¹⁰ also play a significant role in women's involvement in the criminal justice system and in the way punishment for women offenders is administered. Gender stereotypes have been a source of substantive harmful effects on women offenders and prisoners, including patterns of increased sentencing and specific forms of physical, emotional and sexual violence, compared with male prisoners. Gender stereotypes associate women more with the private sphere and characteristics of submissiveness and weakness. Men, on the other hand, are traditionally seen as belonging to the public sphere and are associated with the characteristics of strength and assertiveness. That narrative holds that men are violent and women are peacekeepers. This is one of the cultural explanations for society's tendency to be unforgiving towards women offenders and for the persistence of the subconscious belief that women offenders need to be punished more than rehabilitated.

7. The adoption of punitive approaches seems to be the prevailing response to issues related to juvenile justice. This has led to an increasing number of children being drawn into the criminal justice system and deprived of their liberty. Research shows that the majority of detained children are awaiting trial and that a large proportion of these children are held for minor offences and are first-time offenders. Many of these children belong to groups that should not be institutionalized. These include children with mental health problems, children with substance abuse problems, children living and working on the streets, children in need of care and protection and unaccompanied migrant children (see A/HRC/21/25). In most cases, they are first-time offenders and/or have committed petty offences. It is therefore crucial that countries have in place appropriate measures to prevent detention, including through alternative measures to judicial proceedings such as diversion and restorative justice. Likewise, it is crucial that countries have in place proper measures to address the specific needs of children deprived of their liberty, in particular as relates to health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training, rehabilitation and reintegration programmes. Children in conflict with the law, and especially children deprived of their liberty, face a high risk of violence, including as a result of public stigmatization and the prevalence of physical and psychological punitive approaches. Every child in conflict with the justice system must therefore be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, bearing in mind relevant international standards and norms in the field of crime prevention and criminal justice.

¹⁰ The term "gender" is not interchangeable with "women". Gender refers to both women and men, to their relations, the dynamic of their interactions and the distribution of power between them. See the guidance note for UNODC staff entitled *Gender mainstreaming in the work of UNODC* (Vienna, 2013), p. 13.

II. Relevant international standards on women offenders and prisoners and children in conflict with the law

A. Women offenders and prisoners

8. Historically, most prison facilities worldwide were designed primarily for male prisoners, ignoring the special needs of women, the number of whom in prisons has increased significantly over the years. Consequently, women have remained in a disadvantaged position with respect to their treatment during their interaction with the criminal justice system. The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules) have been adopted with a view to improving the treatment of women prisoners at all levels of their encounter with criminal law while addressing the special gender needs that have gone unattended so far. They constitute a significant advancement in the recognition and guarantee of women's rights, as well as a crucial step forward towards a modern gender-based approach for rehabilitation and reintegration of women offenders. The Rules also provide for the involvement of non-governmental organizations in the design and implementation of pre- and post-release reintegration programmes and extend the gender perspective to activities of capacity-building for staff employed in women's prisons. Furthermore, they advocate the application of non-custodial measures for women offenders, particularly girl children in conflict with the law; reiterate the need to avoid institutionalization to the maximum extent possible for girl children in conflict with the law; and recognize the obligation to take into account the gender-based vulnerability of juvenile female offenders in all decision-making processes.

9. The first section (rules 1-39) of the Rules includes the rules of general application such as admission, allocation, registration, gender-specific health-care services and programmes. The second section (rules 40-56) refers to special categories of women and juvenile prisoners, addressing classification and individualization, gender-sensitive risks assessment, special care for women victims of violence or with a history of drug abuse, pregnant women, foreign nationals and minorities and indigenous peoples, and prisoners under arrest or awaiting trial. The third section (rules 57-66) entails non-custodial sanctions and measures, underlining the need for developing gender-specific options for diversionary measures and pretrial and sentencing alternatives; while the fourth section (rules 67-70) deals with the promotion of comprehensive and result-oriented research on the reasons, impact, and characteristics that force women to confront the criminal justice system.

10. Violence against women has an impact on women's contact with the criminal justice system and such violence may be a cause of women's involvement in criminal offences and subsequent imprisonment. With a view to assisting countries to strengthen their crime prevention and criminal justice responses to violence against women, in December 2010 the General Assembly adopted the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice,¹¹ which represent a comprehensive framework to assist States to eliminate violence against women and to promote equality between men and women within the criminal justice system. The updated Model Strategies and Practical Measures provide a series of broad recommendations organized around the following themes: criminal law; criminal procedure; police, prosecutors and other criminal justice officials; sentencing and corrections; victim support and assistance; health and social services; training; research and evaluation; crime

¹¹ General Assembly resolution 65/228, annex.

prevention measures; and international cooperation. It should be highlighted that this instrument specifically provides that in cases where women and girl victims of violence are charged with crimes, relevant national criminal procedure laws should ensure that claims of self-defence by women who have been victims of violence, particularly in cases of “battered woman syndrome”, are taken into account in investigations, prosecutions and sentences against them.¹²

B. Children in conflict with the law

11. In the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World,¹³ adopted by the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, Member States recognized the importance of preventing youth crime, supporting the rehabilitation of young offenders and their reintegration into society, protecting child victims and witnesses, including efforts to prevent their revictimization, and addressing the needs of children of prisoners.

12. All interventions aimed at children in conflict with the justice system should abide strictly by the principles and provisions of the Convention on the Rights of the Child¹⁴ and other relevant international standards and norms. The Convention sets out the key principles that apply to, and should be reflected in, a juvenile justice system, as well as specific due process guarantees. Articles 37, 39 and 40 of the Convention pertain to children’s rights with respect to juvenile justice and, more generally, the criminal justice system as a whole. Other articles of the Convention set out the four leading principles that must be taken into account in addressing the situation of children in conflict with the law, namely, (a) the principle of non-discrimination, irrespective of a child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (art. 2 of the Convention); (b) the best interest of the child, which should be a primary consideration in all matters affecting the child (art. 3); (c) the child’s right to survival and development (art. 6); and (d) the right of the child to participate in decisions affecting him or her, and in particular, to be provided the opportunity to be heard in any judicial or administrative proceedings affecting him or her (art. 12).

13. The Convention on the Rights of the Child requires States to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law (art. 40, para. 3, of the Convention). This provision is regarded as imposing a progressive requirement upon States to establish a juvenile justice system which takes into account the child’s age and provides human rights and legal safeguards and to establish alternatives to judicial proceedings. Furthermore, the Convention requires States to establish a juvenile justice system with due process guarantees to be applied to all children under the age of 18 who are in conflict with the law; the system should promote the child’s reintegration and help the child to assume a

¹² Battered woman syndrome is suffered by women who, because of repeated violent acts by an intimate partner, may suffer depression and are unable to take any independent action that would allow them to escape the abuse, including refusing to press charges or to accept offers of support (see para. 15 (k), including the footnote thereto), of the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice.

¹³ General Assembly resolution 65/230, annex.

¹⁴ Adopted by the General Assembly in its resolution 44/25 of 20 November 1989; entered into force on 2 September 1990.

constructive role in society (art. 40, para. 1). The Committee on the Rights of the Child,¹⁵ in its general comment No. 10 (2007) on children's rights in juvenile justice,¹⁶ explains the need for a general and comprehensive policy of protecting the rights of children in conflict with the law based on the principles of the doctrine of comprehensive protection taking a restorative and educational approach, as it provides the best conditions for effective social rehabilitation and reintegration, preventing the recurrence of the behaviour. The Committee also analyses the necessity of specialized justice and treatment for children in conflict with the law to respect the principle of the best interests of the child.

14. The international normative framework related to children in conflict with the law also builds upon a series of United Nations standards and norms adopted throughout the years.

15. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)¹⁷ represent the internationally accepted minimum conditions for the treatment of children who come in conflict with the law. They contain specific provisions covering various stages of juvenile justice and stress that placement of a child in conflict with the law in an institution shall always be a measure of last resort and be for the shortest appropriate period of time. The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines)¹⁸ set forth standards for the prevention of crimes committed by children. They have a child-centred orientation and are based on the premise that it is necessary to offset conditions that adversely influence and impinge on the healthy development of the child. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty,¹⁹ which advocate the least possible use of deprivation of liberty, provide specific principles that apply to all children in conflict with the law held in any form of detention and in any type of facility. They call for the separation of children from adults in detention and the classification of children according to their sex, age, personality and offence type. They also set forth special provisions covering various aspects of institutional life. Finally, the 1997 Guidelines for Action on Children in the Criminal Justice System²⁰ were adopted with the aim of implementing the provisions of the Convention on the Rights of the Child with regard to children in the context of the administration of juvenile justice and promoting the use and application of relevant standards and norms.

16. The Model Strategies and Practical Measures on the Elimination of Violence against Children in the field of Crime Prevention and Criminal Justice, recently adopted, aim at improving the effectiveness of the criminal justice system in preventing and responding to violence against children and of protecting children against any violence that may result from their contact with that system. The Model Strategies are grouped into three broad categories: (a) general prevention strategies to address violence against children as part of broader child protection initiatives; (b) strategies and measures to improve the criminal justice system's ability to respond to violence against children and effectively protect child victims; and (c) strategies and measures to prevent and respond to violence against children in contact with the justice system. They place a strong focus on the complementary roles of the justice system on the one hand, and the child protection, social welfare, health and education sectors,

¹⁵ Established pursuant to article 43 of the Convention to monitor progress made by States parties in implementing their obligations under the Convention.

¹⁶ CRC/C/GC/10.

¹⁷ General Assembly resolution 40/33, annex.

¹⁸ General Assembly resolution 45/112, annex.

¹⁹ General Assembly resolution 45/113, annex.

²⁰ Economic and Social Council resolution 1997/30, annex.

on the other, in creating a protective environment and in preventing and responding to violence against children.

17. Finally, the Bangkok Rules adopted special positive measures for children's rights in the following areas: (a) children admitted with their mothers in prison, (b) children that are about to be born (pregnant mothers), (c) breastfed children/infants, (d) children of imprisoned mothers/children visiting prisoners, (e) children living with a non-resident foreign-national woman prisoner, and (f) girl children in conflict with the law.

III. Meeting the unique needs of women and children, in particular treatment and social reintegration: national experiences

A. Women prisoners

18. Even before the adoption of the Bangkok Rules in 2010, Thailand had been committed to addressing the specific needs of women in prisons and mitigating the impact on their families and children through the implementation of the Kamlangjai project, which provided assistance and opportunities to female prisoners while in prison and to those about to be released, and of the "Enhancing lives of female inmates" project aimed at raising the standards for the treatment of female prisoners.²¹ Currently, Thailand is engaged in ensuring the widest use and application of the Bangkok Rules at the national level. In that framework, in March 2013 the Thai judiciary decided to apply the Bangkok Rules in court trials nationwide,²² particularly with regard to their provisions related to alternatives to imprisonment. The Thailand Institute of Justice, in cooperation with Penal Reform International, launched the Toolbox on the United Nations Bangkok Rules, which includes a guidance document and index of implementation, a short guide to the Bangkok Rules, a free online course entitled "Women in detention: putting the United Nations Bangkok Rules in practice", and a guide to gender-sensitive monitoring of women in detention.²³

19. In Afghanistan, a project run by the non-governmental organization Medica Afghanistan offers general legal advice to women and provides female prisoners with criminal defence in court. Since the project began, some 8,000 women have benefited from mediation, legal advice or criminal defence in court. About 2,000 women facing a court case were acquitted or received a sentence lower than what the State prosecutors had demanded thanks to the assistance provided in court.²⁴ In Kyrgyzstan, as part of the project entitled "Support to prison reform in the Kyrgyz Republic", jointly implemented by the European Commission and the United Nations Office on Drugs and Crime (UNODC), in the female prison in Stepnoe village a course on soy milk production as an income-generating activity was set up for women prisoners. Furthermore, UNODC provided support to the research project conducted by Penal Reform International entitled "Who are women prisoners? Survey results

²¹ Nathee Chitsawang, "Key issues of women prisoners: lessons learned from Thai prisons", in *Annual Report for 2012 and Resource Material Series No. 90* (Tokyo, Asia and Far East Institute for the Preparation of Crime and the Treatment of Offenders, August 2013), part two, Work Product of the 153rd International Senior Seminar "Treatment of Female Offenders", pp. 106-118.

²² www.nationmultimedia.com/national/Bangkok-Rules-for-women-convicts-30202577.html.

²³ Available at www.penalreform.org/priorities/women-in-the-criminal-justice-system/bangkok-rules-2/tools-resources/.

²⁴ Further information is available at www.wunrn.com.

from Kazakhstan and Kyrgyzstan”.

20. In Nigeria, the Kirikiri prison in Lagos is implementing a project on preventing HIV/AIDS among female prisoners based on the following elements:

- (a) the organization of peer education training to raise awareness of the prevention of HIV/AIDS among prisoners and prison personnel who act as caregivers;
- (b) the development, production and distribution of material to raise awareness;
- (c) the holding of pre- and post-test counselling sessions for prisoners and prison personnel;
- (d) the provision of relief materials for infected mothers and their babies; and (e) the provision of drugs to infected prisoners.²⁵ In Sierra Leone, the non-governmental organization AdvocAid has produced a handbook on the Bangkok Rules to assist prison officials, prisoners and civil society in promoting the enforcement of human rights standards for girls, women and their children in the criminal justice system.²⁶

21. One of the interesting experiences in prison management and administration in the Latin American and Caribbean region is the New Model of Prison Management in the Dominican Republic, which covers 18 prisons: 14 for men and 4 for women. The self-assessment of the new Model noted the following results: a zero illiteracy rate after six months; inmates were actively participating in educational programmes and work, spiritual, sport and artistic activities; prisoners had access to computer schoolrooms in all centres and no cases of overcrowding; and well-trained and motivated prison staff at all levels. The Model is based on strict compliance with the international standards and norms related to the treatment of prisoners, including the Bangkok Rules, and other important elements such as mandatory participation in educational and rehabilitation programmes.

22. Under the framework of a UNODC project on prison reform, Panama has achieved significant results for the treatment of women prisoners. First, an inter-institutional working group to improve conditions for female prisoners was established. Then, a specialized programme focusing on the female inmates, designed in line with the Bangkok Rules, was implemented, and a special informative pamphlet for female inmates was prepared. Regarding education and training, the University of Panama opened a branch inside the female prison in Panama City, and more than 60 inmates are currently participating in different university studies. Furthermore, the number and the quality of reintegration activities for women have increased, including through new productive projects such as one on hydroponics. Prison staff have received gender and human rights training, and UNODC prepared an online self-paced course based on its *Handbook on Women and Imprisonment*.²⁷ Several lessons can be learned from the implementation of this project. First, the project showed that, because women make up a small percentage of the prison population and because the women prisoners rarely caused major incidents or problems, it was not easy for the authorities and prison staff to immediately see the importance of developing specific programmes and services for women prisoners. Second, the establishment of an

²⁵ For more information, see: www.wunrn.com/news/2012/01_12/01_16/011612_women2.htm.

²⁶ For more information, see: www.advocaidsl.com/2011/12/09/advocaid-and-giz-producehandbook-on-un-standards-for-the-treatment-of-female-prisoners/.

²⁷ *Handbook on Women Imprisonment*, Criminal Justice Handbook Series (United Nations publication, Sales No. E.14.IV.5).

inter-institutional working group was an excellent way to address female prisoners' problems and needs through a holistic and integrated approach. Further, a crucial element for the success of the project was the active involvement of the women prisoners in the design of the programmes and workshops. Likewise, it was crucial to work with female prisoners and prison staff in parallel so that prison staff would not feel that their own needs were not recognized or addressed. Finally, the successful implementation of the project also relied on the sharing of information about offences committed by women and prison conditions for women to sensitize criminal justice agents and community.

23. In Brazil, the Ministry of Justice, in cooperation with the Federal Prison Department, has established specialized schools for prison staff and postgraduate courses on prison management with a gender perspective. In Ecuador, on the basis of the country's Constitution, indigenous women have developed their own "rules for living together well", in line with indigenous justice principles, addressing the rehabilitation and reintegration of women offenders and children in conflict with the law. The rules ensure that no violence and discrimination will be used when exercising indigenous justice. In Haiti, the International Committee of the Red Cross, working in cooperation with the national prison administration, has just completed a new custody area in the civilian prison in the southern city of Les Cayes, one of the most overcrowded detention facilities in the country, where more than 600 people, including around 30 women, are being held. The new custody area had to be built as a matter of priority to give women the protection they required because of their special needs. The two new cells will accommodate some 30 women and will be equipped with renovated sanitary facilities and an improved electrical and air circulation system.²⁸

24. After the adoption of the Bangkok Rules, several initiatives have been taken at the European level to bring relevant policies, strategies, programmes and training in line with the new instrument. In 2011, the Inspector of Prisons of Ireland published supplementary documentation to give guidance to the prison services on best practices for the management of women's prisons. In 2012, the United Kingdom of Great Britain and Northern Ireland developed and issued new criteria to evaluate conditions and improve the management of women's prisons;²⁹ while the European Organisation of Prison and Correctional Services (EuroPris) has started to organize workshops on "Education and training for values-driven work: future concepts" and on gender, for prison staff. The programme "Education for women offenders" has been successful in Europe. In Slovenia, women prisoners, who are few in number, have the possibility of attending programmes at outside educational institutions, and the national system provides educational opportunities for each prisoner according to her needs and wishes. In the Czech Republic, education for prisoners is guaranteed only to the end of the primary school level, while in Estonia education goes up to the secondary school level. In Belgium, in response to the need to offer to women prisoners a type of security system already in use with male prisoners, the first open prison for women will open in 2016, with room for 100 female prisoners.

25. In the light of the need to develop gender-specific programmes and measures in prisons to ensure equal access and equal rights for all prisoners, the European Institute for Crime Prevention and Control, affiliated with the United Nations, and the Scientific Institute of the

²⁸ International Committee of the Red Cross, "Haiti: new custody area for women in Les Cayes prison", 21 May 2014. Available at www.icrc.org/.

²⁹ Caroline Pradier, "Penal reform and gender: update on the Bangkok Rules", in *Gender and Security Sector Reform Toolkit*, annex, Megan Bastick and Kristin Valasek, eds. (Geneva, Geneva Centre for Democratic Control of Armed Forces, 2008).

Medical Association of German Doctors launched the project “STRONG: Capacity-building on female prisoners with a history of violence and abuse” to identify existing European programmes and practices addressing women in prison who have experienced childhood, intimate partner or other forms of physical and sexual violence. The project has been implemented in Finland, Germany, Lithuania, Poland and Scotland. Based on the inputs gathered, a training programme for prison staff was developed with the aim of helping staff to better meet the needs of female prisoners who have experienced violence. In October 2012, a national seminar and three prison training sessions were organized in Finland in cooperation with the Training Institute for Prison and Probation Services to pilot the training material.

26. In the United States of America, in 2011 the organization Greenhope opened in New York City the Kandake House, a community residential facility that enables women offenders to carry out their sentence while remaining with their children. The facility can house up to 72 women, including 28 women with children, and takes a holistic, dynamic and flexible approach to the care of women offenders. It has an alumnae association of women who have successfully ended their involvement with the criminal justice system and can guide others. The recidivism rate among women assisted by Greenhope is less than 10 per cent, while the rate of successful parole completion is around 75 per cent, and the rate of job placement is 65 per cent.³⁰ In Australia, several good practices are in place in the management of the health of women prisoners, including the establishment of a dedicated facility in New South Wales for women with complex psychological issues. The facility provides the following services: provision for the timely and relevant health screening (i.e., breast checks, cervical screening and ultrasound scans); drug-free units; attending to the specific nutritional needs for women who report being pregnant and/or lactating; and a broad range of on-site medical services such as general medical assistance and psychiatry, dental, optical, podiatry and mental health assistance during imprisonment and upon release.³¹

27. States have taken different approaches to the issue of children whose mothers are the primary carers. In Poland and Spain, prisons have special units to allow pregnant women and mothers to stay with their children under the age of three. Similarly, in Kyrgyzstan, women who were incarcerated while pregnant can keep their young children with them until the age of three. Germany allows mothers to have their children with them in prison until the child reaches the age of six years, while Argentina and Italy allow for house arrest if certain conditions are met. Furthermore, Italy offers an alternative work programme for mothers with children under the age of 10 years. In Canada, a judge of the British Columbia Supreme Court, in December 2013, ruled that imprisoned mothers have the constitutional right to care for their newborn babies. The decision came as a result of a lawsuit brought by two former inmates on behalf of all women incarcerated in the province, and the suit centred on a programme for mothers of newborn babies at the Alouette Correctional Centre for Women in Maple Ridge, which was cancelled by the government of British Columbia in 2008. The court ruled that the decision was unconstitutional because it would separate mothers and babies during a critical bonding period.³²

B. Children in conflict with the law

28. Several lessons can be learned from the UNODC experience in improving detention conditions and the reintegration of child offenders. Good practices include, in particular, the

³⁰ Further information is available at www.greenhope.org.

³¹ L. Bartels and A. Gaffney, *Good Practice in Women's Prisons: A Literature Review* (Canberra, Australian Institute of Criminology, 2011).

³² For further information, see www.cbc.ca/1.2466516.

adoption of a holistic approach and the involvement of all relevant stakeholders by facilitating coordination and collaboration between international, regional and national actors, including civil society organizations.

29. In its work to support the juvenile justice system in Jordan, UNODC partnered with non-governmental organizations which organized rehabilitation programmes for children in three juvenile centres together with staff training programmes. This partnership allowed all stakeholders to benefit from the expertise and prior experience of the non-governmental organizations in implementing similar projects in the country and helped to avoid pitfalls and increase efficiency. In Lebanon, UNODC supported the setting-up of a Youth Department in the Ministry of Justice and the strengthening of the prison administration for juveniles. The involvement of a wide range of partners was crucial to achieve results, starting with a detailed assessment of the existing situation, to legislative reform, followed by information and awareness campaigns, training programmes and study tours. A key lesson learned with respect to coordination and ownership was that various decrees, ministerial decisions and orders adopted by relevant national stakeholders contributed to the project's implementation. The participation of selected qualified adult prisoners in the rehabilitation programmes of young offenders not only contributed to the development of vocational training for juvenile detainees but also led to improved detention conditions of the adults concerned and opened up possibilities for introducing rehabilitation programmes for other adult prisoners. In Egypt, UNODC supported a juvenile correctional institution in the Marg area of Cairo, facilitating vocational and literacy training and setting up a cinema club, a barber shop, a gymnasium, a computer lab and a sports facility. The project reduced violence among children in detention and improved relationships with social workers. The project also improved the capacities of social workers to better handle difficult personalities and rehabilitation problems, and contributed to more positive attitudes towards social rehabilitation among public officials. A holistic implementation approach resulted in an integrated development model for the detention conditions covering both social and physical aspects. Coordination was equally crucial to the success of the project. The participation of all parties involved, including officials from the Ministry of Social Solidarity and the Ministry of Interior, correctional personnel, the children and youth in detention and UNODC, in conducting the assessment study was crucial in identifying the appropriate rehabilitation activities to improve the detention conditions. Effective coordination was achieved by placing the implementation of relevant activities under the authority of the Ministry of Social Security, while the participation of the Ministry of Interior in the planning and implementation of activities contributed to changing the attitudes of its personnel towards the social rehabilitation component.

30. Work by UNODC on the reform of the juvenile justice system in Afghanistan has highlighted the need to take the cultural context seriously. By training local trainers in Kabul, a group was formed of competent nationals, who could deliver the knowledge and skills they had gained to the trainees in their own language. Given the language proximity and similarity in cultural backgrounds, that resulted in a better understanding among trainees and easier access to new ideas.

31. Other important lessons can be drawn from the experiences of other countries that have developed and implemented innovative approaches to the issues of treatment and rehabilitation/reintegration of children in conflict with the law. Albania, Azerbaijan, Kazakhstan, Turkey and Ukraine, for example, have established police juvenile reception centres, which have a broad range of functions, including temporary detention or shelter for

runaway children suspected of offending and illegal migrants under the age of 18. In Bangladesh, a local non-governmental organization, Aparajeyo-Bangladesh, promotes alternatives to pretrial detention in selected districts through its juvenile justice project. In that framework, social workers regularly visit target police stations to monitor children in conflict with the law and negotiate the release of children from police stations. The legal advisor and panel of lawyers represent the children in court and advocate for the release of the child on bail. In some cases, Aparajeyo provides funding for a bail bond if the child's parents cannot be located or cannot afford to pay. In 2000, India introduced a partnership approach for the management of children's institutions. One of the best examples is the Prayas Observation Home for Boys in Delhi. Prayas, a local non-governmental organization, made significant changes to the facility in Delhi, making it less prison-like and more child-friendly. Prayas has a team of counsellors and probation officers that assess the children and conduct family tracing and family reunification. All children participate in education and vocational training and regularly take part in recreational and cultural activities. In Nepal, the national police and the United Nations Children's Fund have developed an innovative juvenile justice training programme for officers who are to be assigned to the newly created juvenile police units. The programme is practical, rather than theoretical, focusing on the core skills, procedures and tasks that police need to know to deal with a child offender in a child-friendly way. Using case studies, the training programme encourages police trainees to follow special procedures and to develop solutions within the national context for the protection of children.

32. In South Africa, with regard to child offenders, the innovative one-stop Child Justice Centres prevent young people from being pushed from service to service and thereby getting lost in the system. The Child Justice Act 75 of 2008 envisages that one-stop Child Justice Centres will be established to streamline the entire justice process, from arrest to the formal court process. In Zambia, as part of the development of the Arrest, Reception and Referral Services centres, officials have received training in South Africa on a fairly wide and intensive basis, with the assumption that they would implement the training in the pilot projects. In Malawi, the Child Care, Protection and Justice Act states that the officer in charge of the police station has the power to caution and discharge a child offender with or without conditions. This may happen only if the offence committed was not serious, if there is sufficient evidence to prosecute the child, and if the child voluntarily admits responsibility for the offence.

IV. Conclusions and recommendations

33. Member States ought to act with due diligence to prevent, respond to, protect against and provide redress for all forms of gender-based violence. As this type of violence has an impact on the incarceration rate of women, by acting with due diligence in preventing and responding to gender-based violence, Member States can significantly contribute to reducing the number of women offenders and prisoners. In addition, Member States should endeavour to address the structural causes that contribute to women's incarceration as well as the root causes and the risk factors related to crime and victimization. Likewise, Member States have an obligation to protect the rights of children in conflict with the law and ensure that they are deprived of their liberty only as a measure of last resort and for the shortest period of time.³³ Member States must protect the human rights and best interests of children, as called for in

³³ See article 37 (b) of the Convention on the Rights of the Child and rule 13.1 of the Beijing Rules. See also A/CONF.222/RPM.1/1, para. 26; A/CONF.222/RPM.2/1, para. 16; and A/CONF.222/RPM.4/1, para. 23.

the Convention on the Rights of the Child and the Optional Protocols thereto,³⁴ and in other relevant United Nations standards and norms.

34. In addition to respecting the provisions of the international human rights framework, primarily the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, it is important that States address in an integrated and holistic way the close interrelation between gender stereotypes, violence, discrimination and the needs of women offenders and children in conflict with the law, guaranteeing their full reinsertion into society and the prevention of recidivism. That requires a range of strategies including providing active support, training and assistance to local actors and consulting and cooperating with prison staff in order to adapt policies and strategies to local needs.

35. The Bangkok Rules constitute an important achievement in providing a gender-based response to the needs of women offenders and prisoners. Since their adoption, several countries have adopted strategies, policies and programmes in line with this instrument, and efforts have been made to foster their use and application in the design and implementation of penal policies. The national experiences provide some general, key lessons upon which Member States can draw in meeting the needs of women prisoners.

36. First, it is crucial to recognize that even if women prisoners represent a minority of the prison population, they do have special needs that must be catered for. Secondly, it is important that policymakers and relevant authorities recognize that in many cases women who enter in contact with the criminal justice system are not violent offenders but that many of them are victims of mental and/or psychological abuse. Therefore, as advocated by the Bangkok Rules, national legal systems should provide for a proper system of gender-specific alternatives to sentencing for women offenders, particularly for pregnant women and women with child-care responsibilities, and should recognize women's histories of victimization when making decisions about incarceration. It is also crucial that countries address the structural causes that contribute to the incarceration of women, as well as the root causes and risk factors related to crime and victimization through social, economic, health, educational and justice policies. Furthermore, it is vital to equip women prisoners, both from an economic and an educational perspective, with skills that facilitate their reintegration into society after release, thus preventing recidivism. It should also be recognized that specific policy guidance on how to deal with foreign women prisoners should be developed, as they face additional problems, including receiving fewer visits and less support from their relatives, difficulties in understanding the local language or adapting to the local culture, and being uninformed of what is happening to their families while they are awaiting trial or serving a sentence abroad.

37. With regard to the treatment and social reintegration of children in conflict with the law, countries should recognize the need to integrate children's issues in their overall rule of law efforts, to pay particular attention to the issue of child justice and to take into consideration applicable United Nations standards and norms for the treatment of children in conflict with the law, particularly those who are deprived of liberty, and child victims and witnesses of crime, taking into account the gender, social circumstances and development needs of such children.

38. Nowadays, there are several good practices for the treatment and reintegration of children,

³⁴ United Nations, *Treaty Series*, vols. 1577, 2171 and 2173, No. 27531.

in particular the adoption of a holistic approach and the involvement of all relevant stakeholders. The experience of countries also indicates that not enough attention has been given to the problem of girls in conflict with the law as, traditionally, the number of cases was not large. Therefore, their particular needs had not been sufficiently attended to prior to the adoption of the Bangkok Rules. Greater attention needs to be given to incorporating a gender perspective in the implementation of all goals set in the Bangkok Rules for juvenile female offenders. In particular, Member States should make sure that a broad range of alternative and educative measures are available at the pre-arrest, pretrial, trial and post-trial stages, in order to prevent recidivism and promote the social rehabilitation of female juvenile offenders. Applying mechanisms for the informal resolution of disputes is crucial. In all these decision-making processes, not only the family but also the child should be involved, to the extent that such processes operate in favour of the best interest of the child offender. The principle of minimum intervention must be respected at all times. Furthermore, in recognition of the consideration that no crime prevention or criminal justice reform strategy is complete without effective measures to address the problem of recidivism, it is important that a comprehensive strategy addressing children in conflict with the law takes into account effective social integration or reintegration programmes as essential means of preventing recidivism and increasing public safety.

39. The experience of the past years indicates that one of the most important developments in addressing the challenges of crime prevention and criminal justice has been the recognition of the role played by civil society and the relevance of community involvement. Throughout the years, community involvement has played a critical role in promoting the United Nations standards and norms in support of an effective, fair, humane and accountable criminal justice system. Community involvement approaches reduce opportunities for crime and victimization, promote a proactive problem-solving approach to local crime problems, and support social reintegration to women offenders and children in conflict with the law during their phase of re-entry into society, as well as the period starting from prosecution up to the release stage.

40. Effective efforts to address today's challenges in crime prevention and criminal justice, which take into account the particular vulnerabilities and risk factors for crime and the victimization of women and children, require effective partnerships among international organizations, Governments and civil society organizations, including indigenous and local communities, local and national governments, the business community, academia and the private sector. Nowadays, several community-based rehabilitation programmes have been developed based on mobilizing civil society for supporting valid initiatives of reintegration programmes for women offenders and children in conflict with the law.³⁵ Similarly, the involvement of the general public and the community in campaigns and relevant training programmes is crucial to combat attitudes that assign women and girls an inferior status and legitimize discrimination and violence against them, to dispel negative stereotypes on women offenders and children in conflict with the law and to systematize awareness-raising campaigns on zero tolerance for violence against women.

41. Furthermore, creating a non-discriminatory environment for women offenders and children in conflict with the law requires strengthened political commitment, leadership and intensive training for the professionals involved. Efforts should be made to ensure that

³⁵ See UNODC, *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*, Criminal Justice Handbook Series (Vienna, 2012).

relevant staff are carefully selected, trained and supervised. Likewise, authorities must encourage and recognize staff, particularly female staff, by establishing a gender responsive promotion policy.

42. In conclusion, bearing in mind the objective to meet the unique needs of women and children, in a more effective, fair and humane manner, pursuant to the relevant United Nations standards and norms, the Workshop may wish to consider the following recommendations:

- (a) Member States should recognize the special needs of women and children as victims of violence and criminalize all forms of violence against women and children;
- (b) Member States should consider developing and implementing policies and measures to protect victims, prevent the re-victimization of women and children and ensure reparation, in accordance with the requirements of due diligence;
- (c) Member States should adopt relevant policies and measures for women offenders and children in conflict with the law in line with the Bangkok Rules and relevant United Nations standards and norms applicable to the administration of justice for children;
- (d) Member States should promote the use of alternative measures to judicial proceedings, such as diversion and restorative justice, both for women and children offenders. The attention of civil society and the media should be drawn to the importance and relevance of using alternatives to imprisonment in the case of children;
- (e) Building on the successful outcomes of restorative justice programmes in some countries, Member States should ensure that more resources are invested in programmes that have a proven impact in reducing recidivism;
- (f) Member States should share information on good practices to reintegrate ex-prisoners and children who have been released from detention facilities into society and to build the capacity of correctional officers and child detention centre personnel with regard to rehabilitation and social reintegration approaches;
- (g) Member States should support awareness-raising and public participation in the identification of solutions to prison overcrowding and effective measures for the social reintegration and rehabilitation of offenders;
- (h) Member States should prioritize unrestricted access for all women and children deprived of their liberty to the various levels of formal education and should offer incentives to persons who studied while deprived of their liberty;
- (i) Member States should recognize that education for incarcerated women must take into account their specific conditions and situation which are often consequences of poverty and/or their family situation. Furthermore, the presence of babies and children in prisons must be taken into account so as to ensure that education includes not only women but addresses also the developmental needs of their children;

- (j) Member States should ensure that relevant training for women and child offenders takes into consideration their individual capacities and vocations, as well as market demand. In this regard, partnerships with the private sector should be pursued;
- (k) Member States should develop rehabilitation and social reinsertion activities and programmes for girls deprived of their liberty which are not based on traditional, gender-biased occupations.
- (l) Recognizing the specific problem of foreign women prisoners, who are at a particular disadvantage for a number of reasons, Member States should be encouraged to develop policy guidance on how to deal with such cases in line with the provisions of the Bangkok Rules. Particular attention should be paid to the situation of women migrants held in custody, typically on administrative grounds, who are either asylum-seekers or irregular immigrants awaiting adjudication of their claims;
- (m) Member States should consider establishing appropriate mechanisms to ensure prompt access to justice for women and children held as suspects;
- (n) Member States should ensure compliance with the principle that the deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, as well as avoid, wherever possible, the use of pretrial detention for children, and provide support and services for children deprived of their liberty prior to and after release in order to promote their rehabilitation and reintegration into the community;
- (o) Member States should recognize the specific challenges of dealing with unaccompanied migrant children and should develop appropriate criminal justice strategies in line with existing international instruments;
- (p) Likewise, Member States should recognize the specific challenges of responding to crimes committed by minors against minors and should develop appropriate criminal justice strategies in line with existing international instruments;
- (q) Member States should establish within the juvenile criminal justice system specialized positions for judges, prosecutors and public defenders who are duly qualified in the administration of sentences.

43. Furthermore, the Workshop may wish to consider the following additional recommendations:

- (a) The Commission on Crime Prevention and Criminal Justice should be invited to complete the revision of the Standard Minimum Rules for the Treatment of Prisoners, in accordance with existing mandates;
- (b) UNODC should facilitate, in cooperation with the Office of the United Nations High Commissioner for Human Rights and its National Institutions Unit, a worldwide dissemination of the Bangkok Rules, produce gender-sensitive tools for the monitoring of prisons worldwide and facilitate the collection of data on prisoners disaggregated by gender;

- (c) UNODC should, in cooperation with relevant partners, conduct a global study on the status of children deprived of their liberty with a view to informing international and national policymakers on global trends and patterns with respect to the size and the characteristics of the phenomenon and to developing and implementing appropriate measures;
- (d) UNODC should provide comprehensive technical assistance, upon request by Member States, on how to reintegrate into society women and children who are deprived of their liberty.